GENERAL LAWS

OF THE

STATE OF IDAHO

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

Convened January 11, 1988
Adjourned March 31, 1988

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

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SECRETARY OF STATE

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Secretary of State
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CHAPTER 1
(S.B. No. 1337)

AN ACT

RELATING TO SCHOOL DISTRICT BONDS; VALIDATING AND CONFIRMING CERTAIN BOND SALES HELD PRIOR TO FEBRUARY 1, 1988; AND DECLARING AN EMERGENCY.

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

SECTION 1. The sale of all school district bonds offered for sale at a public sale held prior to February 1, 1988, at which five or more bids to purchase the bonds were received by the school district is hereby validated and confirmed regardless of whether section 33-1111, Idaho Code, was complied with, and said bonds may be issued and sold to the lowest bidder, and said bonds are hereby validated.

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 12, 1988.

CHAPTER 2
(H.B. No. 390)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO INCORPORATE AMENDMENTS MADE TO THE INTERNAL REVENUE CODE BY CONGRESS IN 1987; 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. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first day of January, 198~~7~~8.

(b) ~~In regard to those p~~Provisions of the Internal Revenue Code amended, deleted, or added ~~by the Tax Reform Act of 1986,~~ prior to the effective date of ~~all such amendments~~ the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

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, 1988.

Approved February 16, 1988.

CHAPTER 3
(S.B. No. 1264)

AN ACT

RELATING TO PLANNING IDAHO'S CENTENNIAL CELEBRATION; AMENDING CHAPTER 19, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1990, IDAHO CODE, TO ESTABLISH THE IDAHO CENTENNIAL COMMISSION; AND DECLARING AN EMERGENCY AND PROVIDING A DATE WHEN THE ACT SHALL BE NULL AND VOID.

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

SECTION 1. That Chapter 19, 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 67-1990, Idaho Code, and to read as follows:

67-1990. IDAHO CENTENNIAL COMMISSION. There is hereby established in the office of the governor the Idaho centennial commission. The purpose of the commission shall be to plan and coordinate activities relating to the celebration of the centennial of Idaho's statehood. Commission members shall be appointed by the governor for a term of two (2) years and members shall be compensated as provided in section 59-509(b), Idaho Code. The governor shall designate a chairman and a vice chairman.

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 shall be null, void and no longer in force and effect on and after June 30, 1991.

Approved February 16, 1988.

CHAPTER 4
(H.B. No. 401)

AN ACT

RELATING TO THE LIABILITY OF COUNTY OFFICIALS; AMENDING CHAPTER 20, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-2018, IDAHO CODE, TO PROVIDE FOR A LIMITATION ON THE PERSONAL LIABILITY OF COUNTY OFFICIALS.

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

SECTION 1. That Chapter 20, 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 31-2018, Idaho Code, and to read as follows:

31-2018. COUNTY OFFICIALS -- LIMITATION ON PERSONAL LIABILITY. County officials shall strictly account for all public moneys and property under their care and control while holding public office but shall not be personally liable for loss of any such public moneys or property when the cause of such loss is fire, flood, earthquake, or other natural or man-made disaster or when caused by theft, robbery, or the criminal conduct of another person who is not a county official or employee. Each county shall indemnify its officials and employees against all losses of public moneys or property, except those which are the result of negligence, gross negligence, or intentional conduct by the public official or employee, pursuant to the authority in the Idaho tort claims act.

Approved February 18, 1988.

CHAPTER 5
(H.B. No. 400)

AN ACT
RELATING TO COUNTY RECORDING; AMENDING SECTION 31-2410, IDAHO CODE, TO REFLECT CURRENT USAGE OF INDORSEMENTS ON INSTRUMENTS.

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

SECTION 1. That Section 31-2410, Idaho Code, be, and the same is hereby amended to read as follows:

31-2410. INDORSEMENT ON INSTRUMENTS. When any instrument, paper or notice, authorized by law to be recorded, is deposited in the recorder's office for record, the recorder must indorse upon the same the time when it was received, noting the year, month, day, hour and minute of its reception, and at once enter it in the proper index, and must record the same without delay, together with the acknowledgment, proofs and certificates, written upon or annexed to the same, with the plats, surveys, schedule and other papers thereto annexed, in the order and as of the time when the same was received for record, and must note ~~at the foot of~~ on the ~~record~~ instrument the exact time of its reception, and the name of the person at whose request it was recorded.

Approved February 22, 1988.

CHAPTER 6
(S.B. No. 1258)

AN ACT

RELATING TO HAZARDOUS WASTE RULES AND REGULATIONS; AMENDING SECTION 39-4404, IDAHO CODE, TO DELETE A TIME DELAY FOR PROMULGATION OF RULES AND REGULATIONS.

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

SECTION 1. That Section 39-4404, Idaho Code, be, and the same is hereby amended to read as follows:

39-4404. CONSISTENCY WITH FEDERAL LAW. The legislature intends that the state of Idaho enact and carry out a hazardous waste program that will enable the state to assume primacy over hazardous waste control from the federal government.

The legislature finds that the RCRA, as amended, 42 U.S.C., Section 6901 et seq., and regulations adopted pursuant thereto, establish complex and detailed provisions for regulation of those who generate, transport, treat, store, and dispose of hazardous wastes. The legislature cannot conveniently or advantageously set forth in this chapter all the requirements of all of the regulations which have been or will be established under RCRA. However, by the provisions of this chapter, the legislature desires to avoid the existence of duplicative, overlapping or conflicting state and federal regulatory systems.

Therefore, the board is directed to promulgate rules and regulations which are in substance consistent with federal regulations adopted by the administrator of the United States environmental protection agency to implement RCRA. ~~The board may not promulgate rules or regulations governing activities affected by such federal regulations until at least six (6) months after the promulgation of such regulations by the environmental protection agency. The six (6) months' delay shall apply, but not be limited, to rules and regulations concerning mining waste, mineral processing waste, and all other materials under study by the administrator of the environmental protection agency as required by 42 U.S.C. sections 6982(f) and 6982(p).~~ Until such time as the board has promulgated rules and regulations concerning mining and mineral wastes and materials under study by the administrator, those wastes and materials shall not be considered or defined as hazardous wastes under this chapter; provided, however, that spent potliners from primary aluminum reduction, or environmental protection agency hazardous waste number K088, shall be defined as hazardous waste. Farmers and ranchers who treat, store, or dispose of waste pesticides from their operations on lands owned or controlled by them shall not be required by board rules or regulations to do anything more than follow the instructions on the pesticide label and triple rinse empty containers in accordance with the RCRA regulations of the environmental protection agency. The board may not promulgate any rule or regulation that would impose conditions or requirements more stringent or broader in scope than the RCRA regulations of the

environmental protection agency. The board may, however, promulgate procedural rules and regulations and rules and regulations specifically authorized by this chapter or other state statutes without showing that those rules and regulations are required by RCRA or the regulations of the environmental protection agency; provided that those rules and regulations shall not conflict with this section, other sections of this chapter, RCRA, or the rules and regulations of the environmental protection agency. Any rule or regulation promulgated by the board shall be valid until it is repealed or modified through the administrative process of section 67-5201, Idaho Code, et seq.

Approved February 22, 1988.

CHAPTER 7
(S.B. No. 1269)

AN ACT

RELATING TO HAZARDOUS WASTE RESEARCH, DEVELOPMENT AND DEMONSTRATION PERMITS; AMENDING SECTION 39-4409, IDAHO CODE, TO ALLOW FOR THREE ONE-YEAR RENEWALS OF A HAZARDOUS WASTE RESEARCH, DEVELOPMENT AND DEMONSTRATION PERMIT.

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

SECTION 1. That Section 39-4409, Idaho Code, be, and the same is hereby amended to read as follows:

39-4409. PERMIT REQUIREMENTS FOR HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES. (1) No person shall construct, operate, or modify a hazardous waste treatment, storage, or disposal facility or site without a permit from the department. The owner or operator of the facility or site rather than the builder shall be responsible for obtaining the permit. Permits may contain such conditions necessary to protect human health and environment. The board may exempt classes or categories of hazardous waste treatment, storage, or disposal facilities from the permit requirement if the exemption is in the public interest and consistent with RCRA requirements. The fact that a class or category of such facilities is not required to obtain a federal permit shall be persuasive evidence that an exemption is in the public interest.

(2) Interim status granted by RCRA or a permit issued by the United States environmental protection agency prior to the date that the state program is authorized by the administrator of that agency shall be adopted by the department as a state granted interim status or as a state granted permit until the department issues a new state permit. The board may adopt such rules and regulations as necessary to:

(a) Allow other facilities to qualify for interim status;

(b) Require new units, replacement of existing units and lateral expansions of existing interim status facilities to comply with all regulations which apply to new facilities; and

(c) Provide for the termination of interim status.

(3) The board shall promulgate rules and regulations establishing the terms and conditions for issuing permits to the described facilities and sites. The rules and regulations shall provide for, but not be limited to:

(a) Standards and procedures for the safe operation and maintenance of the facilities and sites;

(b) Education and training qualifications of personnel at the facilities and sites;

(c) Contractual commitment or consent to each facility or site from all holders of interests in the real property committed to that facility or site;

(d) Monetary assurances in such form and amount as are necessary for effective management, maintenance, and monitoring of the facilities and sites during and after operation;

(e) Evidence of financial responsibility for corrective action on-site and off-site;

(f) Liability insurance in such form and amount as is necessary to compensate for potential damages caused by the facilities and sites; provided, that liability insurance shall not be required in the event that liability insurance is not required by the federal regulations adopted pursuant to the RCRA;

(g) Emergency equipment and emergency response plans appropriate to the facilities and sites;

(h) Public participation in the permitting process consistent with 42 U.S.C. section 6974(b).

(4) Permits shall be issued for a period not to exceed ten (10) years or the maximum period allowed under RCRA, whichever is greater. However, permits may be reviewed at least every five (5) years and modified as necessary to take into account changes in this chapter or regulations promulgated pursuant to it and improvements in technology. Permits issued to hazardous waste facilities and sites by the department prior to the effective date of this chapter shall be reissued to conform with the provisions of this chapter and the rules and regulations promulgated under this chapter.

(5) Any permit issued after the effective date of this provision shall require corrective action to be taken on-site and off-site for all releases ~~of hazardous waste~~ or constituents, from any solid waste management unit at the treatment, storage, or disposal facility seeking the permit, regardless of the time when the waste was placed in such unit. Permits issued from November 8, 1985, until the effective date of this provision shall be reissued to conform with this provision.

(6) Any permit issued under this section may be revoked by the director, pursuant to the provisions of section 39-4413, Idaho Code, if the permitted party fails to comply with the terms and conditions of the permit, this chapter, or the rules and regulations promulgated under this chapter.

(7) The department may issue a variance from the requirements of

the rules and regulations promulgated under this section, if, in the judgment of the director, application of the requirements would cause unreasonable hardship and the granting of a variance would not be harmful to the public interest or inconsistent with RCRA requirements. A variance shall not exceed one (1) year in duration and may be renewed or extended only after the department provides public notice and an opportunity for public comment.

(8) (a) The director of the department may issue a research, development and demonstration permit for any hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits shall:

1. Provide for the construction of such facilities, as necessary, and for operation of the facility for not longer than one (1) year (unless renewed as provided below); and

2. Provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the director deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

3. Include such requirements as the director deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, insurance or bonding, financial responsibility, closure, and remedial action); and

4. Include such requirements as the director deems necessary regarding testing and providing of information to the director with respect to the operation of the facility.

(b) The director may apply the criteria set forth in paragraph (a) of this subsection in establishing the conditions of each permit without separate establishment of regulations implementing such criteria.

(c) For the purpose of expediting review and issuance of permits under this subsection, the director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements established in the general permit regulations except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of applicable public participation procedures.

(d) The director may renew a research, development and demonstration permit which has been issued pursuant to this subsection. The renewal term shall be no longer than one (1) year. A permit shall not be renewed more than three (3) times.

Approved February 22, 1988.

CHAPTER 8
(H.B. No. 409)

AN ACT

RELATING TO HOSPITAL AND PROFESSIONAL SERVICE CORPORATIONS; AMENDING SECTION 41-3434, IDAHO CODE, TO MAKE AN ADDITIONAL INSURANCE CODE STATUTE APPLICABLE TO HOSPITAL AND PROFESSIONAL SERVICE CORPORATIONS, AND TO CORRECT CODE REFERENCES.

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

SECTION 1. That Section 41-3434, Idaho Code, be, and the same is hereby amended to read as follows:

41-3434. OTHER PROVISIONS APPLICABLE. In addition to those contained or referred to heretofore in this chapter, the following chapters and provisions of this code shall also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of such express provisions, and for the purposes of such application such corporations shall be deemed to be mutual "insurers":

(1) Chapter 1 (scope of code);

(2) Chapter 2 (the director of insurance);

(3) Section 41-3008(2) (general eligibility for certificate of authority--competence, affiliations of management);

(4) Section 41-601 ("assets" defined);

(5) Section 41-603 (assets not allowed);

(6) Section 41-604 (disallowance of "wash" transactions);

(7) Section 41-613 (valuation of bonds);

(8) Section 41-731 (prohibited investments and investment underwriting);

(9) Chapter 13 (trade practices and frauds);

(10) Section 41-2840 (vouchers for expenditures);

(11) Section 41-2841 (borrowed surplus);

(12) Sections 41-2857 (mergers and consolidations, mutual insurers), 41-2858 (bulk reinsurance, mutual insurers), and 41-2859 (mutual member's share of assets on liquidation);

(13) Chapter 33 (supervision, rehabilitation and liquidation);

(14) Sections 799 to 809 of chapter 330 of Session Laws of 1961 (transitory provisions);

(15) Section 41-2106(3) (health history application for disability insurance); and

(16) Section 41-2141 (coordination with social security benefits); and

(17) Section 41-1839 (attorney fees).

Approved March 2, 1988.

CHAPTER 9
(S.B. No. 1293)

AN ACT

RELATING TO GENERAL BUSINESS CORPORATION; AMENDING SECTION 30-1-105, IDAHO CODE, TO PROVIDE THAT A CORPORATION MAY AMEND ITS ARTICLES OF INCORPORATION AT ANY TIME AS TO EXTEND ITS PERIOD OF DURATION PROVIDED CERTAIN CONDITIONS HAVE OCCURRED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 30-1-105, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-105. SURVIVAL OF REMEDY AFTER DISSOLUTION. The dissolution of a corporation (1) by the issuance of a certificate of dissolution by the Secretary of State, (2) by a decree of court when the court has not liquidated the assets and business of the corporation as provided in this act, (3) by expiration of its period of duration, or (4) by operation of law pursuant to section 30-1-138, Idaho Code, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two (2) years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time ~~during such period of two (2) years~~ so as to extend its period of duration; provided, that the failure to extend prior to expiration was inadvertent and that the officers and directors have continuously operated as if the corporation was in existence. This right to retroactively extend corporate existence is available only if expiration of the period of duration is the only reason for which the corporation was or could have been involuntarily dissolved.

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 2, 1988.

CHAPTER 10
(S.B. No. 1310)

AN ACT

RELATING TO THE REGULATION OF CONTRACTS BETWEEN REGISTERED INVESTMENT ADVISERS AND THEIR CLIENTS; AMENDING SECTION 30-1405, IDAHO CODE, TO CONFORM WITH RECENT CHANGES IN THE FEDERAL SECURITIES LAW; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 30-1405, Idaho Code, be, and the same is hereby amended to read as follows:

30-1405. UNLAWFUL ACTS OF INVESTMENT ADVISER. Except as may be permitted by rule or order of the director, i~~I~~t is unlawful for any investment adviser to enter into, extend or renew any investment advisory contract unless it provides in writing:

(1) that the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client~~.~~;

(2) that no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(3) that the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change. Subsection (1) of this section does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period or as of definite dates or taken as of a definite date. "Assignment" as used in subsection (2) of this section includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

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 2, 1988.

CHAPTER 11
(S.B. No. 1262)

AN ACT

RELATING TO ENVIRONMENTAL HEALTH SPECIALISTS; AMENDING SECTION 54-2409, IDAHO CODE, TO PROVIDE FOR CONTINUING EDUCATION AS ESTABLISHED BY BOARD RULE; AMENDING SECTION 54-2410, IDAHO CODE, TO PROVIDE THAT A REGISTRATION MAY BE REVOKED, SUSPENDED OR OTHERWISE LIMITED IF A REGISTRANT ENGAGES IN CERTAIN MISCONDUCT; AMENDING SECTION 54-2415, IDAHO CODE, TO PROVIDE FOR A RECIPROCAL LICENSE FEE IN AN AMOUNT NOT TO EXCEED ONE HUNDRED DOLLARS AS MAY BE ESTABLISHED BY BOARD RULE; AND AMENDING SECTION 54-2416, IDAHO CODE, TO ELIMINATE THE REQUIREMENT THAT A PERSON MUST BE REGISTERED TO PERFORM THE DUTIES OE AN ENVIRONMENTAL HEALTH SPECIALIST AND TO PROVIDE CLARIFYING LANGUAGE.

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

SECTION 1. That Section 54-2409, Idaho Code, be, and the same is hereby amended to read as follows:

54-2409. ANNUAL RENEWAL OF CERTIFICATE OF REGISTRATION. Every environmental health specialist registered under the provisions of this act ~~who desires to continue to work in the field of environmental health in this state~~ shall annually pay to the board a renewal fee as prescribed in this act and certify to the board compliance with continuing education requirements as may be established by board rule. Registration revoked for failure to pay renewal fees shall be reinstated according to section 67-2614, Idaho Code.

SECTION 2. That Section 54-2410, Idaho Code, be, and the same is hereby amended to read as follows:

54-2410. GROUNDS FOR REVOCATION OR SUSPENSION OF CERTIFICATE OF REGISTRATION -- DUTIES OF BOARD. The board shall have the power to revoke, suspend or otherwise limit a registration if it is found that any holder thereof is guilty of unprofessional conduct, the practice of fraud or deceit in obtaining a registration, gross negligence of duty, incompetence in the practice of environmental health, malfeasance or misfeasance in office or other serious infractions of office, provided that a registration shall not be revoked until the party in question has had an opportunity to be heard before the board. The board shall give notice in writing not less than twenty (20) days prior to the date of the hearing to be held at a specified time and place. The board shall cause a copy of such order of hearing and a verified copy of the accusation to be served upon the person so accused not less than twenty (20) days prior to the day appointed in the order for said hearing. The board, and the accused, may be represented by counsel at such hearing.

SECTION 3. That Section 54-2415, Idaho Code, be, and the same is

hereby amended to read as follows:

54-2415. RECIPROCITY. Any person who holds a valid registration to practice environmental health from any other state in which the legally enacted qualifications for registration are not lower than the qualifications for registration set forth in this act shall upon proper application and payment of not to exceed a one hundred dollar ($100) fee as may be established by board rule and with the approval of the board be accepted for registration as an environmental health specialist.

SECTION 4. That Section 54-2416, Idaho Code, be, and the same is hereby amended to read as follows:

54-2416. UNLAWFUL TO ~~PRACTICE~~ USE OR ASSUME TITLE WITHOUT CERTIFICATE OF REGISTRATION -- PENALTIES. (a) Without first ~~complying with~~ obtaining a registration under the provisions of this chapter, it shall be unlawful for any person to:

(1) Use or assume the title or any other designation or advertise a title or designation indicating he is an environmental health specialist;

(2) ~~Perform the duties of an environmental health specialist;~~

~~(3)~~ Append after his name the title of "Environmental health specialist" or the letters "E.H.S." unless he is a registered environmental health specialist.

(b) Violation of this section shall be deemed a misdemeanor punishable by fine or imprisonment upon conviction by a court of applicable jurisdiction. In addition, if any person is in violation of any provision of this chapter, the board may bring an action against such person in the name of the people of the state of Idaho in district court of this state to enjoin such person from continuing such violation or doing any act to the furtherance thereof.

Nothing in this act shall be interpreted as preventing or discouraging the employment of persons who meet the academic requirements but lack necessary experience for registration. Employment of such persons under the supervision of registered environmental health specialists in order that necessary experience may be obtained is to be encouraged.

Approved March 2, 1988.

CHAPTER 12
(S.B. No. 1266)

AN ACT

RELATING TO THE PRACTICE OF PHARMACY; AMENDING SECTION 54-1726, IDAHO CODE, TO PROVIDE THAT A LICENSEE CAN BE DISCIPLINED FOR THE CONVICTION, FINDING OF GUILT, RECEIPT OF A WITHHELD JUDGMENT OR SUSPENDED SENTENCE FOR ANY FELONY OR ANY ACT WHICH IS RELATED TO THE QUALIFICATIONS, FUNCTIONS OR DUTIES OF THE LICENSEE.

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

SECTION 1. 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, convicted or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in this state or any other state of one or more of the following:

1. Any felony ~~as defined by the statutes of this state~~;

2. Any act involving moral turpitude ~~or~~, gross immorality or which is related to the qualifications, functions or duties of a licensee; 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 chapter, chapter 27, title 37, Idaho Code, or rules and regulations adopted pursuant to either chapter.

Approved March 2, 1988.

CHAPTER 13
(H.B. No. 397)

AN ACT

RELATING TO THE IDAHO DEPARTMENT OF ADMINISTRATION VENDOR DISQUALIFICATION PROCEDURES; AMENDING SECTION 67-5730, IDAHO CODE, TO CLARIFY THE PROCEDURES FOR DISQUALIFYING VENDORS FOR FAILURE TO PARTICIPATE IN THE BID PROCESS.

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

SECTION 1. That Section 67-5730, Idaho Code, be, and the same is hereby amended to read as follows:

67-5730. REGISTRATION OF VENDORS -- RULES AND PROCEDURE -- FAILURE TO BID -- DISQUALIFICATION OF VENDORS -- NOTICE. (1) No vendor shall be allowed to submit a bid unless such vendor is qualified and has registered prior to the time of the bid opening. Qualified vendors shall be registered at any time upon request and submission of information required by rule and regulation of the administrator of the division of purchasing which shall include, but not be limited to, the following: name of the vendor, an official address and telephone number at which to receive notices from the administrator of the division of purchasing and a list of the property which the vendor would sell or supply to the state, and this list may be stated in terms of a general class of property in place of a specific itemization. A ten dollar ($10.00) biennial registration fee shall accompany the request, which moneys shall be deposited in the general account of the state treasury.

Notice of renewal shall be mailed to the registered vendor at least sixty (60) days prior to the expiration date of the vendor's registration. Failure to renew the registration and pay the biennial registration fee shall result in removal of the vendor from the list of qualified vendors.

Registered vendors may be removed from the list of registered vendors for failure to participate by submitting a bid in five (5) consecutive acquisitions of property which such vendor is registered to supply to the state, and for which the vendor has been notified of intended acquisition; provided, however, that submission of a no-bid response shall not be deemed failure on the part of the vendor to participate. A vendor so removed shall be given notice of removal and shall be eligible for re-registration at any time unless otherwise disqualified.

(2) Vendors may be disqualified for any of the following reasons:

(a) Failure to perform according to the terms of any agreement;

(b) Attempts by whatever means to cause acquisition specifications to be drawn so as to favor a specific vendor;

(c) Use of the provisions of this chapter to obstruct or unreasonably delay acquisitions by the state. Obstruction is hereby defined as a lack of success in more than fifty per cent (50%) of the specification challenges made in each of three (3) different acquisitions during any twenty-four (24) month period;

(d) Perjury in a vendor disqualification hearing;

(e) To knowingly violate the provisions of this chapter.

(3) A vendor shall be notified by registered mail within ten (10) days of disqualification and may, within thirty (30) days of the receipt of such notice, request of the director of the department of administration a hearing before a determinations officer. Any hearings shall be held in accordance with chapter 52, title 67, Idaho Code.

(4) In lieu of disqualification, the determinations officer may recommend to the director of the department of administration specific conditions to the vendor's continued participation in acquisitions by

the state.

(5) Disqualification or conditions may be imposed for a period of not less than six (6) months or not more than five (5) years.

Approved March 2, 1988.

CHAPTER 14
(H.B. No. 458)

AN ACT

RELATING TO PER DIEM RATES OF ALLOWANCE FOR FOREIGN TRAVEL; AMENDING CHAPTER 20, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2008A, IDAHO CODE, TO PROVIDE THAT THE BOARD OF EXAMINERS SHALL DETERMINE REASONABLE PER DIEM ALLOWANCES FOR FOREIGN TRAVEL; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 20, 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 67-2008A, Idaho Code, and to read as follows:

67-2008A. DETERMINATION OF RATES OF ALLOWANCE -- FOREIGN TRAVEL. The board of examiners shall determine reasonable rates of allowance for per diem subsistence for officers, agents and employees of the state who are absent from their post of duty on official business in a foreign country. In determining such rates of allowance, the limitations of section 67-2008, Idaho Code, shall not apply. The board shall determine rates of allowance which are reasonable based upon factors such as the prevailing cost of executing such travel, generally prevailing economic conditions, and the rates of allowance made applicable to similar travel by the federal government and private employers within the state.

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 2, 1988.

CHAPTER 15
(H.B. No. 655)

AN ACT

RELATING TO IMPOSITION OF INCOME TAXES ON CERTAIN TRANSPORTATION EMPLOYEES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3023B, IDAHO CODE, TO PROVIDE AN EXCLUSION FROM THE REQUIREMENT TO FILE AND PAY INCOME TAXES FOR CERTAIN INTERSTATE TRANSPORTATION EMPLOYEES; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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 63-3023B, Idaho Code, and to read as follows:

63-3023B. NONRESIDENT TRANSPORTATION EMPLOYEES. (1) A nonresident individual shall not be required to file a return or pay taxes under this chapter if during a taxable year he:

(a) Is an employee of a railroad or motor carrier; and

(b) Performs regularly assigned duties in the course of such employment aboard a train or motor vehicle in this state and at least one (1) other state of the United States; and

(c) Earns less than one-half (1/2) of his income from employment aboard a train or motor vehicle as a result of activities in this state; and

(d) Earns no other income from sources within this state; and

(e) Is, during the entire taxable year, a resident of a state which does not impose on individuals a tax, measured by net income, or which grants to Idaho residents an exemption from tax similar to that granted in this section.

(2) If these persons are paid on a mileage basis, the gross income from sources within Idaho includes that portion of the total compensation for personal services which the number of miles traversed in Idaho bears to the total number of miles traversed within and without the state. If they are paid on some other basis, such as hours, the total compensation for personal services must be apportioned between this state, other states, and foreign countries in such a manner as to allocate to Idaho that portion of total compensation which is reasonably attributable to personal services performed in this state.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1988.

Approved March 3, 1988.

CHAPTER 16
(S.B. No. 1275)

AN ACT

RELATING TO THE DUTIES OF THE BOARD OF HEALTH AND WELFARE; AMENDING SECTION 39-145, IDAHO CODE, TO PROVIDE ADDITIONAL DUTIES FOR THE BOARD TO PRESCRIBE GUIDELINES FOR THE PROTECTION OF PERSONNEL INVOLVED AT ACCIDENT AND CRIME SCENES.

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

SECTION 1. That Section 39-145, Idaho Code, be, and the same is hereby amended to read as follows:

39-145. RULES AND REGULATIONS. The board is authorized and directed to establish appropriate rules, regulations and standards concerning the administration of this act, including criteria for training programs, certification of personnel, for ambulances, determination of acts which may be performed by basic life support personnel, establishment of fees for training, inspections, and certifications, appropriate requirements for recertification of personnel and equipment, and other necessary and proper matters.

Additionally, the board shall prescribe guidelines, standards and procedures for handling or containment of human blood, tissue or fluids encountered at crime and accident scenes. Such guidelines, standards and procedures shall be provided to all law enforcement personnel, all emergency services personnel and all fire department personnel, and such other personnel as necessary.

Approved March 3, 1988.

CHAPTER 17
(S.B. No. 1276)

AN ACT

RELATING TO THE CONTROL OF ANATOMICAL PARTS INTENDED FOR TRANSPLANTING OR TRANSFUSION; AMENDING CHAPTER 37, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3703, IDAHO CODE, TO PROHIBIT THE USE OF ANATOMICAL PARTS THAT HAVE NOT BEEN TESTED FOR AIDS.

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

SECTION 1. That Chapter 37, 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 39-3703, Idaho Code, and to read as follows:

39-3703. ANATOMICAL PARTS CONTROL. No anatomical parts of human

bodies, including whole blood, plasma, blood products, blood derivatives, body tissue, organs, parts of organs or products derived therefrom, and including semen, ova and embryos, shall be used for any purpose of injecting, transfusing or transplanting into a human body unless such anatomical parts or the donor have been examined for acquired immunodeficiency syndrome (AIDS), AIDS related complexes (ARC), or other manifestations of human immunodeficiency virus (HIV) infection, and a test is negative for the presence of HIV antibodies or antigens.

The director of the department of health and welfare shall promulgate rules to fully implement the requirements of this section.

Approved March 3, 1988.

CHAPTER 18
(S.B. No. 1274, As Amended)

AN ACT

RELATING TO ANATOMICAL GIFTS; AMENDING CHAPTER 34, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3401A, IDAHO CODE, TO PROVIDE DUTIES FOR THE DEPARTMENT OF HEALTH AND WELFARE FOR REGISTERING FACILITIES WHICH STORE AIDS FREE BODY PARTS; AMENDING SECTION 39-3403, IDAHO CODE, TO PROVIDE CONDITIONS FOR TRANSPLANTING OR TRANSFUSING BODY PARTS; AND AMENDING SECTION 39-3407, IDAHO CODE, TO PROVIDE CONDITIONS FOR ACCEPTANCE OF BODY PARTS.

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

SECTION 1. That Chapter 34, 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 39-3401A, Idaho Code, and to read as follows:

39-3401A. DUTIES OF STATE DEPARTMENT OF HEALTH AND WELFARE. (1) In addition to any other duties and responsibilities, the director of the department of health and welfare shall register facilities for the storage of human bodies or human body parts which are intended for transplantation into another human. The director shall not maintain on such registry any facility which does not certify that the body part or parts to be supplied for transplantation come from a person who has been tested for acquired immunodeficiency syndrome (AIDS), AIDS related complexes (ARC), or other manifestations of human immunodeficiency virus (HIV) infection, and that the test is negative for the presence of HIV antibodies or antigens.

SECTION 2. That Section 39-3403, Idaho Code, be, and the same is hereby amended to read as follows:

39-3403. WHO MAY BE DONEES. The following persons may become

donees of gifts of bodies or parts thereof for the purposes stated, provided that parts for transplantation shall not be transplanted or transfused under any conditions unless accompanied by a medical certificate which states that the part comes from a person who has been tested for HIV antibodies or antigens, and that the test is negative for the presence of HIV antibodies or antigens:

(1) Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(2) Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy; or

(3) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) Any specified individual for therapy or transplantation needed by him.

SECTION 3. That Section 39-3407, Idaho Code, be, and the same is hereby amended to read as follows:

39-3407. ACCEPTANCE OR REJECTION -- CUSTODY OF BODY -- TIME OF DEATH -- FREEDOM FROM LIABILITY -- AUTOPSIES. (1) Subject to the certification requirements of section 39-3403, Idaho Code, the donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(2) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedure for removing or transplanting a part.

(3) A person who acts in good faith in accord with the terms of this act or the anatomical gift laws of another state or a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(4) The provisions of this act are subject to the laws of this state prescribing powers and duties with respect to autopsies.

Approved March 4, 1988.

CHAPTER 19
(H.B. No. 558)

AN ACT

AMENDING SECTION 1, CHAPTER 357, LAWS OF 1987, RELATING TO THE APPRO-

PRIATION TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1988; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 357, Laws of 1987, be and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Legislative Council the following amount to be expended according to designated expense classes from the listed accounts for the period July 1, 1987, through June 30, 1988:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	~~$402,600~~	~~$222,100~~	$624,700
	447,600	177,100	
Interagency Billing and Receipts Account		42,000	42,000
TOTAL	~~$402,600~~	~~$264,100~~	$666,700
	447,600	219,100	

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 8, 1988.

CHAPTER 20
(S.B. No. 559)

AN ACT

APPROPRIATING MONEYS FOR POLICE SERVICES IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 338, LAWS OF 1987; 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 338, Laws of 1987, there is hereby appropriated to the Department of Law Enforcement for Police Services the following amount to be expended according to the designated expense class from the listed account for the period July 1, 1987, through June 30, 1988:

FOR:	
Operating Expenditures	$52,600
FROM:	
Interagency Billing and Receipts Account	$52,600

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 8, 1988.

CHAPTER 21
(H.B. No. 560)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 233, LAWS OF 1987; 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 233, Laws of 1987, there is hereby appropriated to the Idaho Transportation Department the following amounts to be expended for the named programs according to designated expense class from the listed account for the period July 1, 1987, through June 30, 1988:

A. GENERAL SUPPORT:	
FOR:	
Operating Expenses	$ 30,000
FROM:	
State Highway Account	$ 30,000
B. HIGHWAYS:	
FOR:	
Operating Expenses	$3,100,000
FROM:	
State Highway Account	$3,100,000

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 8, 1988.

CHAPTER 22
(H.B. No. 395)

AN ACT

RELATING TO INCOME TAXES; REPEALING SECTION 63-3027A, IDAHO CODE, RELATING TO THE APPORTIONMENT OF TAX BY NONRESIDENTS AND PART-YEAR RESIDENTS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3027A, IDAHO CODE, TO PROVIDE FOR THE DETERMINATION OF INCOME FROM IDAHO SOURCES BY NONRESIDENTS AND

PART-YEAR RESIDENTS; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION AND AN EFFECTIVE DATE.

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 repealed.

SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3027A, Idaho Code, and to read as follows:

63-3027A. COMPUTING TAXABLE INCOME OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES. (a) In computing a taxable income of a part-year or nonresident individual, trust, or estate, the standard deduction 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 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 for total Idaho adjusted income shall be based on:

(1) Whether or not the adjustments are related to the production of income reported in Idaho; or

(2) Whether or not the income was received, the expenses were 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 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, 1988, and shall be applicable to tax years beginning on and after its effective date.

Approved March 8, 1988.

CHAPTER 23
(H.B. No. 460)

AN ACT

RELATING TO THE SALARIES OF JUDGES AND MAGISTRATES; AMENDING SECTION 1-2222, IDAHO CODE, TO INCREASE THE BASE ANNUAL SALARIES AND THE MAXIMUM ANNUAL SALARIES FOR NONATTORNEY MAGISTRATES, AND TO STRIKE OBSOLETE PROVISIONS; AMENDING SECTION 59-502, IDAHO CODE, TO INCREASE THE SALARIES OF JUSTICES AND JUDGES.

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

SECTION 1. 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: 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	$ 28,000
Nonattorney Magistrate Judge II	3,000 to 4,500 cases	25,000
Nonattorney Magistrate Judge III	1,750 to 3,000 cases	22,000
Nonattorney Magistrate Judge IV	under 1,750 cases	18,000

Commencing on July 1, 1988, the amount of the base annual salary for all nonattorney magistrates shall be increased by five percent (5%), and again commencing on July 1, 1989, the amount of the base annual salary for all nonattorney magistrates shall be increased by five percent (5%).

(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 thirty-two thousand five hundred ninety dollars ($32,590), and commencing on July 1, 1986~~ until June 30, 1988, no nonattorney magistrate shall receive an annual salary of more than thirty-five thousand five hundred dollars ($35,500); provided, however, that commencing on July 1, 1988, the amount of the maximum salary limitation in this section shall be increased by five percent (5%), and again commencing on July 1, 1989, the amount of the maximum salary limitation in this section shall be increased by five percent (5%).

~~(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 2. 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, the salary of the justices of the ~~S~~supreme ~~C~~court shall be fifty-four thousand seven hundred and seventy dollars ($54,770) per annum, and the salary of the judges of the district courts shall be fifty-one thousand seven hundred and twenty dollars ($51,720) per annum. Commencing on July 1, 1986, the salary of justices of the ~~S~~supreme ~~C~~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; provided, however, that commencing on July 1, 1988, the salary of justices of the supreme court and the salary of judges of the district courts shall be increased by five percent (5%), and again commencing on July 1, 1989, the salary of justices of the supreme court and the salary of judges of the district courts shall be increased by five percent (5%). 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 ~~S~~supreme ~~C~~court as due out of the state treasury, but no justice of the ~~S~~supreme ~~C~~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.

Approved March 8, 1988.

CHAPTER 24
(H.B. No. 461)

AN ACT

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

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

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

1-402. FEES. The clerk of the ~~S~~supreme ~~C~~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 ~~S~~supreme ~~C~~court, sixty-~~three~~four dollars ($6~~3~~4.00), 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-~~six~~seven dollars ($567.00) 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~~two dollars ($6~~1~~2.00), 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-~~six~~seven dollars ($567.00) 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 ~~S~~supreme ~~C~~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¢).

SECTION 2. 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 $~~2~~930.00 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 $~~7~~8.00 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 $~~9~~10.00 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 $~~29~~30.00 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 $1~~2~~3.00 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 $9~~1~~0.00 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 $5~~6~~.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 $7~~8~~.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 $4~~5~~.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 $1~~2~~3.50 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 $7~~8~~.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 trea-

surer 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 $56.00 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 $910.00 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 $56.00 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 $145.00 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 $89.00 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 ~~S~~supreme ~~C~~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 ~~S~~supreme ~~C~~court.

(n) All fees required to be paid by this section or by rule or administrative order of the ~~S~~supreme ~~C~~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 ~~of~~ for such purpose, the ~~S~~supreme ~~C~~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.

Approved March 8, 1988.

CHAPTER 25
(S.B. No. 1255)

AN ACT

RELATING TO ADOPTION OF PERSONS BORN IN FOREIGN COUNTRIES; AMENDING SECTION 39-259, IDAHO CODE, TO PROVIDE FOR THE COURT TO ESTABLISH THE TRUE OR PROBABLE DATE AND PLACE OF BIRTH AND PARENTAGE FOR FOREIGN BORN ADOPTED PERSONS.

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

SECTION 1. 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. The report shall contain evidence from sources determined to be reliable by the court as to the true or probable date and place of birth and parentage of such person; 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. 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 when requested to do so by the court decreeing the adoption, the adoptive parents, or the adopted person. The new birth certificate shall ~~include~~ show the place true or probable foreign country (and city, town, village or other local designation, if known) of birth and the true or probable date of birth as established by the court and shown ~~by-documentation~~ on the court report of adoption, the child's new 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.

Approved March 8, 1988.

CHAPTER 26
(S.B. No. 1257)

AN ACT

RELATING TO ADOPTIONS; AMENDING SECTION 16-1506, IDAHO CODE, TO REQUIRE INCLUSION IN ADOPTION REPORTS OF INFORMATION ON THE ALLEGED DATE AND PLACE OF BIRTH AND PARENTAGE OF THE CHILD TO BE ADOPTED AND TO CORRECT A TYPOGRAPHICAL ERROR; AND AMENDING SECTION 16-1507, IDAHO CODE, TO REQUIRE A JUDGE MAKING AN ORDER ON ADOPTION OF A FOREIGN BORN PERSON TO MAKE A FINDING OF FACT AS TO THE TRUE OR PROBABLE DATE AND PLACE OF BIRTH AND PARENTAGE OF THE CHILD TO BE ADOPTED.

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

SECTION 1. That Section 16-1506, Idaho Code, be, and the same is hereby amended to read as follows:

16-1506. PROCEEDINGS ON ADOPTION. Proceedings to adopt a child shall be commenced by the filing of a petition together with a copy thereof. Said petition shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the county in which said person or persons reside and have residence. The petition shall set forth the name and address of the petitioner or petitioners, the name of the child proposed to be adopted and the name by which it shall be known if and when adopted, the degree of relationship of the child, if any, to the petitioner or petitioners and the names of any person or agency whose consent to said adoption is necessary. At the time fixed for hearing such petition the person adopting a child, and the child adopted, and the spouse of petitioner if a natural parent of the child, must appear before the court of the county where the person adopting resides. Petitioner shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated. Any person or persons whose consent is required shall execute such consent in writing, and acknowledge the same before any officer authorized by the laws of this or any other state to take acknowledgment of deeds, which consent being filed in the court where the application is made, shall be deemed a sufficient

appearance on the part of such person or persons. If any adoptive parent, or a person not a minor being adopted by a resident adult under the provisions of section 16-1501, Idaho Code, is a member of the armed services and is unable to attend the hearing, his appearance and testimony shall be received by means of deposition, which shall be filed in the court at the time of the hearing.

Upon the filing of a petition to adopt a minor child by a person unrelated to the child or unmarried to a natural parent of the child and at the discretion of the court upon the filing of any other petition for adoption, a copy of such petition, together with a statement containing the full names and permanent addresses of the child and the petitioners, shall be served by the court receiving the petition within five (5) days on the director of the department of health and welfare by registered mail or personal service. It shall then be the duty of the said director, through the personnel of the department or through such qualified child-placing agency incorporated under chapter 3, title 30, Idaho Code, as the director may designate, to verify the allegations of the petition, and as soon as possible not exceeding thirty (30) days after service of the petition on the director to make a thorough investigation of the matter to include in all cases information as to the alleged date and place of birth and as to parentage of the child to be adopted as well as the source of all such information and report his findings in writing to the court, and return therewith the petition, statement and all other papers, records or files relating to said adoption to the court. The department of health and welfare may require the petitioner to pay all or any part of the costs of the investigation. If the report disapproves of the adoption of the child, motion may be made to the court to dismiss the petition.

Proceedings for termination of parent-child relationship in accordance with chapter 20, title 16, Idaho Code, and proceedings for adoption may be consolidated and determined at one (1) hearing provided that all of the requirements of this chapter as well as chapter 20, title 16, Idaho Code, be fully complied with.

SECTION 2. That Section 16-1507, Idaho Code, be, and the same is hereby amended to read as follows:

16-1507. ORDER OF ADOPTION. The judge must examine all persons appearing before him pursuant to the last section, each separately, and the report of the investigation provided pursuant to the last section and if satisfied that the interests of the child will be promoted by the adoption, he must in the adoption of all foreign born persons make a finding of facts as to the true or probable date and place of birth and parentage of the foreign born child to be adopted and make an order declaring that the child shall thenceforth be regarded and treated in all respects as the child of the person adopting.

Approved March 8, 1988.

CHAPTER 27
(S.B. No. 1279, As Amended)

AN ACT
RELATING TO WILDLIFE PRESERVES; REPEALING SECTION 36-1912, IDAHO CODE.

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

SECTION 1. That Section 36-1912, Idaho Code, be, and the same is hereby repealed.

Approved March 8, 1988.

CHAPTER 28
(S.B. No. 1285)

AN ACT
RELATING TO AGE DISCRIMINATION; AMENDING SECTION 67-5910, IDAHO CODE, TO PROVIDE PROTECTION AGAINST AGE DISCRIMINATION TO ALL PERSONS WHO ARE AT LEAST FORTY YEARS OF AGE.

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

SECTION 1. That Section 67-5910, Idaho Code, be, and the same is hereby amended to read as follows:

67-5910. LIMITATIONS. (1) This act does not apply to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association, or society of its religious activities.

(2) It is not a discriminatory practice;

(a) for an employer to employ an employee, or an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program, on the basis of his religion, sex, national origin, or age if religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise, or

(b) for an employer, employment agency, or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance

plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit involuntary retirement of any individual specified ~~by--section-67-5910(7),-Idaho-Code,-of-this act~~ in subsection (7) of this section because of the age of such individual; however, the prohibition against age discrimination contained in this act shall not be construed to prohibit compulsory retirement if such retirement is permitted under the terms of 29 USC, section 631(c)(1) and (2), or

(c) for a religious educational institution or an educational organization to limit employment or give preference to members of the same religion.

(3) This act does not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages or accommodations of the establishment are made available to the customers or patrons of another establishment that is a place of public accommodation.

(4) Notwithstanding any other provisions of this act, it is not a discriminatory practice for;

(a) a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution (operated, supervised, or controlled by a religious institution) or organization to limit admission or give preference to applicants of the same religion, or

(b) an educational institution to accept and administer an inter vivos or testamentary gift upon the terms and conditions prescribed by the donor.

(5) The provisions of section 67-5909(7) do not apply;

(a) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the lessor or a member of his family resides in one (1) of the housing accommodations, or

(b) to the rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides therein.

(6) It is not a discriminatory practice for a religious institution or organization or a charitable or educational organization operated, supervised or controlled by a religious institution or organization to give preference to members of the same religion in a real property transaction.

(7) The prohibitions against discrimination based on age contained in this act shall be limited to individuals who are at least forty (40) years ~~of-age-but-less-than-seventy-(70)-years~~ of age.

Approved March 8, 1988.

CHAPTER 29
(S.B. No. 1326)

AN ACT
RELATING TO THE COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-213A, IDAHO CODE, TO ALLOW THE STATE BOARD OF CORRECTION TO ATTEND ANY MEETING OR EXECUTIVE SESSION OF THE COMMISSION OF PARDONS AND PAROLE.

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

SECTION 1. That Section 20-213A, Idaho Code, be, and the same is hereby amended to read as follows:

20-213A. COMPLIANCE WITH OPEN MEETING LAW -- EXECUTIVE SESSIONS AUTHORIZED -- REPORT REQUIRED. (1) All meetings of the commission of pardons and parole shall be held in accordance with the open meeting law as provided in chapter 23, title 67, Idaho Code, except:

(a) Deliberations and decisions concerning the granting, revoking, reinstating or refusing of paroles, may be made in executive session; and

(b) Votes of individual members in arriving at the parole decisions shall not be made public, provided that the commission shall maintain a record of the votes of the individual members as required in subsection (2) of this section.

(2) A written record of the vote to grant or deny parole by each commission member in each case reviewed by that member shall be produced by the commission. The record produced by the commission pursuant to this section shall be kept confidential and privileged from disclosure, provided the record shall be made available, upon request, to the governor and the chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes. Distribution of the report by a commissioner or an employee of the commission to any person not an employee of the commission and not specifically listed in this section shall be a misdemeanor.

(3) Nothing contained in this section shall prevent any person from obtaining the results of any parole action by the commission without reference to the manner in which any member voted, and the commission shall make such information public information.

(4) Nothing contained herein shall prevent a member of the board of correction from attending any meeting including an executive session of the commission of pardons and parole.

Approved March 14, 1988.

CHAPTER 30
(S.B. No. 1287)

AN ACT

RELATING TO THE DEFINITION OF PLUMBING SYSTEMS; AMENDING SECTION 54-2604, IDAHO CODE, BY THE ADDITION OF THE TERM "MANUFACTURED HOUSING" TO CLARIFY THE TERM "RESIDENCE".

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

SECTION 1. That Section 54-2604, Idaho Code, be, and the same is hereby amended to read as follows:

54-2604. PLUMBING SYSTEMS. (1) A plumbing system, public or private, means and includes:

(a) plumbing fixtures, interconnecting system pipes and traps;

(b) soil, waste and vent pipes;

(c) building drains and building sewers;

(d) sanitary and storm water drainage facilities;

(e) liquid waste and sewerage facilities;

(f) water supply systems and distribution and disposal pipes of any premises;

(g) water treating and water using equipment attached to a plumbing system except for water conditioning equipment; and

(h) all the respective connections, devices and appurtenances of any plumbing system, public or private, within or adjacent to any building, residence, manufactured housing, or structure to and including a connection with any point of a public or private supply, distribution or disposal system or other acceptable terminal.

(2) As used in this section, "water conditioning equipment" shall mean those devices necessary to remove impurities and sediment from water.

(3) It shall be unlawful for any person, firm, copartnership, association or corporation to do, or cause to be done, whether acting as a principal, agent, or employee, any construction, installation, improvement, extension or alteration of any plumbing system or water conditioning equipment in any residence, building, or structure, or service lines thereto, in the state of Idaho, without complying with the bonding provisions as provided by section 54-2602, Idaho Code.

Approved March 15, 1988.

CHAPTER 31
(S.B. No. 1306, As Amended)

AN ACT

RELATING TO MEETINGS OF WATER DISTRICTS; AMENDING SECTION 42-605, IDAHO CODE, TO PROVIDE THAT A WATER DISTRICT MAY, BY RESOLUTION ADOPTED AT AN ANNUAL MEETING OR AT A SPECIAL MEETING CALLED FOR

THAT PURPOSE CHANGE THE TIME WHEN THE ANNUAL MEETING SHALL COMMENCE OR CHANGE BOTH THE TIME AND THE DATE WHEN THE ANNUAL MEETING SHALL COMMENCE.

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

SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby amended to read as follows:

42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION -- REMOVAL -- OATH AND BOND. (1) There shall be held on the first Monday in March in each year, and, except as provided in subsection (2) of this section, commencing at two o'clock P.M., a meeting of all persons owning or having the use of a water right, in the waters of the stream or water supply comprising such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources.

(2) Such meeting shall be held at some place within the water district, convenient to a majority of those entitled to vote thereat, which place shall be designated by the department of water resources, and the department shall, between January first and February first of each year, file such designation with the county auditor of the county or counties within which such water district is situated and shall notify by mail all persons, companies or corporations known by it to own or claim the use of the waters of such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources. Provided that in water districts whose area includes land in more than four (4) counties the annual meeting shall commence at ten o'clock A.M. instead of two o'clock P.M. Provided, further, that any water district may, by resolution adopted at an annual meeting or at a special meeting properly called for that purpose, change the time of day when the meeting shall commence or change the date for annual meetings in subsequent years to any weekday except Saturday between the second Monday of January and the third Monday in March or change both the time and the date, in which case the department of water resources shall send its notification at least thirty (30) days prior to said meeting date.

(3) At such meeting there shall be elected a watermaster for such water district, and such other regular assistants as such meeting shall deem necessary, and such meeting shall prior to the election of such watermaster and assistants fix the compensation to be paid them during the time actually engaged in the performance of their duties. At such meeting each person present, owning or having the use for the ensuing irrigation season of any water right in the stream or water supply comprising such water district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, shall be entitled to a number of votes equal to the rate of flow in cubic feet per second including any fractions thereof, of said qualifying water right.

(4) Such meeting shall choose a chairman and secretary and shall determine the manner and method of electing watermasters and assis-

tants. Within five (5) days after such meeting the chairman and secretary shall forward a certified copy of the minutes of such meeting to the department of water resources.

(5) A corporation or a water delivery organization, including, but not limited to corporations, water companies, irrigation districts, irrigation companies and canal companies, shall be considered a person for the purpose of this section and shall cast its vote by someone to be designated by the corporation; provided, that each stockholder in said corporation shall be entitled to as many votes as he shall have units of cubic feet per second or fraction thereof, of water in the stream or water supply comprising such water district.

(6) Should said meeting not be held, or should said watermaster not be chosen or his compensation fixed as above provided, then the department of water resources is authorized to appoint such watermaster and fix his compensation.

(7) The department of water resources may remove any watermaster whenever such watermaster fails to perform his duty as watermaster, upon complaint in that respect being made to the department in writing, by one (1) person owning or having the right to the use of a water right in such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources provided, that upon investigation the department, after a hearing with the other water users of said district, which shall be held in the district, finds such charge to be true, and the department may appoint a successor for the unexpired term.

(8) Before entering upon the duties of his office, said watermaster shall take and subscribe an oath before some officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of his office, as provided in section 42-607, Idaho Code, and shall file that oath with the department of water resources. Upon appointment by the director of the department of water resources, the actions taken by a watermaster in fulfillment of the duties of his office are covered by the state group surety bond as provided by sections 59-801 through 59-804, Idaho Code.

Approved March 15, 1988.

CHAPTER 32
(S.B. No. 1338)

AN ACT

RELATING TO WILD ANIMALS DAMAGING PROPERTY; AMENDING SECTION 36-1107, IDAHO CODE, TO PROVIDE THAT BEAR, MOUNTAIN LIONS AND PREDATORS MAY BE DISPOSED OF BY LIVESTOCK OWNERS OR THEIR EMPLOYEES WHEN THE BEAR, MOUNTAIN LION OR PREDATOR IS MOLESTING LIVESTOCK WITHOUT THE NECESSITY TO OBTAIN A PERMIT FROM THE DEPARTMENT OF FISH AND GAME.

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

SECTION 1. That Section 36-1107, Idaho Code, be, and the same is hereby amended to read as follows:

36-1107. WILD ANIMALS AND BIRDS DAMAGING PROPERTY. Other provisions of this title notwithstanding, any person may control, trap, and/or remove any wild animals or birds or may destroy the houses, dams, or other structures of furbearing animals for the purpose of protecting property from the depredations thereof as hereinafter provided.

(a) Director to Authorize Removal of Wildlife Causing Damage. When any wildlife, protected by this title, is doing damage to or is destroying any property or is likely to do so, the owner or lessee thereof may make complaint and report the facts to the director who shall investigate the conditions complained of. If it appears that the complaint is well-founded and the property of such complainant is being or is likely to be damaged or destroyed by any such wildlife protected under this title, the director may:

1. Send a representative onto the premises to control, trap, and/or remove such protected wildlife as will stop the damage to said property. Any animals or birds so taken shall remain the property of the state and shall be turned over to the director.
2. Grant properly safeguarded permission to the complainant to control, trap and/or remove such protected wildlife or to destroy any houses, dams, or other structures erected by said animals or birds. Any protected wildlife so taken shall remain the property of the state and shall be turned over to the director.
3. Whenever deemed to be in the public interest, authorize or cause the removal or destruction of any dam, house, structure or obstruction erected by any furbearing animals, provided that no liability whatever shall accrue to the department or the director by reason of any direct or indirect damage arising from such destruction or removal.
4. Issue a permit to any bona fide owner or lessee of property which is being actually and materially damaged by furbearing animals, to trap or kill or to have trapped or killed such animals on his own or leased premises. Such permit may be issued without cost to a landholder applicant and shall designate therein the number of furbearing animals that may be trapped or killed, the name of the person who the landowner has designated to take such furbearers and the valid trapping license number of the taker. Furbearers so taken shall be the property of the taker. Beaver so taken shall be handled in the manner provided in section 36-1104, Idaho Code. The term "premises" shall be construed to include any irrigation ditch or right-of-way appurtenant to the land for which said permit is issued.

(b) Control of Depredation of Bear, Mountain Lion, and Predators ~~Within--Wildlife--Preserves~~. Bear ~~and~~, mountain lion, and predators ~~within-wildlife-preserves,~~ may be disposed of by livestock owners or their employees when same are molesting livestock and it shall not be necessary to obtain any permit from the department. Mountain lion so

taken shall be reported to the director. Livestock owners may take steps they deem necessary to protect their livestock.

(c) Taking of Muskrats in Irrigation Systems Authorized. Muskrats may be taken at any time in or along the banks of irrigation ditches, canals, reservoirs or dams, by the owners, their employees, or those in charge of said irrigation ditches or canals.

Approved March 15, 1988.

CHAPTER 33
(S.B. No. 1457)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 245, LAWS OF 1987; 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 245, Laws of 1987, there is hereby appropriated to the Department of Administration for Public Works the following amount to be expended according to designated expense class from the listed account for the period July 1, 1987, through June 30, 1988:

FOR:	
Operating Expenditures	$360,000
FROM:	
Interagency Billing and Receipts Account	$360,000

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 15, 1988.

CHAPTER 34
(S.B. No. 1458)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE AUDITOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 357, LAWS OF 1987; 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 357, Laws of 1987, there is hereby appropriated to the Legislative Auditor of the Joint Senate Finance-House Appropriations Committee for the post-audit operations of the state, the following amount to be expended according to designated expense class from the listed account for the period July 1, 1987, through June 30, 1988:

FOR:	
Operating Expenditures	$ 21,800
FROM:	
Indirect Cost Recovery Account	$ 21,800

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 15, 1988.

CHAPTER 35
(S.B. No. 1460)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 267, LAWS OF 1987; 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 267, Laws of 1987, there is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amount to be expended according to the designated expense class from the listed account for the period July 1, 1987, through June 30, 1988:

FOR:	
Capital Outlay	$36,400
FROM:	
General Account	$36,400

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 15, 1988.

CHAPTER 36
(S.B. No. 1461)

AN ACT

APPROPRIATING MONEYS FOR THE STATE INSURANCE FUND FOR FISCAL YEAR 1989.

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 State Insurance Fund the following amount, to be expended according to designated expense classes from the listed account, for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$1,894,700
Operating Expenditures	571,400
Capital Outlay	46,700
TOTAL	$2,512,800
FROM:	
State Insurance Fund Account	$2,512,800

Approved March 15, 1988.

CHAPTER 37
(S.B. No. 1475)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1989; AND DESIGNATING THE AMOUNT FOR MERIT INCREASES.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Insurance not exceed the following amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$1,454,000
Operating Expenditures	1,154,100
Capital Outlay	38,400
TOTAL	$2,646,500
FROM:	
Insurance Administration Account	$2,169,700
Arson, Fire & Fraud Prevention Account	476,800
TOTAL	$2,646,500

SECTION 2. There is hereby appropriated to the Department of Insurance the following amount, to be expended for the designated pro-

grams according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
Insurance Administration Account	$ 446,300	$ 497,200	$ 7,000	$ 950,500
B. REGULATION:				
FROM:				
Insurance Administration Account	$ 719,400	$ 474,700	$25,100	$1,219,200
C. ARSON FIRE AND FRAUD:				
FROM:				
Arson, Fire and Fraud Prevention Account	$ 288,300	$ 182,200	$ 6,300	$ 476,800
GRAND TOTAL	$1,454,000	$1,154,100	$38,400	$2,646,500

SECTION 3. The appropriation for personnel costs made in Section 2 of this act includes $6,900 from dedicated funds to be used for the purpose of granting merit increases only.

Approved March 15, 1988.

CHAPTER 38
(S.B. No. 1476)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1989; TRANSFERRING SUCH MONEYS TO THE GENERAL ACCOUNT; AND DESIGNATING THE AMOUNT FOR MERIT INCREASES.

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 amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$1,703,100
Operating Expenditures	1,025,100
Capital Outlay	85,000
TOTAL	$2,813,200
FROM:	
General Account	$ 182,200
Public Utilities Commission Account	2,631,000
TOTAL	$2,813,200

SECTION 2. There is hereby appropriated to the Public Utilities Commission the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. UTILITIES REGULATION:				
FROM:				
Public Utilities Commission Account	$ 810,900	$ 715,500	$15,000	$1,541,400
B. REGULATED CARRIERS:				
FROM:				
Public Utilities Commission Account	$ 269,400	$ 173,300	$10,000	$ 452,700
C. ADMINISTRATION:				
FROM:				
General Account	$ 182,200			$ 182,200
Public Utilities Commission Account	440,600	$ 136,300	$60,000	636,900
TOTAL	$ 622,800	$ 136,300	$60,000	$ 819,100
GRAND TOTAL	$1,703,100	$1,025,100	$85,000	$2,813,200

SECTION 3. Notwithstanding any other provisions of law, there is hereby appropriated from the Public Utilities Commission Account and transferred to the General Account the sum of $182,200 for the period July 1, 1988, through June 30, 1989.

SECTION 4. The appropriation for personnel costs made in Section 2 of this act includes $29,000 from the dedicated account to be used for the purpose of granting merit increases only.

Approved March 15, 1988.

CHAPTER 39
(S.B. No. 1477)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR ELIGIBILITY SERVICES IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 339, LAWS OF 1987; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT; EXEMPTING CERTAIN PERSONNEL; 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 339, Laws of 1987, there is hereby appropriated to the Department of Health and Welfare for Eligibility Services the following amount to be expended according to designated expense classes from the listed accounts for the period July 1, 1987, through June 30, 1988:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$ 113,300	$1,084,600	$ 585,700		$1,783,600
Cooperative Welfare Account	113,300	1,084,600	585,600		1,783,500
TOTAL	$ 226,600	$2,169,200	$1,171,300		$3,567,100

SECTION 2. The State Auditor shall make transfers of the General Account moneys appropriated in this act to the Cooperative Welfare Account, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the amount provided herein.

SECTION 3. The Director of the Department of Health and Welfare shall be granted authority to appoint a Computer System Manager, who shall be exempt from the provisions of Chapter 53, Title 67, Idaho Code.

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

Approved March 15, 1988.

CHAPTER 40
(S.B. No. 1479)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIQUOR DISPENSARY FOR FISCAL YEAR 1989.

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 State Liquor Dispensary the following amount, to be expended according to designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Liquor Account	$3,593,700	$2,755,500	$ 50,000	$6,399,200

Approved March 15, 1988.

CHAPTER 41
(S.B. No. 1480)

AN ACT

APPROPRIATING MONEYS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 1989.

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 Endowment Fund Investment Board the following amount, to be expended according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$146,100	$ 95,700	$1,600	$243,400
Interagency Billing and Receipts Account	48,700	17,600	500	66,800
TOTAL	$194,800	$113,300	$2,100	$310,200

Approved March 15, 1988.

CHAPTER 42
(S.B. No. 1481)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE IN ADDITION TO THE APPROPRIATION MADE BY SECTION 3, CHAPTER 243, LAWS OF 1987; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 3, Chapter 243, Laws of 1987, there is hereby appropriated to the Department of Agriculture the following amount to be expended for the named programs according to designated expense classes from the listed accounts for the period July 1, 1987, through June 30, 1988:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
PLANT INDUSTRY:					
FROM:					
Agriculture Department Inspection Account	$ 40,000	$ 15,000			$ 55,000
AGRICULTURAL INSPECTIONS:					
FROM:					
Fresh Fruit and Vegetable Inspection Account	$350,000	$200,000	$50,000	$100,000	$700,000
TOTAL	$390,000	$215,000	$50,000	$100,000	$755,000

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 15, 1988.

CHAPTER 43
(S.B. No. 1482)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEES RETIREMENT SYSTEM IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 235, LAWS OF 1987; 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 235, Laws of 1987, there is hereby appropriated to the Office of the Governor for the Public Employees Retirement System the following amount to be expended according to the designated expense classes from the listed account for the period July 1, 1987, through June 30, 1988:

FOR:	
Personnel Costs	$13,800
Operating Expenditures	34,300
TOTAL	$48,100
FROM:	
Public Employees Retirement System Account	$48,100

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 15, 1988.

CHAPTER 44
(H.B. No. 382, As Amended)

AN ACT

RELATING TO THE STATE FOSSIL; AMENDING CHAPTER 45, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4507, IDAHO CODE, TO PROVIDE THAT THE HAGERMAN HORSE FOSSIL SHALL BE THE STATE FOSSIL OF THE STATE OF IDAHO.

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

SECTION 1. That Chapter 45, 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 67-4507, Idaho Code, and to read as follows:

67-4507. STATE FOSSIL DESIGNATED. The Hagerman Horse Fossil (species Equus simplicidens originally described as Plesippus shoshonensis) is hereby designated and declared to be the state fossil of the state of Idaho.

Approved March 16, 1988.

CHAPTER 45
(H.B. No. 432, As Amended,
As Amended in the Senate)

AN ACT

RELATING TO VENEREAL DISEASES; AMENDING SECTION 39-601, IDAHO CODE, TO PROVIDE A CURRENT DEFINITION; AMENDING CHAPTER 6, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-601A, IDAHO CODE, TO PROVIDE A STATEMENT OF POLICY ON EXPENDITURES; AMENDING SECTION 39-604, IDAHO CODE, TO PROVIDE FOR EXAMINATION AND TREATMENT OF PRISONERS, AND TO PROVIDE FOR PAYMENT FOR SUCH EXAMINATION AND TREATMENT; AMENDING SECTION 39-607, IDAHO CODE, TO PROVIDE THAT THE PUNISHMENT FOR EXPOSING OTHER PERSONS TO CERTAIN VENEREAL DISEASES IS A MISDEMEANOR; AMENDING CHAPTER 6, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-609, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY; AND AMENDING CHAPTER 6, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-610, IDAHO CODE, TO PROVIDE FOR DISCLOSURE OF AIDS REPORTING INFORMATION.

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

SECTION 1. That Section 39-601, Idaho Code, be, and the same is hereby amended to read as follows:

39-601. VENEREAL DISEASES ENUMERATED ---~~EXPOSURE-OF-OTHER-PERSONS UNLAWFUL~~. Syphilis, gonorrhea, acquired immunodeficiency syndrome (AIDS), AIDS related complexes (ARC), other manifestations of ~~HTLV-III (human---T-cell---lymphotrophic----virus-type----III)~~ HIV (human immunodeficiency virus) infections and chancroid, hereinafter designated as venereal diseases, are hereby declared to be contagious, infectious, communicable and dangerous to public health; and it shall be unlawful for ~~any-one~~ anyone infected with these diseases or any of them to knowingly ~~or-wilfully~~ expose another person to the infection of such diseases.

SECTION 2. That Chapter 6, 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 39-601A, Idaho Code, and to read as follows:

39-601A. POLICY ON EXPENDITURES. It is the intent of the legislature that governmental authorities shall be required to provide those services authorized or mandated by law for treatment or testing for the diseases enumerated in section 39-601, Idaho Code, only to the extent of funding and available resources appropriated.

SECTION 3. That Section 39-604, Idaho Code, be, and the same is hereby amended to read as follows:

39-604. CONFINED AND IMPRISONED PERSONS -- EXAMINATION, TREATMENT, AND QUARANTINE. (1) All persons who shall be confined or imprisoned in any state~~,-county,-or-city~~ prison facility in this state shall be examined for on admission, and again before release, and, if infected, treated for ~~venereal~~ the diseases ~~by-the-health-authorities of-the-county-or-their-deputies.-The-prison-authorities-of-any--state, county,--or--city--prison-are-directed-to-make-available-to-the-county health-authorities-such-portion-of-any-state,-county-or-city-prison-as may-be-necessary-for-a-clinic-or-hospital-wherein-all-persons-who--may be-confined-or-imprisoned-in-any-such-prison-and-who-are-infected-with venereal--disease--at--the--time--of--the-expiration-of-their-terms-of imprisonment,-and,-in-case-no-other-suitable-place--for--isolation--or quarantine--is--available,--such--other--persons-as-may-be-isolated-or quarantined-under-the-provisions-of-section-39-603,-Idaho-Code,--shall be--isolated-and-treated-at-public-expense-until-cured,-or,-in-lieu-of such-isolation,-any-of-such-persons-may,--in--the--discretion--of--the director--of--the--department--of--health--and-welfare,-be-required-to report-for-treatment-to-a-licensed-physician,-or-submit--to--treatment provided-at-public-expense,-as-provided~~ enumerated in section 39-6031, Idaho Code, and this examination shall include a test for HIV antibodies or antigens. This examination is not intended to limit any usual or customary medical examinations that might be indicated during a person's imprisonment. Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

(2) All persons who shall be confined in any county or city jail may be examined for and, if infected, treated for the venereal dis-

eases enumerated in section 39-601, Idaho Code, if such persons have, in the judgment of public health authorities and the jailer, been exposed to a disease enumerated in section 39-601, Idaho Code.

(3) All persons who shall be confined in any county or city jail and who are charged with sex offenses, drug related charges, prostitution or other charges as recommended by public health authorities shall be tested for infection with the human immunodeficiency virus (HIV).

(4) Responsibility for the examination, testing and treatment of persons confined in county or city jails shall be vested in the county or city that operates the jail. The county or city may contract with the district health departments or make other arrangements for the examination, testing and treatment services. The district health department or other provider may charge and collect for the costs of such examination and treatment, as follows:

(a) When the prisoner is a convicted felon awaiting transfer to the board of correction, or when the prisoner is a convicted felon being confined in jail pursuant to a contract with the board of correction, the board of correction shall reimburse such costs;

(b) When the prisoner is awaiting trial after an arrest by any state officer, the state agency employing such arresting officer shall reimburse such costs;

(c) When the prisoner is being held for any other authority or jurisdiction, including another state, the authority or jurisdiction responsible shall reimburse such costs unless otherwise provided for by contract.

SECTION 4. That Section 39-607, Idaho Code, be, and the same is hereby amended to read as follows:

39-607. PENALTIES FOR VIOLATIONS. Any person who shall violate ~~any of the provisions of this chapter or~~ any lawful rule or regulation made by the state board of health and welfare, pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any ~~state, county or municipal~~ public health ~~officer~~ authority, pursuant to the authority granted in this chapter, or any person who, knowing that he or she is infected with syphilis, gonorrhea or chancroid, exposes another person to the infection of such disease, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction thereof, by a fine of not more than three hundred dollars ($300) or by imprisonment in the county jail for not more than six (6) months; or by both such fine and imprisonment.

SECTION 5. That Chapter 6, 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 39-609, Idaho Code, and to read as follows:

39-609. DECLARATION OF POLICY. The legislature hereby declares that infection with human immunodeficiency virus, the virus which causes acquired immune deficiency syndrome (AIDS), is an infectious and communicable disease that endangers the population of this state.

The legislature further declares that reporting of HIV infection to public health officials is essential to enable a better understanding of the disease, the scope of exposure, the impact on the community, and the means of control and that efforts to control the disease should include public education, counseling, and voluntary testing and that restrictive enforcement measures should be used only when necessary to protect the public health. It is hereby declared to be the policy of this state that an effective program of preventing AIDS must maintain the confidentiality of patient information and restrict the use of such information solely to public health requirements. This confidentiality is essential so that infected persons are encouraged to reveal their condition to persons who have a legitimate need to know in order that they may assist the patient. Conversely, there is a need for certain individuals to know of the patient's condition so that they may be protected from the disease or protect themselves and others closely associated with the patient. The legislature believes that the balancing of the need to know by certain individuals in relationship to the need to maintain confidentiality to encourage reporting is essential to control the spread of the disease. This balancing cannot be fully codified in statutory law and must be left to the judgment and discretion of public health officials. If in the judgment of public health authorities an imminent danger to the public health exists due to an individual having a disease enumerated in section 39-601, Idaho Code, public health authorities shall take such action as is authorized in this chapter and as is necessary to prevent danger to the public health. Persons who have a legitimate need to know may include health care personnel: doctors, nurses, dentists, morticians, lab technicians and school authorities. This is not intended to limit the usual and customary exchange of information between health care providers.

SECTION 6. That Chapter 6, 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 39-610, Idaho Code, and to read as follows:

39-610. DISCLOSURE OF AIDS REPORTING INFORMATION. (1) No confidential public health record as described in section 39-606, Idaho Code, shall be disclosed, shall be discoverable, or compelled to be produced in any civil or administrative hearing.

(2) State or local health authorities may contact and advise those persons who, in the judgment of health authorities, have been exposed to the HIV (human immunodeficiency virus).

(3) Public health authorities may disclose personally identifying information in public health records, as described in section 39-606, Idaho Code, to other local or state public health agencies when the confidential information is necessary to carry out the duties of the agency in the investigation, control and surveillance of disease, as determined by the state board of health and welfare, or as otherwise authorized by law.

(4) Nothing in this chapter imposes liability or criminal sanction for disclosure or nondisclosure of the results of a blood test to

detect HIV virus in accordance with any reporting requirements of the department of health and welfare.

Approved March 16, 1988.

CHAPTER 46
(S.B. No. 1478)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION ON WOMEN'S PROGRAMS FOR FISCAL YEAR 1989; AND EXPRESSING LEGISLATIVE INTENT.

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 Women's Programs the following amount, to be expended according to the designated expense class from the listed account for the period July 1, 1988, through June 30, 1989:

FOR:	
Operating Expenditures	$11,900
FROM:	
General Account	$11,900

SECTION 2. It is legislative intent that the money appropriated in Section 1 shall not be used to pay dues to any national organization.

Approved March 17, 1988.

CHAPTER 47
(H.B. No. 413)

AN ACT

RELATING TO A STATE FORENSIC LABORATORY; AMENDING SECTION 67-2901, IDAHO CODE, TO EMPOWER THE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT TO OPERATE AND SUPERVISE A FORENSIC LABORATORY; AMENDING SECTION 39-105, IDAHO CODE, TO DELETE REFERENCE TO LAW ENFORCEMENT; AMENDING SECTION 37-2744, IDAHO CODE, TO DELETE REFERENCE TO HEALTH AND WELFARE AND INSERT IN LIEU THEREOF LAW ENFORCEMENT; AMENDING SECTION 18-8004, IDAHO CODE, TO DELETE REFERENCE TO THE DEPARTMENT OF HEALTH AND WELFARE AND INSERT IN LIEU THEREOF THE DEPARTMENT OF LAW ENFORCEMENT; AND AMENDING SECTION 49-1016, IDAHO CODE, TO DELETE REFERENCE TO THE DEPARTMENT OF HEALTH AND WELFARE AND INSERT IN LIEU THEREOF THE DEPARTMENT OF LAW ENFORCEMENT.

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

SECTION 1. That Section 67-2901, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901. DEPARTMENT CREATED -- DIRECTOR -- DIVISIONS -- POWERS AND DUTIES -- FAILURE OF PEACE OFFICERS TO OBEY ORDERS, MISDEMEANOR -- DEPUTIES -- COMPENSATION AND POWERS. (1) There is hereby created the department of law enforcement. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The governor, with the advice and consent of the senate, shall appoint a director of the department of law enforcement who shall serve at the pleasure of the governor. The director shall receive such salary as fixed by the governor.

(3) The department of law enforcement shall be composed of such divisions as may be established by law and other administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the department. The director shall appoint, subject to the approval of the governor, an administrator for each division within the department.

(4) The director shall exercise all of the powers and duties necessary to carry out the proper administration of the department, and may delegate duties to employees and officers of the department.

(5) The department of law enforcement shall have power to enforce all of the penal and regulatory laws of the state, to preserve order, and exercise any and all powers, duties and authority of any sheriff or other peace officer anywhere in the state of Idaho, in the same manner and with like authority as the sheriffs of the counties; said department may employ from time to time, to carry out any of the provisions of this subdivision, such deputies or special deputies as may be deemed, by the governor of the state of Idaho, necessary to carry out these duties and powers, and deputies shall have power to deputize other persons as deputies when necessary; said department may call into the police service of the state any and all peace officers of the state, of any city, or of any county, and may deputize private citizens, when deemed necessary by the governor of the state, to preserve order and enforce law in any extraordinary emergency when the governor shall have declared, by order in writing, the existence of such extraordinary emergency; the governor shall designate by order such peace officers or private persons as are to be called into the service of the state, and when such peace officers or deputized citizens are so called into the police service of the state such officers shall act under the direction of the director of said department in such manner as may be directed and ordered by the governor; failure on the part of any such peace officer of the state, or person so deputized, to so act and obey such orders shall constitute a misdemeanor; the governor shall fix the compensation of such deputies. The jurisdiction of the director of the department of law enforcement and his deputies, both regular and special, and all peace officers or other persons called into the police service of the state by him or his deputies, shall be coextensive with the territory of the state of Idaho and not limited

by the lines of any political or municipal subdivisions.

(6) The director shall operate and supervise a forensic laboratory which will provide to state and local agencies having responsibility for enforcement of the penal laws of this state assistance in the collection, preservation and analysis of evidence in criminal cases.

(7) The director shall provide security and protection for the governor and the governor's immediate family to the extent and in the manner the governor and the director deem adequate and appropriate.

(~~7~~8) The director shall provide security and protection for both houses of the legislature while in session as in the opinion of the speaker of the house and the president of the senate and the director deem necessary.

(~~8~~9) The director may award to an officer, upon retirement, that officer's badge, service revolver and handcuffs, providing that a committee of three (3) of the officer's peers certifies to the director that the retiring officer has served meritoriously for a minimum of fifteen (15) years and should therefore be so honored.

SECTION 2. That Section 39-105, Idaho Code, be, and the same is hereby amended to read as follows:

39-105. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the following powers and duties:

1. All of the powers and duties of the department of public health, the department of health, the board of health, and the air pollution control commission, are hereby transferred to the director of the department of health and welfare, provided, however, that rule making and hearing functions relating to environmental protection, public health and licensure and certification standards shall be vested in the board of health and welfare. The director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law, including the authority to adopt, promulgate, and enforce rules and regulations in those circumstances when the authority to adopt, promulgate, and enforce such rules and regulations is not vested in the board of health and welfare, and shall be the successor in law to all contractual obligations entered into by his predecessor in law. All rule making proceedings and hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

2. The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this act, formulate and recommend to the board, rules, regulations, codes and standards, as may be necessary to deal with problems related to personal health, water pollution, air pollution, visual pollution, noise abatement, solid waste disposal, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of law relating to any purpose which may be necessary and feasible for enforcing the provisions of this act, including, but not limited to the prevention, control or abatement of environmental pollution or degradation and the maintenance and protection of personal health. Any such regulation or standard may be of general application throughout

the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

3. The director, under the rules, regulations, codes or standards adopted by the board, shall have the general supervision of the promotion and protection of the life, health, mental health and environment of the people of this state. The powers and duties of the director shall include but not be limited to the following:

a. The issuance of licenses and permits as prescribed by law and by the rules and regulations of the board.

b. The supervision and administration of laboratories and the supervision and administration of standards of tests for environmental pollution, chemical analyses and communicable diseases. The director may require that laboratories operated by any city, county, institution, person, firm or corporation for health~~,~~ or environmental ~~or law enforcement~~ purposes conform to standards set by the board.

c. The supervision and administration of a mental health program, which shall include services for the evaluation, screening, custody and treatment of the mentally ill and those persons suffering from a mental defect, or mental defects.

d. The enforcement of minimum standards of health, safety and sanitation for all public swimming pools within the state.

e. The enforcement of standards, rules and regulations, relating to public water supplies.

f. The supervision and administration of the various schools, hospitals and institutions that were the responsibility of the board of health at the time this act went into effect.

g. The supervision and administration of services dealing with the problems of alcoholism, including but not limited to the care and rehabilitation of persons suffering from alcoholism.

h. The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other governmental entities with the planning for the control of or abatement of environmental and health problems. All of the rules, regulations and standards adopted by the board shall apply to state institutions.

i. The supervision and administration of an emergency medical service program, including but not limited to assisting other governmental agencies and local governmental units, in providing first aid emergency medical services and for transportation of the sick and injured.

j. The supervision and administration of a system to safeguard air quality and for limiting and controlling the emission of air contaminants.

k. The supervision and administration of a system to safeguard the quality of the waters of this state, including but not limited to the enforcement of standards relating to the discharge of effluent into the waters of this state and the storage, handling and transportation of solids, liquids, and gases which may cause or contribute to water pollution.

l. The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties,

cities, other governmental units, and industries in the control of and/or abatement of environmental and health problems.

m. The supervision and administration of a statewide solid waste disposal plan including the enforcement of rules and regulations for minimum sanitary standards for the storage, collection, incineration, composting, grinding, disposing or other processing of solid wastes, and for the construction, operation and maintenance of solid waste control systems. Plans, maps, specifications, and a proposed operational procedure report for a proposed public, commercial, industrial, or agricultural solid waste disposal site shall be submitted to the director for his review and approval.

n. The enforcement of all laws, rules, regulations, codes and standards relating to environmental protection and health.

4. The director, when so designated by the governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government, including but not limited to the ~~F~~federal ~~W~~water ~~P~~pollution ~~C~~control ~~A~~act, for use in or by the state of Idaho in relation to health and environmental protection.

5. The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporation for facilities, land, and equipment when such use will have a beneficial, recreational, or therapeutic effect or be in the best interest in carrying out the duties imposed upon the department.

The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

6. The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

SECTION 3. That Section 37-2744, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744. FORFEITURES. (a) The following are subject to forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, acquired, possessed or held in violation of this act or with respect to which there has been any act by any person in violation of this act;

(2) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances or counterfeit substances in violation of this act;

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2) hereof;

(4) All conveyances, including aircraft, vehicles, or vessels,

which are used, or intended for use, to transport, or in any manner to facilitate the transportation, delivery, receipt, possession or concealment, for the purpose of distribution or receipt of property described in paragraph (1) or (2) hereof, but:

(A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this act;

(B) No conveyance is subject to forfeiture under this section if the owner establishes that he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a)(4) of this section;

(C) A conveyance is not subject to forfeiture for a violation of section 37-2732(c)(2), Idaho Code; and

(D) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of or reason to know nor consented to the act or omission.

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this act.

(6) (A) All moneys, currency, negotiable instruments, securities or other items easily liquidated for cash, such as, but not limited to, jewelry, stocks and bonds, or other property described in paragraphs (2) and (3) hereof, found in close proximity to property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section or which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession of property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section;

(B) Items described in paragraph (6)(A) above or other things of value furnished or intended to be furnished by any person in exchange for a contraband controlled substance in violation of this chapter, all proceeds, including items of property traceable to such an exchange, and all moneys or other things of value used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All drug paraphernalia as defined by section 37-2701, Idaho Code.

(8) All simulated controlled substances, which are used or intended for use in violation of this chapter.

(b) Property subject to forfeiture under this chapter may be seized by the director, or any peace officer of this state, upon process issued by any district court, or magistrate's division thereof,

having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal racketeering or civil forfeiture proceeding based upon a violation of this chapter;

(3) Probable cause exists to believe that the property is directly or indirectly dangerous to health or safety; or

(4) Probable cause exists to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted promptly.

(1) When property is seized under this section, the director or the peace officer who seized the property may:

(A) Place the property under seal;

(B) Remove the property to a place designated by it; or

(C) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) The peace officer who seized the property shall within five (5) days notify the director of such seizure.

(3) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted within thirty (30) days by the director.

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the director subject only to the orders and decrees of the district court, or magistrate's division thereof, having jurisdiction over the forfeiture proceedings. Forfeiture proceedings shall be civil actions against the property subject to forfeiture and the standard of proof shall be preponderance of the evidence.

(1) All property described in paragraphs (1), (7) and (8) of subsection (a) hereof shall be deemed contraband and shall be summarily forfeited to the state. Controlled substances which are seized or come into possession of the state, the owners of which are unknown, shall be deemed contraband and shall be summarily forfeited to the state.

(2) When property described in paragraphs (2), (3), (4), (5) and (6) of subsection (a) hereof is seized pursuant to this section, forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such property is seized. The procedure governing such proceedings shall be the same as that prescribed for civil proceedings by the Idaho Rules of Civil Procedure. The court shall order the property forfeited to the director if he determines that such property was used, or intended for use, in violation of this chapter, or, in the case of items described in paragraph (6)(A) of subsection (a), was found in close proximity to property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section.

(3) When conveyances, including aircraft, vehicles, or vessels are seized pursuant to this section a complaint instituting forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such conveyance is seized.

(A) Notice of forfeiture proceedings shall be given each owner or party in interest who has a right, title, or interest which in the case of a conveyance shall be determined by the record in the Idaho transportation department or a similar department of another state if the records are maintained in that state, by serving a copy of the complaint and summons according to one (1) of the following methods:

(I) Upon each owner or party in interest by mailing a copy of the complaint and summons by certified mail to the address as given upon the records of the appropriate department.

(II) Upon each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last-known address.

(B) Within twenty (20) days after the mailing or publication of the notice, the owner of the conveyance or claimant may file a verified answer and claim to the property described in the complaint instituting forfeiture proceedings.

(C) If at the end of twenty (20) days after the notice has been mailed there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use, or intent to use, and shall order the property forfeited to the director, if such fact is proved.

(D) If a verified answer is filed, the forfeiture proceeding shall be set for hearing before the court without a jury on a day not less than thirty (30) days therefrom; and the proceeding shall have priority over other civil cases.

(I) At the hearing any owner who has a verified answer on file may show by competent evidence that the conveyance was not used or intended to be used in any manner described in subsection (a)(4) of this section.

(II) At the hearing any owner who has a verified answer on file may show by competent evidence that his interest in the conveyance is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a)(4) of this section.

(III) If the court finds that the property was not used or was not intended to be used in violation of this act, or is not subject to forfeiture under this act, the court shall order the property released to the owner as his right, title, or interest appears on records in the appropriate department as of the seizure.

(IV) An owner, co-owner or claimant of any right, title, or interest in the conveyance may prove that his

right, title, or interest, whether under a lien, mortgage, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged;

(i) In the event of such proof, the court shall order the conveyance released to the bona fide or innocent owner, purchaser, lien holder, mortgagee, or conditional sales vendor. The court may order payment of all costs incurred by the state or law enforcement agency as a result of such seizure.

(ii) If the amount due to such person is less than the value of the conveyance, the conveyance may be sold at public auction by the director. The director shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the conveyance. The proceeds from such sale shall be distributed as follows in the order indicated;

1. To the bona fide or innocent owner, purchaser, conditional sales vendor, lien holder or mortgagee of the conveyance, if any, up to the value of his interest in the conveyance.

2. The balance, if any, in the following order:

A. To the director for all expenditures made or incurred by it in connection with the sale, including expenditure for any necessary repairs, storage, or transportation of the conveyance, and for all expenditures made or incurred by him in connection with the forfeiture proceedings including but not limited to expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

B. To the law enforcement agency of this state which seized the conveyance for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any conveyance seized under this act.

C. The remainder, if any, to the director for credit to the drug enforcement donation account.

(iii) In any case, the director may, within thirty (30) days after judgment, pay the balance due to the bona fide lien holder, mortgagee or conditional

sales vendor and thereby purchase the conveyance for use to enforce this act.

(e) When property is forfeited under this section, or is received from a federal enforcement agency, the director may:

(1) Retain it for official use;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public.

The director shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the property. The proceeds from such sale shall be distributed as follows in the order indicated:

(A) To the director, or by the director, to his agent, county or city law enforcement agency, for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs, maintenance, storage or transportation, and for all expenditures made or incurred in connection with the forfeiture proceedings including but not limited to expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

(B) To the law enforcement agency of this state which seized the property for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any property seized under this act.

(C) The remainder, if any, to the director for credit to the drug enforcement donation account.

(3) Take custody of the property and remove it for disposition in accordance with law; or

(4) Upon the recommendation of the director only, the court may order property forfeited, in whole or in part, to a city or county the law enforcement agency of which participated in the events leading to the seizure of the property. Upon such order, the city or county shall use the property for drug enforcement purposes consistent with this act.

(f) (1) The director or any peace officer of this state seizing any of the property described in paragraphs (1) and (2) of subsection (a) of this section shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted unless such property has been placed in lawful custody of a court or state or federal law enforcement agency. After all legal actions have been exhausted with respect to such property, the property shall be surrendered by the court, law enforcement agency, or person having custody of the same to the director to be destroyed pursuant to paragraph (2) hereof. The property shall be accompanied with a written inventory on forms furnished by the director.

(2) All property described in paragraphs (1) and (2) of subsection (a) which is seized or surrendered under provisions of this act may be destroyed after all legal actions have been exhausted. The destruction shall be done under the supervision of the supervisory drug analyst of the department of ~~health--and--welfare~~ law

enforcement, a representative of the office of the director and a representative of the state board of pharmacy. An official record listing the property destroyed and the location of destruction shall be kept on file at the office of the director. Except, however, that the director of the department of law enforcement or his designee may authorize the destruction of drug or nondrug evidence, specifically marijuana or nondrug items used in the planting, cultivation or harvesting of marijuana, when, in the opinion of the director or his designee, it is not reasonable to remove or transport such items from the location of the seizure for destruction. In such case, a sample of the marijuana will be removed and preserved for evidentiary purposes and, when practicable, destroyed as otherwise is in accordance with this chapter. On-site destruction of such items shall be witnessed by at least two (2) persons, one (1) of whom shall be the director or his designee who shall make a record of the destruction.

(g) Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

(h) The failure, upon demand by the director, or his duly authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(i) The director shall have the authority to enter upon any land or into any dwelling pursuant to a search warrant, to cut, harvest, carry off or destroy such plants described in subsection (g) hereof.

SECTION 4. 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 an alcohol concentration of 0.10, as defined in subsection (4) of this section, or more, as shown by analysis of his blood, urine, or breath, 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 an alcohol concentration of less than 0.10, as defined in subsection (4) of this section, as shown by analysis of his blood, urine, or breath, 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 evi-

dence.

(3) If the results of the test requested by a police officer show a person's alcohol concentration of less than 0.10, as defined in subsection (4) of this section, 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 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 alcohol concentration shall be performed by a laboratory operated by the Idaho department of ~~health and welfare~~ law enforcement or by a laboratory approved by the Idaho department of ~~health and welfare~~ law enforcement 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~~ law enforcement. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated or approved by the Idaho department of ~~health and welfare~~ law enforcement or by any other method approved by ~~health and welfare~~ the Idaho department of law enforcement shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(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 5. That Section 49-1016, Idaho Code, be, and the same is hereby amended to read as follows:

49-1016. TESTING BLOOD OF PERSONS KILLED IN ACCIDENTS. The director of the department of ~~health and welfare~~ law enforcement, jointly

with the various county coroners, shall provide a system and procedure whereby all morticians in the state of Idaho shall obtain blood samples from all pedestrians and motor vehicle operators who have died as a result of and contemporaneously with an accident involving a motor vehicle.

All investigating police officers shall report such fatalities to the county coroner or follow the procedure established by the joint action of the ~~board~~ director of the department of law enforcement and the various coroners.

The blood sample, with such information as may be required, will be delivered to the director of the department of ~~health--and--welfare~~ law enforcement or his designee. Upon receipt of such sample the director will cause such tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs contained in such sample.

The results of such tests shall be used exclusively for statistical purposes and the sample shall never be identified with the name of the deceased. Any person releasing or making public such information other than as herein prescribed, shall be guilty of a misdemeanor.

Approved March 18, 1988.

CHAPTER 48
(H.B. No. 489)

AN ACT

RELATING TO INITIATIVE AND REFERENDUM ELECTIONS; AMENDING SECTION 34-1801, IDAHO CODE, TO CORRECT A REFERENCE AND TO CLARIFY THE INFORMATION REQUIRED ON AN INITIATIVE PETITION; AMENDING SECTION 34-1804, IDAHO CODE, TO REQUIRE THE SECRETARY OF STATE TO TRANSMIT COPIES OF PETITIONS RECEIVED TO THE ATTORNEY GENERAL, TO PROVIDE A PETITION FORM, AND TO REQUIRE SIGNATURES FROM ONE COUNTY PER SIGNATURE SHEET; AMENDING SECTION 34-1806, IDAHO CODE, TO REQUIRE THE SECRETARY OF STATE TO KEEP PETITIONS AS PUBLIC RECORDS; AMENDING SECTION 34-1807, IDAHO CODE, TO CORRECT A REFERENCE, TO DELETE SURPLUS LANGUAGE, AND TO REQUIRE CERTIFICATION OF PETITION SIGNATURES BY THE COUNTY CLERK; AMENDING SECTION 34-1808, IDAHO CODE, TO CORRECT REFERENCES; AMENDING SECTION 34-1809, IDAHO CODE, TO DELETE SURPLUS LANGUAGE, TO CLARIFY THE PROCEDURE FOR THE ISSUANCE OF A CERTIFICATE OF REVIEW, AND TO INCREASE THE ALLOWED TITLE SIZE; AMENDING SECTION 34-1810, IDAHO CODE, TO PROVIDE THAT MEASURES BE NUMBERED CONSECUTIVELY AND DESIGNATED AS "PROPOSITIONS"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-1801, Idaho Code, be, and the same is

hereby amended to read as follows:

34-1801. PETITION. The following shall be substantially the form of petition for any law proposed by the initiative:

WARNING

It is a felony for any one to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a ~~legal voter~~ qualified elector.

INITIATIVE PETITION

To the Honorable ...., Secretary of State of the State of Idaho:

"We, the undersigned citizens and ~~legal voters~~ qualified electors of the State of Idaho, respectfully demand that the following proposed law, to-wit: (setting out full text of measure proposed) shall be submitted to the ~~legal voters~~ qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the .... day of ...., A.D., 19.., and each for himself says: I have personally signed this petition; I am a ~~legal voter~~ qualified elector of the State of Idaho; my residence and postoffice are correctly written after my name.

Signature	Printed Name	Residence Street and Number ~~(if in a city, street and number.)~~	City or Post Office

(Here follow twenty numbered lines for signatures.)

The petition for referendum on any act passed by the state legislature of the state of Idaho shall be in substantially the same form with appropriate title and changes, setting out in full the text of the act of the legislature to be referred to the people for their approval or rejection.

SECTION 2. That Section 34-1804, Idaho Code, be, and the same is hereby amended to read as follows:

34-1804. PRINTING OF PETITION AND SIGNATURE SHEETS. Before or at the time of beginning to circulate any petition for the referendum to the people on any act passed by the state legislature of the state of Idaho, or for any law proposed by the initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated shall send or deliver to the secretary of state a copy of such petition duly signed by at least twenty (20) qualified electors of the state which shall be filed by said officer in his office, and who shall immediately ~~examine and specify the form and kind and size of paper on which such petition shall be printed for circulation for signatures~~ transmit a copy of the petition to the attorney general for the issuance of the certificate of review as provided in section 34-1809, Idaho Code. All petitions for the initiative and for the referendum and sheets for signatures shall be printed on a good quality of bond or ledger paper ~~on pages eight and one-half (8-1/2) inches in width by thirteen (13) inches in length, with a margin of one and three fourths (1-3/4) inches at the top for binding~~ in the form and manner as approved by the secretary of state. To every ~~sheet of petitioners' signatures shall be attached a full and~~

correct copy of the measure so proposed by initiative petition; but such petition may be filed by the secretary of state in numbered sections for convenience in handling. Every sheet of petitioners' signatures upon referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded, and may be filed in numbered sections in like manner as initiative petitions. Not more than twenty (20) signatures on one (1) sheet shall be counted. Each signature sheet shall contain signatures of qualified electors from only one (1) county.

SECTION 3. That Section 34-1806, Idaho Code, be, and the same is hereby amended to read as follows:

34-1806. BINDING OF PETITION AND SIGNATURE SHEETS -- APPROVED MEASURES TO BE PRINTED WITH SESSION LAWS. When any such initiative or referendum petition shall be offered for filing the secretary of state shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative or referendum petitions. ~~If the aforesaid sheets shall be too bulky for convenient binding in one volume, they may be bound in two (2) or more volumes, those in each volume to be attached to a single printed copy of such measure. If any such measure shall, at the ensuing election, be approved by the people, then the copies thereof so preserved, with the sheets and signatures and affidavits, and a certified copy of the governor's proclamation declaring the same to have been approved by the people, shall be bound together in such form that they may be conveniently identified and preserved~~ The secretary of state shall file and keep such petitions as official public records. The secretary of state shall cause every such measure so approved by the people to be printed with the general laws enacted by the next ensuing session of the state legislature with the date of the governor's proclamation declaring the same to have been approved by the people.

SECTION 4. That Section 34-1807, Idaho Code, be, and the same is hereby amended to read as follows:

34-1807. VERIFICATION OF PETITION AND SIGNATURE SHEETS -- COMPARISON OF SIGNATURES WITH REGISTRATION OATHS AND RECORDS. Each and every sheet of every such petition containing signatures shall be verified on the face thereof in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon, and as a part thereof:

State of Idaho,
ss.
County of ....

I, ..., being first duly sworn, say: That I am a qualified elector of the State of Idaho: that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence: I believe that each has stated his or her name, post-office address and residence correctly, that each signer is a ~~legal voter~~ qualified elector of the State of Idaho, and county of .....

Signed....
Post-office address ....
Subscribed and sworn to before me this .... day of .... 19...
(Notary Seal) .... Notary Public.
Residing at ....

In addition to said affidavit the ~~clerk-of-the-district--court--of each--county--in-which-any-such-petition-shall-be-signed-shall-compare the-signatures-of-the-electors-signing-the-same-with-the-signatures-on the-registration-oaths-and-records-in-his-office,-and-shall--carefully examine-said-petitions-and-shall-attach-to-the-sheets-of-said-petition containing--such--signatures--his~~ county clerk shall carefully examine said petitions and shall attach to the signature sheets a certificate to the secretary of state substantially as follows:

State of Idaho
ss.
County of .....

To the honorable ...., Secretary of State for the State of Idaho:
I, ..., ~~Clerk-of-the-District-Court-of-the-....-Judicial-District--of the--State--of--Idaho--in--and--for--....-sheets-(specifying-number-of sheets)-of-the-referendum-(initiative)-petition-attached-hereto,--with the--signatures--of-said-electors-as-they-appear-upon-the-registration oaths,-books-and-records-of-my-office,-and-from-such-information-as--I have--been--able--to--obtain--I--believe--the--signatures-of-(names-of signers)-numbering-(number-of-genuine-signatures)-are-genuine.--As--to the--remainder-of-the-signatures-thereon,-I-believe-they-are-not-genuine,-except-that-the-following-names-(....)-do-not-appear-on-the--registration--oaths,--books--and--records--in--my--office~~ County Clerk of .... County, hereby certify that .... signatures on this petition are those of qualified electors.

(Signed) ....
~~Clerk-of-District-Court~~
County Clerk or Deputy.

(Seal of office)

~~By-....~~
~~Deputy.~~

~~Every--such-certificate-shall-be-prima-facie-evidence-of-the-facts stated-therein-and-of-the-qualifications-of-the-electors-whose--signatures--are--thus--certified--to-be-genuine,-and-the-secretary-of-state shall-consider-and-count-only-such-signatures--on--such--petitions--as shall--be-so-certified-by-said-clerk-of-the-district-court-to-be-genuine;-provided,-that-the-secretary-of-state-shall--consider--and--count such--of-the-remaining-signatures-as-shall-be-proved-to-be-the-genuine signatures-of-legal-voters.--To-establish-such-facts-the-official-certificate-of-a-notary-public-of-the-county-in-which-the-signer--resides shall--be--required-as-to-the-facts-for-each-of-such-last-named-signatures,-in-form-substantially-as-follows:~~

~~State-of-Idaho,~~
~~ss.~~
~~County-of-....~~

~~I,-....,-a-duly-qualified-and-acting-Notary-Public-in-and-for--the State--of--Idaho,-residing-at-....,-county-of-....,-do-hereby-certify: That-I-am-personally-acquainted-with-each-of-the-following-named-elec-~~

~~tors-whose-signatures-are-affixed-to-the-annexed-petition,-and-I--know of--my-own-knowledge-that-they-are-legal-voters-of-the-State-of-Idaho, and-of-the-county-written-after-their-several--names--in--the--annexed petition,--and-that-their-residence-and-post-office-addresses-are-correctly-stated-therein,-to-wit:~~
~~(names-of-such-electors.)~~

~~In-Testimony-Whereof,-I-have-hereunto-set--my--hand--and--official seal-this-.....-day-of-.....-19...~~
~~(Notary-Seal)~~ ~~.....-Notary-Public.~~
~~Residing-at-.....-Idaho.~~

The ~~clerk--of-the-district-court~~ county clerk shall not retain in his possession any such petition or any part thereof for a longer period than two (2) working days for the first 200 signatures thereon, and one (1) additional working day for each 200 additional signatures or fractions thereof, on the sheets presented to him, and at the expiration of such time he shall deliver the same to the person from whom he received it with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical error.

SECTION 5. That Section 34-1808, Idaho Code, be, and the same is hereby amended to read as follows:

34-1808. FILING OF PETITION -- MANDATE -- INJUNCTION. If the secretary of state shall refuse to accept and file any petition for the initiative or for the referendum with the requisite number of signatures of ~~bona--fide~~ qualified electors thereto attached, any citizen may apply, within ten (10) days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the secretary of state and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the Supreme Court within ten (10) days after a decision is rendered. The district court of the ~~third~~ fourth judicial district of the state of Idaho in and for Ada County shall have jurisdiction in all cases of measures to be submitted to the qualified electors of the state at large.

SECTION 6. That Section 34-1809, Idaho Code, be, and the same is hereby amended to read as follows:

34-1809. REVIEW OF INITIATIVE AND REFERENDUM MEASURES BY ATTORNEY GENERAL -- CERTIFICATE OF REVIEW PREREQUISITE TO ASSIGNMENT OF BALLOT TITLE -- BALLOT TITLE. When After receiving a copy of the petition ~~for any--measure--to-be-referred-to-the-people-of-the-state,-either-by-the~~

~~initiative-or-the-referendum,-shall-be-received-by--the--secretary--of state;---the-secretary-of-state-shall-forthwith-transmit-a-copy-thereof to-the-attorney-general-of-the-state-and-give-notice-to-the-petitioner of-such-transmittal.-Upon-receipt-of-the-measure~~ from the secretary of state as provided in section 34-1804, Idaho Code, the attorney general may confer with the petitioner and shall, within ten (10) working days from receipt thereof, review the proposal ~~for matters~~ of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the attorney general shall be advisory only and the petitioner may accept or reject them in whole or in part. The attorney general shall issue a certificate of review to the secretary of state certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendations. The certificate of review shall be available for public inspection in the office of the secretary of state. Within fifteen (15) working days after ~~notification--of submittal--of-the-petition-to-the-attorney-general~~ the issuance of the certificate of review, the petitioner, if he desires to proceed with his sponsorship, shall file the measure, as herein provided, ~~together with-the-certificate-of-review~~ with the secretary of state for assignment of a ballot title and the secretary of state shall thereupon submit to the attorney general two (2) copies of the measure filed. Within ten (10) working days after receiving said copies the attorney=general shall provide a ballot title therefor and return one of said copies to the secretary of state, together with the ballot title so prepared by him. A copy of the ballot title as prepared by the attorney=general shall be furnished by the secretary of state with his approved form of any initiative or referendum petition, as provided herein, to the person or persons or organization or organizations under whose authority the measure is initiated or referred. Said ballot title shall be used and printed on the covers of the petition when in circulation; the short title shall be printed in type not less than twenty (20) points on the covers of all such petitions circulated for signatures. The ballot title shall contain: (1) Distinctive short title in not exceeding ~~ten~~ twenty (~~1~~20) words by which the measure is commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition. (2) A general title ~~which--may--not--be--distinct-from-the-legislative-title-of-the measure~~ expressing in not more than ~~one~~ two hundred (~~1~~200) words the purpose of the measure. The ballot title shall be printed with the numbers of the measure on the official ~~ballot~~. In making such ballot title the attorney=general shall to the best of his ability give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure. Any person who is dissatisfied with the ballot title or the short title provided by the attorney=general for any measure, may appeal from his decision to the Supreme Court by petition, praying for a different title and setting forth the reason why the title prepared by the attorney general is insufficient or unfair. No appeal shall be allowed

from the decision of the attorney-general on a ballot title unless the same is taken within twenty (20) days after said ballot title is filed in the office of the secretary of state. A copy of every such ballot title shall be served by the secretary of state upon the person offering or filing such initiative or referendum petition, or appeal. The service of such decision may be by mail or telegraph and shall be made forthwith when it is received from the attorney-general by the secretary of state. Said Supreme Court shall thereupon examine said measure, hear argument, and in its decision thereon certify to the secretary of state a ballot title and a short title for the measure in accord with the intent of this section. The secretary of state shall print on the official ballot the title thus certified to him.

SECTION 7. That Section 34-1810, Idaho Code, be, and the same is hereby amended to read as follows:

34-1810. PRINTING AND DESIGNATION OF BALLOT TITLES ON OFFICIAL BALLOTS. The secretary of state, at the time he furnishes to the county ~~auditors~~ clerks of the several counties certified copies of the names of candidates for state and district offices shall furnish to each of said county ~~auditors~~ clerks a certified copy of the ballot titles and numbers of the several measures to be voted upon at the ensuing general election, and he shall use for each measure the ballot title designated in the manner herein provided. Such ballot title shall not resemble, so far as to probably create confusion, any such title previously filed for any measure to be submitted at that election. ~~;-he-shall-number-such-measures-and-such-ballot-titles-shall-be printed-in-the-order-in-which-acts-referred-by-petitions-to-the-people shall-be-filed-in-his-office.-The-affirmative--of--the--first--measure shall--be-numbered-100,-and-the-negative-101-in-numerals,-and-the-succeeding-measures-shall-be-numbered-consecutively-102,--103,--104,--105 and-so-on-at-each-election.-It-shall-be-the-duty-of-the-several-county auditors--to--print--said--ballot-titles-and-numbers-upon-the-official ballot-in-the-order-presented-to-them-by-the-secretary--of--state--and the--relative--position-required-by-law.-Measures-referred-by-petition shall-be-designated-"Referendum-Ordered-by-Petition--of--the--People," measures--proposed-by-initiative-petition-shall-be-designated-and-distinguished-on-the-ballot-by-the-heading-"Proposed-by-Initiative--Petition."~~ The secretary of state shall number the measures consecutively beginning with number (1), in the order in which the measures were finally filed with the secretary. The measures shall be designated on the ballot as a "Proposition One", "Proposition Two," et cetera.

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

Approved March 18, 1988.

CHAPTER 49
(H.B. No. 451)

AN ACT

RELATING TO MEDICAL ASSISTANCE; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-218, IDAHO CODE, TO PROVIDE FOR THE RECOVERY OF CERTAIN MEDICAL ASSISTANCE; AND REPEALING SECTION 56-224c, IDAHO CODE.

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

SECTION 1. That Chapter 2, 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 56-218, Idaho Code, and to read as follows:

56-218. RECOVERY OF CERTAIN MEDICAL ASSISTANCE. (1) Medical assistance pursuant to this chapter paid on behalf of an individual who was sixty-five (65) years of age or older when the individual received such assistance may be recovered from the estate, or if there be no estate the estate of the surviving spouse, if any, shall be charged for such aid paid to either or both; provided, however, that claim for such medical assistance correctly paid to the individual may be established against the estate, but there shall be no adjustment or recovery thereof until after the death of the surviving spouse, if any, and only at a time when the individual has no surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of such aid without adequate consideration are voidable and may be set aside by an action in the district court.

(2) Except where there is a surviving spouse, or a surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under this chapter on behalf of an individual who was sixty-five (65) years of age or older when the individual received such assistance is a claim against the estate in any guardianship or conservatorship proceedings and may be paid from the estate.

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

SECTION 2. That Section 56-244c, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 1988.

CHAPTER 50
(H.B. No. 562)

AN ACT

RELATING TO MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209e, IDAHO CODE, TO PROVIDE A PROCESS FOR DETERMINING MEDICAL ASSISTANCE ELIGIBILITY FOR MARRIED COUPLES; AND REPEALING SECTION 32-915, IDAHO CODE, RELATING TO A WIFE'S DUTY TO SUPPORT AN INFIRM HUSBAND.

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

SECTION 1. That Chapter 2, 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 56-209e, Idaho Code, and to read as follows:

56-209e. ELIGIBILITY OF MARRIED COUPLES FOR MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM. (1) It is the intent of the legislature in enacting this section to reduce the number of situations in which medicaid regulations as they apply to long term care costs, cause either the destitution of the entire family, or a dissolution of marriage carried out to prevent destitution. It is further the intent of this legislation to protect the community and separate property rights of a married person whose spouse applies for medical assistance regardless of whether they are living together.

(2) (a) In determining the eligibility of an aged, blind or disabled married individual or of a couple for medical assistance under title XIX of the social security act, the amount of income and resources to be counted as available to such individual or couple shall be calculated in accordance with the community property provisions of chapter 9, title 32, Idaho Code, or should it be to the advantage of such individual or couple, in accordance with the methods utilized by the federal supplemental security income program under title XVI of the social security act.

(b) Where both spouses are applying or are covered by medical assistance, the same method of counting income and resources shall be applied to both spouses and utilized to determine the liability of each for the cost of medical care; however, for any month for which either spouse receives a supplemental security income payment or a state supplement under section 56-207, 56-208 or 56-209a, Idaho Code, or for which an application is filed and subsequently approved, the methodology of the supplemental security income program shall be applied.

(c) The presumption of the availability of income under either the community property or supplemental security income method may be rebutted by either spouse.

(d) The department of health and welfare shall furnish to each medical assistance applicant who is aged, blind or disabled, a clear and simple statement in writing advising them of the provi-

sions of this section.

(3) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.

SECTION 2. That Section 32-915, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 1988.

CHAPTER 51
(S.B. No. 1402)

AN ACT

RELATING TO THE BEAN COMMISSION; REPEALING SECTION 22-2919, IDAHO CODE; AMENDING CHAPTER 29, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2919, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT AND DISBURSEMENT OF FUNDS OF THE COMMISSION; AND AMENDING SECTION 22-2920, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Section 22-2919, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 29, 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 22-2919, Idaho Code, and to read as follows:

22-2919. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative budget office, the state auditor, and the division of financial management, a report showing

the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited biennially by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the state auditor and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.

SECTION 3. That Section 22-2920, Idaho Code, be, and the same is hereby amended to read as follows:

22-2920. ~~SALARIES,-COSTS-AND-EXPENSES,-HOW-PAID----APPROPRIATIONS~~ USES FOR MONEYS. ~~All-salaries,-costs-and--expenses--incurred--by--the commission--in--performing--its-duties-and-exercising-its-powers-under this-act-shall-be-paid-out-of-such-Idaho-bean-marketing-and-production promotion-fund-in-the-following-manner:--Vouchers--therefor--shall--be submitted-by-the-commission-to-the-state-auditor-and,-upon-approval-by the-state-board-of-examiners,-the-state-auditor-shall-draw-his-warrant upon-the-Idaho-bean-marketing-and-production-promotion-fund-in-payment therefor.~~ Funds received under the provisions of this ~~act~~ chapter shall be expended for the following purposes:

(a) For the collection of the tax provided for in section 22-2921 ~~hereof,~~ Idaho Code, and the enforcement of all the provisions of this ~~act~~ chapter.

(b) For the purpose of investigating and procuring better methods of production, transportation, shipment and merchandising of beans, and for the manufacture and merchandising of their by-products.

(c) For the general purpose of advertising beans for food and all other purposes.

~~Any-unexpended-balance-from--the--above--apportionment--shall--not lapse-but-shall-be-carried-forward-to-the-same-fund-for-the-next-biennium.~~

Approved March 21, 1988.

CHAPTER 52
(S.B. No. 1403)

AN ACT

RELATING TO THE POTATO COMMISSION; REPEALING SECTION 22-1209, IDAHO

CODE; AMENDING CHAPTER 12, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1209, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT AND DISBURSEMENT OF FUNDS OF THE COMMISSION; AND AMENDING SECTION 22-1210, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Section 22-1209, Idaho Code, be, and the same is hereby repealed.

SECTION 2. 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 22-1209, Idaho Code, and to read as follows:

22-1209. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative budget office, the state auditor, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited annually by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the state auditor and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.

SECTION 3. That Section 22-1210, Idaho Code, be, and the same is hereby amended to read as follows:

22-1210. ~~DISBURSEMENTS--BY-COMMISSION----PROCEDURE-AND-ACCOUNTING~~ -- LIMIT ON STATE LIABILITY -- COMPENSATION AND EXPENSES. All ~~salaries,-costs,-and~~ expenses incurred by the commission in performing its duties and exercising its powers ~~under-this-act~~ shall be ~~paid-out-of the-Idaho-potato-fund-and-the-commission-shall-have-the-power-to--make disbursements--therefor,~~ without liability on the part of the state ~~beyond-the-amount-of-such-fund.-The-commission-shall-submit-each-month to-the-state-board-of-examiners-an-estimate-of-the-moneys-required--to pay--such-salaries,-costs-and-expenses-incurred-or-to-be-incurred-during-the-succeeding-month-and-when-such-estimate-shall-be--approved--by the--board--of--examiners-the-state-treasurer-is-authorized-to-pay-the same-out-of-the-Idaho-potato-fund-upon-sight-drafts-drawn-by-the--commission.--At--the--end--of--each--calendar--month-the-commission-shall account-to-the-board-of-examiners-for-all-money-so-disbursed,-furnishing-vouchers-therefor-which-shall-bear-the-certification-of--the--commission-that-all-expenditures-made-from-such-moneys-were-made-upon-the commission's--approval-and-for-the-purposes-set-forth-in-this-act.-All moneys-so-received-or-expended-by--the--commission--shall--be--audited annually--by--a--certified-public-accountant-designated-by-the-commission,-who-shall-furnish-a-report-of-such-audit-to--the--state--auditor and--to--the--agriculture-committees-of-the-state-house-of-representatives-and-state-senate.-Such-audit-shall-be--completed--within--ninety (90)--days--following-the-close-of-the-commission's-fiscal-year,-which shall-run-from-July-1-through-June-30.~~

~~Any-unexpended-balance-left-in-the-Idaho-potato-fund-at--the--conclusion-of-any-fiscal-period-shall-be-retained-in-the-fund-and-carried forward--for-use-and-disposition-by-the-commission-in-keeping-with-the provisions-of-this-act.~~

No member of the commission shall receive any compensation for his services as such member, except as provided in section 22-1202, Idaho Code, but members and employees of the commission and other persons acting under the direction of the commission shall, if approved by the commission, be reimbursed for their actual and reasonable expenses incurred in performing their duties under this ~~act~~ chapter. ~~This-act is-expressly-exempted-from-the--provisions--of--sections--67-2007--and 67-2000,-Idaho-Code.~~

Approved March 21, 1988.

CHAPTER 53
(S.B. No. 1487)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 1989; DESIGNATING THE AMOUNT FOR MERIT INCREASES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Department of Commerce the following amount from the listed accounts for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$ 1,865,900
Idaho Travel and Convention Account	2,324,200
Idaho Development and Publicity Account	153,400
Economic and Community Affairs Account	9,088,300
TOTAL	$13,431,800

SECTION 2. The appropriation for personnel costs made in Section 1 of this act includes $4,300 from the General Account and $6,200 in total funds to be used for the purpose of granting merit increases only.

SECTION 3. There is hereby reappropriated to the Department of Commerce any unexpended and unencumbered balances of all moneys appropriated by Section 1, Chapter 310, Laws of 1987, to be used for nonrecurring expenditures only, for the period July 1, 1988 through June 30, 1989.

Approved March 21, 1988.

CHAPTER 54
(S.B. No. 1488)

AN ACT
EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1989.

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 amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$ 4,635,900
Operating Expenditures	5,210,800
Capital Outlay	437,200
Trustee & Benefit Payments	2,488,800
TOTAL	$12,772,700
FROM:	
General Account	$ 2,286,200
Interagency Billing and Receipts Account	8,649,500
Permanent Building Fund Account	922,000
Federal Surplus Property Revolving Account	349,000
Risk Retention Account	310,100
Employee Group Insurance Account	255,900
TOTAL	$12,772,700

SECTION 2. There is hereby appropriated to the Department of Administration the following amount, to be expended for the designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 90,500	$ 65,500			$ 156,000
Interagency Billing and Receipts Account	366,900	229,900		$ 27,400	624,200
TOTAL	$ 457,400	$ 295,400		$ 27,400	$ 780,200
II. GENERAL SERVICES:					
FROM:					
General Account	$ 323,400	$ 54,200			$ 377,600
Interagency Billing and Receipts Account	750,200	489,000	$215,700		1,454,900
TOTAL	$1,073,600	$ 543,200	$215,700		$ 1,832,500
III. PUBLIC WORKS:					
FROM:					
General Account				$1,400,900	$ 1,400,900
Interagency Billing and Receipts Account	$ 751,100	$2,175,100	$ 18,500	1,060,500	4,005,200
Permanent Building Fund Account	624,800	262,400	34,800		922,000
TOTAL	$1,375,900	$2,437,500	$ 53,300	$2,461,400	$ 6,328,100
IV. PURCHASING:					
FROM:					
General Account	$ 270,000	$ 78,600	$ 3,100		$ 351,700
Interagency Billing and Receipts Account	903,500	1,499,600	162,100		2,565,200
Federal Surplus Property Revolving Account	209,500	136,500	3,000		349,000
TOTAL	$1,383,000	$1,714,700	$168,200		$ 3,265,900
V. INSURANCE MANAGEMENT:					
FROM:					
Employee Group Insurance Account	$ 144,800	$ 111,100			$ 255,900

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Risk Retention Account	201,200	108,900			310,100
TOTAL	$ 346,000	$ 220,000			$ 566,000
GRAND TOTAL	$4,635,900	$5,210,800	$437,200	$2,488,800	$12,772,700

Approved March 21, 1988.

CHAPTER 55
(S.B. No. 1489)

AN ACT

APPROPRIATING MONEYS FOR THE PERSONNEL COMMISSION FOR FISCAL YEAR 1989.

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 amount, to be expended according to designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$1,146,300
Operating Expenditures	299,800
TOTAL	$1,446,100
FROM:	
Personnel Commission Account	$1,446,100

Approved March 21, 1988.

CHAPTER 56
(S.B. No. 1491)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1989.

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

SECTION 1. It is legislative intent that the expenditures for the Industrial Commission not exceed the following amount for the period July 1, 1988, through June 30, 1989.

FOR:	
Personnel Costs	$2,510,800
Operating Expenditures	1,297,600
Capital Outlay	79,400
Trustee and Benefit Payments	466,000
TOTAL	$4,353,800
FROM:	
Industrial Administration Account	$3,847,200
Crime Victims Compensation Account	506,600
TOTAL	$4,353,800

SECTION 2. There is hereby appropriated to the Industrial Commission the following amount, to be expended for the designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
Industrial Administration Account	$1,277,300	$ 962,300	$ 8,100		$2,247,700
B. REHABILITATION:					
FROM:					
Industrial Administration Account	$1,199,000	$ 329,600	$70,900		$1,599,500
C. CRIME VICTIMS:					
FROM:					
Crime Victims Compensation Account	$ 34,500	$ 5,700	$ 400	$466,000	$ 506,600
GRAND TOTAL	$2,510,800	$1,297,600	$79,400	$466,000	$4,353,800

Approved March 21, 1988.

CHAPTER 57
(S.B. No. 1492)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES FOR FISCAL YEAR 1989.

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 amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$2,462,600
Operating Expenditures	747,100
Capital Outlay	91,900
Trustee and Benefit Payments	90,000
TOTAL	$3,391,600
FROM:	
General Account	$ 330,300
Electrical Board Account	1,444,300
Plumbing Board Account	567,100
Idaho Building Code Account	369,700
Interagency Billing and Receipts Account	539,900
Mine Safety Training Grant Account	140,300
TOTAL	$3,391,600

SECTION 2. There is hereby appropriated to the Department of Labor and Industrial Services the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 33,400	$ 3,700			$ 37,100
Electrical Board Account	149,200	16,000			165,200
Idaho Building Code Account	44,600	10,500			55,100
Plumbing Board Account	62,300	12,400			74,700
Interagency Billing and Receipts Account	23,400	20,400			43,800
TOTAL	$ 312,900	$ 63,000			$ 375,900
B. SAFETY COMPLIANCE:					
FROM:					
Electrical Board Account	$ 956,300	$322,500	$ 300		$1,279,100
Idaho Building Code Account	259,100	55,500			314,600
Plumbing Board Account	381,500	106,200	4,700		492,400
TOTAL	$1,622,100	$499,200	$5,000		$2,126,300
C. SAFETY AND LABOR RELATIONS BUREAU:					
FROM:					
General Account	$ 204,500	$ 53,700	$35,000		$ 293,200
Mine Safety Training Grant Account	5,000	5,100		$90,000	100,100

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Interagency Billing and Receipts Account	318,100	126,100	51,900		496,100
TOTAL	$ 527,600	$184,900	$86,900	$90,000	$ 889,400
GRAND TOTAL	$2,462,600	$747,100	$91,900	$90,000	$3,391,600

Approved March 21, 1988.

CHAPTER 58
(S.B. No. 1497)

AN ACT

AMENDING SECTION 2, CHAPTER 241, LAWS OF 1987, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 241, Laws of 1987, be, and the same is hereby amended to read as follows:

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, 1987, through June 30, 1988:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ ~~55,100~~	$ ~~5,400~~			$ ~~60,500~~
	47,300	4,800			52,100
Electrical Board Account	144,800	25,200			170,000
Idaho Building Code Account	43,100	12,300			55,400
Plumbing Board Account	60,300	15,700			76,000
Interagency Billing and Receipts Account		~~18,200~~			~~18,200~~
	7,800	18,800			26,600
TOTAL	$ 303,300	$ 76,800			$ 380,100

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. SAFETY COMPLIANCE:					
FROM:					
Electrical Board Account	$1,041,200	$316,200			$1,357,400
Idaho Building Code Account	254,300	54,400			308,700
Plumbing Board Account	374,800	104,100			478,900
TOTAL	$1,670,300	$474,700			$2,145,000
C. SAFETY AND LABOR RELATIONS BUREAU:					
FROM:					
General Account	$ ~~331,200~~	$ ~~79,000~~			$ ~~410,200~~
	284,300	70,100			354,400
Mine Safety Training Grant Account	5,000	5,000		$90,000	100,000
Interagency Billing and Receipts Account	~~84,300~~	~~20,600~~			~~140,000~~
	131,200	29,500	$35,100		195,800
TOTAL	$ 420,500	$104,660	$35,100	$90,000	$ 650,200
GRAND TOTAL	$2,394,100	$656,100	$35,100	$90,000	$3,175,300

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, 1988.

CHAPTER 59
(S.B. No. 1499)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 250, LAWS OF 1987; 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 250, Laws of 1987, there is hereby appropriated to the Department of Lands the following amount to be expended for the named program according to designated expense classes from the listed accounts for the period July 1, 1987, through June 30, 1988:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENSES	TOTAL
FOR:			
Forest and Range Fire Protection			$533,600
FROM:			
General Account		$188,600	$188,600
Forest Protection Account	$295,000	20,000	315,000
Forest Pest Account		30,000	30,000
TOTAL	$295,000	$238,600	$533,600

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, 1988.

CHAPTER 60
(S.B. No. 1500)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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 amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$ 8,611,900
Operating Expenditures	1,729,400
Capital Outlay	325,100
Trustee and Benefit Payments	478,200
TOTAL	$11,144,600
FROM:	
General Account	$ 1,748,000
Dedicated Accounts	9,314,400
Interagency Billing and Receipts Account	82,200
TOTAL	$11,144,600

SECTION 2. There is hereby appropriated to the Department of Agriculture the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 170,600	$ 108,500	$ 8,400		$ 287,500
Agriculture Department Inspection Account	179,200	10,900			190,100
TOTAL	$ 349,800	$ 119,400	$ 8,400		$ 477,600
B. ANIMAL INDUSTRY:					
FROM:					
General Account	$ 318,400	$ 18,800			$ 337,200
Livestock Disease Control & T.B. Indemnity Account	306,200	151,400	$ 43,700		501,300
Dairy Industry and Inspection Account	227,600	61,600	27,600		316,800
Livestock Dealer License Account	2,500	2,200			4,700
TOTAL	$ 854,700	$ 234,000	$ 71,300		$ 1,160,000
C. PLANT INDUSTRY:					
FROM:					
General Account	$ 141,500	$ 215,400			$ 356,900
Agriculture Department Inspection Account	627,300	113,700			741,000
Bee Inspection Account	15,900				15,900
Commercial Feed and Fertilizer Account	227,200	93,000	$ 20,000		340,200
Pesticide Account	289,900	115,700	14,800		420,400
TOTAL	$1,301,800	$ 537,800	$ 34,800		$ 1,874,400
D. AGRICULTURAL INSPECTIONS:					
FROM:					
General Account	$ 504,500	$ 114,800	$ 39,100		$ 658,400
Agriculture Department Inspection Account	108,300	41,300		$ 3,200	152,800
Fresh Fruit and Vegetable Inspection Account	5,215,800	542,900	168,500	200,000	6,127,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Egg Inspection Account	82,500	20,500			103,000
Public Livestock Market Account	6,500				6,500
TOTAL	$5,917,600	$ 719,500	$207,600	$203,200	$ 7,047,900
E. SHEEP COMMISSION:					
FROM:					
General Account	$ 19,100	$ 1,000		$ 20,000	$ 40,100
Sheep Commission Account	78,100	17,300		105,000	200,400
TOTAL	$ 97,200	$ 18,300		$125,000	$ 240,500
F. HONEY ADVERTISING COMMISSION:					
FROM:					
Idaho Honey Advertising Account	$ 300	$ 12,000			$ 12,300
G. AGRICULTURAL DEVELOPMENT:					
FROM:					
General Account	$ 55,700	$ 12,200			$ 67,900
Wheat Statistics Account	2,000	8,400			10,400
Interagency Billing and Receipts Account	32,800	46,400	$ 3,000		82,200
Rural Rehabilitation Account		21,400		$150,000	171,400
TOTAL	$ 90,500	$ 88,400	$ 3,000	$150,000	$ 331,900
GRAND TOTAL	$8,611,900	$1,729,400	$325,100	$478,200	$11,144,600

SECTION 3. There is hereby reappropriated to the Department of Agriculture any unexpended and unencumbered balances of the General Account moneys appropriated by Section 3, Chapter 243, Laws of 1987, to be used for nonrecurring expenditures only, for the period July 1, 1988, through June 30, 1989.

Approved March 21, 1988.

CHAPTER 61
(S.B. No. 1501)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS FOR THE MILI-

TARY DIVISION FOR FISCAL YEAR 1989.

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

SECTION 1. It is legislative intent that the expenditures for the Military Division not exceed the following amount for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$1,670,600
Adjutant General Receipts Account	202,700
Disaster Services Account	651,000
Federal and State Contracts Account	3,857,100
Federal Indirect Cost Account	29,900
Interagency Billing and Receipts Account	34,600
TOTAL	$6,445,900

SECTION 2. There is hereby appropriated to the Office of the Governor for the Military Division, the following amount to be expended for designated programs from the listed accounts for the period July 1, 1988, through June 30, 1989:

I. MILITARY MANAGEMENT:	
FROM:	
General Account	$1,194,200
Adjutant General Receipts Account	202,700
Interagency Billing and Receipts Account	34,600
TOTAL	$1,431,500
II. ADMINISTERING FEDERAL AND STATE CONTRACTS:	
FROM:	
General Account	$ 249,300
Federal-State Contracts Account	3,857,100
TOTAL	$4,106,400
III. BUREAU OF DISASTER SERVICES:	
FROM:	
General Account	$ 227,100
Disaster Services Account	651,000
Federal Indirect Cost Account	29,900
TOTAL	$ 908,000
GRAND TOTAL	$6,445,900

Approved March 21, 1988.

CHAPTER 62
(S.B. No. 1509)

AN ACT

APPROPRIATING MONEYS TO THE AGRICULTURAL COMMODITY COMMISSIONS FOR FISCAL YEAR 1989.

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

SECTION 1. There is hereby appropriated to the Agricultural Commodity Commissions in the Department of Self-governing Agencies the following amount, to be expended according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

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	$ 42,300	$ 203,700		$ 246,000
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	$207,900	$2,730,900		$ 2,938,800
E. IDAHO POTATO COMMISSION:				
FROM:				
Potato Commission Account	$483,100	$5,386,300	$2,000	$ 5,871,400
F. IDAHO WHEAT COMMISSION:				
FROM:				
Idaho Wheat Commission Account	$116,900	$ 885,300	$ 500	$ 1,002,700
GRAND TOTAL	$856,900	$9,529,300	$2,700	$10,388,900

Approved March 21, 1988.

CHAPTER 63
(S.B. No. 1510)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEES RETIREMENT SYSTEM FOR FISCAL YEAR 1989; AND DESIGNATING AN AMOUNT FOR MERIT INCREASES.

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 Public Employees Retirement System the following amount,

to be expended according to designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Public Employees Retirement System Account	$1,080,200	$ 623,600	$103,300	$1,807,100

SECTION 2. The appropriation for personnel costs made in Section 1 of this act includes $4,600 to be used for the purpose of granting merit increases only.

Approved March 21, 1988.

CHAPTER 64
(S.B. No. 1515)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Parks and Recreation not exceed the following amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$ 3,701,500
Operating Expenditures	1,312,900
Capital Outlay	1,450,500
Trustee and Benefit Payments	4,761,500
TOTAL	$11,226,400
FROM:	
General Account	$ 2,407,000
Dedicated Accounts	6,626,800
Federal Accounts	2,192,600
TOTAL	$11,226,400

SECTION 2. There is hereby appropriated to the Department of Parks and Recreation the following amount, to be expended for designated programs according to the designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$ 380,300	$ 70,300			$ 450,600
Park and Recreation Account	123,800	219,800	$ 24,100		367,700
Parks and Recreation Capital Improvement Account			23,200		23,200
Motorbike Recreation Account		15,400			15,400
Federal Surcharge Account	86,200	16,800			103,000
TOTAL	$ 590,300	$ 322,300	$ 47,300		$ 959,900
II. PARK OPERATIONS:					
FROM:					
General Account	$1,751,500	$ 6,300	$ 800		$1,758,600
Parks and Recreation Capital Improvement Account		368,200	305,000		673,200
Park and Recreation Account	522,500	193,700	1,500		717,700
Park Donation Account		5,400			5,400
Harriman State Park Account	55,400	55,400	2,000		112,800
TOTAL	$2,329,400	$ 629,000	$ 309,300		$3,267,700
III. PARK DEVELOPMENT:					
FROM:					
General Account	$ 148,600				$ 148,600
Parks and Recreation Capital Improvement Account			$ 577,500		577,500
Park and Recreation Account		$ 14,500			14,500
Park and Recreation Federal Account			92,500		92,500
TOTAL	$ 148,600	$ 14,500	$ 670,000		$ 833,100
IV. RECREATIONAL RESOURCES:					
FROM:					
General Account	$ 38,100	$ 11,100			$ 49,200
State Vessel Account				$ 870,000	870,000
Park and Recreation Account		34,000		12,000	46,000
Waterways Improvement Account	20,100	7,500	$ 75,400	691,400	794,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Off-Road Motor Vehicle Account	45,100	21,900	216,000	543,400	826,400
State Snowmobile Account				230,000	230,000
Motorbike Recreation Account	4,400	1,000		69,600	75,000
Federal Pass-Through Account				1,500,000	1,500,000
Cross-Country Skiing Account		6,100		15,000	21,100
Park and Recreation Federal Account		6,000			6,000
Federal Surcharge Account	156,000	3,300			159,300
Recreational Vehicle Account	39,200	25,300		705,100	769,600
Coast Guard Boat Safety Account	46,800	52,500	107,500	125,000	331,800
TOTAL	$ 349,700	$ 168,700	$ 398,900	$4,761,500	$5,678,800
V. LAVA HOT SPRINGS FOUNDATION:					
FROM:					
Lava Hot Springs Foundation Account	$ 283,500	$ 178,400	$ 25,000		$ 486,900
GRAND TOTAL	$3,701,500	$1,312,900	$1,450,500	$4,761,500	$11,226,400

SECTION 3. There is hereby reappropriated to the Department of Parks and Recreation any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 244, Laws of 1987, to be used for nonrecurring expenditures only, for the period July 1, 1988, through June 30, 1989.

Approved March 21, 1988.

CHAPTER 65
(S.B. No. 1516)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1989; 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 amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Office of the Secretary of State	$ 836,000
Commission on Uniform Laws	9,300
Idaho Commission on the Arts	766,800
Centralized Uniform Commercial Code	568,400
TOTAL	$2,180,500
FROM:	
General Account	$1,652,900
Interagency Billing and Receipts Account	55,900
Idaho Commission on the Arts Account	471,700
TOTAL	$2,180,500

SECTION 2. There is hereby appropriated to the Secretary of State, the following amount, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. OFFICE OF THE SECRETARY OF STATE:					
FROM:					
General Account	$469,500	$326,100	$5,400	$ 35,000	$ 836,000
B. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Account		$ 9,300			$ 9,300
C. IDAHO COMMISSION ON THE ARTS:					
FROM:					
General Account	$145,700	$ 21,200	$2,600	$ 69,700	$ 239,200
Interagency Billing and Receipts Account		50,100		5,800	55,900
Idaho Commission on the Arts Account	92,500	205,700		173,500	471,700
TOTAL	$ 238,200	$277,000	$2,600	$249,000	$ 766,800
D. CENTRALIZED UNIFORM COMMERCIAL CODE:					
FROM:					
General Account					$ 568,400
GRAND TOTAL					$2,180,500

SECTION 3. It is legislative intent that an amount not to exceed

$1,000 of the amounts appropriated in Section 2, may be used at the discretion of the Secretary of State to assist in defraying expenses relating to or resulting from the discharge of the Secretary of State's 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 21, 1988.

CHAPTER 66
(S.B. No. 1517)

AN ACT

APPROPRIATING MONEYS TO THE STATE AUDITOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 155, LAWS OF 1987; APPROPRIATING MONEYS TO BE DEPOSITED IN THE SAFIRS ACCOUNT; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT FOR THE PURPOSE SPECIFIED; 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 155, Laws of 1987, there is hereby appropriated to the State Auditor the following amount to be expended for the Data Center according to the designated expense class from the listed account for the period July 1, 1987, through June 30, 1988:

FOR:	
Capital Outlay	$1,602,200
FROM:	
Interagency Billing and Receipts Account	$1,602,200

SECTION 2. There is hereby appropriated to the State Auditor, $85,000 from the Indirect Cost Recovery Account to be deposited in the SAFIRS Account for the period July 1, 1987, through June 30, 1989.

SECTION 3. There is hereby appropriated to the State Auditor the following amounts from the General Account for the purposes specified:

1. Payments pursuant to the provisions of Section 18-2507, Idaho Code. $22,468.52

2. Payment to U.S. Claims Court for judgment rendered against the State of Idaho in Houser vs. the United States, No. 559-77. $34,320.00

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, 1988.

CHAPTER 67
(S.B. No. 1518)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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 amount for the designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$4,899,800
Operating Expenditures	2,421,700
Capital Outlay	307,200
Trustee and Benefit Payments	2,023,600
TOTAL	$9,652,300
FROM:	
General Account	$4,246,000
Watermaster Service Account	159,100
Miscellaneous Federal Account	658,700
Federal Energy Account	1,310,200
Water Pollution Control Account	200,000
Water Resources Adjudication Account	3,078,300
TOTAL	$9,652,300

SECTION 2. There is hereby appropriated to the Department of Water Resources the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT & SUPPORT SERVICES:					
FROM:					
General Account	$ 317,200	$ 238,300	$ 10,000	$ 572,000	$1,137,500
Miscellaneous Federal Account	140,200	69,400			209,600
TOTAL	$ 457,400	$ 307,700	$ 10,000	$ 572,000	$1,347,100
II. RESOURCES ANALYSIS:					
FROM:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
General Account	$ 721,400	$ 167,600		$ 213,900	$1,102,900
Miscellaneous Federal Account	359,200	89,900			449,100
Water Pollution Control Account	10,000	190,000			200,000
TOTAL	$1,090,600	$ 447,500		$ 213,900	$1,752,000
III. ENERGY RESOURCES:					
FROM:					
General Account	$ 92,200	$ 26,000			$ 118,200
Federal Energy Account	611,300	698,900			1,310,200
TOTAL	$ 703,500	$ 724,900			$1,428,400
IV. SNAKE BASIN ADJUDICATIONS:					
FROM:					
Water Resources Adjudication Account	$1,036,000	$ 541,400	$263,200	$1,237,700	$3,078,300
V. REGIONAL OFFICES:					
FROM:					
General Account	$ 822,000	$ 232,600	$ 34,000		$1,088,600
Watermaster Services Account	128,600	30,500			159,100
TOTAL	$ 950,600	$ 263,100	$ 34,000		$1,247,700
VI. OPERATIONS BUREAU:					
FROM:					
General Account	$ 661,700	$ 137,100			$ 798,800
GRAND TOTAL	$4,899,800	$2,421,700	$307,200	$2,023,600	$9,652,300

SECTION 3. There is hereby reappropriated to the Department of Water Resources any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 249, Laws of 1987, to be used for nonrecurring expenditures only, for the period July 1, 1988, through June 30, 1989.

Approved March 21, 1988.

CHAPTER 68
(S.B. No. 1519)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEX-

PENDED AND UNENCUMBERED BALANCES.

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 amount for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$ 6,536,500
Dedicated Accounts	6,835,100
Federal Accounts	136,000
Interagency Billing and Receipts Account	275,900
TOTAL	$13,783,500

SECTION 2. There is hereby appropriated to the Department of Lands the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. SUPPORTING SERVICES:					
FROM:					
General Account	$ 769,500	$ 280,400			$1,049,900
Interagency Billing and Receipts Account		13,800	$ 10,300		24,100
Fire Presuppression Account	210,600	22,600	9,100		242,300
Lands Federal Account		34,800			34,800
TOTAL	$ 980,100	$ 351,600	$ 19,400		$1,351,100
B. FOREST RESOURCES MANAGEMENT:					
FROM:					
General Account	$1,660,100	$ 277,200	$121,000		$2,058,300
Scaling Practices Operations Account	496,200	55,600	34,100		585,900
Water Pollution Control Account	29,600	4,000	20,500		54,100
Forest Practices Administration Account	113,700	24,300			138,000
Road Maintenance Account	10,000	243,000			253,000
10% Timber Lease Account	885,600	654,400	16,300		1,556,300
Forest Pest Account	33,300	57,800			91,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Lands Federal Account	49,700	27,600	900		78,200
TOTAL	$3,278,200	$1,343,900	$192,800		$4,814,900
C. LAND, RANGE AND MINERAL RESOURCE MANAGEMENT:					
FROM:					
General Account	$1,124,400	$ 188,300	$ 46,600		$1,359,300
Interagency Billing and Receipts Account		42,000			42,000
10% Grazing Lease Account	73,200	80,800	49,300		203,300
Oil and Gas Commission Account		3,600			3,600
Dredge and Placer Mining Account		5,300			5,300
10% Recreation Lease Account	83,600	95,500	7,600		186,700
Pilgrim Cover Water System Account		5,000			5,000
TOTAL	$1,281,200	$ 420,500	$103,500		$1,805,200
D. SOIL & WATER CONSERVATION:					
FROM:					
General Account	$ 222,600	$ 30,100	$ 500	$153,100	$ 406,300
Interagency Billing and Receipts Account	191,600	15,500	2,700		209,800
Lands Federal Account	23,000				23,000
Resource Conservation and Rangeland Loan Account	6,000	2,000			8,000
TOTAL	$ 443,200	$ 47,600	$ 3,200	$153,100	$ 647,100
E. SCALING PRACTICES:					
FROM:					
Scaling Practices Account	$ 144,400	$ 39,100	$ 14,000		$ 197,500
F. FOREST & RANGE PROTECTION:					
FROM:					
General Account					$ 1,662,700
Keep Idaho Green Account					9,900
Fire Suppression Account					100,000
Fire Presuppression					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Account					1,144,900
State District Hazard Management Account					677,500
Forest Practices Rehabilitation Account					97,700
Clearwater Potlatch Hazard Management Account					969,000
Southern Idaho Hazard Management Account					306,000
TOTAL					$ 4,967,700
GRAND TOTAL					$13,783,500

SECTION 3. There is hereby reappropriated to the Department of Lands any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 250, Laws of 1987, to be used for nonrecurring expenditures only, for the period July 1, 1988, through June 30, 1989.

Approved March 21, 1988.

CHAPTER 69
(S.B. No. 1315)

AN ACT

RELATING TO CANDIDATES FOR SCHOOL DISTRICT TRUSTEES; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-502A, IDAHO CODE, TO REQUIRE WRITE-IN CANDIDATES TO FILE A DECLARATION OF INTENT FIVE DAYS BEFORE THE DAY OF ELECTION.

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

SECTION 1. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-502A, Idaho Code, and to read as follows:

33-502A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATES. No write-in vote for school district trustee in a school district election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of school trustee if elected. The declaration of

intent shall be filed with the school district clerk. Such declaration of intent shall be filed not later than five (5) days before the day of election.

Approved March 22, 1988.

CHAPTER 70
(S.B. No. 1321)

AN ACT

RELATING TO DUTIES OF A SCHOOL DISTRICT TREASURER; AMENDING SECTION 33-509, IDAHO CODE, TO CLARIFY THAT THE TREASURER SHALL ACCOUNT FOR DEPOSIT OF ALL MONEYS OF THE DISTRICT.

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

SECTION 1. That Section 33-509, Idaho Code, be, and the same is hereby amended to read as follows:

33-509. DUTIES OF THE TREASURER. The treasurer elected by the board of trustees of a school district shall have such duties as the board may prescribe. He shall be placed under fidelity bond issued by a surety company authorized to do business in the state of Idaho, in such amount as the board of trustees may from time to time determine, or under personal bond equal to twice such determined amount with at least two (2) sureties who each shall qualify as in the case of sureties on the bonds of county officers.

The county treasurer of the home county of any elementary school district with less than six (6) teachers within the district shall serve as treasurer of such district.

The treasurer shall account for the deposit ~~the moneys~~ of all moneys of the district in accordance with the provisions of the Public Depository Law ~~as now appearing or as it may be amended~~, chapter 1, title 57, Idaho Code.

Approved March 22, 1988.

CHAPTER 71
(S.B. No. 1322)

AN ACT

RELATING TO LISTS OF REGISTERED ELECTORS IN SCHOOL DISTRICTS; AMENDING SECTION 34-437B, IDAHO CODE, BY REQUIRING THAT THE LIST OF REGISTERED ELECTORS BE BY PRECINCT WITHIN THE SCHOOL DISTRICT, AND TO PROVIDE THAT THE COUNTY CLERK MAY ASSESS COSTS TO THE REQUESTING SCHOOL BOARD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-437B, Idaho Code, be, and the same is hereby amended to read as follows:

34-437B. FURNISHING LISTS OF REGISTERED ELECTORS TO SCHOOL DISTRICTS. Each of the county clerks, upon receiving a request therefor, not later than the thirtieth day prior to a school election, shall, not later than the seventh day prior to the election, supply to a requesting school board a list of registered electors ~~of the counties~~ by precinct, that are within the school district within which a school district election is to be held. The county clerk ~~shall~~ may assess the school board an amount which will compensate the county for the cost of preparing such a list.

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, 1988.

CHAPTER 72
(S.B. No. 1323)

AN ACT

RELATING TO DREDGE AND PLACER MINING; AMENDING SECTION 47-1318, IDAHO CODE, TO REVISE THE PROCEDURE FOR THE TERMINATION OF A PERMIT TO CONDUCT DREDGE OR OTHER PLACER MINING OPERATIONS; AMENDING SECTION 47-1319, IDAHO CODE, TO PROVIDE FOR FORFEITURE OF A BOND BY A PERMITTEE AND TO REVISE PROCEDURES FOR FORFEITURE OF A BOND; AND AMENDING SECTION 47-1324, IDAHO CODE, TO PROVIDE WHEN THE STATE BOARD OF LAND COMMISSIONERS MAY MAINTAIN AN ACTION FOR INJUNCTIVE RELIEF IF A PERMITTEE VIOLATES OR EXCEEDS THE TERMS OF THE PERMIT OR VIOLATES THE PROVISIONS OF THE STATE LAW REGULATING DREDGE AND PLACER MINING AND THE PERMITTEE'S BOND WOULD NOT BE SUFFICIENT TO ADEQUATELY RESTORE THE LAND, AND TO PROVIDE THAT NO PERMIT SHALL BE TERMINATED AND NO BOND SHALL BE FORFEITED WITHOUT ADMINISTRATIVE ACTION.

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

SECTION 1. That Section 47-1318, Idaho Code, be, and the same is hereby amended to read as follows:

47-1318. TERMINATION OF PERMITS -- HEARING. Without in any manner affecting the penal and injunctive provisions of this act the Idaho state board of land commissioners is empowered to commence proceedings to terminate any permit to conduct dredge or other placer mining operations issued hereunder for any violation of the terms of this act, after ~~hearing--duly--held-on-the-matter-of-violation-of-the-person-to whom-the-permit-was-issued.-Such-hearings-shall-be-held-after-not-less than-twenty-(20)-days'-written-notice-to-the-permittee,--which--notice~~

~~shall--state--the--violation--claimed,-and-the-date,-time-and-place-of such-hearing~~ having issued and served upon the permittee alleged to be committing such violation, a formal complaint which shall specify the provisions of this act which the permittee allegedly is violating, and a statement of the manner in and the extent to which said permittee is alleged to be violating the provisions of this act. Such notice may be served by certified mail, and return receipt signed by the permittee or his agent shall constitute service and time thereof of such notice. The permittee shall answer the complaint and request a hearing before a designated hearing officer within thirty (30) days from receipt of the complaint if matters asserted in the complaint are disputed. If the permittee fails to answer the complaint and to request a hearing, the matters asserted in the complaint shall be deemed admitted by the permittee, and the board may proceed to terminate the permit and forfeit the bond in an amount necessary to pay all costs and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of the defaulting permittee. Upon request for a hearing by a permittee, the board shall schedule a hearing before a hearing officer appointed by the board at a time not less than thirty (30) days after the date the permittee requests a hearing. The board shall make findings of fact and rulings of law in support of any order terminating a permit or forfeiting a bond, and assess the costs of such hearing against the defaulting permittee. The said board of land commissioners may designate one (1) of its members, or a hearing officer or officers to conduct any hearings and make findings of fact, rulings of law, and orders on issues involving the administration of this act.

SECTION 2. That Section 47-1319, Idaho Code, be, and the same is hereby amended to read as follows:

47-1319. BOND FORFEITURE ON DEFAULT. (a) The surety bond required by this act to be given by a permittee for dredge or other placer mining purposes under permit shall be exonerated and discharged upon the completion or termination of such mining operation as specified in the permit granted therefor and upon full compliance with the requirements of this act and the rules and regulations of said board of land commissioners made for the administration thereof.

(b) That in event the holder of any permit issued under this act fails to comply with the requirements of this act and the rules and regulations of the Idaho board of land commissioners for the administration hereof, then the applicable bond of such ~~operator~~ permittee shall be forfeited to the state of Idaho in such amount and to such extent as the state board of land commissioners shall estimate and determine will be necessary to pay all cost and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of said defaulting permittee and covered by such bond and remaining unrestored, and such forfeited funds are to be deposited in the dredge and placer mining account, which is hereby created in the dedicated fund of the state treasury. All moneys deposited in the dredge and placer mining account pursuant to this section or other provisions of this chapter shall be utilized by the state board of land commissioners for the restoration of lands and watercourses damaged by placer or

dredge mining operations.

(c) No forfeiture of bond of a permittee shall be made until after ~~hearing duly noticed and held~~ procedures have been followed as provided in sections 47-1318 and 47-1320 ~~hereof~~, Idaho Code, and the complaint is issued and findings of facts and rulings of law in support of the order of forfeiture, if any, have been made and the time for appeal has expired.

SECTION 3. That Section 47-1324, Idaho Code, be, and the same is hereby amended to read as follows:

47-1324. ENFORCEMENT AND PENALTIES FOR VIOLATION. (a) The board may maintain an action in the name of the state of Idaho to enjoin any person from operating or maintaining a placer or dredge mining operation without holding a valid permit or bond as provided in this act or regulations promulgated thereto. The court, or a judge thereof at chambers, if satisfied from a complaint or by affidavits that the alleged acts have been or are being committed, may issue a temporary restraining order, without notice or bond, enjoining the defendant, his agents and employees, from operating or maintaining such placer or dredge mining operation without obtaining a permit and bond as provided in this act or regulations promulgated thereto. No showing of injury shall be required other than that this act is being violated by the operation or maintenance of a placer or dredge mining operation without the approved permit and bond. Upon a showing of good cause therefor, the court may require the defendant to undertake mitigation or restoration of the disturbed area in conformity with section 47-1314, Idaho Code, pending final disposition of the action. The action shall proceed as in other cases for injunctions. If at the trial the operation and maintenance of a placer or dredge mining operation without a permit or bond be established, and the court further finds that it is probable that the defendant will continue therein or in similar violations, the court shall enter a decree perpetually enjoining said defendant, his agents and employees from thereafter committing said or similar actions in violation of this act.

(b) The board may maintain an action in the name of the state of Idaho to enjoin any person from operating or maintaining a placer or dredge mining operation when, under an existing approved permit and bond, ~~an operator~~ permittee violates or exceeds the terms of the permit or violates a provision of this act, and the bond, if forfeited, would not be sufficient to adequately restore the land.

(c) In addition to the injunctive provisions above, the board may maintain a civil action against any person who violates any provision of this act to collect civil damages in an amount sufficient to pay for all the damages to the state caused by such violation, including but not limited to, costs of restoration in accordance with section 47-1314, Idaho Code, where a person is conducting placer or dredge mining without an approved permit or bond.

(d) Notwithstanding any other provisions of this act, any person who violates any of the provisions of this act or regulations promulgated thereto, or who violates any determination or order promulgated pursuant to the provisions of this act, shall be liable for a civil

penalty of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500) for each day during which such violation continues. Such penalty shall be recoverable in an action brought in the name of the state of Idaho by the attorney general. All sums recovered shall be placed in the state treasury and credited to the dredge and placer mining account, to be administered by the board for the restoration of lands and watercourses damaged by placer or dredge mining operations.

(e) No administrative action or decision by the director or board shall be required prior to enforcement of any of the above remedies, provided that no permit shall be terminated and no bond shall be forfeited without administrative ~~hearing~~ action as provided under sections 47-1318 and 47-1319, Idaho Code. No administrative action or decision by the Idaho board of health and welfare shall be required prior to enforcement of any of the above remedies by the state of Idaho against any person violating section 47-1315, Idaho Code.

(f) Any person who wilfully or knowingly falsifies any records, plans, specifications, or other information required by the board or wilfully fails, neglects, or refuses to comply with any provisions of this act shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) or imprisonment not to exceed one (1) year, or both.

(g) All civil actions provided for in this section shall be filed in the district court of this state for the county wherein the violation, or some part thereof, occurs, or in the district court for the county wherein the defendant resides or has a principal place of business, or in the district court for the county of Ada if the defendant resides out-of-state, or in the appropriate court of the United States where the rules and statutes governing such courts permit.

Approved March 22, 1988.

CHAPTER 73
(S.B. No. 1327)

AN ACT

RELATING TO CRIME VICTIMS' COMPENSATION; AMENDING SECTION 72-1023, IDAHO CODE, TO PROVIDE FOR SUBROGATION AGAINST RECOVERY FROM ALL SOURCES FOR COMPENSATION PAID AND FOR ACTION AGAINST SUCH SOURCES FOR PAYMENT.

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

SECTION 1. That Section 72-1023, Idaho Code, be, and the same is hereby amended to read as follows:

72-1023. SUBROGATION. (1) If a claimant seeks compensation under this chapter and compensation is awarded, the account is entitled to full subrogation against a judgment or recovery received by the claim-

ant against the offender or from or against any other source for all compensation paid under this chapter. The account's right of subrogation shall be a first lien on the judgment or recovery. If the claimant does not institute the action against the offender or against another source from which payment may be recovered for benefits compensable under this chapter within one (1) year from the date the criminally injurious conduct occurred, the commission may institute the action in the name of the claimant or the claimant's personal representative.

(2) If the claimant institutes the action, the commission shall pay a proportional share of costs and attorneys' fees if it recovers under its subrogation interest.

(3) If the commission institutes the action in the name of the claimant or the claimant's personal representative and the recovery is in excess of the amount of compensation paid to the claimant and costs incurred by the account in pursuit of the action, the excess shall be paid to the claimant.

(4) If a judgment or recovery includes both damages for bodily injury or death for which the commission has ordered compensation paid under this chapter and damages for which the commission has not ordered compensation paid, then the account's subrogation interest shall apply only to that proportion of the judgment or recovery for which it has paid compensation. In a civil action in a court of this state arising out of criminally injurious conduct, the judge, on timely motion, shall direct the jury to return a special verdict indicating separately the amounts of the various items of damages awarded. A claimant may not make recoveries against the offender or other source from which payment can be recovered for benefits compensable under this chapter in such a way as to avoid and preclude the account from receiving its proper subrogation share as provided in this section. The commission shall order the release of any lien provided for in subsection (1) of this section upon receipt of the account's subrogation share.

(5) Moneys received under the provisions of this section shall be paid to the account.

Approved March 22, 1988.

CHAPTER 74
(S.B. No. 1335, As Amended in the House)

AN ACT

RELATING TO COSMETOLOGY; AMENDING SECTION 39-2001, IDAHO CODE, TO CHARGE THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE WITH SANITARY SUPERVISION OVER RETAIL COSMETICS DEALERS; AMENDING SECTION 39-2003, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO ISSUE A CERTIFICATE OF COMPLIANCE TO RETAIL COSMETICS DEALERS; AMENDING SECTION 54-802, IDAHO CODE, TO PROVIDE A DEFINITION OF RETAIL COSMETICS DEALER; AMENDING SECTION 54-804, IDAHO CODE, TO EXEMPT CERTAIN PERSONS FROM APPLICATION OF

THE CHAPTER; AMENDING CHAPTER 8, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-805A, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR LICENSURE OF RETAIL COSMETICS DEALERS; AMENDING SECTION 54-818, IDAHO CODE, TO PROVIDE FEES; AMENDING SECTION 54-819, IDAHO CODE, TO REQUIRE RETAIL COSMETICS DEALERS TO BE LICENSED; AND AMENDING SECTION 54-824, IDAHO CODE, TO AUTHORIZE INSPECTION OF RETAIL COSMETICS DEALERS.

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

SECTION 1. That Section 39-2001, Idaho Code, be, and the same is hereby amended to read as follows:

39-2001. JURISDICTION OF DIRECTOR. In the interest of the public health and to prevent the spread of contagious and infectious diseases, the director of the department of health and welfare is charged with the sanitary supervision of all barber shops, hairdressing parlors, retail cosmetics dealers, public bathhouses, public bathrooms and public bathing places in the state of Idaho.

SECTION 2. That Section 39-2003, Idaho Code, be, and the same is hereby amended to read as follows:

39-2003. CERTIFICATE OF COMPLIANCE. Upon any such establishment herein being found to be in a sanitary condition, by the director, and complying with the regulations provided for in the preceding section, a certificate shall be issued by said director without any cost, good for the year in which it is issued, which shall be kept posted in a conspicuous place. The owner, lessee, or manager of any barber shop, hairdressing parlor, retail cosmetics dealer, public bathroom, bathhouse, or bathing resort who operates his business in violation of this provision shall be guilty of a misdemeanor and punished as provided in the preceding section.

SECTION 3. That Section 54-802, Idaho Code, be, and the same is hereby amended to read as follows:

54-802. DEFINITIONS. For the purpose of this chapter, the following definitions shall apply:

(a) "Cosmetology" shall constitute any one (1) or combination of the following practices when done upon the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

1. Cutting, trimming, arranging, dressing, curling, waving by any method, cleansing, singeing, bleaching, coloring, or similar work upon the hair.
2. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, stimulating, manipulating, exercising, beautifying, or similar applications or work upon the scalp, face, neck, arms, hands, busts, or upper part of the body.
3. Manicuring the nails.

(b) "Cosmetologist" shall mean any person licensed to practice

cosmetology under the immediate personal supervision of a registered cosmetologist.

(c) "Registered cosmetologist" shall mean a cosmetologist who has completed one or more years of experience under licensure as a cosmetologist.

(d) "Manicurist" shall mean any person whose practice of cosmetology is limited to manicuring the nails.

(e) "Apprentice" shall mean any person who is engaged in learning or acquiring of any or all of the practices of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(f) "Student" shall mean any person who is engaged in the learning or acquiring of any or all of the practices of cosmetology in a registered school of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(g) "Instructor" shall mean a cosmetologist who teaches cosmetology or any practices thereof in a school of cosmetology or school or college of barbering.

(h) "Student instructor" shall mean a cosmetologist who is receiving training to teach cosmetology.

(i) "Cosmetological establishment" shall mean any place or part thereof other than a school of cosmetology wherein cosmetology is practiced.

(j) "School of cosmetology" shall mean any place or part thereof wherein cosmetology is taught to students.

(k) "Board" refers to the Idaho board of cosmetology.

(l) "Department" refers to the Idaho department of self-governing agencies.

(m) "Chapter" as used in this act refers to title 54, chapter 8, Idaho Code.

(n) "Electrology" shall constitute any one (1) or combination of the following practices when done upon the human body:

1. The permanent removal of hair by any method except the use of X-rays, radium, radon, radioactive isotopes or any other radiation capable of producing ionization in human tissue.

2. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, stimulating, manipulating, exercising, beautifying, or similar applications or work upon the human body.

(o) "Electrologist" means any person licensed to practice electrology and who is skilled in the permanent removal of unwanted hair and in the practice of skin care.

(p) "Retail cosmetics dealer" means a fixed retail business which offers cosmetic products for sale at retail to members of the general public and whose employees engage in the facial application of cosmetic products to customers in connection with the sale, or attempted sale, of the products without compensation from the customer other than the regular price of the merchandise.

SECTION 4. That Section 54-804, Idaho Code, be, and the same is hereby amended to read as follows:

54-804. EXEMPTIONS. The provisions of this chapter shall not apply in the following instances:

1. Persons authorized by the laws of this state to practice as a registered or practical nurse, mortician, and/or any of the healing arts, while in the proper discharge of their professional duties.

2. Persons licensed to practice barbering or apprentice barbering in this state.

However, the provisions of this section shall not be construed to authorize the practice of cosmetology, except those acts that are permitted under the Idaho barber law.

3. Persons practicing in their own home without compensation, and not practicing on the public in general.

4. The provisions of section 54-803(1), Idaho Code, shall not apply to licensed parties performing cosmetological services for persons unable by reason of ill health to go to a cosmetological establishment.

5. The provisions of section 54-803(1), Idaho Code, shall not apply to licensed electrologists practicing electrology under the supervision of a person licensed as a chiropractor, dentist, medical doctor or podiatrist at a facility utilized by the doctor.

6. Persons whose practice is limited to the facial application of cosmetic products to customers in connection with the sale, or attempted sale, on the premises of a retail cosmetics dealer, of cosmetic products at retail, without compensation from the customer other than the regular price of the merchandise.

SECTION 5. That Chapter 8, 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 54-805A, Idaho Code, and to read as follows:

54-805A. REQUIREMENTS FOR LICENSE -- RETAIL COSMETICS DEALER. The board shall issue a license to a retail cosmetics dealer if it meets the following conditions:

1. Completes the application forms for licensure as required by the board;

2. Pays the appropriate license fees as required by section 54-818, Idaho Code;

3. Specifies a location within the retail cosmetics dealer's business as the area where the cosmetics will be sold; and

4. Provides facilities and equipment in an area within the business premises to properly sanitize and store equipment and supplies necessary to perform any cosmetic application services provided. The required facilities and equipment shall include:

(a) hot and cold running water;

(b) chlorine water and alcohol, or any other acceptable method of sanitation between customer application services;

(c) single use samples, wipes, spatulas, or other dispensing techniques designed to prevent contamination of the cosmetic product;

(d) an adequate first aid kit; and

(e) adequate restroom facilities.

SECTION 6. That Section 54-818, Idaho Code, be, and the same is hereby amended to read as follows:

54-818. FEES. The various fees to be paid by applicants for original registrations, original licenses, annual renewals, certificates issued upon reciprocity, and examinations as required under this chapter shall be as follows:

(a) Original registrations, licenses, and annual renewals thereof:

cosmetological establishment, original registration	$ 50.00
cosmetological establishment, annual renewals	30.00
retail cosmetics dealer, original registration	50.00
retail cosmetics dealer, annual renewals	30.00
domestic school of cosmetology, original registration	500.00
domestic school of cosmetology, annual renewals	150.00
registered cosmetologist, original license	20.00
registered cosmetologist, annual renewals	20.00
manicurists, original license	20.00
manicurists, annual renewals	20.00
apprentice, original license (no renewal fees required)	20.00
student certificate (no renewal fees required)	20.00
cosmetologist, original license	20.00
cosmetologist, annual renewals	20.00
instructor, original license	25.00
instructor, annual renewals	25.00
student instructor certificate	25.00
electrologist, original license	22.00
electrologist, annual renewals	22.00
endorsement	100.00
interim certificate when endorsement denied, also constitutes examination	35.00
temporary license to practice, demonstrate and teach	10.00

(b) Examination:

as a cosmetologist	$35.00
as a manicurist	35.00
as an instructor when required by board regulation	35.00
as an electrologist	35.00

Fees shall not be prorated or returnable.

All certificates expire December 31.

SECTION 7. That Section 54-819, Idaho Code, be, and the same is hereby amended to read as follows:

54-819. CERTAIN ACTS PROHIBITED. The following acts shall be unlawful and punishable as a misdemeanor:

1. The violation of any of the provisions of this chapter;

2. Permitting any person in one's employ, supervision or control to practice cosmetology or electrology or as an apprentice or student unless that person has complied with the provisions of this act;

3. Obtaining or attempting to obtain a certificate of registration or license for money other than the required fee, or any other

thing of value, or by fraudulent misrepresentation;

4. Practicing or offering to practice any of the occupations defined in this chapter, unless licensed as herein provided;

5. Maintaining or operating a cosmetological establishment, a retail cosmetics dealer, or a school of cosmetology unless registered as herein provided.

SECTION 8. That Section 54-824, Idaho Code, be, and the same is hereby amended to read as follows:

54-824. PHYSICAL EXAMINATION REQUIRED OF PRACTITIONERS -- ESTABLISHMENTS -- INSPECTION RULES. All persons licensed and practicing in this state under the provisions of this chapter shall be required to submit at the time of the licensing examination a report of freedom from contagious tuberculosis, as shown by a negative tuberculin skin test report signed by any health care practitioner or a chest x-ray report signed by a physician licensed to practice medicine. Inspection of cosmeticians and cosmetological establishments, retail cosmetics dealer, and schools of cosmetology for the purpose of enforcing the provisions of this chapter shall be made by the board. The board shall have authority to make reasonable rules and regulations for the administration of the provisions of this chapter and prescribe sanitary requirements for cosmetological establishments, retail cosmetics dealer, and schools of cosmetology, to be applicable according to the nature of the work performed. The officers of the board, or its agents, shall have authority to enter upon and inspect any cosmetological establishment, retail cosmetics dealer, or school of cosmetology at any time during business hours. A copy of the rules and regulations adopted by the board shall be furnished by the said board to the owner or manager of each cosmetological establishment, retail cosmetics dealer, or school of cosmetology.

Inspectors shall be appointed by the board to systematically inspect the cosmetological establishments, retail cosmetic dealers, and schools of cosmetology, and the number of such inspectors shall be equal to one-half (1/2) of one (1) per cent of the combined number of cosmetological establishments, retail costmetic dealers, and schools of cosmetology in this state, provided the contributions to the occupational licenses fund from fees provided for in this chapter are sufficient to cover the expenses incurred in administering this chapter and to pay for said inspectors.

Approved March 22, 1988.

CHAPTER 75
(S.B. No. 1342)

AN ACT

RELATING TO BRAND INSPECTION LAWS; REPEALING SECTIONS 25-1108, 25-1113, 25-1114, 25-1115, 25-1201 AND 25-1416, IDAHO CODE; AMENDING SECTION 25-1401, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE

ADDITIONAL DEFINITIONS; AMENDING SECTION 25-1101, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 25-1102, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE THAT THE STATE BRAND INSPECTOR IS A NONCLASSIFIED EMPLOYEE; AMENDING SECTION 25-1103, IDAHO CODE, TO REDESIGNATE; AMENDING SECTION 25-1407, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE THAT PORT OF ENTRY OFFICERS ARE EX OFFICIO BRAND INSPECTORS; AMENDING SECTIONS 25-1109, 25-1110, 25-1104, 25-1105 AND 25-1413, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 25-1111, IDAHO CODE, TO REDESIGNATE, TO PROVIDE PROPER NOMENCLATURE, AND TO PROVIDE THAT A BRAND INSPECTION CERTIFICATE IS DOCUMENTARY EVIDENCE; AMENDING SECTION 25-1402, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 25-1402A, IDAHO CODE, TO REDESIGNATE, AND TO STRIKE SURPLUS LANGUAGE; AMENDING SECTION 25-1403, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTIONS 25-1404, 25-1405, 25-1406, IDAHO CODE, TO REDESIGNATE; AMENDING SECTION 25-1202, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTIONS 25-1202A, 25-1203, AND 25-1204, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 25-1205 AND 25-1207, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTIONS 25-1208, AND 25-1209, IDAHO CODE, TO REDESIGNATE; AMENDING SECTION 25-1210, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE FOR PRODUCTION OF A BRAND BOOK AND SUPPLEMENTS; AMENDING SECTIONS 25-1107, 25-1116, AND 25-1112, IDAHO CODE, TO REDESIGNATE; AMENDING SECTION 25-1106A, IDAHO CODE, TO REDESIGNATE, TO PROVIDE PROPER NOMENCLATURE, TO PROVIDE CLARIFYING LANGUAGE, TO PROVIDE THAT BRAND INSPECTION FEES MAY BE PAID ON A SCHEDULE, AND TO PROVIDE FOR COLLECTION OF AMOUNTS OWED; AMENDING SECTION 25-1106, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE PROPER CODE REFERENCE; AMENDING SECTION 25-1409, IDAHO CODE, TO REDESIGNATE; AMENDING SECTION 25-1408, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 25-1410, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 25-1411, IDAHO CODE, TO REDESIGNATE, TO PROVIDE PROPER NOMENCLATURE, AND TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTION 25-1412, IDAHO CODE, TO REDESIGNATE; TO PROVIDE PROPER NOMENCLATURE, AND TO PROVIDE A PROPER CODE REFERENCE; AMENDING SECTIONS 25-1215, 25-1415, AND 25-1414, IDAHO CODE, TO REDESIGNATE; AMENDING SECTION 25-1736, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES; AND AMENDING SECTION 25-2311, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES.

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

SECTION 1. That Sections 25-1108, 25-1113, 25-1114, 25-1115, 25-1201 and 25-1416, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 25-1401, Idaho Code, be, and the same is hereby amended to read as follows:

25-1~~4~~101. DEFINITIONS. As used in this ~~act~~ chapter, and elsewhere in the Idaho Code where applicable:

"Livestock" means any cattle, horses, mules or asses.

"Transportation" means the movement of livestock in any manner.

"Person" means every natural person, firm, association, partnership, company business or corporation.

"Brand" means an identification mark that is permanently affixed into the hide of a live animal on either side in any one of three (3) locations, the shoulder, ribs, or hip. The brand may be applied on the hide by either a hot iron, or as a freeze brand which involves applying intense cold to the skin of the live animal to change the color of the hair on the skin to create a clear brand. An acid brand means any such mark or brand that has been applied by the use of a chemical compound and when so used causes a scarlike tissue to form on the hide of a live animal. Acid brands are not valid for any type of brand inspection.

"Brand inspector" means the state brand inspector, any authorized deputy or assistant brand inspector, or any other person authorized by the laws of the state of Idaho to make brand inspections.

"Brand inspection certificate" means a certificate on a form adopted by the state brand board, listing the animals for which the certificate is issued, describing the animals listed thereon, listing the name and address of the owner of the livestock, the name and address of ~~each consignor and consignee in the transportation of such livestock~~ the new owner, the listing of the place of origin and of destination of such transportation, and such other information as may be required by the state brand board. Brand inspection certificates shall be of the following kinds:

(1) An inspection certificate that is issued only when there is a change in ownership of the livestock, or when livestock is leaving the state, or when the livestock is to be slaughtered within ninety-six (96) hours.

(2) An annual inspection certificate good only for the current growing or grazing season, and which authorizes the owner to transport the livestock within and without the state. An annual inspection certificate does not authorize the sale or transfer of an ownership interest in any livestock.

(3) A seasonal grazing certificate good only for moving livestock from this state to another state for grazing, and to return some or all of that livestock to this state. The certificate shall be issued without charge if the brand inspector determines that an inspection of the animals is not necessary. If an inspection is made, the certificate shall be issued at one-half (1/2) the usual brand inspection fee, and the provisions of sections 25-232, 25-2505 and 25-2907, Idaho Code, shall not apply.

(4) A lifetime ownership and transportation certificate which is valid only for horses, mules or asses, and which authorizes the owner to transport the horses, mules or asses within and without the state. A lifetime ownership and transportation certificate may be used for the sale or transfer of an ownership interest in horses, mules or asses, but immediately upon a change of ownership interest, the new owner must apply to the brand board for a new lifetime ownership and transportation certificate, and pay the required fees.

"Livestock auction sale." for the purpose of charging and collecting the minimum inspection fee of fifty dollars ($50.00) required by section 25-1160, Idaho Code, means and includes all public livestock markets chartered under the provisions of chapter 17, title 25, Idaho Code; means and includes any dispersal sale of livestock by a farmer, dairyman, breeder or feeder of livestock subject to brand inspection; and means and includes any sale of livestock by an association of breeders of livestock subject to brand inspection. The state brand board may, by regulation, include other private or public operations at which livestock subject to brand inspection is offered for sale within such definition.

"Written ownership transportation permit" means a statement in writing of a form approved by the state brand board, which permits shall describe the livestock being transported, is signed and dated by the person in whose name the brand on such livestock is recorded in the office of the state brand inspector, and an acknowledgment authorizing the transportation of such livestock, within the state, listing the place of origin, place of destination of such transportation, the consignee thereof and his address, and such other information as may be required by the state brand board. An ownership transportation permit is not valid for a change in ownership of livestock, and is not valid to transport livestock outside of the state.

"Stock grower" means any person owning any livestock in this state to be slaughtered for human consumption whether in this state or outside of this state, or any person engaging in the business of breeding, growing or raising livestock.

SECTION 3. That Section 25-1101, Idaho Code, be, and the same is hereby amended to read as follows:

25-110~~1~~2. BOARD CREATED -- MEMBERSHIP AND ORGANIZATION. There shall be in the department of law enforcement of the state of Idaho a state brand board and such board is hereby created. The state brand board~~, -- hereinafter -- called -- the board,~~ shall consist of five (5) members, three (3) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged in, the feeding or the production of beef cattle in Idaho and no two (2) of whom shall be from the same county; one (1) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged in, the operation of a licensed public livestock auction market, and one (1) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged as a dairy milk producer~~; said members shall be -- appointed -- by the governor~~. The term of office of each member of said board shall be five (5) years, excepting that of the members of said board first appointed, one (1) shall be appointed to hold office until the first Monday in January, 1975, one (1) until the first Monday of January, 1976, and one (1) until the first Monday of January, 1977, one (1) until the first Monday of January, 1978, and one (1) until the first Monday of January, 1979. Vacancies occurring on the board other than by expiration of the term, shall be filled for the unexpired term only. Each of such members of the board, before entering upon the

duties of his office, shall take and subscribe to the constitutional oath of office, and be bonded to the state of Idaho in the time, form and manner provided by chapter 8, title 59, Idaho Code. The members of the board shall be compensated as provided by section 59-509(f), Idaho Code. Said compensation shall be paid in the same manner as other expenses of the state brand board are paid. Each member of said board shall be a qualified elector of the county from which he is chosen and must reside during his term of office, within the state of Idaho. Said board must hold a meeting quarterly and at any other times if so requested by any member of the board. The governor shall appoint the members of such board, both initially and thereafter as vacancies occur therein, from the recommendations of the executive committee or board of directors of the Idaho cattle association, Idaho dairymen's association and licensed public livestock auction markets. Each such recommendation shall be of at least two (2) persons for each appointment to be made by the governor. If no such recommendation is made within thirty (30) days after the occurrence of any vacancy in the membership of such board, then the appointment may be made without such recommendation. If the person or persons recommended are not deemed eligible or fit by the governor, then he shall request two (2) additional names from the respective industry segment. A member of such board shall be ineligible to hold any other state or federal office providing full-time employment, or any county or elective office. After due notice and public hearing, the governor may remove any member for cause.

The board shall elect one (1) of its members chairman, and there shall be a state brand inspector who shall serve as secretary of such board. The board is empowered to make rules and regulations for governing itself, and such rules and regulations as it may deem necessary for the enforcement of all of the duties of the state brand inspector, the laws of the state of Idaho providing registration and use of stock growers' brands, and the laws of the state of Idaho providing inspection and other requirements for the transportation of ~~cattle,--horses and-mules~~ livestock, and all laws of the state enacted for the identification, inspection and transportation of ~~cattle,-horses,-and-mules~~ livestock, and all laws of the state designed to prevent theft and illegal butchering of livestock.

SECTION 4. That Section 25-1102, Idaho Code, be, and the same is hereby amended to read as follows:

25-110~~2~~3. STATE BRAND INSPECTOR -- APPOINTMENT, SALARY, BOND. The state board shall appoint the state brand inspector who shall be a nonclassified state employee and who shall serve at the pleasure of such board and the salary of such officer shall be fixed by such board within the limits of any appropriation available therefor.

The state brand inspector shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code.

SECTION 5. That Section 25-1103, Idaho Code, be, and the same is hereby amended to read as follows:

25-11034. 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 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 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 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.

SECTION 6. That Section 25-1407, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1407~~1105. EX OFFICIO BRAND INSPECTORS. The director of the department of law enforcement of the state of Idaho, every state police officer, port of entry officers, county sheriff and deputy sheriff is hereby made an ex officio brand inspector, and shall have the authority to inspect any livestock described in this chapter that is being transported within the jurisdiction of said officer and to require the person transporting the same to produce satisfactory evidence from him of his right to the possession of such livestock.

SECTION 7. That Section 25-1109, Idaho Code, be, and the same is hereby amended to read as follows:

25-11096. DUTIES OF INSPECTOR AND DEPUTIES AS LAW-ENFORCEMENT OFFICERS. The state brand inspector and his deputies shall also have power and the duty to enforce all of the laws of the state for the identification, inspection and transportation of livestock and sheep and all laws of the state designed or intended to prevent the theft of livestock and sheep and shall have all of the authority and powers of peace officers vested in the director of the department of law enforcement, with general jurisdiction throughout the state.

The state brand inspector shall give special consideration to reducing the loss of livestock and sheep by theft and to that end may inspect and cause inspections to be made outside the state of Idaho of livestock and sheep transported or driven from the state of Idaho, and shall also coordinate the efforts of all other law-enforcement officials and peace officers in the apprehension and conviction of persons who have stolen livestock, sheep, hides, pelts, or carcasses of livestock.

SECTION 8. That Section 25-1110, Idaho Code, be, and the same is

hereby amended to read as follows:

25-11~~1~~07. DUTIES OF INSPECTOR. The state brand inspector shall cooperate with the Idaho state department of agriculture, insofar as the administration and enforcement of the Packers and Stockyards Act of 1921 and all amendments thereto, and shall provide all brand inspections required insofar as said inspections are for the purpose of determination of ownership of livestock.

SECTION 9. That Section 25-1104, Idaho Code, be, and the same is hereby amended to read as follows:

25-11~~04~~8. OFFICE OF BOARD. The board shall maintain offices in the state of Idaho at such places as determined by the board.

SECTION 10. That Section 25-1105, Idaho Code, be, and the same is hereby amended to read as follows:

25-11~~1~~09. BOARD TO AUDIT CLAIMS AND MAKE ANNUAL REPORT. The board shall audit all bills for salaries and expenses incurred by it that may be payable from appropriations made therefore, which claims shall be audited and 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 cattle industry in this state.

SECTION 11. That Section 25-1413, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~14~~1~~3~~1110. BRAND BOARD TO MAKE RULES AND REGULATIONS. The state brand board shall be responsible for the promulgation, implementation and enforcement of all rules and regulations as adopted by the state brand board to implement and administer the requirements of this ~~act~~ chapter. The state brand inspector shall be responsible to the state brand board for the enforcement of all rules and regulations as adopted by the state brand board. All rule making proceedings and hearings of the board shall be governed by the provisions of chapter 52, title 67, Idaho Code.

SECTION 12. That Section 25-1111, Idaho Code, be, and the same is hereby amended to read as follows:

25-11~~1~~20. BRAND INSPECTION. The state brand board shall have the authority to require brand inspection of all ~~cattle, horses or mules~~ livestock transferred in any manner, or which shall be placed for sale with or delivered into the custody of the owners or operators of any auction, auction house, sales, ring, or commission house, or to establish proof of ownership at that point in time a living animal becomes carcass meat, it shall require brand inspection not more than ninety-six (96) hours prior to slaughtering whether for commercial purposes or for the owner's immediate family needs, and whether said

slaughtering is done by any permanently located firm, association, partnership, company, business or corporation, or if done by a mobile slaughtering service of any nature or type and shall have access to inspect animals utilized by rendering establishments, and to adopt such rules and regulations as it may prescribe to accomplish such brand inspection.

A brand inspection certificate signed by the seller is documentary evidence of a transfer of ownership.

SECTION 13. That Section 25-1402, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1402~~1121. REQUIREMENTS FOR BRAND INSPECTION -- WRITTEN PERMIT IN LIEU OF INSPECTION. ~~a.~~(1) Any person desiring to transport, remove, or drive any livestock from the boundaries of this state in any manner shall, before doing so, apply to the state brand inspector to inspect the same for marks and brands, and on such application (or without said application if said officer has knowledge of such removal) ~~said~~ the brand inspector shall immediately inspect said livestock for brands and marks and keep an accurate record of the same with the name and residence of owner or shipper and name, sex and kind of livestock. Any person desiring an inspection pursuant to this paragraph must notify a state brand inspector or person duly authorized to accomplish the inspection ~~by the state brand board~~. If ~~said~~ the inspector finds that the livestock have brands that are not owned by the person claiming the same, then such person shall be required to produce a bill of sale or other satisfactory evidence of ownership. Upon ~~such~~ proof of ownership ~~he~~ the inspector shall give the person a certificate stating the number and kind of livestock and their marks and brands and thereupon the said person shall be permitted to transport said livestock from this state. A copy of ~~such~~ the brand inspection certificate shall accompany ~~the transporting of such~~ livestock to final destination.

~~b.~~(2) Any person desiring to transport~~, remove, or drive any~~ livestock, not his own, within the boundaries of this state in any manner shall before doing so, have in ~~their~~ his possession a written transportation permit properly completed and signed by the owner or an authorized agent of the owner of the livestock being transported ~~and that said owner signing the written permit is the owner of the properly recorded brand on livestock to be transported according to the record of the state brand inspector~~ or a brand inspection certificate. A copy of ~~said~~ the written permit or brand inspection certificate shall accompany the ~~transporting of such~~ livestock to final destination.

~~c.~~(3) ~~Seasonal~~ Annual brand inspections certificates for all livestock for any purpose, other than sale or trade, may be issued by the state brand inspector or his deputies in lieu of the regularly required brand inspection or other written permits for periods of not to exceed one (1) year in duration and for a fee of not to exceed five dollars ($5.00), each as determined by regulation of the state brand board.

~~d.~~(4) The ~~state brand board shall collect a reasonable fee from the~~ owner of the livestock shall pay all fees required for inspection

services pursuant to this chapter ~~in accordance with section 25-1106A~~, section 25-232, Idaho Code, section 25-2505, Idaho Code, and section 25-2907, Idaho Code.

~~e.~~(5) Any transportation of livestock in violation of this chapter is prohibited. Livestock transported in violation of this chapter shall be detained until compliance with this chapter has been made.

SECTION 14. That Section 25-1402A, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1402A~~1122. OWNERSHIP AND TRANSPORTATION CERTIFICATE. ~~a.~~(1) The owner or owners of any horses, mules or asses desiring to transport them within the state for any purpose other than sale or trade, may, upon request to the ~~state brand board or~~ state brand inspector, be issued an ownership and transportation certificate, which certificate shall be issued in lieu of the required brand inspection certificate or other written permit for each horse, mule or ass to be transported.

~~b.~~(2) An ownership and transportation certificate may be used by the owner or owners of a horse, mule or ass for identification purposes and as prima facie proof of ownership of any animal described by such a certificate.

~~c.~~(3) The ownership and transportation certificate shall be valid as long as the horse, mule or ass described therein remains under the ownership of the person or persons to whom the certificate is issued.

~~d.~~(4) The ownership and transportation certificate of a horse, mule or ass must accompany the animal for which it is issued at all times while the animal is in transit.

~~e.~~(5) Each ownership and transportation certificate of a horse, mule or ass shall identify the particular animal by color, markings, sex, age and where applicable by brand, registration number, tattoo or other marks as provided for by regulation of the state brand board.

~~f.~~(6) There shall be a fee in an amount to be set by the state brand board, not to exceed twenty-five dollars ($25.00), for issuance of each ownership and transportation certificate, which fee shall be in addition to any brand inspection certificate or other written permit which may be requested by the owner or owners of a horse, mule or ass under other provisions of law.

~~g.~~(7) Upon any change of ownership of a horse, mule or ass for which an ownership and transportation certificate has been issued, the former owner or owners may transfer the certificate to the new owner or owners upon payment of a fee to be set by the state brand board, not to exceed twenty-five dollars ($25.00) per certificate.

~~h. The state brand board may under the provisions of chapter 52, title 67, Idaho Code, provide for and make regulations and forms necessary or desirable to carry out the terms of this section.~~

~~i.~~(8) The state brand board may, under such terms and conditions as it deems necessary to protect ownership of horses, mules and asses, provide by regulation that ownership and transportation certificates may be used in transportation of horses, mules or asses to and from points outside of the state of Idaho, and may provide that similar certificates from other states may be used for proof of ownership of horses, mules or asses entering Idaho.

~~j.--It-shall-be-a-misdemeanor-to-knowingly-give-false-or--misleading--information--in--order--to-obtain-an-ownership-and-transportation certificate,-or-to-counterfeit-or-change-such-a-certificate-or-to-represent-to-the-state-brand-board-or-state-brand-inspector-that-one-owns a-horse,-mule-or-ass-when-that-fact-is-false-in-order-to-obtain-a-certificate.-Any-person-found-guilty-of-a-crime-or-crimes-under-this-section-shall-be-punished-by-a-fine-of-not-to-exceed-five-hundred-dollars ($500)-or-by-imprisonment-in-a-county-jail-for-not-more-than--six--(6) months-or-by-both-such-fine-and-imprisonment.~~

SECTION 15. That Section 25-1403, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1403~~1123. EXEMPTION FROM BRAND REQUIREMENT AND INSPECTION. A sucking calf or colt without brand, accompanying its mother in any shipment, shall be deemed to bear the same brand as its mother for the purposes of this ~~act~~ chapter.

Any person desiring to transport any livestock from the boundaries of this state by any means for the purpose of seasonally grazing the livestock in an adjoining state, shall apply before doing so to the state brand inspector for an inspection; provided, however, that if the state brand inspector determines that an inspection is not necessary, he may issue a written permit without charge to allow such transport. If in the opinion of the state brand inspector an inspection is deemed advisable, such inspection shall be made at one-half (1/2) the usual brand inspection fee and the provisions of section 25-232, section 25-2505, and section 25-2907, Idaho Code, shall not apply.

SECTION 16. That Section 25-1404, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1404~~1124. CERTIFICATE OR PERMIT TO BE PRODUCED UPON DEMAND. Every person transporting livestock shall, upon demand, permit examination thereof by any brand inspector or peace officer the brand inspection certificate or written permit and allow copies thereof to be taken.

SECTION 17. That Section 25-1405, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1405~~1125. INSPECTION OF LIVESTOCK IN TRANSIT — IMPOUNDING WHEN CERTIFICATE OR PERMIT ERRONEOUS. Any livestock in transit or being transported in any manner, may be inspected at any time or place, without liability by any brand inspector of the state or by any peace officer or other person authorized by statute, who may demand of the carrier or person in charge of such livestock the certificate of inspection or written permit and he may compare the marks, brands, and description given in such documents with those of such livestock and if he shall find from such inspection that such certificate is falsely made, or is erroneous in any material respect, or that such livestock or any head thereof do not belong to the person as indicated in such

document, he may, unless satisfactory proof of the ownership or right of possession of such livestock be furnished him, impound any such livestock and may take such other action against such carrier or person in charge as may be authorized by law.

SECTION 18. That Section 25-1406, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1406~~1126. OWNER OF RECORDED BRAND -- RIGHT TO INSPECT IN TRANSIT. Every citizen of Idaho who is the owner of any duly recorded brand is hereby authorized to make inspection of livestock in transit, or which is about to be shipped, transported or otherwise removed, for the purpose of determining whether or not such livestock has been duly inspected by an official brand inspector or peace officer, and if such inspection has not been made, he may exercise all the rights and powers of brand inspectors and peace officers to stop such transportation and require such livestock to be duly inspected as provided by law. No fee shall be allowed to any such citizen for performing the rights and privileges herein above granted.

SECTION 19. That Section 25-1202, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1202~~1140. USE OF BRANDS RESTRICTED. Every stock grower in this state must use a brand for cattle, and a brand for horses, mules and asses, which brand must be placed in a conspicuous place on the animal. It shall be unlawful for any person to use any brand as herein provided, unless such brand be designated in the application for the recording of the brand and the brand be recorded with the state brand inspector. Each application for the recording of a brand shall include only one (1) brand for cattle and one (1) brand for horses, mules and asses, ~~but separate application may be filed for the recording of a~~ and one (1) brand for sheep, and separate applications may be filed by any stock grower to have any additional brand recorded.

SECTION 20. That Section 25-1202A, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1202A~~1141. REQUIREMENTS FOR BRANDING IRONS. Brands shall be made by hot iron or freeze iron and shall be done in such manner to be clear and recognizable, and legible so as to enable ready identification. The major character or characters on the branding iron when applied to cattle shall be not less than three and one-half (3 1/2) inches in height, and/or three and one-half (3 1/2) inches in length, width or diameter. The major character or characters on the branding iron when applied to horses, mules and asses shall be not less than two (2) inches in height, and/or two (2) inches in length, width or diameter. Brands made in any other manner or size not permitted by this section shall be invalid and will not be recorded. All brands presently recorded at the effective date of this act shall be valid brands, but provided further that upon renewal of such brands, then and in that event such brands must comply with this act chapter.

Brands for sheep shall not be subject to the height, length, width or diameter limitations imposed by this section, but shall be of such height, length, width or diameter as prescribed by the state brand board, and brands for sheep shall not be subject to the hot iron or freeze iron limitations imposed by this section for cattle, horses, mules and asses.

SECTION 21. That Section 25-1203, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1203~~1142. SHEEP OWNERS TO USE BRANDS -- USE OF EARMARKS -- USE OF NOSE BRANDS AND TATTOO BRANDS -- UNRECORDED BRANDS. Every sheep owner may use one (1), and only one (1), brand for sheep, which brand may be recorded as herein provided. Each such sheep owner, in addition to his brand may record and use for sheep a hot iron brand on the nose or a tattoo brand on either the flank or the ear, or both a hot iron brand on the nose and a tattoo brand on either the flank or the ear. In addition to his recorded brand, hot iron brand on the nose or tattoo brand on either the flank or the ear, he may, for the purpose of distinguishing the sheep of one of his bands from the sheep of the other, use any one or more of the digits except the digit 1 and 0, which herd brand shall not be recorded. Neither of the digits shall be used on sheep except as provided in this section.

SECTION 22. That Section 25-1204, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1204~~1143. BRANDS TO BE RECORDED. All brands shall be recorded with the state brand inspector. Upon recording pursuant to this section, a recorded brand shall be prima facie evidence of ownership of livestock, and that such owner is entitled to possession of said livestock. Proof of recorded brand shall be by original certificate issued to said owner by the state brand inspector, or a certified copy of the recorded brand issued by the state brand inspector. Parol evidence shall be inadmissible to prove the ownership of any recorded brand.

SECTION 23. That Section 25-1205, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1205~~1144. MANNER OF RECORDING BRANDS. Every stock grower whose brands are not recorded, desiring to use any brand on any livestock shall make and file an application setting forth a facsimile and description of the brand which he desires to use which application shall state the post-office address and county of his residence and he shall file such application with the state brand inspector and the same shall be recorded in a book kept for that purpose, by the state brand inspector and from and after the filing of such application, the stock grower filing the same, shall have the exclusive right to use such brand, within the state of Idaho. Such recording shall be valid for a period of not more than two (2) years, as determined by rules and regulations of the state brand board, subject to the renewal provisions of section 25-~~1207~~1145, Idaho Code. Such person upon the fil-

ing of the brand shall pay to the state brand inspector for recording the brand the sum of fifty dollars ($50.00) and it shall be the duty of the state brand inspector to furnish without further or other charge, one (1) certified copy of the application to the owner thereof upon his request and for each additional copy he shall be paid a reasonable fee as determined by the state brand board not to exceed one dollar and fifty cents ($1.50) for the additional certified copies: provided, further, that the state brand inspector shall not file or record any such brand if the same has already been filed or recorded by him in favor of some other stock grower. The certified copy of the application shall contain the registration number of such brand, description or facsimile copy of the recorded brand, location of brand on the animal, expiration of the recorded brand and the name and address of the owner of the recorded brand.

SECTION 24. That Section 25-1207, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1207~~1145. RENEWAL OF BRANDS. ~~a.~~(1) On July 1, 1989 and at the end of each recording period of an original application pursuant to section 25-~~1205~~1144, Idaho Code, and at the end of each successive two (2) year period thereafter on the first day of July, the recording of every brand in the office of the state brand inspector shall be renewed upon application for such renewal by the owner. The fee of the state brand inspector for filing each such renewal application shall be twenty dollars ($20.00) and it shall be the duty of the state brand inspector to furnish without further or other charge one (1) certified copy of the certificate of such brand to the owner thereof upon his request, and for each additional certified copy the state brand inspector shall be paid reasonable fee as determined by the state brand board not to exceed one dollar and fifty cents ($1.50) for the additional certified copy. The fee for recording each renewal shall be paid coincident with the filing of the application therefor.

~~b.~~(2) Each application for the renewal and the record of renewal of each brand shall be made in the same manner as is provided by law for the filing of an original application for the recording of a brand.

~~c.~~(3) If an application for the renewal of any brand shall not be made and the fee therefor paid within the period of six (6) months after the expiration date for such renewal, then such brand may be allotted by the state brand inspector to any other person who shall apply therefor.

SECTION 25. That Section 25-1208, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1208~~1146. SALES AND TRANSFERS OF BRANDS. Any brand recorded in accordance with the requirements of this chapter shall be the property of the stock grower in whose name the same shall be recorded, and shall be subject to sale, assignment, transfer, devise and descent, the same as personal property. Instruments of writing evidencing any such sale, assignment or transfer shall be acknowledged as deeds to

real estate are now required to be, and shall be recorded in the office of the state brand inspector in a book to be by said officer kept for that purpose, which shall be properly indexed. The recording of such instruments in said office shall have the same force and effect as to third parties, as the recording of instruments affecting real estate, and the acknowledgment of the same shall have the same force and effect as the acknowledgment of deeds to real estate, and certified copies of the record of any such instrument, duly acknowledged, may be introduced in evidence the same as is now provided for certified copies of instruments affecting real estate. The fee of the state brand inspector for recording the writings evidencing each such sale, assignment or transfer shall be fifty dollars ($50.00).

SECTION 26. That Section 25-1209, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1209~~1147. CONFLICTING BRANDS. In deciding as to conflicts of brands, the state brand inspector shall reject any brand being the same as one previously recorded in the same place on any animal; it shall also reject all brands known as solid brands and the window sash brand. A variation in the size of a letter, number ~~of~~ or figure shall not constitute a new brand and shall be rejected. Combinations of letters, numbers or figures may be permitted, though the same letter, number or figure may have been recorded singly or together, if in the judgment of the state brand inspector, said combination is so different from any previous record as to constitute a new brand with no danger of infringement. ~~Said~~ The inspector shall have the right to reject any brand that may in his judgment endanger infringement of the previously recorded brand.

SECTION 27. That Section 25-1210, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1210~~1148. BRAND BOOK. It shall be the duty of the state brand inspector from time to time as it may be necessary, but at least every ~~five~~ two (~~5~~2) years, to cause to be published in book form a list of all brands on record at the time of publication. In the years when the brand book is not issued, t~~T~~he state brand inspector ~~shall--annually, cause--to--be~~ may issued a supplement to the brand book theretofore issued containing the additional brands or changes in ownership of brands between the time of the last publication and the time of issuing such supplement. ~~Such~~ The brand boook shall contain the facsimile of all brands recorded together with the owners' names and post-office addresses. ~~Said~~ Brand records shall be arranged in convenient form for reference. It shall be the duty of the state brand inspector to furnish free of charge to each sheriff in this state one (1) copy of said brand book and supplement, in whose office it shall be kept open for inspection by all persons. ~~Said~~ Brand books and supplements may be sold outright or by subscription to the general public at a price to be determined by the state brand inspector which price shall ~~not exceed~~ cover the cost of the ~~making thereof~~ publications.

SECTION 28. That Section 25-1107, Idaho Code, be, and the same is hereby amended to read as follows:

25-11~~07~~49. DISPOSITION OF RECORDING FEES. All fees received for the recording and renewal of brands under the provisions of chapter 1~~2~~1, title 25, Idaho Code, shall be credited to the brand recording account, which the state auditor is authorized and directed to establish in the agency asset fund in the state treasury. All interest earned from investment of moneys in the brand recording account shall accrue to the account.

SECTION 29. That Section 25-1116, Idaho Code, be, and the same is hereby amended to read as follows:

25-11~~1~~650. BRAND BOOK OPEN TO PUBLIC -- EVIDENCE. The brand book kept by said brand inspector or deputy inspector shall be open to the inspection ~~of~~ the public and shall be prima facie evidence of the facts recited therein in any of the courts of this state.

SECTION 30. That Section 25-1112, Idaho Code, be, and the same is hereby amended to read as follows:

25-11~~1~~251. DECEPTIVE AND INFRINGING BRANDS -- PREVENTION OF USE. The state brand board shall have the right to adopt such rules and regulations as it may prescribe to prevent the use of deceptively similar brands in the state of Idaho and to prevent the use of infringing brands, and is hereby authorized to cancel any brand in the state of Idaho of priority below any brand which it shall infringe.

SECTION 31. That Section 25-1106A, Idaho Code, be, and the same is hereby amended to read as follows:

25-11~~06A~~. BRAND INSPECTION FEES. (1) The maximum fee which shall be charged by the state brand inspector and his deputies for brand inspection shall be:

(a) S~~s~~eventy-five cents (75¢) for each head of cattle~~.--The--maximum--fee--which--shall-be-charged-by-the-state-brand-inspector-and his-deputies-for-brand-inspection~~;

(b) One dollar and fifty cents ($1.50) for each head of horses, ~~and~~ mules and asses ~~shall-be-one-dollar-and-fifty-cents-($1.50)~~.

~~Provided,-however,~~

(2) A ~~a~~ minimum fee of three dollars ($3.00) shall be charged by the state brand inspector and his deputies for each brand inspection certificate issued, whether for cattle ~~or~~, horses ~~and~~, mules ~~and~~ or asses, or a combination thereof~~,-unless-the-total-number-of-livestock inspected-on-each-brand-inspection-certificate-at-the-current--fee--in effect--exceeds--the--minimum--brand--inspection--fee-of-three-dollars ($3.00).--Such~~. The minimum brand inspection fee ~~is--to~~ shall apply only in those cases when a brand inspector must travel over one (1) mile from his assigned duty post.

(~~2~~3) ~~There-shall-be-a-minimum-fee-of-fifty-dollars--($50.00)--per livestock-auction-sale,-payable-by-the-livestock-auction-sale,-for-the~~

~~brand--inspection--of--all-subject-livestock-consigned-to-the-auction.~~ The minimum fee for brand inspection services at any livestock auction sale is fifty dollars ($50.00) per day, and shall be paid by the livestock auction sale, whether or not the inspection fees received from the owners of livestock inspected equals the minimum fee. If the fees paid by the owners of livestock inspected at the sale exceed the minimum fee, the actual amount of fees collected shall be paid, rather than the minimum amount.

~~(3)~~ The state brand board may adopt a schedule or schedules of fees which are below the maximum fees and may adjust such schedule or schedules from time to time whenever such board finds that the cost of administering and enforcing the laws of the state of Idaho for brand inspection of livestock can be maintained with such below-maximum fees. All such fees shall be paid by the owner of the cattle, horses, mules and asses and credited to the state brand account.

(5) All brand inspection fees, and all other fees required by law to be collected by the brand inspector, are due and payable at the time of inspection, but the brand board may, by rules and regulations, allow all of such fees to be paid on a schedule that requires payment at least monthly, after receiving a request for such delayed payment schedule and after such request is approved by the state brand inspector. The brand board may require a security deposit to insure the prompt payment of all fees owed to the state. Failure to pay as required shall be cause for the brand inspector to file an action in the district court of the county wherein the inspection was made for the amount of all fees owed, plus all costs and reasonable attorney fees associated with the action plus interest at the rate specified in section 28-22-104, Idaho Code, on the amount owed from the due date.

SECTION 32. That Section 25-1106, Idaho Code, be, and the same is hereby amended to read as follows:

25-11~~06~~61. FEES -- STATE BRAND ACCOUNT. All fees of every kind collected by the office of the state brand inspector or under any rules or regulations made pursuant to the provisions of chapters 11~~,~~ ~~13 and 14~~, title 25, Idaho Code, shall be deposited in the state treasury and kept in a special and separate account in the dedicated fund to be known as the "state brand account"; said account is hereby appropriated for the use and expenditure of said board in carrying out the provisions of this ~~act~~ chapter and in the performance of all of its duties and the duties of the state brand inspector and in carrying out the rules and regulations which shall be made by ~~said~~ the board, and for salaries and wages and other expenses of the office of the state brand inspector, the state brand board, and its employees for the purpose of fulfilling the duties of such office, and said account is hereby declared to be a continuing account.

SECTION 33. That Section 25-1409, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~14~~091170. RECIPROCITY. Any transportation of livestock in this state which originates in another state, and which complies with the

brand inspection laws of such state requisite to such transportation, shall be deemed for all purposes to be in compliance with the state brand inspection laws of this state.

SECTION 34. That Section 25-1408, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1408~~1171. IMPOUNDMENT OF VEHICLES USED IN TRANSPORTING STOLEN LIVESTOCK. The use of any vehicle for the transportation of any stolen livestock or the products thereof, shall be unlawful and such vehicle shall be forfeited to and confiscated by the state. Any such vehicle so used in transporting such stolen livestock shall be seized without warrant by the sheriff of the county where such vehicle is found and sold by him at public auction and the proceeds of such sale paid to the county treasurer to be deposited in the ~~general~~ current expense fund of the county; provided, however, that no such sale shall be made until ten (10) days notice thereof shall have been given the person in whose custody such vehicle is found, and notice given to the registered owner of said vehicle, nor in the event, if within such period the owner of such vehicle or the person entitled to the possession thereof shall commence an action in prohibition or injunction against the sheriff to restrain such sale, until after the termination of such proceedings; and provided, further, that such vehicle shall not be confiscated or subject to the forfeiture if the same be a stolen vehicle or loaned vehicle at the time it is used for such unlawful transportation and the owner thereof is not in collusion with the party or parties guilty of the theft.

SECTION 35. That Section 25-1410, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1410~~1172. IMPOUNDMENT OF LIVESTOCK IF NO SATISFACTORY EVIDENCE OF OWNERSHIP. Livestock which shall be found by any brand inspector, dep~~uty brand~~ inspector or peace officer of the state in the possession of any person who shall be unable to furnish to such inspector or peace officer, upon request therefor, satisfactory evidence of the ownership of such livestock or the right to possession thereof, may be taken into the possession of such inspector or peace officer and detained by him without liability, and at the expense of the owner thereof, until the ownership of such livestock shall be established. No livestock shall be released to the owner thereof until all costs and expenses of detaining said livestock have been paid. If the ownership of any such livestock shall not be established within ten (10) days from the time such inspector or other officer shall take the same into possession, such inspector or other officer may have such livestock sold at public sale in any auction house or sales ring at which livestock of this nature are customarily sold and the costs of sale and the costs of keeping the livestock before the sale thereof shall be paid from the sale proceeds and the balance of such proceeds shall be paid to the treasurer of the state of Idaho for deposit in the unclaimed livestock proceeds account.

In the event any such livestock shall be delivered to any sales

ring or auction house for sale prior to the time that possession thereof shall be taken by an officer, then the officer may permit the sale of such livestock at such auction house or sales ring and impound the proceeds from the sale thereof until the ownership of such proceeds shall be established.

SECTION 36. That Section 25-1411, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~141~~1173. UNCLAIMED LIVESTOCK PROCEEDS ~~FUND~~ ACCOUNT. There is hereby created in the state treasury an ~~fund~~ account to be known as the unclaimed livestock proceeds ~~fund~~ account which shall consist of all money directed by law to be placed therein. ~~Such fund~~ The account is appropriated for paying and satisfying such claims as may be allowed against ~~such fund~~ the account by virtue of any law of the state of Idaho. All proceeds from the sale of livestock as provided by ~~this act~~ section 25-1172, Idaho Code, remaining after payment of the costs of keeping the livestock and the costs of sale, shall be paid to the state treasurer and shall be deposited into ~~such fund~~ the account. All moneys which shall hereafter be impounded under the provisions of ~~this act~~ section 25-1172, Idaho Code, to which ownership shall not be established within sixty (60) days after the sale of the livestock from which such proceeds shall be received, shall be paid to the state treasurer and shall be deposited into ~~such fund~~ the account.

SECTION 37. That Section 25-1412, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1412~~1174. HEARING FOR CLAIMS TO LIVESTOCK PROCEEDS ~~FUND~~ ACCOUNT. Any person claiming to be the owner of any livestock sold under the provisions of ~~this act~~ section 25-1172, Idaho Code, may claim the sale proceeds placed in ~~such fund~~ the unclaimed livestock proceeds account, and the state brand inspector must inquire into such claim, and may hold a hearing for such purpose giving notice thereof to every claimant thereof at least thirty (30) days before the date set for such hearing and after such hearing if satisfied of any claimant's right thereto, must issue an order granting a certificate to that effect and upon the presentation of the certificate the auditor must draw his warrant on the treasurer for the amount without interest. If no such certificate is presented to the auditor within eighteen (18) months after the date, such money is paid into the treasury of the state of Idaho and such money shall escheat to the state and be apportioned to the public school fund.

SECTION 38. That Section 25-1215, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1215~~1180. MUTILATING AND COUNTERFEITING BRANDS A MISDEMEANOR. It shall be unlawful for any stock grower or other person in this state to ~~change,~~ conceal, deface, disfigure, or obliterate any brand or mark previously branded, impressed or marked on any animal or head of livestock, or put his own, or any other brand upon or over any part

of any brand previously branded, upon any animal or head of livestock, and no person must mark or use any counterfeit of any brand or mark provided for in this chapter. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

SECTION 39. That Section 25-1415, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1415~~1181. PENALTIES. ~~a.~~(1) Any person who shall present false or fraudulent evidence of information to obtain a brand inspection ~~certificate or written permit, with~~ intent to do so, shall be guilty of a felony.

~~b.~~(2) Any person who wilfully forges any brand inspection certificate or written permit, or alters the same in any manner, with the intent to defraud another, or with the intent to deceive any state brand inspector or any other law enforcement officer in the state of Idaho, shall be guilty of forgery.

~~c.~~(3) Any person who shall knowingly transport livestock without proper certificate or permit, or knowingly offers for shipment any livestock not his own or without the authority of the owner of said livestock shall be deemed guilty of a misdemeanor.

~~d.~~(4) Any person who shall, without proper brand inspection certificate or written permit, transport livestock in violation of this ~~act~~ chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed three hundred dollars ($300) or by imprisonment in the county jail not to exceed six (6) months or be punished by both fine and imprisonment.

~~e.~~(5) Any person who shall refuse to permit inspection of any livestock as required by this ~~act~~ chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed three hundred dollars ($300) or by imprisonment in the county jail not to exceed six (6) months or be punished by both fine and imprisonment; and provided further, such person may be liable for civil damages to any owner of such livestock injured thereby, plus treble damages and for costs of suit and attorney's fees.

~~f.~~(6) It shall be unlawful for any common carrier to transport livestock within or without the state of Idaho without having had the ~~required~~ brand inspections required by this ~~act~~ chapter, and any common carrier who knowingly violates the requirements of this ~~act~~ chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined a sum not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000); and provided further, that said common carriers may be liable for civil damages to any owner of such livestock who is injured thereby plus treble damages and for costs of suit and attorney's fees.

~~g.~~(7) Any person who shall violate any of the rules and regulations adopted by the state brand board for the implementation of this ~~act~~ chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed three hundred dollars ($300) or by imprisonment in the county jail not to exceed six (6) months or be punished by both fine and imprisonment.

SECTION 40. That Section 25-1414, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~1414~~1182. ISSUANCE OF CITATIONS AND ARREST OF VIOLATORS. The state brand inspector, all deputy brand inspectors and all peace officers authorized by the laws of the state of Idaho to enforce brand inspection laws, are authorized and it is hereby made their duty to arrest with or without warrant any person or persons found violating any of the provisions of the brand inspection laws of the state of Idaho when detected in the act of violating such law or laws or found with livestock unlawfully in their possession at the time of such arrest. Arrests made pursuant to the brand inspection laws of the state of Idaho may be affected by:

(1) Taking the offender into custody for immediate appearance before the nearest available magistrate having jurisdiction; or,

(2) Issuing a citation to the offender to appear before a magistrate. Said citation shall bear the date, time and place for the offender's appearance before a magistrate; the name and address of the offender, the offense charged, the approximate location where and the approximate time when the offense was committed and other such essential and descriptive information related to the offense as may be prescribed by the state brand board by rule or regulation adopted by said state brand board. The citation shall be signed by the offender notified to appear and he shall be given a copy thereof and thereupon may be released from custody. A citation shall be issued only by mutual agreement of the arresting officer and the offender as evidenced by both their signatures on said citation. Failure of the offender to appear at the time and place specified in the citation shall constitute a misdemeanor and shall be cause for issuance of a warrant for said offender's arrest.

Whenever any person is given a written citation containing a notice to appear as hereinabove provided, the magistrate shall be a magistrate within the county where the offense charged is alleged to have been committed and who has jurisdiction of the offense, or any other magistrate in any other county with jurisdiction over the alleged offense which is agreed to be more convenient by both the officer and the offender. Whenever an offender is taken immediately before a magistrate as hereinabove provided, it shall be any magistrate within the state of Idaho who has jurisdiction of the alleged offense.

SECTION 41. That Section 25-1736, Idaho Code, be, and the same is hereby amended to read as follows:

25-1736. BRAND INSPECTION. Every livestock market operator engaged in the operation of a public livestock market within the state of Idaho shall cause brand inspection to be made in such manner as the state brand board shall prescribe, of all livestock assembled at such public livestock market for either public or private sale, and shall provide facilities for such brand inspection, such facilities to consist of a tagging or holding chute so as to permit readily accessible brand inspection, and shall pay to the office of the state brand

inspector fees and charges per head as determined according to the provisions of section 25-11606~~A~~, Idaho Code.

SECTION 42. That Section 25-2311, Idaho Code, be, and the same is hereby amended to read as follows:

25-2311. SALE BY BRAND INSPECTOR. If the estray livestock is sold by a brand inspector, he shall immediately advise the state brand inspector of all the particulars of the matter and account for the proceeds and forward the net proceeds of the sale to the state brand inspector to be placed in the unclaimed livestock ~~fund~~ account, to be handled as provided for by sections 25-~~14~~1173 and 25-~~1412~~1174, Idaho Code, and the rulesand regulations of the state brand board. The previous owner of the animal may make claim for the net proceeds as provided for by sections 25-~~14~~1173 and 25-~~1412~~1174, Idaho Code.

Approved March 22, 1988.

CHAPTER 76
(S.B. No. 1344)

AN ACT

RELATING TO POST-CONVICTION PROCEEDINGS; AMENDING SECTION 19-4902, IDAHO CODE, TO REQUIRE THAT AN APPLICATION REGARDING TREATMENT OF THE APPLICANT AT AN IDAHO CORRECTIONAL FACILITY SHALL BE FILED WITHIN THE COUNTY IN WHICH THE FACILITY IS LOCATED.

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

SECTION 1. That Section 19-4902, Idaho Code, be, and the same is hereby amended to read as follows:

19-4902. COMMENCEMENT OF PROCEEDINGS -- VERIFICATION -- FILING -- SERVICE. A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction took place. An application containing claims relating to the treatment of an applicant at any correctional facility located within Idaho may only be filed within the county in which such facility is located. An application may be filed at any time within five (5) years from the expiration of the time for appeal or from the determination of an appeal or from the determination of a proceeding following an appeal, whichever is later. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The Supreme Court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

Approved March 22, 1988.

CHAPTER 77
(S.B. No. 1348)

AN ACT

RELATING TO ORGANIZATION OF SCHOOL DISTRICT BOARDS OF TRUSTEES; AMENDING SECTION 33-506, IDAHO CODE, TO REQUIRE EACH SCHOOL DISTRICT BOARD OF TRUSTEES TO ELECT A TREASURER; AMENDING SECTION 33-509, IDAHO CODE, TO REQUIRE THE COUNTY TREASURER OF THE HOME COUNTY OF AN ELEMENTARY SCHOOL DISTRICT WITH LESS THAN SIX TEACHERS TO SERVE AS SCHOOL DISTRICT TREASURER IF REQUESTED TO DO SO BY THE SCHOOL DISTRICT BOARD OF TRUSTEES; AND AMENDING SECTION 33-701, IDAHO CODE, TO DELETE A REFERENCE.

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

SECTION 1. That Section 33-506, Idaho Code, be, and the same is hereby amended to read as follows:

33-506. ORGANIZATION AND GOVERNMENT OF BOARD OF TRUSTEES. Each board of school district trustees shall organize at its annual meeting and elect a chairman, a vice-chairman, a clerk, and ~~in other than elementary school districts with less than six (6) teachers within the district,~~ a treasurer. The clerk and the treasurer may be members of the board of trustees; or, in the discretion of the board, either or both may be selected from among competent and responsible persons outside the membership of the board. The board in its discretion may allow compensation for the clerk, and for the treasurer if other than the county treasurer.

Each member of the board not otherwise compensated by public moneys shall be compensated for actual expenses incurred for travel to, from, and attending meetings of the board. Such compensation shall be paid from the district school funds.

It shall be the duty of each member of the board of trustees to attend all meetings, both regular and special; and the board shall have the following powers and duties:

1. To make by-laws, rules and regulations for its government and that of the district, consistent with the laws of the state of Idaho and the rules and regulations of the state board of education;

2. To call special meetings or elections for such purpose as may be necessary for the proper conduct and management of the school or schools of the district;

3. To employ an attorney or attorneys when deemed for the best interests of the district, or for the purpose of defending the district against any suit or for bringing action deemed necessary to be commenced by the board.

SECTION 2. That Section 33-509, Idaho Code, be, and the same is hereby amended to read as follows:

33-509. DUTIES OF THE TREASURER. The treasurer elected by the board of trustees of a school district shall have such duties as the

board may prescribe. ~~He~~ The treasurer shall be placed under fidelity bond issued by a surety company authorized to do business in the state of Idaho, in such amount as the board of trustees may from time to time determine, or under personal bond equal to twice such determined amount with at least two (2) sureties who each shall qualify as in the case of sureties on the bonds of county officers.

The county treasurer of the home county of any elementary school district with less than six (6) teachers within the district shall serve as treasurer of such district, if requested to do so by the school district board of trustees.

The treasurer shall deposit the moneys of the district in accordance with the provisions of the Public Depository Law as now appearing or as it may be amended.

SECTION 3. 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 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 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 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 published in the district or county, then such statement of financial condition and report shall be published in a newspaper 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 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 department of education, after its acceptance by the board of trustees, but not later than October 15;

7. To file annually with the state department of education such financial and statistical reports as said state 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 33-402, 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 22, 1988.

CHAPTER 78
(S.B. No. 1352, As Amended)

AN ACT

RELATING TO THE DISTRIBUTION OF FEDERAL REVENUES; AMENDING SECTION 57-1307, IDAHO CODE, TO PERMIT THE STATE TREASURER TO CORRECT DISTRIBUTION ERRORS BY ADJUSTING SUBSEQUENT DISTRIBUTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 57-1307, Idaho Code, be, and the same is hereby amended to read as follows:

57-1307. DISTRIBUTION OF REVENUES. All moneys received by the state treasurer under the provisions of chapter 12 and chapter 13, title 57, Idaho Code, for transmittal to other units or departments of government shall be expeditiously paid to the units or departments as soon as distribution information is received from the appropriate agency of the federal government. To accomplish expeditious payment ~~and~~ the division of ~~budget, policy planning and coordination~~ financial management, and the state auditor, shall immediately carry out their duties.

If a payment under the provisions of chapter 12 or chapter 13, title 57, Idaho Code, has been made in error to other units or departments due to erroneous information received from the appropriate agency of the federal government or due to any other reason, the state treasurer shall either make the necessary adjustments in the next distribution to said units or departments, or shall expeditiously demand refunds from those units or departments which were overpaid and such units or departments shall pay such refunds expeditiously to the state treasurer. ~~As--soon--as-all-refunds-of-overpayments-are-received-such total-amount-shall-be-paid-expeditiously-to-the-units--or--departments entitled-thereto.~~

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, 1988.

CHAPTER 79
(S.B. No. 1355, As Amended)

AN ACT

RELATING TO THE TRAVEL AND CONVENTION INDUSTRY COUNCIL; AMENDING SECTION 67-4711, IDAHO CODE, TO INCREASE THE NUMBER OF PLANNING REGIONS FROM SIX TO SEVEN; AMENDING SECTION 67-4713, IDAHO CODE, TO PROVIDE FOR A MEMBER OF THE TRAVEL COUNCIL FROM THE SEVENTH REGION; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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) "Council" means the state of Idaho travel and convention industry council.

(3) "Department" means the department of 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 Rregions" means those ~~six~~ seven (67) 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.

No. 7. The counties of Blaine, Camas, Lemhi, Custer and Butte.

(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 2. 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 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~~ seven (6~~7~~) planning regions of the state~~. One~~ and one (1) member shall serve in a statewide capacity.

(2) Members of the 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 council.

(3) A member of the 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 council, 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~~ council who has a direct interest in any grant application or proposal being considered by the ~~committee~~ council, must disclose such interest, and must refrain from voting on the application or proposal.

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, 1988.

CHAPTER 80
(S.B. No. 1363, As Amended)

AN ACT

RELATING TO EXEMPTIONS FROM MOTOR VEHICLE OPERATING FEES; AMENDING CHAPTER 1, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-134B, IDAHO CODE, TO DESIGNATE A CLASS OF VEHICLES, THE IDAHO

CLASSIC MOTORCYCLE, WHICH SHALL BE EXEMPT FROM OPERATING FEES.

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

SECTION 1. That Chapter 1, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-134B, Idaho Code, and to read as follows:

49-134B. EXEMPTIONS FROM OPERATING FEES -- IDAHO CLASSIC MOTORCYCLE. (1) The provisions hereof with respect to operating fees shall apply to a motorcycle which is over thirty (30) years of age, and which is primarily a collectors' item and used for participation in club activities, exhibitions, tours, parades and occasional pleasure use not to include work, business, or general transportation and which shall, for the purposes of this section, be known as an "Idaho classic motorcycle."

(2) In lieu of the annual registration fees levied in section 49-126, Idaho Code, the registration fee for an "Idaho classic motorcycle" shall be ten dollars ($10.00), but no annual renewal of registration shall be required.

(3) The owner of any motorcycle applying for registration under this section shall execute an affidavit that the motorcycle for which registration is requested is owned and operated solely for the purposes enumerated in subsection (1) of this section, and also setting forth in said affidavit that the motorcycle is in an authentic, original or restored condition without major modifications from factory specifications. In any instance where the official inspecting the motorcycle for registration as an "Idaho classic motorcycle" has doubts concerning the authenticity of restoration to qualify under the provisions of this section, he may, at no cost to the state of Idaho, call upon the services of a member of any vintage, classic, or antique motorcycle club in the state to render an expert opinion, in writing, as to the authenticity of restoration.

(4) The registration certificate need not specify the weight of the classic motorcycle, and the plate issued shall bear no date but shall bear the inscription "Idaho Classic Motorcycle", and the registration number which shall be shown thereon, and the plate shall be valid without renewal as long as the vehicle is in existence. The plate is issued for the applicant's use only for such vehicle, and in the event of a transfer of the title the transferor must surrender the plate for the transfer. Upon written request, and approval by the division of motor vehicle registration, the applicant may retain the "Idaho classic motorcycle" plate after the sale of the vehicle and upon payment of fees covered in subsection (2) of this section and may reuse the plate on another "Idaho classic motorcycle."

(5) The department has the power to revoke such registration as issued under this section, for cause shown for failure of the applicant to comply with the provisions of this section.

Approved March 22, 1988.

CHAPTER 81
(S.B. No. 1398)

AN ACT

RELATING TO HIGHWAYS; AMENDING SECTION 49-514, IDAHO CODE, TO MODIFY THE DEFINITION OF URBAN DISTRICT; AND AMENDING SECTION 49-683, IDAHO CODE, TO ALLOW LOCAL AUTHORITIES TO DECREASE THE MAXIMUM PERMISSIBLE SPEED LIMITS OUTSIDE URBAN DISTRICTS.

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

SECTION 1. That Section 49-514, Idaho Code, be, and the same is hereby amended to read as follows:

49-514. DISTRICT. (1) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(2) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(3) Urban district. The territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses ~~situated at intervals of less than one hundred (100) feet for a distance of a quarter of a mile or more~~.

SECTION 2. That Section 49-683, Idaho Code, be, and the same is hereby amended to read as follows:

49-683. WHEN LOCAL AUTHORITIES MAY AND SHALL ALTER SPEED LIMITS. (1) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering ~~and~~ or traffic investigation that the speed limit permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

(a) Decreases the limit within an urban district; or

(b) Increases the limit within an urban district but not to more than fifty-five (55) miles per hour; or

(c) Decreases the limit outside an urban district~~, but not to less than thirty-five (35) miles per hour~~.

(2) Local authorities in their respective jurisdictions shall determine by an engineering ~~and~~ or traffic investigation the proper maximum speed not exceeding a maximum limit of fifty-five (55) miles per hour for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the limit

permitted under this title for an urban district.

(3) Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

(4) Any alteration of maximum limits on state highways or extensions thereof in a municipality by local authorities shall not be effective until such alteration has been approved by the Idaho transportation department.

(5) Provided, however, that any offense created hereunder shall constitute an infraction as the same is defined in section 49-3401(3), Idaho Code.

Approved March 22, 1988.

CHAPTER 82
(S.B. No. 1400)

AN ACT

RELATING TO PARKING SPACES FOR THE HANDICAPPED; AMENDING SECTION 49-698, IDAHO CODE, TO CLARIFY DESIGNATED PARKING IN DOWNTOWN AREAS, TO DELETE A REQUIREMENT FOR DESIGNATING A HANDICAPPED PARKING SPACE, AND TO REAFFIRM THE REQUIREMENT FOR DESIGNATING A SPACE.

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

SECTION 1. That Section 49-698, Idaho Code, be, and the same is hereby amended to read as follows:

49-698. PARKING SPACES FOR THE HANDICAPPED -- MARKING AND SIGNING -- ENFORCEMENT. (1) Local governments and owners of private property open to public use may designate parking zones and spaces to be used exclusively by vehicles displaying a special license plate for the handicapped, a special card for the handicapped as prescribed in sections 49-695 or 49-697, Idaho Code, or a special temporary card as prescribed by section 49-696, Idaho Code. Any parking zones and spaces so designated shall conform to the following requirements:

(a) Parking lots shall be provided with spaces that are accessible and approximate to the entrance of the facility reserved and signed for use by the handicapped, as defined by section 49-695, Idaho Code. Spaces shall be provided on the basis of one (1) space for each thirty-five (35) spaces or fraction thereof, and shall be twelve (12) feet wide, open on one (1) side to allow room for individuals in wheelchairs or requiring the aid of a mechanical device to egress and ingress from a motor vehicle on a level paved surface.

(b) One (1) parking space shall be ~~provided--in~~ designated for every thirty-five (35) spaces available on each downtown ~~city~~

street block~~.~~. These parking spaces shall ~~to~~ be parallel with the sidewalk where parallel parking is required, or at an angle to the sidewalk where angle parking is required~~,--and~~. Should angle parking be used, the parking spaces so designated for handicapped use shall be at least twelve (12) feet in width. All handicapped parking spaces shall be near curb cuts and ramps for wheelchair and other mechanical device usage. For the purposes of this section, the term "downtown" means the business center of a city as designated by the city council of the city. The term "street block" means that portion of a city street between consecutive parallel intersections.

(c) For each designated parking space or area there shall be posted immediately adjacent to, and visible from each stall or space, a sign, which is at least thirty-six (36) inches above the ground, consisting of the international handicapped symbol as shown in section 49-695, Idaho Code. ~~The-parking-space--shall--be conspicuously-painted.~~

(d) Should any city desire to modify any of the requirements of subsections (a) or (b) of this section, a city council may do so by ordinance, after complying with the following requirements:

1. The city council, or any other body designated by the city council by ordinance, shall receive a recommendation from a board, commission or committee created in conformity with section 50-210, Idaho Code, of which at least one-half (1/2) of the members shall be handicapped persons as defined in section 49-695, Idaho Code; ~~and~~

2. The city shall cause notice of public hearing on the proposed ordinance modifying the standards specified in subsections (a) ~~or~~ (b) of this section, to be published in a newspaper of general circulation in the city at least fourteen (14) days before the public hearing.

(2) Parking a vehicle or the standing of a vehicle in a space reserved for the handicapped, ~~except-for~~ which space is signed in conformance with the requirements specified in subsection (1)(c) of this section, is prohibited, unless a vehicle ~~that~~ is momentarily in the space for the purpose of allowing a handicapped person to enter or leave the vehicle, ~~is-prohibited,~~ or unless ~~the-vehicle-is-displaying~~ a special license plate or card for the handicapped~~,--a--special--card for--the--handicapped~~ as prescribed in sections 49-695 or and 49-697, Idaho Code, or a special temporary card as prescribed by in section 49-696, Idaho Code, is displayed on the vehicle. The registered owner of a vehicle parked in violation of the provisions of this subsection is guilty of an infraction, which is punishable by a fine not exceeding twenty-five dollars ($25.00) and no imprisonment.

(3) Law enforcement officials are empowered to enter upon private property open to public use to enforce the provisions of this section.

Approved March 22, 1988.

CHAPTER 83
(S.B. No. 1432)

AN ACT

RELATING TO THE ENFORCEMENT OF WATER RIGHT LAWS; AMENDING SECTION 42-311, IDAHO CODE, TO PROVIDE THE EFFECT OF NONCOMPLIANCE WITH PERMIT CONDITIONS OR THE LAW GOVERNING A PERMIT, TO DELETE A REFERENCE TO DECLARING WATER SUBJECT TO APPROPRIATION, TO MODIFY THE METHOD OF SERVICE FOR SHOW CAUSE OR CEASE AND DESIST ORDERS, AND TO PROVIDE TWENTY-ONE DAYS FROM DATE OF SERVICE OF AN ORDER TO REQUEST A HEARING; AMENDING SECTION 42-350, IDAHO CODE, TO PROVIDE THE EFFECT OF NONCOMPLIANCE WITH LICENSE CONDITIONS OR THE LAW GOVERNING A LICENSE, TO DELETE A REFERENCE TO DECLARING WATER SUBJECT TO APPROPRIATION, TO MODIFY THE METHOD OF SERVICE FOR SHOW CAUSE OR CEASE AND DESIST ORDERS, AND TO PROVIDE TWENTY-ONE DAYS FROM DATE OF SERVICE OF AN ORDER TO REQUEST A HEARING; AMENDING SECTION 42-351, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES MAY FILE AN ACTION SEEKING INJUNCTIVE RELIEF, TO CORRECT A TYPOGRAPHICAL ERROR, TO MODIFY THE METHOD OF SERVICE FOR ORDERS TO CEASE AND DESIST THE ILLEGAL DIVERSION OR USE OF WATER, TO PROVIDE FOURTEEN DAYS FROM DATE OF SERVICE OF AN ORDER TO REQUEST A HEARING, AUTHORIZING THE DIRECTOR TO SEEK INJUNCTIVE RELIEF PENDING THE OUTCOME OF THE ADMINISTRATIVE PROCEEDINGS, AND TO PROVIDE WHAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES NEED NOT SHOW BEFORE A PRELIMINARY INJUNCTION OR PERMANENT INJUNCTION SHALL ISSUE; AMENDING SECTION 42-352, IDAHO CODE, TO PROVIDE THAT MONETARY PENALTIES BE CALCULATED ON A PER DIVERSION PER CALENDAR DAY BASIS AND TO PROVIDE DUTIES OF THE ATTORNEY GENERAL UPON REQUEST OF THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-311, Idaho Code, be, and the same is hereby amended to read as follows:

42-311. CANCELLATION OF PERMIT -- GROUNDS -- HEARING -- PERMITTEE DEFINED. (1) If the director of the department of water resources finds, on the basis of available information at any time after a permit is issued but prior to license, that the permittee has ~~wilfully and intentionally~~ refused or failed to comply with any of the conditions in the permit, or has refused or failed to comply with the provisions of the law governing the permit, then the director of the department of water resources may issue (a) an order to show cause before the director of the department or the director's designee on or before a date therein set, which shall be not less than thirty (30) days from the date of service, why the director of the department should not cancel said permit ~~and declare the water subject to appropriation~~; or (b) an order directing the permittee to cease and desist the activity or activities alleged to be in violation of the conditions of the permit or in violation of provisions of the law gov-

erning the permit. A cease and desist order may direct compliance with the permit forthwith or may provide for a time schedule to bring the permittee into compliance with the conditions of the permit.

(2) Any order to show cause or order to cease and desist shall contain a statement of findings of fact and of conclusions of law that provide a factual and legal basis for the order of the director of the department of water resources.

(3) The director of the department of water resources shall serve ~~forthwith, in accordance with the rules for service of a summons and complaint in the Idaho rules of civil procedure;~~ a ~~certified~~ copy of any such order on the permittee by personal service or by certified mail. If reasonable efforts to personally serve the order fail, or if the certified mail is returned unclaimed, the department may serve the order by publication by publishing a summary of the order once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the point of diversion is located. Service by certified mail shall be complete upon receipt of the certified mail. Personal service may be completed by department personnel or a person authorized to serve process under the Idaho rules of civil procedure. Service by publication shall be complete upon the date of the last publication.

(4) The permittee shall have a right to an administrative hearing before the department if requested in writing within twenty-one (21) days from the date of service of the order, and to judicial review, all as provided in section 42-1701A, Idaho Code.

(5) The term "permittee," as used in this chapter, includes the heirs, successors, or assigns of the person to whom the department issued a water right permit.

SECTION 2. That Section 42-350, Idaho Code, be, and the same is hereby amended to read as follows:

42-350. REVOCATION OF LICENSE -- GROUNDS -- HEARING -- LICENSEE DEFINED. (1) If the director of the department of water resources finds, on the basis of available information at any time after a license is issued, that the licensee has ceased to put the water to a beneficial use for a period of five (5) continuous years or that the licensee has wilfully ~~and~~ or intentionally failed to comply with any of the conditions in the license, or has wilfully or intentionally failed to comply with provisions of the law governing the license, then the director of the department of water resources may issue (a) an order to show cause before the director of the department or the director's designee on or before a date therein set, which shall be not less than thirty (30) days from the date of service, why the director of the department should not revoke said license ~~and declare the water subject to appropriation;~~ or (b) an order directing the licensee to cease and desist the activity or activities alleged to be in violation of the conditions of the license or in violation of provisions of the law governing the license. A cease and desist order may direct compliance with the license forthwith or may provide for a time schedule to bring the licensee into compliance with the conditions of the license.

(2) Any order to show cause or order to cease and desist shall contain a statement of findings of fact and of conclusions of law that provide a factual and legal basis for the order of the director of the department of water resources.

(3) The director of the department of water resources shall serve ~~forthwith, in accordance with the rules for service of a summons and complaint in the Idaho rules of civil procedure,~~ a ~~certified~~ copy of any such order on the licensee by personal service or by certified mail. If reasonable efforts to personally serve the order fail, or if the certified mail is returned unclaimed, the department may serve the order by publication by publishing a summary of the order once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the point of diversion is located. Service by certified mail shall be complete upon receipt of the certified mail. Personal service may be completed by department personnel or a person authorized to serve process under the Idaho rules of civil procedure. Service by publication shall be complete upon the date of the last publication.

(4) The licensee shall have a right to an administrative hearing before the department, if requested in writing within twenty-one (21) days from the date of service of the order, and to judicial review, all as provided in section 42-1701A, Idaho Code.

(5) If the director of the department of water resources has issued an order to show cause why the director should not revoke a license, the licensee may, within twenty-one (21) days from the date of service of the order, notify the director in writing of the intent of the licensee to waive the right to an administrative hearing before the department and to file a complaint in the district court for a determination of the validity of the license. The complaint shall name the director of the department of water resources as a defendant and shall be filed either in the county where the point of diversion or the place of use under the license is located, or in the county where the director issued the order to show cause. The complaint shall be filed within forty-two (42) days of the date of service of the order to show cause by the director.

(6) The term "licensee," as used in this chapter, includes the heirs, successors, or assigns of the person to whom the department issued a water right license.

SECTION 3. That Section 42-351, Idaho Code, be, and the same is hereby amended to read as follows:

42-351. ILLEGAL DIVERSION OR USE OF WATER -- INJUNCTIVE RELIEF -- CEASE AND DESIST ORDERS. (1) If the director of the department of water resources finds, on the basis of available information, that a person is diverting water from a natural watercourse or from a ground water source without having obtained a valid water right to do so or is applying water not in conformance with the conditions of a valid water right, then the director of the department of water resources may file an action seeking injunctive relief or may issue an order directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or of any existing water

right. A cease and desist order may direct compliance with applicable law and with any existing water right or may provide a time schedule to bring the person's actions into compliance with applicable law and with any existing water right.

(2) Any order to cease and desist shall contain a statement of findings of fact and of conclusions of law that provide a factual and legal basis for the order or of the director of the department of water resources.

(3) The director of the department of water resources shall serve ~~forthwith, in accordance with the rules for service of a summons and complaint in the Idaho rules of civil procedure,~~ a certified copy of any such order on the person who is the subject of the cease and desist order by personal service or by certified mail. Service by certified mail shall be complete upon receipt of the certified mail. Personal service may be completed by department personnel or a person authorized to serve process under the Idaho rules of civil procedure.

(4) The person who is the subject of the cease and desist order shall have a right to an administrative hearing before the department, if requested in writing within fourteen (14) days from the date of service of the cease and desist order, and the right to judicial review, all as provided in section 42-1701A, Idaho Code.

(5) If the person who is the subject of the cease and desist order fails to comply with the order within the time limit set in the order the director may seek, by and through the attorney general, injunctive relief in the district court pending the outcome of the department proceeding. In such action, brought against a person for diverting water without having obtained a valid water right to do so, the director need not allege or prove that irreparable injury to the state or to other water users will occur should the preliminary injunction or permanent injunction not be issued, or that the remedy at law is inadequate, and the preliminary injunction, or permanent injunction shall issue without such allegations and without such proof.

SECTION 4. That Section 42-352, Idaho Code, be, and the same is hereby amended to read as follows:

42-352. CIVIL PENALTIES. (1) Any person who wilfully violates any cease and desist order issued under chapter 3, title 42, Idaho Code, after the same has been served on that person shall be subject to a civil penalty to be imposed by the director of the department of water resources not to exceed one hundred dollars ($100) per diversion for each calendar day, or any part of a calendar day, following service of the cease and desist order in which the illegal diversion or use of water occurs. The director of the department of water resources shall have the authority to file an action in the appropriate district court to ~~impose, assess and~~ recover said civil penalties.

(2) All civil penalties collected by the director of the department of water resources under this section shall be deposited in the state water rights enforcement account established by section 42-1778, Idaho Code.

(3) Initiation of actions by the attorney general shall only be

at the request of the director. It shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in this chapter.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 1988.

CHAPTER 84
(S.B. No. 1448)

AN ACT

RELATING TO CORPORATE TAKEOVERS; REPEALING CHAPTER 15, TITLE 30, IDAHO CODE; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 16, TITLE 30, IDAHO CODE, PLACING LIMITATIONS ON THE RIGHT TO VOTE SHARES OF STOCK AFTER CERTAIN STOCK ACQUISITIONS, PROVIDING DEFINITIONS, PROVIDING DUTIES OF DIRECTORS, PROVIDING FOR THE APPLICATION OF CHAPTER 16, TITLE 30, IDAHO CODE, PROVIDING FOR AN INFORMATION STATEMENT, PROVIDING FOR MEETINGS OF SHAREHOLDERS, PROVIDING FOR VOTING RIGHTS FOR STOCK, PROVIDING RIGHTS OF ACTION FOR ISSUING PUBLIC CORPORATIONS AND THEIR SHAREHOLDERS, PROVIDING FOR THE REDEMPTION OF SHARES OF STOCK, PROVIDING FOR THE SCOPE OF CHAPTER 16, TITLE 30, IDAHO CODE, PROVIDING FOR JURISDICTION, PROVIDING FOR SEVERABILITY, PROVIDING FOR AN ELECTION FOR THE APPLICATION OF CHAPTER 16, TITLE 30, IDAHO CODE, AND PROVIDING A SHORT TITLE; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 30, IDAHO CODE, PLACING LIMITATIONS ON CERTAIN BUSINESS COMBINATIONS, PROVIDING DEFINITIONS, PROVIDING DUTIES OF DIRECTORS, PROVIDING EXCLUSIONS FROM CHAPTER 17, TITLE 30, IDAHO CODE, PROVIDING A REQUIREMENT FOR THE APPROVAL OF DIRECTORS FOR BUSINESS COMBINATIONS WITH INTERESTED SHAREHOLDERS, PROVIDING LIMITATIONS ON THE ABILITY OF AN ISSUING PUBLIC CORPORATION TO ENTER INTO BUSINESS COMBINATIONS, PROVIDING FOR THE SCOPE OF CHAPTER 17, TITLE 30, IDAHO CODE, PROVIDING FOR JURISDICTION, PROVIDING FOR SEVERABILITY, PROVIDING FOR AN ELECTION FOR THE APPLICATION OF CHAPTER 17, TITLE 30, IDAHO CODE, AND PROVIDING A SHORT TITLE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 15, Title 30, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 16, Title 30, Idaho Code, and to read as follows:

CHAPTER 16
CONTROL SHARE ACQUISITION ACT

30-1601. DEFINITIONS. In this chapter the following terms have the meaning specified:

(1) "Acquiring person" means a person that makes or proposes to make a control share acquisition. If two (2) or more persons act as a partnership, limited partnership, syndicate or other group pursuant to any agreement, arrangement, relationship, understanding or otherwise, whether or not in writing, for the purposes of acquiring, owning or voting shares of an issuing public corporation, all members of the partnership, syndicate or other group constitute a "person." An "acquiring person" does not include a licensed broker or dealer or licensed underwriter that purchases shares of an issuing public corporation solely for purposes of resale to the public and is not acting in concert with an acquiring person.

(2) "Affiliate" means a person that directly or indirectly controls, is controlled by, or is under common control with a specified person.

(3) "Associate," when used to indicate a relationship with any person, means:

(a) Any corporation or organization of which the person is an officer, director or partner or is, directly or indirectly, the beneficial owner of ten per cent (10%) or more of any class or series of shares entitled to vote or other equity interests;

(b) Any trust or estate in which the person has a ten per cent (10%) or more beneficial interest or as to which the person serves as trustee or personal representative or in a similar fiduciary capacity; or

(c) Any relative or spouse of the person, or any relative of the spouse, residing in the home of the person.

(4) "Beneficial owner," when used with respect to shares or other securities, includes any person who, directly or indirectly, through any agreement, arrangement, relationship, understanding or otherwise, whether or not in writing, has or shares the power to vote, or direct the voting of, the shares or securities or has or shares the power to dispose of, or direct the disposition of, the shares or securities, except that:

(a) A person is not deemed the beneficial owner of shares or securities tendered pursuant to a tender or exchange offer made by the person or any of the person's affiliates or associates until the tendered shares or securities are accepted for purchase or exchange or payment, or purchased or exchanged; and

(b) A person is not deemed the beneficial owner of shares or securities with respect to which the person has the power to vote or direct the voting arising solely from a revocable proxy given in response to a proxy solicitation made in accordance with the applicable rules and regulations under the Securities Exchange Act of 1934, as amended, and is not then reportable under that act on a schedule 13D or comparable report under that act.

(5) "Beneficial ownership" includes the right to acquire shares or securities through the exercise of options, warrants or rights, the

conversion of convertible securities or otherwise, regardless of whether exercisable only after the passage of time (whether or not less than sixty (60) days) or the occurrence or nonoccurrence of a future event. The shares or securities subject to the options, warrants, rights or conversion privileges held by a person are deemed to be outstanding for the purpose of computing the percentage of outstanding shares or securities of the class or series owned by the person but are not deemed to be outstanding for the purpose of computing the percentage of the class or series owned by any other person. A person is deemed the beneficial owner of shares and securities beneficially owned by an affiliate or associate of the person.

(6) "Business combination," when used in reference to any issuing public corporation and any interested shareholder of the issuing public corporation, means:

(a) Any merger or consolidation of the issuing public corporation or any subsidiary of the issuing public corporation with either:

1. The interested shareholder; or

2. Any other domestic or foreign corporation, whether or not itself an interested shareholder of the issuing public corporation, that is, or after the merger would be, an affiliate or associats of the interested shareholder, except that the foregoing does not include the merger of a wholly owned subsidiary of the issuing public corporation into the issuing public corporation or the merger of two (2) or more wholly owned subsidiaries of the issuing public corporation; or

(b) Any exchange, pursuant to a plan of exchange under the laws of this state or a comparable statute of any other state or jurisdiction, of shares of the issuing public corporation or any subsidiary of the issuing public corporation for shares of either:

1. The interested shareholder; or

2. Any other domestic or foreign corporation, whether or not itself an interested shareholder of the issuing public corporation, that is, or after the exchange would be, an affiliate or associate of the interested shareholder; or

(c) Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in a single transaction or a series of transactions, to or with the interested shareholder or any affiliate or associate of the interested shareholder, whether as part of a dissolution or otherwise, of assets of the issuing public corporation or any subsidiary of the issuing public corporation to which any of the following applies:

1. Has an aggregate market value equal to ten per cent (10%) or more of the aggregate market value of all the assets, determined on a consolidated basis, of the issuing public corporation;

2. Has an aggregate market value equal to ten per cent (10%) or more of the aggregate market value of all the outstanding shares of the issuing public corporation; or

3. Represents ten per cent (10%) or more of the earning power or net income, determined on a consolidated basis, of the issuing public corporation; or

(d) Any transaction which results in the issuance or transfer by

the issuing public corporation or any subsidiary of the issuing public corporation, in a single transaction or a series of transactions, of any shares of the issuing public corporation that have an aggregate market value equal to five per cent (5%) or more of the aggregate market value of all the outstanding shares of the issuing public corporation to the interested shareholder or any affiliate or associate of the interested shareholder, except pursuant to the exercise of warrants or rights to purchase shares offered or distributed or a dividend or distribution paid or made pro rata to all shareholders of the issuing public corporation, and except pursuant to the exercise or conversion of securities exercisable for or convertible into shares of the issuing public corporation or any subsidiary of the issuing public corporation which securities were outstanding prior to the time that the interested stockholder became such; or

(e) The adoption of any plan or proposal for the liquidation or dissolution of the issuing public corporation, or any reincorporation of the issuing public corporation in another state or jurisdiction, proposed by, on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with the interested shareholder or any affiliate or associate of the interested shareholder; or

(f) Any transaction involving any reclassification of securities, including any share dividend or split, reverse share split or other distribution of shares in respect of shares, recapitalization of the issuing public corporation, merger or consolidation of the issuing public corporation with any subsidiary of the issuing public corporation, exchange of shares of the issuing public corporation with any subsidiary of the issuing public corporation or other transaction, whether or not with or into or otherwise involving the interested shareholder, proposed by, on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with the interested shareholder or any affiliate or associates of the interested shareholder that has the effect directly, or indirectly, of increasing the proportionate share of the outstanding shares of any class or series of shares entitled to vote, or securities that are exchangeable for or convertible into or that carry a right to acquire shares entitled to vote, of the issuing public corporation or any subsidiary of the issuing public corporation that is, directly or indirectly, owned by the interested shareholder of any affiliate or associate of the interested shareholder, except as a result of immaterial changes due to fractional share adjustments; or

(g) Any receipt by the interested shareholder or any affiliate or associate of the interested shareholder of the benefit, directly or indirectly, except proportionately as a shareholder of the issuing public corporation, of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by or through the issuing public corporation or any subsidiary of the issuing public corporation.

(7) "Control," "controlling," " controlled by" or "under common control with" means the possession, directly or indirectly, of the

power to direct or to cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise. A person's beneficial ownership of ten per cent (10%) or more of the voting power of a corporation's outstanding shares entitled to vote in the election of directors creates a presumption that the person has control of the corporation. A person is not considered to have control of a corporation if the person holds voting power, in good faith and not for the purpose of avoiding the provisions of this chapter, as an agent, bank, broker, nominee, custodian or trustee for one (1) or more beneficial owners who do not individually or as a group have control of the corporation.

(8) "Control share acquisition" means an acquisition, directly or indirectly, by an acquiring person of beneficial ownership of shares of an issuing public corporation that, except for the provisions of this chapter, would, when added to all other shares of the issuing public corporation, beneficially owned by the acquiring person, entitle the acquiring person, immediately after the acquisition, to exercise or direct the exercise of a new range of voting power within any of the ranges specified in section 30-1604(1)(d), Idaho Code, but does not include any of the following:

(a) An acquisition by a donee pursuant to an inter vivos gift not made to avoid the provisions of this chapter or by a distributee as defined in section 15-1-201, Idaho Code;

(b) An acquisition pursuant to a security agreement not created to avoid the provisions of this chapter;

(c) An acquisition from the issuing public corporation; and

(d) An acquisition for the benefit of others by a person acting in good faith and not made a avoid the provisions of this chapter to the extent that the person may not exercise or direct the exercise of voting power or disposition of the shares except on the instruction of others.

All shares, the beneficial ownership of which is acquired within a one hundred twenty (120) day period, and all shares, the beneficial ownership of which is acquired pursuant to a plan to make a control share acquisition, are deemed to have been acquired in the same acquisition.

(9) "Day" means a calendar day and shall consist of the time period from 12:01 a.m. through 12:00 midnight, Idaho time.

(10) "Interested shareholder," when used in reference to any issuing public corporation, means any person, other than the issuing public corporation or any subsidiary of the issuing public corporation, that is either:

(a) The beneficial owner, directly or indirectly, of ten per cent (10%) or more of the voting power of the outstanding shares entitled to vote of the issuing public corporation; or

(b) An affiliate or associate of the issuing public corporation.

(11) "Interested shares" mean the shares of an issuing public corporation with respect to which any of the following persons may exercise or direct the exercise of voting power in the election of directors of the issuing public corporation:

(a) An acquiring person;

(b) Any officer of the issuing public corporation; or

(c) Any director of the issuing public corporation.

(12) "Issuing public corporation" means a publicly held corporation which has at least fifty (50) shareholders and which either:

(a) Is incorporated under the laws of this state; or

(b) (i) Has a place of business or its principal executive office located in this state, (ii) owns or controls assets located within this state that have a fair market value of at least one million dollars ($1,000,000), (iii) has more than five hundred (500) employees residing in this state, and (iv) has either (X) more that ten per cent (10%) of its shareholders resident in this state, or (Y) more than ten per cent (10%) of its shares owned of record by state residents.

For purposes of this subsection, the record date for determining the percentages and number of shareholders and shares shall be the last shareholder record date before the event requiring that the determination be made, except that if a shareholder record date has not been fixed by the board of directors of the issuing public corporation within the preceding four (4) months, the determination shall be made as of the end of the issuing public corporation's most recent fiscal quarter. The residence of a shareholder is presumed to be the address appearing in the records of the issuing public corporation. Shares held of record by banks (except as trustee or guardian), brokers, or nominees shall be disregarded for purposes of calculating percentages and numbers described in this subsection. Shares of an issuing public corporation allocated to the account of an employee or former employee or beneficiaries of employees or former employees of an issuing public corporation held in a plan that is qualified under section 401(a) of the Internal Revenue Code of 1986, as amended, and is a defined contribution plan within the meaning of section 414(i) of the code, shall be deemed for purposes of this subsection, to be held of record by the employee to whose account such shares are allocated.

(13) "Market value," when used in reference to shares or property of any issuing public corporation or any of its subsidiaries, means:

(a) In the case of shares, the highest closing sale price during the thirty (30) day period immediately preceding the date in question of a share of the composite tape for New York Stock Exchange listed shares or, if the shares are not quoted on the composite tape or not listed on the New York Stock Exchange, on the principal United States securities exchange registered under the Securities Exchange Act of 1934, as amended, on which the shares are listed or, if the shares are not listed on any such exchange, on the National Association of Securities Dealers, Inc. Automated Quotations National Market System or, if the shares are not quoted on the National Association of Securities Dealers, Inc. Automated Quotations National Market System, the highest closing bid quotation during the thirty (30) day period preceding the date in question of a share on the National Association of Securities Dealers, Inc. Automated Quotations System or any system then in use or, if no such quotation is available, the fair market value on the date in question of a share as determined in good faith by the board of the issuing public corporation; and

(b) In the case of property other than cash or shares, the fair market value of the property on the date in question as determined

in good faith by the board of the issuing public corporation.

(14) "Publicly held corporation" means a corporation that has a class of equity securities registered pursuant to section 12 or is subject to section 15(d) of the Securities Exchange Act of 1934, as amended.

30-1602. DUTIES OF DIRECTOR. In discharging the duties of the position of director of an issuing public corporation, a director, in considering the best interests of the corporation, shall consider the long-term as well as the short-term interests of the corporation and its shareholders including the possibility that these interests may be best served by the continued independence of the corporation. In addition, a director may consider the interests of Idaho employees, suppliers, customers and communities in discharging his duties.

30-1603. APPLICATION. (1) The provisions of this chapter shall not apply to a control share acquisition if:

(a) The acquiring person was an acquiring person on, or became an acquiring person pursuant to a tender offer commenced prior to, the day following the effective date of this act, and remained such;

(b) The original articles or bylaws of the issuing public corporation contain a provision expressly electing not to be subject to this chapter;

(c) The issuing public corporation, by action of its board of directors, adopts an amendment to its bylaws expressly electing not to be subject to this chapter; or

(d) The issuing public corporation, by action of its shareholders, adopts an amendment to its articles of incorporation or bylaws approved by the shareholders holding sixty-six and two-thirds per cent (66 2/3%) of the outstanding voting power of all shares entitled to vote, excluding the shares of interested shareholders and their affiliates and associates, under which the issuing public corporation by such shareholder action expressly elects not to be subject to this chapter, and such amendment provides that it is not to be effective until eighteen (18) months after the effective date of this chapter.

(2) The shares of an issuing public corporation acquired by an acquiring person in a control share acquisition that exceed the threshold of voting power of any of the ranges specified in section 30-1604(1)(d), Idaho Code, have only the voting rights accorded them pursuant to section 30-1607, Idaho Code, and then only as provided in such section, and will not otherwise have any voting rights regardless of the terms thereof.

(3) This chapter does not apply to insurance companies regulated under Title 41, Idaho Code.

30-1604. INFORMATION STATEMENT. (1) An acquiring person shall deliver to the issuing public corporation at its principal executive office an information statement containing all the following:

(a) The identity of the acquiring person, including the identity of each member of any partnership, limited partnership, syndicate

or other group constituting the acquiring person and the identity of each affiliate and associate of the acquiring person, including the identity of each affiliate and associate of each member of such partnership, syndicate or other group;

(b) A reference that the information is made under the provisions of this section;

(c) The number and class or series of shares of the issuing public corporation beneficially owned, directly or indirectly, before the control share acquisition by each of the persons identified pursuant to paragraph (a);

(d) The number and class or series of shares of the issuing public corporation acquired or proposed to be acquired pursuant to the control share acquisition by each of the persons identified pursuant to paragraph (a) and specification of which of the following ranges of voting power in the election of directors that, except for the provisions of this chapter, the acquiring person in good faith believes resulted or would result from consummation of control share acquistion:

1. At least twenty per cent (20%) but less than thirty-three and one-third per cent (33 1/3%);

2. At least thirty-three and one-third per cent (33 1/3%) but less than or equal to fifty per cent (50%); or

3. Over fifty per cent (50%); and

(e) The terms of the control share acquisition or proposed control share acquisition, including the source of moneys or other consideration and the material terms of the financial arrangements for the control share acquisition, plans or proposals of the acquiring person, including plans or proposals under consideration to enter into a business combination or combinations involving the issuing public corporation, to liquidate or dissolve the issuing public corporation, to sell all or a substantial part of its assets or merge or consolidate it or exchange its shares with any other person, to change the location of its principal place of busines or its principal executive office or of a material portion of its business activities, to change materially its management or policies of employment, to change materially its charitable or community contributions or its policies, programs or practices relating thereto, to change materially its relationship with suppliers or customers or the communities in which it operates or to make any other material change in its business, corporate structure, management or personnel and such other objective facts as would be substantially likely to affect the decision of a shareholder with respect to voting on the control share acquistion.

(2) If any material change occurs in the facts set forth in the information statement, including any material increase or decrease in the number of shares of the issuing public corporation acquired or proposed to be acquired by the persons identified pursuant to subsection (1)(a) of this section, the acquiring person shall promptly deliver to the issuing public corporation at its principal executive office an amendment to the information statement containing information relating to such material change. An increase or decrease or proposed increase or decrease equal, in the aggregate for all persons

identified pursuant to subsection (1)(a) of this section, to one per cent (1%) or more of the total number of outstanding shares of any class or series of the issuing public corporation is deemed material for purposes of this subsection. An increase or decrease or proposed increase or decrease of less than this amount may be material, depending on the facts and circumstances.

30-1605. MEETING OF SHAREHOLDERS. If the acquiring person so requests in writing at the time of delivery of an information statement pursuant to section 30-1604, Idaho Code, and has made, or has made a bona fide written offer to make, a control share acquisition and gives a written undertaking to pay or reimburse the issuing public corporation's expenses of a special meeting, except the expenses of the issuing public corporation in opposing approval of the control share acquisition, within ten (10) days after receipt by the issuing public corporation of the information statement, a special meeting of the shareholders of the issuing public corporation shall be called for the purpose of considering the voting rights to be accorded to shares referred to in section 30-1603(2), Idaho Code, acquired or to be acquired pursuant to the control share acquisition. The special meeting shall be held no later than fifty-five (55) days after receipt of the information statement, unless the acquiring person agrees to a later date. If no request for a special meeting is made, consideration of the voting rights to be accorded to shares referred to in section 30-1603(2), Idaho Code, acquired or to be acquired pursuant to the control share acquisition shall be presented at the next special or annual meeting of the shareholders, which takes place more than fifty-five (55) days after the receipt of the information statement by the issuing public corporation, unless the matter of the voting rights becomes moot. The notice of the meeting shall be accompanied at a minimum by a copy of the information statement and a copy of any amendment to the information statement previously delivered to the issuing public corporation and a statement disclosing that the board of the issuing public corporation recommends approval of, expresses no opinion and is remaining neutral toward, recommends rejection of or is unable to take a position with respect to according voting rights to shares referred to in section 30-1603(2), Idaho Code, acquired or to be acquired in the control shares acquisition. The notice of meeting shall be given at least ten (10) days before the meeting.

30-1606. FINANCING. No call of a special meeting of the shareholders of the issuing public corporation is required to be made pursuant to section 30-1605, Idaho Code, and no consideration of the voting rights to be accorded to shares referred to in section 30-1603(2), Idaho Code, acquired or to be acquired pursuant to a control share acquisition shall be presented at any special or annual meeting of the shareholders of the issuing public corporation unless at the time of delivery of the information statement pursuant to section 30-1604, Idaho Code, the acquiring person has entered into and has delivered to the issuing public corporation a copy or copies of a definitive financing agreement or agreements with one (1) or more responsible financial institutions or other entities having the neces-

sary financial capacity for any financing of the control share acquisition not to be provided by moneys of the acquiring person.

30-1607. VOTING RIGHTS. (1) Shares referred to in section 30-1603(2), Idaho Code, acquired in a control share acquisition have the same voting rights as were accorded the shares before the control share acquisition but only if and to the extent approved by a resolution of shareholders of the issuing public corporation at a special or annual meeting of shareholders pursuant to section 30-1605, Idaho Code.

(2) The resolution of shareholders must be approved by the affirmative vote of the holders of sixty-six and two-thirds per cent (66 2/3%) of the voting power of all shares entitled to vote excluding all interested shares.

(3) A class or series of shares of the issuing public corporation is entitled to vote separately as a class or series if any provision of the control share acquisition would, if contained in a proposed amendment to the articles of the issuing public corporation, entitle the class or series to vote separately as a class or series.

(4) To have the voting rights accorded by approval of a resolution of shareholders, any proposed control share acquisition not consummated before the time of the shareholder approval must be consummated within one hundred eighty (180) days after the shareholders' approval.

(5) Any shares referred to in section 30-1603(2), Idaho Code, acquired in a control share acquisition that do not have voting rights accorded to them by approval of a resolution of shareholders shall regain their voting rights on transfer to a person other than the acquiring person or any affiliate or associate of the acquiring person unless the acquisition of the shares by the other person constitutes a control share acquisition, in which case the voting rights of the shares are subject to the provisions of this chapter.

30-1608. RIGHTS OF ACTION. (1) An acquiring person, an issuing public corporation and shareholders of an issuing public corporation may sue at law or in equity to enforce the provisions of this chapter.

(2) The issuing public corporation may make application to a court of competent jurisdiction to obtain a declaration of the issuing public corporation's and other persons' obligations and rights under the act, and the court in any such action may, to the extent it deems appropriate, modify the timing requirements under this act during the time the court is determining the matter, provided, however, that, consistent with the proper adjudication of the matter, courts of this state will determine the matter in the most expeditious manner practicable.

30-1609. REDEMPTION. (1) Unless otherwise expressly provided in the articles or in bylaws of an issuing public corporation, the issuing public corporation may call for redemption of all but not less than all shares referred to in section 30-1603(2), Idaho Code, acquired in a control share acquisition at a redemption price equal to the market value of the shares at the time the call for redemption is

given if either:

(a) An information statement has not been delivered to the issuing public corporation by the acquiring person by the tenth day after the control share acquisition; or

(b) An information statement has been delivered but the shareholders have voted not to accord voting rights to such shares pursuant to section 30-1607(2), Idaho Code.

(2) The issuing public corporation shall give the call for redemption within thirty (30) days after the event giving the issuing public corporation the option to call the shares for redemption and the shares shall be redeemed within sixty (60) days after the call is given.

30-1610. SCOPE. (1) Nothing contained in this chapter is intended or shall be construed in any way to limit, modify or restrict an issuing public corporation's authority to take any action which the directors may appropriately determine to be in furtherance of the protection of the interests of the corporation and its shareholders, including without limitation the authority to adopt or enter into plans, arrangements or instruments that deny rights, privileges, power or authority to the holder or holders of at least a specified number of shares or percentage of share ownership or voting power in certain circumstances.

(2) The requirements imposed by this chapter are to be in addition to, and not in lieu of, requirements imposed on a transaction by any provision in the articles or the bylaws of the issuing public corporation, or otherwise.

30-1611. JURISDICTION. (1) If the jurisdiction under the laws of which the issuing public corporation is organized has adopted or adopts any law comparable to this chapter which imposes limitations on the voting rights of any person in the event that the person acquires or proposes to acquire shares of the issuing public corporation which exceed or meet any level or range of ownership or voting powers specified in such law, and that law contains provisions which are expressly inconsistent with, or cannot practically be applied in a manner consistent with, the provisions of this chapter as applicable to the issuing public corporation, the provisions of this chapter shall be inapplicable to the issuing public corporation to the extent necessary to resolve such inconsistency.

(2) If any jurisdiction other than the jurisdiction under the laws of which the issuing public corporation is organized has adopted or adopts any law comparable to the provisions of this chapter which imposes limitations on the voting rights of any person in the event that the person acquires or proposes to acquire shares of the issuing public corporation which exceed or meet any level or range of ownership specified in such law and that law contains provisions which are expressly inconsistent with, or cannot practically be applied in a manner consistent with, the provisions of this chapter as applicable to the issuing public corporation, the provisions of this chapter shall be inapplicable to the issuing public corporation to the extent that (i) a greater percentage of shareholders of the issuing public

corporation reside in that jurisdiction than in this state, computed in accordance with provisions of section 30-1601(12), Idaho Code, and then, only to the extent necessary to resolve such inconsistency or (ii) the director of the department of finance determines within three (3) business days from the date on which this chapter's provisions are first applicable to a particular control share acquisition that the other jurisdiction's law adequately provides for the protection of Idaho shareholders.

30-1612. SEVERABILITY. The provisions of this chapter 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 that can be given effect without the invalid provision or application. The invalidity of any provision of this act shall not affect the remaining provisions of this act.

30-1613. ELECTION. Any publicly held corporation which meets the requirements specified in section 30-1601(12)(b)(i), (ii) and (iii), Idaho Code, may, by action of its board of directors, adopt an amendment to its bylaws electing to be subject to this chapter, provided such corporation has one thousand (1,000) or more shareholders of record in this state, and thereby shall be subject to the provisions of this chapter as an issuing public corporation.

30-1614. SHORT TITLE. This chapter shall be known and may be cited as the "Control Share Acquisition Law."

SECTION 3. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 17, Title 30, Idaho Code, and to read as follows:

CHAPTER 17
BUSINESS COMBINATION ACT

30-1701. DEFINITIONS. In this chapter the following terms have the meaning specified:

(1) "Affiliate" means a person that directly or indirectly controls, is controlled by or is under common control with a specified person.

(2) "Announcement date," when used in reference to any business combination, means the date of the first public announcement of a definitive proposal for the business combination.

(3) "Associate," when used to indicate a relationship with any person, means:

(a) Any corporation or organization of which the person is an officer, director or partner or is, directly or indirectly, the beneficial owner of ten per cent (10%) or more of any class or series of shares entitled to vote or other equity interests;

(b) Any trust or estate in which the person has a ten per cent (10%) or more beneficial interest or as to which the person serves

as trustee or personal representative or in a similar fiduciary capacity; or

(c) Any relative or spouse of the person, or any relative of the spouse, residing in the home of the person.

(4) "Beneficial owner," when used with respect to shares or other securities, includes any person who, directly or indirectly, through any agreement, arrangement, relationship, understanding or otherwise, whether or not in writing, has or shares the power to vote, or direct the voting of, the shares or securities or has or shares the power to dispose of, or direct the disposition of, the shares or securities, except that:

(a) A person is not deemed the beneficial owner of shares or securities tendered pursuant to a tender or exchange offer made by the person or any of the person's affiliates or associates until the tendered shares or securities are accepted for purchase or exchange or payment, or purchased or exchanged; and

(b) A person is not deemed the beneficial owner of shares or securities with respect to which the person has the power to vote or direct the voting arising solely from a revocable proxy given in response to a proxy solicitation made in accordance with the applicable rules and regulations under the Securities Exchange Act of 1934, as amended, and is not then reportable under that act on a schedule 13D or comparable report under that act.

(5) "Beneficial ownership" includes the right to acquire shares or securities through the exercise of options, warrants or rights, the conversion of convertible securities or otherwise, regardless of whether exercisable only after the passage of time (whether or not less than sixty (60) days) or the occurrence or nonoccurrence of a future event. The shares or securities subject to the options, warrants, rights or conversion privileges held by a person are deemed to be outstanding for the purpose of computing the percentage of outstanding shares or securities of the class or series owned by the person but are not deemed to be outstanding for the purpose of computing the percentage of the class or series owned by any other person. A person is deemed the beneficial owner of shares and securities beneficially owned by an affiliate or associate of the person.

(6) "Business combination," when used in reference to any issuing public corporation and any interested shareholder of the issuing public corporation, means:

(a) Any merger or consolidation of the issuing public corporation or any subsidiary of the issuing public corporation with either:

1. The interested shareholder; or

2. Any other domestic or foreign corporation, whether or not itself an interested shareholder of the issuing public corporation, that is, or after the merger would be, an affiliate or associates of the interested shareholder, except that the foregoing does not include the merger of a wholly owned subsidiary of the issuing public corporation into the issuing public corporation or the merger of two (2) or more wholly owned subsidiaries of the issuing public corporation; or

(b) Any exchange, pursuant to a plan of exchange under the laws of this state or a comparable statute of any other state or juris-

diction, of shares of the issuing public corporation or any subsidiary of the issuing public corporation for shares of either:

1. The interested shareholder; or

2. Any other domestic or foreign corporation, whether or not itself an interested shareholder of the issuing public corporation, that is, or after the exchange would be, an affiliate or associate of the interested shareholder; or

(c) Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in a single transaction or a series of transactions, to or with the interested shareholder or any affiliate or associate of the interested shareholder, whether as part of a dissolution or otherwise, of assets of the issuing public corporation or any subsidiary of the issuing public corporation to which any of the following applies:

1. Has an aggregate market value equal to ten per cent (10%) or more of the aggregate market value of all the assets, determined on a consolidated basis, of the issuing public corporation;

2. Has an aggregate market value equal to ten per cent (10%) or more of the aggregate market value of all the outstanding shares of the issuing public corporation; or

3. Represents ten per cent (10%) or more of the earning power or net income, determined on a consolidated basis, of the issuing public corporation; or

(d) Any transaction which results in the issuance or transfer by the issuing public corporation or any subsidiary of the issuing public corporation, in a single transaction or a series of transactions, of any shares of the issuing public corporation that have an aggregate market value equal to five per cent (5%) or more of the aggregate market value of all the outstanding shares of the issuing public corporation to the interested shareholder or any affiliate or associate of the interested shareholder, except pursuant to the exercise of warrants or rights to purchase shares offered or distributed or a dividend or distribution paid or made pro rata to all shareholders of the issuing public corporation, and except pursuant to the exercise or conversion of securities exercisable for or convertible into shares of the issuing public corporation or any subsidiary of the issuing public corporation which securities were outstanding prior to the time that the interested stockholder became such; or

(e) The adoption of any plan or proposal for the liquidation or dissolution of the issuing public corporation, or any reincorporation of the issuing public corporation in another state or jurisdiction, proposed by, on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with the interested shareholder or any affiliate or associate of the interested shareholder; or

(f) Any transaction involving any reclassification of securities, including any share dividend of split, reverse share split or other distribution of shares in respect of shares, recapitalization of the issuing public corporation, merger or consolidation of the issuing public corporation with any subsidiary of the issuing

public corporation, exchange of shares of the issuing public corporation with any subsidiary of the issuing public corporation or other transaction, whether or not with or into or otherwise involving the interested shareholder, proposed by, on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with the interested shareholder or any affiliate or associate of the interested shareholder that has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class or series of shares entitled to vote, or securities that are exchangeable for or convertible into or that carry a right to acquire shares entitled to vote, of the issuing public corporation or any subsidiary of the issuing public corporation that is, directly or indirectly, owned by the interested shareholder of any affiliate or associate of the interested shareholder, except as a result of immaterial changes due to fractional share adjustments; or

(g) Any receipt by the interested shareholder or any affiliate or associate of the interested shareholder of the benefit, directly or indirectly, except proportionately as a shareholder of the issuing public corporation, of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by or through the issuing public corporation or any subsidiary of the issuing public corporation.

(7) "Consummation," with respect to any business combination, means the date of consummation of the business combination or, in the case of a business combination as to which a shareholder vote is taken, the later of:

(a) The business day before the vote; or

(b) Twenty (20) days before the date of consummation of the business combination.

(8) "Control," "controlling," " controlled by" or "under common control with" means the possession, directly or indirectly, of the power to direct or to cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise. A person's beneficial ownership of ten per cent (10%) or more of the voting power of a corporation's outstanding shares entitled to vote in the election of directors creates a presumption that the person has control of the corporation. A person is not considered to have control of a corporation if the person holds voting power, in good faith and not for the purpose of avoiding the provisions of this chapter, as an agent, bank, broker, nominee, custodian or trustee for one (1) or more beneficial owners who do not individually or as a group have control of the corporation.

(9) "Day" means a calendar day and shall consist of the time period from 12:01 a.m. through 12:00 midnight, Idaho time.

(10) "Interested shareholder," when used in reference to any issuing public corporation, means any person, other than the issuing public corporation or any subsidiary of the issuing public corporation, that is either:

(a) The beneficial owner, directly or indirectly, of ten per cent (10%) or more of the voting power of the outstanding shares entitled to vote of the issuing public corporation; or

(b) An affiliate or associate of the issuing public corporation.

(11) "Issuing public corporation" means a publicly held corporation which has at least fifty (50) shareholders and which either:

(a) Is incorporated under the laws of this state; or

(b) (i) Has a place of business or its principal executive office located in this state, (ii) owns or controls assets located within this state that have a fair market value of at least one million dollars ($1,000,000), (iii) has more than five hundred (500) employees residing in this state, and (iv) has either (X) more than ten per cent (10%) of its shareholders resident in this state, or (Y) more than ten per cent (10%) of its shares owned of record by state residents.

For purposes of this subsection, the record date for determining the percentages and number of shareholders and shares shall be the last shareholder record date before the event requiring that the determination be made, except that if a shareholder record date has not been fixed by the board of directors of the issuing public corporation within the preceding four (4) months, the determination shall be made as of the end of the issuing public corporation's most recent fiscal quarter. The residence of a shareholder is presumed to be the address appearing in the records of the issuing public corporation. Shares held of record by banks (except as trustee or guardian), brokers, or nominees shall be disregarded for purposes of calculating percentages and numbers described in this subsection. Shares of an issuing public corporation allocated to the account of an employee or former employee or beneficiaries of employees or former employees of an issuing public corporation held in a plan that is qualified under section 401(a) of the Internal Revenue Code of 1986, as amended, and is a defined contribution plan within the meaning of section 414(i) of the code, shall be deemed for purposes of this subsection, to be held of record by the employee to whose account such shares are allocated.

(12) "Market value," when used in reference to shares or property of any issuing public corporatin or any of its subsidiaries, means:

(a) In the case of shares, the highest closing sale price during the thirty (30) day period immediately preceding the date in question of a share of the composite tape for New York Stock Exchange listed shares or, if the shares are not quoted on the composite tape or not listed on the New York Stock Exchange, on the principal United States securities exchange registered under the Securities Exchange Act of 1934, as amended, on which the shares are listed or, if the shares are not listed on any such exchange, on the National Association of Securities Dealers, Inc. Automated Quotations National Market System or, if the shares are not quoted on the National Association of Securities Dealers, Inc. Automated Quotations National Market System, the highest closing bid quotation during the thirty (30) day period preceding the date in question of a share on the National Association of Securities Dealers, Inc. Automated Quotations System or any system then in use or, if no such quotation is available, the fair market value on the date in question of a share as determined in good faith by the board of the issuing public corporation; and

(b) In the case of property other than cash or shares, the fair

market value of the property on the date in question as determined in good faith by the board of the issuing public corporation.

(13) "Publicly held corporation" means a corporation that has a class of equity securities registered pursuant to section 12 or is subject to section 15(d) of the Securities Exchange Act of 1934, as amended.

(14) "Share acquisition date," with respect to any person and any issuing public corporation, means the date that the person first becomes an interested shareholder.

30-1702. DUTIES OF DIRECTOR. In discharging the duties of the position of director of an issuing public corporation, a director, in considering the best interests of the corporation, shall consider the long-term as well as the short-term interests of the corporation and its shareholders including the possibility that these interests may be best served by the continued independence of the corporation. In addition, a director may consider the interests of Idaho employees, suppliers, customers and communities in discharging his duties.

30-1703. EXCLUSIONS FROM CHAPTER. The provisions of this chapter shall not apply to an interested shareholder if:

(1) The interested shareholder was an interested shareholder on, or became an interested shareholder pursuant to a tender offer commenced prior to, the day following the effective date of this act, and remained such;

(2) The original articles or bylaws of the issuing public corporation contain a provision expressly electing not to be subject to the provisions of this chapter;

(3) The issuing public corporation, by action of its board of directors, adopts an amendment to its bylaws expressly electing not to be subject to the provisions of this chapter; or

(4) The issuing public corporation, by action of its shareholders, adopts an amendment to its articles of incorporation or bylaws approved by the shareholders holding sixty-six and two-thirds per cent (66 2/3%) of the outstanding voting power of all shares entitled to vote, excluding the shares of interested shareholders and their affiliates and associates, under which the issuing public corporation by such shareholder action expressly elects not to be subject to this chapter, and such amendment provides that it is not to be effective until eighteen (18) months after the effective date of this chapter.

(5) The provisions of this chapter do not apply to any business combination of an issuing public corporation with an interested shareholder of the issuing public corporation who became an interested shareholder inadvertently, if the interested shareholder both:

(a) As soon as practicable, divests itself of a sufficient amount of the shares entitled to vote of the issuing public corporation so that it no longer is the beneficial owner, directly or indirectly, of ten per cent (10%) or more of the outstanding shares entitled to vote of the issuing public corporation; and

(b) Would not at any time within the three (3) year period preceding the announcement date with respect to the business combina-

tion have been an interested shareholder except for the inadvertent acquisition.

(6) This chapter does not apply to insurance companies regulated under title 41, Idaho Code.

30-1704. BUSINESS COMBINATION WITH INTERESTED SHAREHOLDER -- APPROVAL BY DIRECTORS. (1) Except as provided in section 30-1703, Idaho Code, and notwithstanding any other provisions to the contrary in this title, an issuing public corporation may not engage in any business combination or vote, consent or otherwise act to authorize a subsidiary of the issuing public corporation to engage in any business combination with respect to, proposed by or on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with, any interested shareholder of the issuing public corporation or any affiliate or associate of the interested shareholder for a period of three (3) years after the interested shareholder's share acquisition date, unless the business combination or the acquisition of shares made by the interested shareholder on the interested shareholder's share acquisition date is approved by a committee of the board of the issuing public corporation before the interested shareholder's share acquisition date. The committee shall be formed in accordance with subsection (4) of this section.

(2) If a good faith definitive proposal regarding a business combination is made in writing to the board of the issuing public corporation, a committee of the board formed in accordance with subsection (4) of this section shall consider and take action on the proposal and respond in writing within forty-five (45) days after receipt of the proposal by the issuing public corporation, setting forth its decision regarding the proposal.

(3) If a good faith definitive proposal to acquire shares is made in writing to the board of the issuing public corporation, a committee of the board, formed in accordance with subsection (4) of this section, shall consider and take action on the proposal. Unless the committee responds affirmatively in writing within forty-five (45) days after receipt of the proposal by the issuing public corporation, the committee shall be considered to have disapproved the shares acquisition.

(4) When a business combination or acquisition of shares is proposed pursuant to this section, the board shall promptly form a committee, which may be a committee of the entire board of directors, a majority of which shall be disinterested directors. The committee shall take action on the proposal by the affirmative vote of a simple majority of the committee members. Notwithstanding the provisions of section 30-1703, Idaho Code, the committee is not subject to any direction or control by the board with respect to the committee's consideration of or any action concerning a business combination or acquisition of shares pursuant to this section. For purposes of this subsection, a director or person is disinterested if the director or person (a) is not a present or former officer or employee of the issuing public corporation or a majority owned subsidiary of the issuing public corporation, or (b) is not an officer, director, employee, affiliate or associate of an interested shareholder.

30-1705. REQUIREMENTS. Except as provided in sections 30-1703 and 30-1704, Idaho Code, and notwithstanding any other provisions to the contrary in this title, an issuing public corporation may not engage at any time in any business combination or vote, consent or otherwise act to authorize a subsidiary of the issuing public corporation to engage in any business combination with respect to, proposed by or on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with an interested shareholder of the issuing public corporation or any affiliate or associate of the interested shareholder other than a business combination meeting all the requirements of this chapter, the articles of the issuing public corporation and the requirements specified in any of the following:

(1) A business combination approved by the board of the issuing public corporation before the interested shareholder's share acquisition date, or as to which the acquisition of shares made by the interested shareholder on the interested shareholder's share acquisition date had been approved by the board of the issuing public corporation before the interested shareholder's share acquisition date.

(2) A business combination approved by the affirmative vote of the holders of sixty-six and two-thirds per cent (66 2/3%) of the outstanding shares entitled to vote not beneficially owned by the interested shareholder proposing the business combination or any affiliate or associate of the interested shareholder proposing the business combination at a meeting called for that purpose no earlier than three (3) years after the interested shareholder's share acquisition date.

(3) A business combination, with respect to which the consummation date is no earlier than three (3) years after the interested shareholder's share acquisition date, that meets all the following conditions:

(a) The aggregate amount of the cash and the market value as of the consummation date of consideration other than cash to be received per share by holders of outstanding common shares of the issuing public corporation in the business combination is at least equal to the higher of the following:

1. The highest per share price (including any brokerage commissions, transfer taxes, and soliciting dealers' fees) paid by the interested shareholder, at a time when the interested shareholder was the beneficial owner, directly or indirectly, of five per cent (5%) or more of the outstanding shares entitled to vote of the issuing public corporation, for any common shares of the same class or series acquired by it within the three (3) year period immediately before the announcement date with respect to the business combination or within the three (3) year period immediately before, or in, the transaction in which the interested shareholder became an interested shareholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest per share acquisition price was paid through the consummation date at the rate for one (1) year United States treasury obligations from time to time in effect less the aggregate amount of cash dividends paid, and the market value of any dividends paid other than in cash, per common share

since the earliest date, up to the amount of the interest; and

2. The market value per common share on the announcement date with respect to the business combination or on the interested shareholder's share acquisition date, whichever is higher, plus interest compounded annually from that date through the consummation date at the rate for one (1) year United States treasury obligations from time to time in effect less the aggregate amount of any cash dividends paid and the market value of any dividends paid other than in cash, per common share since that date, up to the amount of the interest.

(b) The aggregate amount of the cash and the market value as of the consummation date of consideration other than cash to be received per share by holders of outstanding shares of any class or series of shares, other than common shares, of the issuing public corporation in the business combination is at least equal to the highest of the following, whether or not the interested shareholder has previously acquired any shares of the class or series:

1. The highest per share price (including any brokerage commisisons, transfer taxes, and soliciting dealers' fees) paid by the interested shareholder, at a time when the interested shareholder was the beneficial owner, directly or indirectly, of five per cent (5%) or more of the outstanding shares entitled to vote of the issuing public corporation, for any shares of the class or series acquired by it within the three (3) year period immediately before the announcement date with respect to the business combination or within the three (3) year period immediately before, or in, the transaction in which the interested shareholder became an interested shareholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest per share acquisition price was paid through the consummation date at the rate for one (1) year United States treasury obligations from time to time in effect less the aggregate amount of any cash dividends paid and the market value of any dividends paid other than in cash, per share of the class or series since such earliest date, up to the amount of the interest;

2. The highest preferential amount per share to which the holders of shares of the class or series are entitled in the event of any voluntary liquidation, dissolution or winding up of the issuing public corporation, plus the aggregate amount of any unpaid dividends declared or due as to which the holders are entitle before payment of dividends on some other class or series of shares unless the aggregate amount of the dividends is included in the preferential amount; and

3. The market value per share of the class or series on the announcement date with respect to the business combination or on the interested shareholder's share acquisition date, whichever is higher, plus interest compounded annually from that date through the consummation date at the rate for one

(1) year United States treasury obligations from time to time in effect less the aggregate amount of any cash dividends paid and the market value of any dividends paid other than in cash, per share of the class or series since that date, up to the amount of the interest.

(c) The consideration to be received by holders of a particular class or series of outstanding shares, including common shares, of the issuing public corporation in the business combination is in cash or in the same form as the interested shareholder has used to acquire the largest number of shares of the class or series of shares previously acquired by it and the consideration is distributed promptly.

(d) The holders of all outstanding shares of the issuing public corporation not beneficially owned by the interested shareholder immediately before the consummation date with respect to the business combination are entitled to receive in the business combination cash or other consideration for the shares in compliance with paragraphs (a), (b) and (c) of this subsection.

(e) After the interested shareholder's share acquisition date and before the consummation date with respect to the business combination, the interested shareholder has not become the beneficial owner of any additional shares entitled to vote of the issuing public corporation except:

1. As part of the transaction that resulted in the interested shareholder becoming an interested shareholder;

2. By virtue of proportionate share splits, share dividends or other distributions of shares in respect of shares not constituting a business combination;

3. Through a business combination meeting all of the conditions of section 30-1704, Idaho Code, and this subsection; and

4. Through purchase by the interested shareholder at any price that, if the price had been paid in an otherwise permissible business combination the announcement date and consummation date of which were the date of the purchase, would have satisfied the requirements of paragraphs (a), (b) and (c) of this subsection.

30-1706. SCOPE. (1) Nothing contained in this chapter is intended or shall be construed in any way to limit, modify or restrict an issuing public corporation's authority to take any action which the directors may appropriately determine to be in furtherance of the protection of the interests of the corporation and its shareholders, including without limitation the authority to adopt or enter into plans, arrangements or instruments that deny rights, privileges, power or authority to the holder or holders of at least a specified number of shares or percentage of share ownership or voting power in certain circumstances.

(2) The requirements imposed by this chapter are to be in addition to, and not in lieu of, requirements imposed on a transaction by any provision in the articles or the bylaws of the issuing public corporation, or otherwise.

30-1707. JURISDICTION. (1) If the jurisdiction under the laws of which the issuing public corporation is organized has adopted or adopts any law comparable to this chapter which imposes special requirements applicable to any business combination, and that law contains provisions which are expressly inconsistent with, or cannot practically be applied in a manner consistent with, the provisions of this chapter as applicable to the issuing public corporation, the provisions of this chapter shall be inapplicable to the issuing public corporation to the extent necessary to resolve such inconsistency.

(2) If any jurisdiction other than the jurisdiction under the laws of which the issuing public corporation is organized has adopted or adopts any law comparable to the provisions of this chapter which imposes special requirements applicable to any business combination, and that law contains provisions which are expressly inconsistent with, or cannot practically be applied in a manner consistent with, the provisions of this chapter as applicable to the issuing public corporation, the provisions of this chapter shall be inapplicable to the issuing public corporation to the extent that (i) a greater percentage of shareholders of the issuing public corporation reside in that jurisdiction than in this state, computed in accordance with provisions of subsection 30-1701(14) and then, only to the extent necessary to resolve such inconsistency or (ii) the director of the department of finance determines within three (3) business days from the date on which this chapter's provisions are first applicable to a business combination that the other jurisdiction's law adequately provides for the protection of Idaho shareholders.

30-1708. SEVERABILITY. The provisions of this chapter 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 that can give effect without the invalid provision or application. The invalidity of any provision of this act shall not affect the remaining provisions of this act.

30-1709. ELECTION. Any publicly held corporation which meets the requirements specified in section 30-1701(11)(b)(i), (ii) and (iii), Idaho Code, may, by action of its board of directors, adopt an amendment to its bylaws electing to be subject to this chapter, provided such corporation has one thousand (1,000) or more shareholders of record in this state, and thereby shall be subject to the provisions of this chapter as an issuing public corporation.

30-1710. SHORT TITLE. This chapter shall be known and may be cited as the "Business Combination Law."

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 22, 1988.

CHAPTER 85
(H.B. No. 419)

AN ACT

RELATING TO CREDITED STATE SERVICE; AMENDING SECTION 67-5332, IDAHO CODE, TO PROVIDE THAT CREDITED STATE SERVICE SHALL BE EARNED FOR EACH HOUR PAID TO STATE EMPLOYEES FOR HOURS WORKED AND FOR LEAVE TAKEN, INCLUDING OVERTIME WORK.

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

SECTION 1. That Section 67-5332, Idaho Code, be, and the same is hereby amended to read as follows:

67-5332. CREDITED STATE SERVICE -- APPLICABILITY -- COMPUTATION. (1) For the purposes of payroll, vacation or annual leave, sick leave and other applicable purposes, credited state service shall be earned by:

(a) Classified officers and employees of any department, commission, division, agency or board of the executive department;

(b) Such other classified officers and employees as may be prescribed by law or by order of the state board of examiners.

(2) Service in the employ of any of the following units of government, or other similar units, shall not earn credited state service: counties, cities, school districts, junior college districts, irrigation districts and highway districts. Service as an independent contractor or consultant is not state service.

(3) One (1) hour of credited state service shall be earned by each eligible state officer or employee for each hour, or major fraction thereof, that the officer or employee ~~is--present--for--duty,~~ receives pay, whether for hours worked or on approved leave as provided in subsection (4) of this section.

(4) Credited state service shall be earned when on approved leave with pay, on approved vacation leave, approved military leave, on approved sick leave, and holidays.

(5) ~~Work--in-any-kind-of-overtime-situation-shall-not-be-credited state-service-for-the-purposes-of-this-section.~~

~~(6)~~ Service for retirement purposes shall be as provided in chapter 13, title 59, Idaho Code.

Approved March 22, 1988.

CHAPTER 86
(H.B. No. 420)

AN ACT

RELATING TO SELLER'S PERMITS ISSUED UNDER THE IDAHO SALES TAX ACT; AMENDING SECTION 63-3620, IDAHO CODE, TO REQUIRE THAT PERSONS APPLYING FOR A SELLER'S PERMIT CERTIFY THAT THEY WILL ACTIVELY ENGAGE IN OR CONDUCT A BUSINESS MAKING SALES SUBJECT TO TAX UNDER

THE IDAHO SALES TAX ACT; AND AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3620A, IDAHO CODE, TO PROVIDE THAT SELLER'S PERMITS SHALL BE HELD ONLY BY PERSONS ACTIVELY ENGAGED IN MAKING SALES SUBJECT TO TAX UNDER THE IDAHO SALES TAX ACT AND AUTHORIZING THE STATE TAX COMMISSION TO REVOKE THE PERMIT OF PERSONS NOT SO ENGAGED.

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

SECTION 1. That Section 63-3620, Idaho Code, be, and the same is hereby amended to read as follows:

63-3620. PERMITS -- ISSUANCE -- REVOCATION -- RESALE CERTIFICATES -- PENALTIES. (a) Every person desiring to engage in or conduct business as a seller within this state shall file with the state tax commission an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the state tax commission and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the state tax commission may require. The applications, or any information contained thereon, may be made available by the tax commission to authorized representatives of state or federal agencies. The application shall be signed by the owner if he is a natural person; in the case of an association or partnership by a member or partner; in the case of a corporation, by an executive officer or other person authorized by the corporation to sign the application. Initial permits shall be issued without charge.

(b) The person signing the application shall certify that the applicant will actively engage in or conduct a business making sales subject to tax under this chapter.

(c) After compliance by the applicant with the requirements set out above and in section 63-3625, Idaho Code, the state tax commission shall grant and issue to each applicant a separate permit for each place of business within the state. A permit shall not be assignable, and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

(~~c~~d) A seller whose permit has been previously suspended or revoked shall pay the state tax commission a fee of ten dollars ($10.00) for the renewal or issuance of a permit in the event of a first revocation and twenty-five dollars ($25.00) for renewal after each successive revocation unless the suspension or revocation is for inactivity pursuant to section 63-3620A, Idaho Code.

(~~d~~e) Whenever any person fails to comply with any provision of this act relating to the sales tax or any rules or regulations of the state tax commission relating to the sales tax prescribed and adopted under this act, the state tax commission, upon hearing, after giving the person ten (10) days notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more

of the permits held by the person. The state tax commission shall give to the person written notice of the suspension or revocation of any of his permits. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The state tax commission shall not issue a new permit after the revocation of a permit unless ~~he~~ the commission is satisfied that the former holder of the permit will comply with the provisions of this act relating to the sales tax and the regulations of the state tax commission.

(~~e~~f) A person who engages in business as a seller in this state without a permit or permits, or after a permit has been suspended, and each officer of any corporation which so engages in business is guilty of a misdemeanor punishable by a fine not in excess of one hundred dollars ($100), and each day shall constitute a separate offense.

(~~f~~g) (i) For the purpose of the proper administration of this act and to prevent evasion of the sales tax, it shall be presumed that all sales are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale.

(ii) The certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling or renting tangible personal property and who holds a permit provided for in this section and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

(iii) The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the amount and general character of the tangible personal property sold or rented by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(~~g~~h) If a purchaser who gives a certificate makes any use of the property other than retention, demonstration, or display while holding it for sale or rent in the regular course of business, the use shall be taxable to the purchaser as of the time the property is first used by him, and the sales price of the property to him shall be deemed the measure of the tax. Only when there is unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser. If the sole use of the property other than retention, demonstration, or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his sales at retail the total amount of the rental charged rather than the sales price of the property to him.

(~~h~~i) Any person who gives a resale certificate for property which he knows at the time of purchase is not to be resold or rented by him in the regular course of business for the purpose of evading payment

to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment for a period not in excess of one (1) year, or by both such fine and imprisonment.

(~~i~~j) If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but with such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

SECTION 2. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3620A, Idaho Code, and to read as follows:

63-3620A. REVOCATION OR CANCELLATION OF PERMITS HELD BY PERSONS NOT ACTIVELY ENGAGED IN BUSINESS. (1) A permit shall be held only by persons actively engaged in making sales subject to tax under this chapter. Any person not so engaged shall forthwith surrender his permit to the state tax commission for cancellation. The state tax commission may revoke the permit of a person not actively engaged in making sales subject to tax under this chapter.

(2) The state tax commission may provide by regulation for the temporary suspension of permits held by persons engaged in seasonal business or who may otherwise temporarily not be actively engaged in the business of making sales subject to tax under this chapter.

(3) A person holding a seller's permit who, for a period of twelve (12) consecutive months, reports no sales subject to tax may be deemed by the state tax commission to be a person not actively engaged in making sales subject to tax under this chapter.

Approved March 22, 1988.

CHAPTER 87
(H.B. No. 588)

AN ACT

AMENDING SECTION 1, CHAPTER 153, LAWS OF 1987, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 153, Laws of 1987, be, and the same is hereby amended to read as follows:

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, 1987, through June 30, 1988:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. STATE ATHLETIC DIRECTOR:				
FROM:				
General Account		$ 2,500		$ 2,500
Athletic Account		3,600		3,600
TOTAL		$ 6,100		$ 6,100
B. BOARD OF PHARMACY:				
FROM:				
General Account	$ 30,500			$ 30,500
Pharmacy Board Account	174,400	$ 113,000	$ 8,500	295,900
TOTAL	$ 204,900	$ 113,000	$ 8,500	$ 326,400
C. BOARD OF ACCOUNTANCY:				
FROM:				
State Board of Accountancy Account	$ ~~03,200~~ 89,200	$ ~~122,000~~ 116,000	$ 6,000	$ 211,200
D. BOARD OF DENTISTRY:				
FROM:				
State Board of Dentistry Account	$ 82,300	$ 41,600	$ 1,100	$ 125,000
E. BOARD OF ENGINEERING EXAMINERS:				
FROM:				
Professional Engineers Account	$ 79,100	$ 88,900	$ 4,000	$ 172,000
F. BOARD OF MEDICINE:				
FROM:				
State Board of Medicine Account	$ ~~131,200~~ 137,200	$ ~~125,200~~ 119,200	$ 2,000	$ 258,400
G. BOARD OF NURSING:				
FROM:				
State Board of Nursing Account	$ 176,700	$ 114,100	$ 5,200	$ 296,000
H. BUREAU OF OCCUPATIONAL LICENSES:				
FROM:				
Occupational License Account	$ 320,400	$ 211,700	$ 9,700	$ 541,800
I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:				
FROM:				
Public Works Contractors State License Board Account	$ 132,300	$ 80,800	$17,500	$ 230,600
J. IDAHO REAL ESTATE COMMISSION:				
FROM:				
Idaho Real Estate Brokers				

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Commission Account	$ 470,300	$ 211,800	$35,600	$ 717,700
K. PROFESSIONAL GEOLOGISTS BOARD:				
FROM:				
Professional Geologists Account	$ 13,300	$ 12,200	$ 2,500	$ 28,000
L. BOARD OF OPTOMETRY:				
FROM:				
State Board of Optometry Account	$ 2,500	$ 6,700		$ 9,200
M. IDAHO CERTIFIED SHORTHAND REPORTERS BOARD:				
FROM:				
State Certified Shorthand Reporters Account	$ 3,300	$ 8,700		$ 12,000
N. OUTFITTERS AND GUIDES BOARD:				
FROM:				
Outfitters and Guides Board Account	$ 122,700	$ 81,400	$ 6,100	$ 210,200
O. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Board of Veterinary Medicine Account	$ 16,500	$ 19,000		$ 35,500
GRAND TOTAL	$~~1,838,700~~ 1,850,700	$~~1,243,200~~ 1,231,200	$98,200	$3,180,100

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

Approved March 22, 1988.

CHAPTER 88
(H.B. No. 589)

AN ACT

AMENDING SECTION 2, CHAPTER 266, LAWS OF 1987, 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 266, Laws of 1987, 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, 1987, through June 30, 1988.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 973,800	$ 453,100	$ 69,300	~~$273,000~~	~~$ 1,770,000~~
				611,300	2,107,500
Probation and Parole Receipts Account	16,300	6,200			22,500
TOTAL	~~$ 990,100~~	~~$ 459,300~~	~~$ 69,300~~	~~$273,000~~	~~$ 1,792,500~~
				611,300	2,130,000
B. IDAHO STATE CORRECTIONAL INSTITUTION:					
FROM:					
General Account	~~$ 5,042,600~~	~~$1,496,100~~	~~$140,000~~		$ 7,486,700
	5,885,200	1,548,500	53,000		
Penitentiary Income Account		805,000			805,000
Interagency Billing and Receipts Account	~~45,400~~	~~77,900~~			~~123,300~~
	56,400	134,400			190,800
TOTAL	~~$ 5,000,000~~	~~$2,379,000~~	~~$140,000~~		~~$ 8,415,000~~
	5,941,600	2,487,900	53,000		8,482,500
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Account	$ 1,113,400	~~$ 374,200~~	~~$ 55,100~~	$ 20,400	~~$ 1,563,100~~
		457,000	6,400		1,597,200
D. NORTH IDAHO CORRECTIONAL INSTITUTION:					
FROM:					
General Account	$ 685,700	~~$ 460,000~~	~~$ 23,600~~		$ 1,178,100
		485,000	7,400		
E. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Account	$ 2,407,400	$ 487,200	~~$ 61,300~~		~~$ 2,955,900~~
			28,800		2,923,400
Probation and Parole Receipts Account	409,900	51,100	1,500		462,500
Interagency Billing and Receipts Account		119,900			119,900
Job Training Partnership Account	18,300	7,300			25,600
Cost of Supervision Grant	31,600	3,800			35,400
TOTAL	~~$ 2,867,200~~	~~$ 669,300~~	~~$ 62,000~~		~~$ 3,599,300~~
			30,300		3,566,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
F. MEDICAL:					
FROM:					
General Account	$ 681,800	$ 854,700	$ 2,800		$ 1,539,300
G. PAROLE COMMISSION:					
FROM:					
General Account	$ 89,800	$ 19,300			$ 109,100
H. EDUCATION:					
FROM:					
General Account	$ 320,700	$ 47,400	$ ~~4,000~~		$ ~~372,100~~
			2,400		370,500
Job Training Partnership Account	206,400	39,900			246,300
On the Job Training Account	61,900	26,500			88,400
TOTAL	$ 589,000	$ 113,800	$ ~~4,000~~		$ ~~706,800~~
			2,400		705,200
GRAND TOTAL	$~~12,905,000~~	$~~5,330,400~~	$~~365,600~~	$~~294,200~~	$~~18,903,200~~
	12,958,600	5,546,300	171,600	631,700	19,308,200

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, 1988.

CHAPTER 89
(H.B. No. 590)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE PAYMENTS IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 339, LAWS OF 1987; 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 339, Laws of 1987, there is hereby appropriated to the Department of Health and Welfare for Medical Assistance Payments the following amount to be expended according to designated expense class from the listed account for the period July 1, 1987, through June 30, 1988:

FOR:

Trustee and Benefit Payments $215,500

FROM:

Cooperative Welfare Account	$215,500

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

Approved March 22, 1988.

CHAPTER 90
(H.B. No. 625)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 1989.

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

SECTION 1. There is hereby appropriated to the Department of Finance the following amount, to be expended according to designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$1,394,100
Operating Expenditures	352,200
Capital Outlay	17,600
TOTAL	$1,763,900
FROM:	
Finance Administration Account	$1,763,900

Approved March 22, 1988.

CHAPTER 91
(H.B. No. 660)

AN ACT
EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1989.

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

SECTION 1. It is legislative intent that the expenditures for the Office of the Governor not exceed the following amount for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$ 738,600
Comprehensive Employment and Training Account	110,800
Pacific Northwest Regional Commission Account	1,120,000
TOTAL	$1,969,400

SECTION 2. There is hereby appropriated to the Office of the Governor the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. GOVERNOR'S OFFICE ADMINISTRATION:					
FROM:					
General Account	$479,600	$202,000			$ 681,600
Comprehensive Employment and Training Account	95,200	15,600			110,800
TOTAL	$574,800	$217,600			$ 792,400
II. GOVERNOR'S RESIDENCE AND EXPENSE:					
FROM:					
General Account	$ 13,800	$ 16,500	$2,500		$ 32,800
III. FEDERAL PROGRAM ADMINISTRATION:					
FROM:					
General Account	$ 17,600	$ 6,600			$ 24,200
Pacific Northwest Regional Commission Account	37,100	88,900		$994,000	1,120,000
TOTAL	$ 54,700	$ 95,500		$994,000	$1,144,200
GRAND TOTAL	$643,300	$329,600	$2,500	$994,000	$1,969,400

Approved March 22, 1988.

CHAPTER 92
(H.B. No. 661)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 1989.

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 amount, to be expended according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$797,900	$165,800		$ 963,700
State Planning and Commerce Development Account	34,200	3,400		37,600
Indirect Cost Recovery Account		20,800		20,800
Interagency Billing and Receipts Account	29,100	20,300	$3,600	53,000
TOTAL	$861,200	$210,300	$3,600	$1,075,100

Approved March 22, 1988.

CHAPTER 93
(H.B. No. 662)

AN ACT
APPROPRIATING MONEYS FOR THE OFFICE ON AGING FOR FISCAL YEAR 1989.

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 amount, to be expended according to designated expense classes from the listed accounts, for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Account	$125,400	$ 48,300	$1,060,600	$1,234,300
Office on Aging Account	319,900	121,800	4,296,600	4,738,300
TOTAL	$445,300	$170,100	$5,357,200	$5,972,600

Approved March 22, 1988.

CHAPTER 94
(H.B. No. 664)

AN ACT
APPROPRIATING MONEYS FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 1989.

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 Human Rights Commission the following amount, to be expended according to designated expense classes from the listed accounts, for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	$153,100	$ 80,100	$233,200
Human Rights Federal Account	68,100	30,300	98,400
TOTAL	$221,200	$110,400	$331,600

Approved March 22, 1988.

CHAPTER 95
(H.B. No. 682)

AN ACT
APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND FOR FISCAL YEAR 1989.

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 amount, to be expended according to designated expense classes from the listed accounts, for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$391,000	$ 55,300	$ 5,000	$224,200	$ 675,500
Idaho Commission for the Blind Account	358,000	197,300	16,800	321,000	893,100
Blind Commission Donations Account			1,500		1,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Randolph Sheppard Account	24,100	51,900		73,800	149,800
Interagency Billing and Receipts Account		6,900		11,800	18,700
TOTAL	$773,100	$311,400	$23,300	$630,800	$1,738,600

Approved March 22, 1988.

CHAPTER 96
(H.B. No. 694)

AN ACT

EXPRESSING LEGISLATIVE INTENT; TRANSFERRING FUNDS TO THE TAX COMMISSION ADMINISTRATION ACCOUNT; APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR MERIT INCREASES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 1989.

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, 1988, through June 30, 1989:

FROM:	
General Account	$11,595,400
Tax Commission Administration Account	45,900
Highway Suspense Account	1,118,300
Multi-State Tax Compact Account	92,600
Interagency Billing and Receipts Account	160,900
Unclaimed Property Account	203,300
TOTAL	$13,216,400

SECTION 2. There is hereby appropriated from the listed accounts the following amount to be transferred to the Tax Commission Administration Account:

1.	Idaho Ag in the Classroom Account	$ 3,000
2.	Idaho Travel and Convention Account	24,100
3.	Hotel and Motel Tax Suspense Account	6,800
4.	United States Olympic Account	3,000
5.	Drug Enforcement Account	3,000
6.	Children's Trust Account	3,000
7.	Fish and Game Suspense Account	3,000
	TOTAL	$ 45,900

SECTION 3. There is hereby appropriated to the State Tax Commission the following amount, to be expended for the designated programs from the listed accounts for the period July 1, 1988, through June 30, 1989:

A. GENERAL SERVICES:

FROM:	
General Account	$ 2,252,000
Highway Suspense Account	206,800
Interagency Billing and Receipts Account	86,600
Tax Commission Administration Account	19,900
TOTAL	$ 2,565,300

B. AUDIT AND COLLECTIONS:

FROM:	
General Account	$ 5,427,900
Highway Suspense Account	564,100
Tax Commission Administration Account	2,000
Unclaimed Property Account	203,300
Multi-State Tax Compact Account	92,600
TOTAL	$ 6,289,900

C. COUNTY SUPPORT:

FROM:	
General Account	$ 1,656,000
Interagency Billing and Receipts Account	29,500
TOTAL	$ 1,685,500

D. REVENUE OPERATIONS:

FROM:	
General Account	$ 2,222,000
Interagency Billing and Receipts Account	44,800
Highway Suspense Account	342,900
Tax Commission Administration Account	24,000
TOTAL	$ 2,633,700
GRAND TOTAL	$13,174,400

SECTION 4. There is hereby appropriated to the State Tax Commission $37,500 from the General Account and $4,500 from the Highway Suspense Account, to be used for the purpose of granting merit increases only.

SECTION 5. There is hereby reappropriated to the State Tax Commission any unexpended and unencumbered balances of the moneys appropriated by Section 3, Chapter 268, Laws of 1987, to be used for nonrecurring expenditures only, for the period July 1, 1988, through June 30, 1989.

SECTION 6. There is hereby appropriated to the Board of Tax Appeals the following amount to be expended according to designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$38,900

Operating Expenditures	13,700
TOTAL	$52,600
FROM:	
General Account	$52,600

Approved March 22, 1988.

CHAPTER 97
(H.B. No. 695)

AN ACT

AMENDING SECTION 1, CHAPTER 232, LAWS OF 1987, RELATING TO THE APPROPRIATION TO THE INDUSTRIAL COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 232, Laws of 1987, be, and the same is hereby amended to read as follows:

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, 1987, through June 30, 1988:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
Crime Victims Compensation Account	$ 24,000	$ 5,000	$ 5,000	$466,000	$ 500,000
Industrial Administration Account		~~472,000~~	~~907,300~~		~~2,697,100~~
	1,237,800	626,300	393,400		2,257,500
TOTAL	~~$1,261,800~~	~~$477,000~~	~~$ 992,300~~	~~$466,000~~	~~$3,197,100~~
		631,300	398,400		2,757,500
B. REHABILITATION:					
FROM:					
Industrial Administration Account	$1,076,700	$278,500	$ 74,000		$1,429,200
GRAND TOTAL	$2,338,500	~~$755,500~~	~~$1,066,300~~	$466,000	~~$4,626,300~~
		909,800	472,400		4,186,700

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

Approved March 22, 1988.

CHAPTER 98
(H.B. No. 699)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1989; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN TRANSFERS.

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 amount for the period July 1, 1988 through June 30, 1989:

FOR:	
Personnel Costs	$13,681,700
Operating Expenditures	8,841,400
Capital Outlay	3,565,700
Trustee and Benefit Payments	100,000
TOTAL	$26,188,800
FROM:	
Fish and Game Account	$26,188,800

SECTION 2. There is hereby appropriated to the Department of Fish and Game the following amount, to be expended for designated programs according to designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish & Game Account	$1,934,200	$ 234,800	$ 400,200	$100,000	$ 2,669,200
II. ENFORCEMENT:					
FROM:					
Fish & Game Account	$3,274,900	$ 787,700	$ 371,500		$ 4,434,100
III. FISHERIES:					
FROM:					
Fish & Game Account	$4,416,500	$4,264,900	$1,291,300		$ 9,972,700
IV. WILDLIFE:					
FROM:					
Fish & Game Account	$2,785,100	$2,472,400	$1,274,800		$ 6,532,300
V. INFORMATION AND EDUCATION:					
FROM:					
Fish & Game Account	$ 551,000	$ 568,500	$ 79,100		$ 1,198,600
VI. ENGINEERING:					

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Fish & Game Account	$ 490,400	$ 74,300	$ 139,700		$ 704,400
VII. PROGRAM COORDINATION:					
FROM:					
Fish & Game Account	$ 202,400	$ 88,000	$ 6,100		$ 296,500
VIII. WINTER FEEDING AND DEPREDATION CONTROL:					
FROM:					
Fish & Game Account	$ 27,200	$ 350,800	$ 3,000		$ 381,000
GRAND TOTAL	$13,681,700	$8,841,400	$3,565,700	$100,000	$26,188,800

SECTION 3. It is legislative intent that no funds or positions be transferred into the Administration Program from other programs in the Department of Fish and Game.

Approved March 22, 1988.

CHAPTER 99
(H.B. No. 700)

AN ACT
APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 1989.

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

SECTION 1. There is hereby appropriated to the regulatory boards in the Department of Self-governing Agencies the following amount, to be expended according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. STATE ATHLETIC DIRECTOR:				
FROM:				
General Account		$ 2,600		$ 2,600
Athletic Account		3,100		3,100
TOTAL		$ 5,700		$ 5,700
B. BOARD OF PHARMACY:				
FROM:				
General Account	$ 30,600			$ 30,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Pharmacy Board				
Account	183,200	$ 125,700	$ 10,000	318,900
TOTAL	$ 213,800	$ 125,700	$ 10,000	$ 349,500
C. BOARD OF ACCOUNTANCY:				
FROM:				
State Board of Accountancy				
Account	$ 110,200	$ 118,500	$ 2,500	$ 231,200
D. BOARD OF DENTISTRY:				
FROM:				
State Board of Dentistry				
Account	$ 84,200	$ 45,100	$ 4,400	$ 133,700
E. BOARD OF ENGINEERING EXAMINERS:				
FROM:				
Professional Engineers				
Account	$ 86,600	$ 89,300	$ 1,700	$ 177,600
F. BOARD OF MEDICINE:				
FROM:				
State Board of Medicine				
Account	$ 163,100	$ 135,400	$ 12,100	$ 310,600
G. BOARD OF NURSING:				
FROM:				
State Board of Nursing				
Account	$ 186,500	$ 105,300	$ 12,100	$ 303,900
H. BUREAU OF OCCUPATIONAL LICENSES:				
FROM:				
Occupational License				
Account	$ 329,800	$ 210,100	$ 5,300	$ 545,200
I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:				
FROM:				
Public Works Contractors State License Board				
Account	$ 137,700	$ 81,000	$ 35,000	$ 253,700
J. IDAHO REAL ESTATE COMMISSION:				
FROM:				
Idaho Real Estate Brokers Commission				
Account	$ 488,200	$ 183,800	$ 32,000	$ 704,000
K. PROFESSIONAL GEOLOGISTS BOARD:				
FROM:				
Professional Geologists				
Account	$ 13,600	$ 13,100		$ 26,700
L. BOARD OF OPTOMETRY:				
FROM:				
State Board of Optometry				
Account	$ 2,500	$ 9,100		$ 11,600
M. IDAHO CERTIFIED SHORTHAND REPORTERS BOARD:				
FROM:				
State Certified Shorthand Reporters				
Account	$ 3,300	$ 9,500		$ 12,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
N. OUTFITTERS AND GUIDES BOARD:				
FROM:				
Outfitters and Guides Board Account	$ 113,200	$ 98,900	$ 6,500	$ 218,600
O. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Board of Veterinary Medicine Account	$ 16,500	$ 16,400	$ 3,100	$ 36,000
GRAND TOTAL	$1,949,200	$1,246,900	$124,700	$3,320,800

Approved March 22, 1988.

CHAPTER 100
(H.B. No. 703)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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, 1988, through June 30, 1989:

FROM:	
General Account	$18,653,600
Interagency Billing and Receipts Account	317,100
Probation and Parole Receipts Account	512,400
Penitentiary Income Account	805,000
Job Training Partnership Account	286,100
On the Job Training Account	69,200
Cost of Supervision Grant	46,900
TOTAL	$20,690,300

SECTION 2. There is hereby appropriated to the Department of Correction the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND INSTITUTIONAL SUPPORT:					
FROM:					
General Account	$ 2,049,600	$1,442,700	$ 91,100	$611,300	$ 4,194,700
Job Training Partnership Account	245,400	40,700			286,100
On the Job Training Account	42,100	27,100			69,200
Probation and Parole Receipts Account	29,000	6,100			35,100
TOTAL	$ 2,366,100	$1,516,600	$ 91,100	$611,300	$ 4,585,100
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ 5,738,400	$1,288,200	$141,000		$ 7,167,600
Penitentiary Income Account		805,000			805,000
Interagency Billing and Receipts Account	47,600	79,500			127,100
TOTAL	$ 5,786,000	$2,172,700	$141,000		$ 8,099,700
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Account	$ 1,193,200	$ 491,500	$ 31,300	$ 20,400	$ 1,736,400
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Account	$ 779,200	$ 506,400	$ 37,600		$ 1,323,200
E. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Account	$ 2,463,100	$ 471,200	$ 62,100		$ 2,996,400
Probation and Parole Receipts Account	423,600	53,700			477,300
Interagency Billing and Receipts Account		119,900			119,900
Cost of Supervision Grant	42,900	4,000			46,900
TOTAL	$ 2,929,600	$ 648,800	$ 62,100		$ 3,640,500
F. PAROLE COMMISSION:					
FROM:					
General Account	$ 94,000	$ 28,400	$ 500		$ 122,900
G. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ 776,900	$ 310,500	$ 25,000		$ 1,112,400
Interagency Billing and Receipts					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Account	11,100	59,000			70,100
TOTAL	$ 788,000	$ 369,500	$ 25,000		$ 1,182,500
GRAND TOTAL	$13,936,100	$5,733,900	$388,600	$631,700	$20,690,300

SECTION 3. There is hereby reappropriated to the Department of Correction, any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 266, Laws of 1987, to be used for nonrecurring expenditures only, for the period of July 1, 1988 through June 30, 1989.

Approved March 22, 1988.

CHAPTER 101
(H.B. No. 708)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1989; 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 designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$57,200
Operating Expenditures	23,100
Capital Outlay	1,000
TOTAL	$81,300
FROM:	
General Account	$81,300

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 22, 1988.

CHAPTER 102
(S.B. No. 1243)

AN ACT

REPEALING SECTION 40-315, IDAHO CODE, RELATING TO THE USE OF CONVICT LABOR ON HIGHWAYS.

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

SECTION 1. That Section 40-315, Idaho Code, be, and the same is hereby repealed.

Approved March 22, 1988.

CHAPTER 103
(S.B. No. 1249)

AN ACT

RELATING TO FINANCIAL RESPONSIBILITY FOR MOTOR VEHICLE OPERATORS; AMENDING SECTION 49-1517, IDAHO CODE, TO PROVIDE THAT UPON SUSPENSION OF AN OPERATOR'S LICENSE BY A COURT UPON PLEA OR FINDING OF GUILTY, THE OPERATOR MUST PROVIDE PROOF OF FINANCIAL RESPONSIBILITY.

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

SECTION 1. That Section 49-1517, Idaho Code, be, and the same is hereby amended to read as follows:

49-1517. PROOF REQUIRED UPON CERTAIN CONVICTIONS. (a) Whenever the department, or a court, under any law of this state, suspends or revokes the license of any person upon receiving record of a conviction, or a forfeiture of bail, or upon a plea or finding of guilty, the director shall also suspend the registration for all motor vehicles registered in the name of such person, except that he shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

(b) Such license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person until he shall give and thereafter maintain proof of financial responsibility.

(c) If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial or has entered a plea of guilty for any offense requiring the suspension or revocation of license, or for

operating a motor vehicle upon the highways without being licensed to do so, or for operating an unregistered motor vehicle upon the highways, no license shall be thereafter issued to such person and no motor vehicle shall continue to be registered or thereafter be registered in the name of such person until he shall give and thereafter maintain proof of financial responsibility.

(d) Whenever the department or a court suspends or revokes a nonresident's operating privilege by reason of a conviction, or forfeiture of bail, or upon a plea or finding of guilty, such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

Approved March 22, 1988.

CHAPTER 104
(S.B. No. 1250)

AN ACT

RELATING TO THE DIMENSIONS OF COMBINATIONS OF VEHICLES THAT MAY BE OPERATED ON HIGHWAYS OF THE STATE; AMENDING SECTION 49-913, IDAHO CODE, TO ALLOW OPERATION OF A SEMITRAILER AND TRAILER OR TWO SEMITRAILERS, INCLUDING CONNECTION TONGUE, OF UP TO SIXTY-ONE FEET IN LENGTH, AND TO ALLOW OPERATION OF A SEMITRAILER AND TRAILER OR TWO SEMITRAILERS AND TRUCK TRACTOR OF UP TO SEVENTY-FIVE FEET IN LENGTH.

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

SECTION 1. That Section 49-913, Idaho Code, be, and the same is hereby amended to read as follows:

49-913. SIZE OF VEHICLES AND LOADS. No vehicle shall exceed the dimensions specified below, except that certain devices determined by the Idaho transportation board as necessary for the safe and efficient operation of motor vehicles, including energy conservation devices, shall be excluded from the calculation of width or length.

(1) The width of a vehicle, including any load thereon, except as noted below, shall not exceed ..... 8 1/2 feet.

(a) The limitations as to size of vehicles stated in this section shall not apply to farm tractors or to implements of husbandry, including any load thereon, and including all equipment used in land leveling operations, when being incidentally operated upon the public highway from one (1) farm operation to another during daylight hours.

(b) Notwithstanding the exemption from width limitation for farm tractors included in paragraph (a) of this subsection, the total outside width of any farm tractor being transported on the interstate system in this state, except as permitted by section

49-905, Idaho Code, shall not exceed ..... 9 feet.

(c) A farm tractor or implement of husbandry, when being incidentally transported upon the highway with a width in excess of the limits of paragraphs (a) and (b) of this subsection, must not proceed at a speed in excess of twenty-five (25) miles per hour, must display one (1) eighteen (18) by eighteen (18) inch red flag on the outermost left projection of the tractor or implement being transported, except that the speed restriction of twenty-five (25) miles per hour shall not apply when such tractor or implement of husbandry is being hauled on legal width highway vehicles equipped as required by title 49, Idaho Code.

(2) The height of a vehicle, including the load thereon, shall not exceed ..... 14 feet.

(3) The length of a vehicle, or vehicle combination, except as noted below, shall not exceed:

(a) When a single motor vehicle ..... 40 feet.

(b) When a trailer or semitrailer, except as noted below ..... 48 feet.

1. Semitrailers operating on routes determined by the Idaho transportation board to have severe curvature, deficient width and/or heavy traffic conditions shall be limited to a distance between kingpin and last axle of not to exceed ..... 39 feet.

2. The length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer, shall be excluded from the calculation of a trailer length.

(c) When a motor vehicle and one or more trailers, except as noted in (d) ..... 75 feet.

(d) When a combination of semitrailer and trailer, ~~including the connecting dolly, tongue,~~ or ~~the length~~ of ~~the~~ two (2) semitrailers ~~excluding~~ the length ~~of the tractor~~ in such ~~double trailer~~ combination, including the connecting tongue and excluding the truck tractor except as noted below .....60~~1~~ feet.

When the combination of semitrailer and trailer or of two (2) semitrailers including the connecting tongue exceeds sixty-one (61) feet, the length of such combination including the truck tractor .....75 feet.

(e) When a dromedary tractor with semitrailer, stinger-steered by having the kingpin located five (5) feet to the rear of the centroid of the rear axle(s) ..... 75 feet.

(f) When a dromedary tractor with semitrailer, not meeting the stinger-steer requirement as defined in (e) above ..... 65 feet.

(g) When an auto transporter, stinger-steered as defined in (e) above, including front and rear overhang of load ..... 75 feet.

Semitrailer portion of auto transporter ..... 48 feet.

(h) When a tractor with stinger-steered pole trailer or log dolly, connected by a reach or pole, or a combination used for transporting long loads such as poles, pipes, logs or structural members generally capable of sustaining themselves as beams between supporting bunks or connections ..... 75 feet.

(4) The overhang or extension of a load shall not extend:

(a) Beyond the front of a vehicle, more than ..... 4 feet.
(b) Beyond the last axle, more than ..... 15 feet.
(c) Beyond the left fender of a passenger vehicle, more than ..... 0 feet.
(d) Beyond the right fender of a passenger vehicle, more than ..... 6 inches.
(e) To the front and rear combined of an auto transporter, more than ..... 7 feet.

(5) Noncargo-carrying devices necessary for the safe and efficient~~,~~ operation of the vehicle, as determined by the Idaho transportation board, shall not be included in measurement for length.

(6) No combination shall include more than three (3) units.

(7) Vehicle combinations consisting of not more than four (4) vehicle units may be operated by permit, with an overall length in excess of the limits of subsection (3) of this section, on routes designated for such operations by the Idaho transportation board with an overall combination length not to exceed one hundred and five (105) feet.

Approved March 22, 1988.

CHAPTER 105
(S.B. No. 1261)

AN ACT

RELATING TO EXEMPTIONS FROM OPERATING FEES; AMENDING SECTION 49-134, IDAHO CODE, TO FURTHER DEFINE "IDAHO OLD TIMER"; AND AMENDING SECTION 49-134A, IDAHO CODE, TO FURTHER DEFINE "IDAHO CLASSIC".

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

SECTION 1. That Section 49-134, Idaho Code, be, and the same is hereby amended to read as follows:

49-134. EXEMPTIONS FROM OPERATING FEES. The provisions hereof with respect to operating fees shall not apply to:

a. Motor vehicles owned or leased by the United States, or by the state, or city, or county, or any department thereof, or to any political subdivision or municipal corporation of the state, or to any taxing district thereof, or to any organization, whether incorporated or unincorporated, heretofore organized or which shall hereafter be organized, for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its members or shareholders, but in other respects shall be applicable.

b. Any motor vehicle manufactured prior to January 1, 1943, and which is primarily a collectors' item and used for participation in club activities, exhibitions, tours, parades ~~and uses other than~~, and occasional pleasure use not to include work, business, or regular transportation shall, for the purposes of this section, be known as an

"Idaho Old Timer."

1. In lieu of the annual registration fees levied in sections 49-126 and 49-127, Idaho Code, the registration fees for any "Idaho Old Timer" shall be ten dollars ($10.00) but no annual renewal of registration shall be required.

2. The owner of a vehicle applying for registration under this act shall execute an affidavit that the vehicle for which registration is requested is owned and operated solely for the purpose enumerated in division b. above of this section, and also setting forth in said affidavit that said vehicle is an authentic restoration without major modifications from factory specifications. In any instance where the official inspecting said vehicle for registration as an "Idaho Old Timer" has doubts concerning authenticity of restoration to qualify under the provisions of this act, he may, at no cost to the state of Idaho, call upon the services of a member of any antique car club in the state to render an expert opinion, in writing, as to the authenticity of restoration.

3. The registration certificate need not specify the weight of such antique vehicle, and the plates issued shall bear no date but shall bear the inscription "Idaho Old Timer," and the registration number which shall be shown thereon, and they shall be valid without renewal as long as the vehicle is in existence. The plates are issued for the applicant's use only for such vehicle, and in the event of a transfer of the title the transferor must surrender the plates for said transfer. Upon written request, and approval by the division of motor vehicle registration, the applicant may retain the "Idaho Old Timer" plates after sale of the vehicle and upon payment of fees covered in subsection 1. of this section may reuse said plates on another "Idaho Old Timer."

4. The department has the power to revoke such registrations as issued under this act, for cause shown for failure of the applicant to comply with this section.

SECTION 2. That Section 49-134A, Idaho Code, be, and the same is hereby amended to read as follows:

49-134A. EXEMPTIONS FROM OPERATING FEES -- IDAHO CLASSIC. (1) The provisions hereof with respect to operating fees shall not apply to a motor vehicle which is over thirty (30) years of age, and which does not qualify as an "Idaho Old Timer" under the provisions of section 49-134, Idaho Code, and which is primarily a collectors' item and used for participation in club activities, exhibitions, tours, parades ~~and similar--uses,--but--is--not-for-general-transportation-and-which,~~ and occasional pleasure use not to include work, business, or regular transportation shall, for the purposes of this section, be known as an "Idaho Classic."

(2) In lieu of the annual registration fees levied in sections 49-126 and 49-127, Idaho Code, the registration fee for any "Idaho Classic" shall be ten dollars ($10.00), but no annual renewal of registration shall be required.

(3) The owner of a vehicle applying for registration under this act shall execute an affidavit that the vehicle for which registration

is requested is owned and operated solely for the purpose enumerated in subsection (1), and also setting forth in said affidavit that the vehicle is an authentic restoration without major modifications from factory specifications. In any instance where the official inspecting the vehicle for registration as an "Idaho Classic" has doubts concerning authenticity of restoration to qualify under the provisions of this act, he may, at no cost to the state of Idaho, call upon the services of a member of any antique or classic car club in the state to render an expert opinion, in writing, as to the authenticity of restoration.

(4) The registration certificate need not specify the weight of the classic vehicle, and the plates issued shall bear no date but shall bear the inscription "Idaho Classic," and the registration number which shall be shown thereon, and they shall be valid without renewal as long as the vehicle is in existence. The plates are issued for the applicant's use only for such vehicle, and in the event of a transfer of the title the transferor must surrender the plates for the transfer. Upon written request, and approval by the division of motor vehicle registration, the applicant may retain the "Idaho Classic" plates after sale of the vehicle and upon payment of fees covered in subsection (2) of this section may reuse said plates on another "Idaho Classic."

(5) The department has the power to revoke such registrations as issued under this act, for cause shown for failure of the applicant to comply with this section.

Approved March 22, 1988.

CHAPTER 106
(S.B. No. 1256)

AN ACT

RELATING TO JURISDICTION OF STATE COURTS; AMENDING SECTION 5-514, IDAHO CODE, TO PROVIDE THAT A PERSON ENGAGING IN SEXUAL INTERCOURSE IN THE STATE SUBMITS TO THE JURISDICTION OF STATE COURTS WITH RESPECT TO THE CHILD WHO MAY HAVE BEEN CONCEIVED, AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 5-514, Idaho Code, be, and the same is hereby amended to read as follows:

5-514. ACTS SUBJECTING PERSONS TO JURISDICTION OF COURTS OF STATE. Any person, firm, company, association or corporation, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts hereinafter enumerated, thereby submits said person, firm, company, association or corporation, and if an

individual, his personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of said acts:

(a) The transaction of any business within this state which is hereby defined as the doing of any act for the purpose of realizing pecuniary benefit or accomplishing or attempting to accomplish, transact or enhance the business purpose or objective or any part thereof of such person, firm, company, association or corporation;

(b) The commission of a tortious act within this state;

(c) The ownership, use or possession of any real property situate within this state;

(d) Contracting to insure any person, property or risk located within this state at the time of contracting;

(e) The maintenance within this state of matrimonial domicile at the time of the commission of any act giving rise to a cause of action for divorce or separate maintenance;

(f) The engaging in an act of sexual intercourse within the state, giving rise to a cause of action for paternity under chapter 11, title 7, Idaho Code. The provisions of this subsection shall apply retroactively, and for the benefit of any dependent child, whether born before or after the effective date of this act, and regardless of the past or current marital status of the parents of the child.

Approved March 22, 1988.

CHAPTER 107
(S.B. No. 1268)

AN ACT

RELATING TO THE IDAHO COMMISSION FOR THE BLIND; AMENDING SECTION 67-5407, IDAHO CODE, TO STRIKE REFERENCE TO DESIGNATION AS THE TALKING BOOK MACHINE LENDING AGENCY AND THE DISTRIBUTION OF SUCH MACHINES.

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

SECTION 1. That Section 67-5407, Idaho Code, be, and the same is hereby amended to read as follows:

67-5407. DUTIES. The commission shall:

(a) Assist blind persons in achieving physical and psychological orientation, inform blind persons of available services, stimulate and assist the blind in achieving social and economic independence, and do all things which will ameliorate the condition of the blind.

(b) Provide intensive programs of case finding, education, vocational and other rehabilitation training, job findings and placement, physical restoration, and such other services and equipment as may

assist in rendering blind persons more self-supporting and socially independent.

(c) Provide a business enterprise program including management, supervision and development services.

(d) ~~Enter--into--such-contracts-with-the-United-States-library-of congress-division-for-the-blind-and-physically-handicapped-as-are-necessary-to-be-designated,-the-talking-book-machine-lending-agency,--and shall--distribute--such-machines-to-those-individuals-entitled-to-such services-under-such-contracts.~~

~~(e)~~ Provide a program for the prevention of blindness and sight restoration as designed in this act. The commission shall pay for all necessary expenses incurred in connection with the diagnosis, treatment or surgery to prevent blindness or restore vision. Necessary expenses include the cost of getting service, the cost of services, medical and physician fees, hospital services, nursing services, maintenance while the applicant or recipient is away from the home, transportation to the physician or hospital and return to his home, and the cost of nursing home care when such care is necessary. These services will be provided to individuals without financial resources to procure such services for themselves.

(~~f~~e) Establish rules and regulations in accordance with the provisions of the administrative procedure act.

(~~g~~f) On or before December first in 1968, and each year thereafter, render a report to the legislature and to the governor of its activities, including recommendations for improvements therein.

(~~h~~g) Enter into contracts and agreements with the federal government through its appropriate agency or instrumentality whereby the commission shall receive federal grants or other benefits for the prevention of blindness or for services to the blind, including medical eye care, instruction in the home, social adjustment and vocational and other rehabilitations, and shall act as the official state agency to collaborate with the federal government in the administration of any present or subsequent programs that may be set up for the purposes of providing services to or rehabilitating the blind.

(~~i~~h) Issue a special and brightly colored fluorescent tag at no charge to any person training and socializing a dog to become a guide dog for the blind, and for use at times when that person takes the dog into places listed in section 56-703, Idaho Code, as a necessary part of the dog's training to become or for utilization as a guide dog for the blind. The tags shall bear an identifying number.

(~~j~~i) Issue a special and brightly colored fluorescent tag at no charge to persons utilizing a guide dog as defined in section 56-701A, Idaho Code. The tags shall bear an identifying number, and the guide dog shall not be required to have any other license or tag that may otherwise be required by a city or county.

Approved March 22, 1988.

CHAPTER 108
(S.B. No. 1271)

AN ACT

RELATING TO THE IDAHO COMMISSION FOR THE BLIND; AMENDING SECTION 67-5405, IDAHO CODE, TO CLARIFY DUTIES AND ORGANIZATION OF THE COMMISSION.

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

SECTION 1. That Section 67-5405, Idaho Code, be, and the same is hereby amended to read as follows:

67-5405. ORGANIZATION OF COMMISSION -- EMPLOYMENT OF ADMINISTRATOR. The commission shall elect a chairman and a vice chairman~~, who~~. The commission shall function as the policy setting entity of the commission programs and shall employ and fix the compensation of a full-time administrator who shall serve as its secretary, and who shall be the chief administrative officer of the commission.

Approved March 22, 1988.

CHAPTER 109
(S.B. No. 1272)

AN ACT

RELATING TO BED AND BREAKFAST ESTABLISHMENTS; AMENDING SECTION 39-1602, IDAHO CODE, TO EXEMPT BED AND BREAKFAST ESTABLISHMENTS WITH TEN OR FEWER BEDS FROM THE DEFINITION OF EATING PLACE.

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

SECTION 1. That Section 39-1602, Idaho Code, be, and the same is hereby amended to read as follows:

39-1602. "EATING PLACE" DEFINED. The term "eating place" as used in this chapter shall be held to mean a restaurant, a cafe, a lunch counter, a lunch stand, a beer parlor, a hotel dining room, a coffee shop, a cafeteria, a short order cafe, a luncheonette, a tavern, a sandwich stand, a soda fountain, and any and all other eating and drinking establishments where food and/or drink are offered for sale for consumption on the premises, and kitchens and other places where food and/or drink is prepared for sale elsewhere; provided ~~there shall not be included~~ that private clubs, fraternal and church organizations which do not serve or prepare meals more than once a week or bed and breakfast establishments with ten (10) or fewer beds shall not be included in the definition of eating place.

Approved March 22, 1988.

CHAPTER 110
(S.B. No. 1277, As Amended)

AN ACT

RELATING TO DUTIES OF THE STATE BOARD OF CORRECTION; AMENDING SECTION 20-209, IDAHO CODE, TO PROVIDE ADDITIONAL DUTIES FOR THE STATE BOARD OF CORRECTION.

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

SECTION 1. That Section 20-209, Idaho Code, be, and the same is hereby amended to read as follows:

20-209. CONTROL AND MANAGEMENT OF PENITENTIARY AND INMATES. (1) The state board of correction shall have the control, direction and management of such correctional facilities as may be acquired by law for use by the state board of correction and of the present penitentiary of the state and all property owned or used in connection therewith, and shall provide for the care, maintenance and employment of all inmates now or hereinafter committed to its custody.

(2) The state board of correction is authorized to provide medical and counseling services to those inmates who have been exposed to the HIV (human immunodeficiency virus) which causes acquired immunodeficiency syndrome (AIDS) or who have been diagnosed as having contracted a human immunodeficiency viral disease.

(3) The state board of correction should provide educational and informational services to inmates housed in Idaho and to its department employees in order to assure that the transmission of HIV within correctional facilities is diminished.

Approved March 22, 1988.

CHAPTER 111
(S.B. No. 1291)

AN ACT

RELATING TO THE REAL ESTATE COMMISSION; AMENDING SECTION 54-2029, IDAHO CODE, TO INCREASE THE PRELICENSE EDUCATION REQUIREMENT FOR AN ORIGINAL SALESMAN'S LICENSE, TO CLARIFY THE PRELICENSE EDUCATION REQUIREMENT FOR AN ORIGINAL BROKER'S LICENSE, AND TO PROVIDE FOR A CONTINUING EDUCATION REQUIREMENT FOR ACTIVE AND REACTIVATING LICENSEES.

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 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;

(5) If the application is for a real estate broker's license, the applicant must have been actively engaged as a licensed real estate salesman as provided for in subsection B(2) 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~~)~~ thirty-five dollars ($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 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, 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, provided, that after December 31, 1988, the requirement shall be ninety (90) hours, 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; and applied skills; 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 advanced classroom instruction, or equivalent correspondence hours, in real estate courses ~~above set forth~~ which courses shall include, but not be limited to: advanced principles of real estate practice, real estate office management and supervision of associates.

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.

F. Subsections F, G, H, and I of this section shall apply to both an applicant for a renewal of a license which expires after June 30, 1989, and an applicant for a change in status from inactive licensure to active licensure after June 30, 1989.

Each individual applicant for renewal of an active license shall, on or before the expiration date of the license, submit satisfactory proof to the commission of successful completion of not less than twelve (12) classroom hours of approved course work in addition to any other requirements for renewal.

The twelve (12) hours of course work shall apply to each license renewal period, and hours in excess shall not be accumulated or credited for the purposes of subsequent license renewals.

Inactive licensees may renew their licenses at the end of the license period without having completed the twelve (12) hours of course work required in this section. However, a license of an inactive licensee shall not be activated until the licensee has satisfactorily completed the total number of deficient hours of course work and filed evidence of such completion with the commission, except that no inactive licensee shall be required to make up more than the number of hours of course work required by this section for one (1) license period.

G. The commission may substitute all or a portion of the course work required by subsection F of this section when a licensee shows evidence of passing an approved challenge exam or of completing equivalent education determined by the commission to be in full compliance with such education requirements.

H. An extension of the time for completing the education requirements in accordance with subsection F of this section may be obtained by submitting with the regular renewal application, or application to activate, evidence showing that the applicant was unable to comply with such education requirements. Such evidence may be:

(1) Bona fide hardship preventing completion of the reinstatement requirements of an inactive license;

(2) Health reasons preventing attendance;

(3) Active duty in the military service with assignment to a permanent duty station outside of the state during the last twelve (12) months of a license period; or

(4) Other compelling cause beyond the control of the applicant while engaged in the real estate business.

I. Failure to provide the commission evidence of meeting the education requirement as set forth in subsection F of this section shall constitute grounds for denying an application for a renewal of an active license or denying an application for a change in licensure status from inactive to active.

Approved March 22, 1988.

CHAPTER 112
(S.B. No. 1295, As Amended)

AN ACT

RELATING TO AUTHORIZED EMERGENCY VEHICLES; AMENDING SECTION 49-830A, IDAHO CODE, TO PROVIDE THAT SHERIFF'S SEARCH AND RESCUE VEHICLES AND WRECKERS ARE DESIGNATED EMERGENCY VEHICLES AND THAT SUCH VEHICLES MAY USE RED FLASHING LIGHTS OR LENSES OR GLOBES.

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

SECTION 1. That Section 49-830A, Idaho Code, be, and the same is hereby amended to read as follows:

49-830A. COLOR OF LAMPS AND GLOBES LIMITED TO CERTAIN VEHICLE CLASSES. For the purposes of this chapter lighting devices utilizing various colors of lighted globes approved by the director for use on vehicles shall be restricted to the following class of vehicles:

(a) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.

(b) Designated emergency vehicles. Fire fighting vehicles, ambulances, and sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, and wreckers, as defined in section 49-101, Idaho Code, which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, are designated emergency vehicles. With the exception of school buses as provided in section 49-809A, Idaho Code, only fire fighting vehicles, ambulances, and designated emergency vehicles described herein, and other emergency vehicles designated by the director of the department of law enforcement may display red flashing lights or red lenses or globes which are visible from the front of the vehicle.

(c) All vehicles. Any motor vehicles shall be entitled to display a flashing amber light to warn motorists of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the vehicle displaying such lighting. The driver of an approaching vehicle shall yield the right of way to any stationary vehicle displaying a flashing amber light.

Approved March 22, 1988.

CHAPTER 113
(S.B. No. 1298, As Amended)

AN ACT

RELATING TO LIVESTOCK; AMENDING CHAPTER 2, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-214A, IDAHO CODE, TO PROVIDE THAT VEHICLES TRANSPORTING LIVESTOCK INTO THE STATE MUST STOP AND BE INSPECTED AT CERTAIN PORTS OF ENTRY OR CHECKING STATIONS.

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

SECTION 1. That Chapter 2, 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 25-214A, Idaho Code, and to read as follows:

25-214A. STOPPING AND INSPECTION. All motor vehicles and trailers transporting livestock into the state of Idaho are hereby required to stop at Idaho ports of entry or checking stations established by the Idaho transportation department, and which are located on the highway upon which the livestock are being transported, and submit to inspection for compliance with the livestock entry requirements of the state of Idaho.

Approved March 22, 1988.

CHAPTER 114
(S.B. No. 1299, As Amended)

AN ACT

RELATING TO THE ERADICATION OF BRUCELLOSIS; AMENDING SECTION 25-601, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTION 25-602, IDAHO CODE, TO DEFINE THE ROLE OF COUNTY COMMISSIONERS; AMENDING SECTION 25-603, IDAHO CODE, TO REMOVE COUNTY CERTIFICATIONS AND SUBSTITUTE AN ENTIRE STATE CERTIFICATION; AMENDING SECTION 25-604, IDAHO CODE, TO REMOVE THE REQUIREMENT FOR COUNTY INSPECTORS; AMENDING SECTION 25-605, IDAHO CODE, TO DELETE AREA REFERENCE AND INSERT IN LIEU THEREOF ENTIRE STATE REFERENCE; AMENDING SECTION 25-606, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY AND TO DELETE MUNICIPALITY INSPECTIONS; AMENDING SECTION 25-608, IDAHO CODE, TO REQUIRE RECORDING EARTAGS; AMENDING SECTION 25-610, IDAHO CODE, TO UPDATE LANGUAGE AND MORE CLEARLY DEFINE FAILURE PENALTY; AMENDING SECTION 25-611, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTION 25-612, IDAHO CODE, TO DISALLOW THE RETAINING OF BRUCELLOSIS INFECTED CATTLE; AMENDING SECTION 25-613, IDAHO CODE, TO PROVIDE FOR MEANS OF BRUCELLOSIS CALFHOOD VACCINATIONS AND ADULT VACCINATIONS; AMENDING SECTION 25-614, IDAHO CODE, TO PROVIDE FOR INDEMNITY ON NATIVE AND IMPORTED CATTLE; AMENDING CHAPTER 6, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-614A, IDAHO CODE, TO PROVIDE FOR MANDATORY DEPOPULATION OF BRUCELLOSIS INFECTED HERDS; AND AMENDING SECTION 25-616, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY.

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

SECTION 1. That Section 25-601, Idaho Code, be, and the same is hereby amended to read as follows:

25-601. DUTIES OF DEPARTMENT OF AGRICULTURE. The department of agriculture (hereinafter referred to as department) is hereby authorized to cooperate with ~~the--bureau--of-animal-industry~~ veterinary services of the United States department of agriculture (hereinafter referred to as ~~bureau~~ veterinary services), for the purpose of eradication of Bang's disease among cattle in the state of Idaho. The department shall make rules and regulations for the administration of this act and provide therein for the manner, method and system of testing cattle for Bang's disease in cooperation with ~~the-bureau~~ veterinary services for the eradication of said disease, and for such preventive measures as may be deemed necessary to carry out the cooperative work for the eradication of Bang's disease among cattle in this state.

SECTION 2. That Section 25-602, Idaho Code, be, and the same is hereby amended to read as follows:

25-602. DUTIES OF COUNTY COMMISSIONERS. The department is hereby authorized to cooperate with ~~the-bureau~~ veterinary services and with the boards of county commissioners of this state (hereinafter referred to as commissioners), and it is hereby made the duty of the commissioners to cooperate with said department and ~~bureau~~ veterinary services for the purpose of ~~establishing--Bang's-disease-free--accredited--areas--in--this--state-for-the-eradication-of-said-disease-among cattle,-under-the-provisions-of-this-act-and-the-rules-and-regulations of-the-department.-The-commissioners-may,-at-their-discretion,-cooperate-with-said-department-and-bureau,-but-it--shall--be--the--mandatory duty-of-commissioners-to-cooperate-with-the-department-and-bureau-upon the-filing-with-the-commissioners-of-a-petition-or-petitions-signed-by at-least-75%-of-the-cattle-owners-of-the-county,-owning-65%-or-more-of the--cattle--in-such-county,-as-shown-by-the-equalized-assessment-roll of--said--county--for---the---preceding---calendar---year~~ preventing reintroduction and/or eradicating said disease from Idaho cattle under the provisions of this act and the rules and regulations of the department.

SECTION 3. That Section 25-603, Idaho Code, be, and the same is hereby amended to read as follows:

25-603. ~~COUNTY~~ BRUCELLOSIS ERADICATION AREA. ~~Upon-the-filing-of such-petition-with-the-commissioners,-they--shall--immediately--notify the-department-of-the-filing-of-such-petition,-signed-by-the-requisite number-of-petitioners,-and-thereupon-the-department-shall-declare-such county--an--area-engaged-in-the-eradication-of-Bang's-disease,-and-the movement-of-cattle-into-said--county--shall--thereupon--be--prohibited except--in-conformity-with-the-rules-and-regulations-of-the-department promulgated-for-the-purpose-of-preventing-the-introduction--into--such county--of--Bang's-disease-from-any-other-county-or-state,-and-any~~ The state of Idaho and its counties are engaged in the eradication of Bang's disease from the cattle within this state and the movement of cattle is prohibited except in conformity with the rules and regula-

tions of the department promulgated for the purpose of preventing the introduction of Bang's disease into an Idaho county from any other county or state. Any person, firm, or corporation, who shall bring into the state or such county any cattle in violation of the rules and regulations of the department, shall upon conviction be fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) for each animal brought into such county in violation of such rules and regulations. The department shall issue permits authorizing the moving of cattle to and from and through and across such areas for exhibition, sale, or feeding purposes and for transporting or moving cattle from one (1) locality to another outside of such areas. Such permits shall be issued under such reasonable rules and regulations as may be promulgated ~~from~~ time to time by the department, with due regard to the convenience of the livestock owners and the protection of livestock within the areas established as herein provided for the eradication of Bang's disease.

SECTION 4. That Section 25-604, Idaho Code, be, and the same is hereby amended to read as follows:

25-604. EXTENT OF ERADICATION AREA -- SUPERVISION AND QUARANTINE OF PREMISES. The area designated for the control of Bang's disease may consist of the entire state, a portion of the state, entire county or part of the county, but if less than the entire county the boundary of the area shall be clearly defined in the ~~petition and~~ order for the establishment of such area. When the department~~, upon petition filed as provided in section 25-602,~~ has established an area for the control of such disease, within a county, the commissioners of such county shall ~~pay--from--the--general--fund--of--the--county--one--or--more--county inspectors--who--shall--be--appointed--by--the--department--for--the--purpose--of supervising--the--cleaning--and--disinfection--of--premises--where--reactors to--the--Bang's--disease--test--have--been--found,--and--to--supervise--the--quarantine--of--premises--in--accordance--with--the--regulations--and--instructions of--the--department~~ be notified and assist in the dissemination of the order and in policing the movement of livestock into and out of such area.

SECTION 5. That Section 25-605, Idaho Code, be, and the same is hereby amended to read as follows:

25-605. BANG'S DISEASE TESTS. ~~Whenever--the---department---has declared--an--area--for--the--eradication--of~~ The entire state of Idaho is in the process of eradicating Bang's disease in accordance with the provisions of this act and it shall be the duty of each cattle owner to allow the Bang's disease test to be made upon any and all cattle owned by him within ~~said--area~~ the state and to pen such cattle in suitable pens and restrain them for the test whenever directed to do so in writing by the department or its representative, and each day the owner or person in charge of such cattle shall fail or refuse to allow such test, or shall fail and refuse to pen and restrain said cattle as requested by the department, shall constitute a separate offense and the owner and person in charge of said cattle shall, upon

conviction for failure to comply with such request, each be fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000); provided that no owner of cattle ranging on United States forest reserve or on the public domain shall be directed to pen his cattle for Bang's disease test between the dates of April 1 and December 1 of any year.

SECTION 6. That Section 25-606, Idaho Code, be, and the same is hereby amended to read as follows:

25-606. SALE OF REACTORS FOR SLAUGHTER -- PAYMENTS TO OWNERS. The owner of cattle which have shown a positive reaction to the Bang's disease test shall sell such reactors under the direction of the department at a public auction market for immediate slaughter at a public slaughtering establishment where federal~~,~~ or state~~,--or municipality~~ post mortem inspection is maintained; or the department may authorize such slaughter upon the owner's property or other place under the direction of said department. After such sale and slaughter the department is authorized to pay such owner out of funds appropriated by the legislature for that purpose, an indemnity not to exceed twelve dollars and fifty cents ($12.50) for any grade animal or more than twenty-five dollars ($25.00) for any purebred animal. No compensation shall be made until said owner complies with the rules and regulations of the department~~;--nor--shall any compensation be made in excess of the amount of compensation paid said owner for said reactors by the bureau~~. Appraisals and reports of salvage are not required. Proof of destruction is required. Post mortem reports will be accepted as proof of slaughter.

SECTION 7. That Section 25-608, Idaho Code, be, and the same is hereby amended to read as follows:

25-608. IDENTIFICATION OF TESTED ANIMALS. It shall be the duty of all veterinarians in the state of Idaho, at the time of taking a blood sample from any animal for the purpose of having such blood sample tested for Bang's disease, to record the number of the official eartag if present or affix an official metal eartag bearing a number of identification on the right ear of said animal, except that in the case of registered cattle a legible tattoo number may suffice for identification.

SECTION 8. That Section 25-610, Idaho Code, be, and the same is hereby amended to read as follows:

25-610. BRANDING OF POSITIVE REACTORS -- ~~DISMISSAL~~ REVOKING ACCREDITATION OF VETERINARIANS FOR NONCOMPLIANCE. It shall further be the duty of each veterinarian in the state of Idaho, upon the receipt of such Bang's chart from the laboratory, to brand clearly or have branded in his presence with a letter "B" not less than three (3) inches high, upon the left jaw, and place an official Bang's reactor tag in the left ear of any animals which show a positive reaction to the test ~~by complete agglutination in the--1/100--dilution--or--higher~~

~~dilution~~ in accordance with the code of federal regulation definition for a reactor. A statement that such reactors have been so branded will be made on the said chart and a copy mailed to the department within forty-eight (48) hours after receipt of said chart. A copy of any Bang's chart which does not show positive reactors shall also be mailed to the department within forty-eight (48) hours after receipt of said chart. Failure on the part of any veterinarian authorized by law to make blood tests, appraise reactors, vaccinate cattle, or issue quarantines shall be cause for ~~dismissal~~ revocation of accreditation if he fails to comply with all provisions of this law, and such veterinarian shall no longer be allowed to perform any duties for the state of Idaho until he has been reinstated.

SECTION 9. That Section 25-611, Idaho Code, be, and the same is hereby amended to read as follows:

25-611. LABORATORY TESTS -- WHERE AND BY WHOM TAKEN. All laboratory tests of blood samples taken from cattele in certified Bang's-free herds, cattle in cooperative herds in process of certification, additions to certified free and process herds, and all other cattle on which an official test is required, including cattle intended for interstate shipment and exhibition at livestock fairs and shows, shall be made in the laboratory of the Idaho department of agriculture and such blood samples for official test may only be taken by persons approved by the department and the United States ~~bureau--of animal-industry~~ department of agriculture, veterinary services.

SECTION 10. That Section 25-612, Idaho Code, be, and the same is hereby amended to read as follows:

25-612. DUTY OF OWNER TO HAVE ~~POSITIVE~~ REACTORS SLAUGHTERED. It shall be the duty of the owner of any cattle which have been officially classified as ~~positive~~ reactors to the Bang's disease test in accordance with the provisions of this act, after receiving a written order and permit to move such cattle for immediate slaughter, to move such cattle or cause the same to be moved to the point designated in the order and permit, and to cause such cattle to be slaughtered in accordance with the provisions of this act not later than fifteen (15) days from the date the test was made~~,-excepting-that,-with-the-consent of--all-cooperating-agencies-to-the-agreement,-the-owner-of-registered cattle-may-retain-such-registered-cattle-on-such--premises--and--under such-conditions-and-for-such-period-of-time-as-may-be-agreed-to-by-the cooperating-agencies,-provided-the-owner-of-such-cattle-adheres-to-the provisions--of--the--agreement-and-provided-that-no-indemnity-shall-be paid-for-any-such-cattle-retained-by-any-owner-over--a--period--of--30 days--from--the--date--of-test,-and-provided-further-that-the-premises where-such-reactors-are-held-more-than-30-days-shall-be--placed--under quarantine--and--no--animals-allowed-to-be-moved-except-as-provided-in section-25-603~~.

SECTION 11. That Section 25-613, Idaho Code, be, and the same is hereby amended to read as follows:

25-613. VACCINATION METHOD OF CONTROL. The owner ~~or caretaker~~ of any cattle who desires to ~~inject or have injected into such cattle any living Bang's disease organisms shall first obtain a permit to do so from the department, and no person, firm or corporation shall sell, give away, or in any manner place in the hands of any owner or caretaker of cattle or inject into any cattle any living Bang's disease organisms unless the owner or caretaker of the cattle has a written permit from the department to make such injection~~ have such cattle vaccinated for protection against Brucellosis shall have such cattle vaccinated by a veterinarian who is licensed and accredited in the state of Idaho. Except in the case of vaccination of adult cattle which vaccination shall be performed only under the direct supervision of state or federal regulatory personnel. No person, firm, or corporation shall sell, give away, or in any manner place in the hands of any owner or caretaker of cattle any Brucellosis vaccine, and only licensed and accredited veterinarians may inject Bang's vaccine into any cattle.

SECTION 12. That Section 25-614, Idaho Code, be, and the same is hereby amended to read as follows:

25-614. INDEMNITY PAYMENTS RESTRICTED ~~IF VACCINATION METHOD USED~~. No indemnity shall be paid to any cattle owner for any positive reacting cattle ~~that have been injected with living Bang's disease organisms within 18 months immediately preceding the date of test; no payment of indemnity for such cattle in a Bang's disease eradication area shall be made by the department~~ unless such cattle ~~were present within the area declared a Bang's disease eradication area at the time the area was so declared, and no indemnity shall be paid for any cattle if injected with living Bang's disease organisms without permission of the department, except in the case of cattle injected more than 18 months prior to the effective date of this act. All herds, for which owners choose the vaccination method of Bang's disease control, shall be placed under quarantine when such herds are located in areas designated for Bang's disease control by the department and shall be moved from such places only as provided by section 25-603~~ are native Idaho cattle or have been imported in compliance with existing Idaho rules and regulations.

SECTION 13. That Chapter 6, 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 25-614A, Idaho Code, and to read as follows:

25-614A. HERD DEPOPULATION. In order to facilitate the advancement of the state of Idaho to Brucellosis class free and to maintain the state in this category, the division of animal industries is granted authority to condemn Brucellosis infected herds and to require the destruction of such infected herds. The board of examiners is authorized and empowered upon the recommendation of the division, to reimburse the owner by cash payment for Brucellosis affected or

exposed animals which have been appraised and slaughtered by direction of the division, provided that the state shall only pay the difference between appraised price less federal indemnity and salvage for any livestock slaughtered under this section. Appraisals shall be performed by a team made up of an animal health representative, the owner and a person with experience in cattle marketing. However, the director or his designee may grant a hearing to any person under such rules and regulations as the department may prescribe which are in compliance with chapter 52, title 67, Idaho Code, when appraisal price is in dispute. An appeal may be taken from the decision of the director or his designee under the provisions of section 67-5215, Idaho Code.

SECTION 14. That Section 25-616, Idaho Code, be, and the same is hereby amended to read as follows:

25-616. PENALTY FOR VIOLATIONS OF SECTIONS 25-608 -- 25-615. Any person, firm, or corporation who shall fail to do or perform, or who shall not permit another to do or perform, any act which he or it is required to do or perform under sections 25-608 through 25-615, Idaho Code, inclusive, or any of them, or who shall in any manner interfere with the compliance of said sections or any of them or any provisions thereof by any officer or representative of the department, ~~bureau~~ veterinary services or commissioners, or who shall refuse to present or restrain any cattle for the purpose of branding under this act, or who shall remove any eartag from any Bang's disease reactor, or who shall remove the eartag from any animal tested, identified or vaccinated for Bang's disease and place such tag on or in the ear of another animal, or place a vaccination tag in the ear of an unvaccinated animal, shall, upon conviction thereof, be fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) for each offense. For the purposes of this section, a person shall be charged with a separate offense for each animal he owns or possesses and which is found not to be in compliance with the provisions of sections 25-608 through 25-615, Idaho Code, inclusive, or any of them.

Approved March 22, 1988.

CHAPTER 115
(S.B. No. 1300)

AN ACT

RELATING TO THE AGRICULTURE DEPARTMENT INSPECTION FUND; AMENDING SECTION 22-104, IDAHO CODE, TO DELETE THE REQUIREMENT THAT MONEYS COLLECTED UNDER CHAPTERS 19 AND 23, TITLE 22, IDAHO CODE, BE DEPOSITED IN THE GENERAL ACCOUNT.

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

SECTION 1. That Section 22-104, Idaho Code, be, and the same is hereby amended to read as follows:

22-104. AGRICULTURE DEPARTMENT INSPECTION ~~FUND~~ ACCOUNT -- OTHER ~~FUNDS~~ ACCOUNTS. (1) All moneys received by the department of agriculture for any inspection, which the department by law may be authorized or required to make, except those moneys specifically received for and credited to another ~~fund~~ account or ~~funds~~ accounts, shall be credited to the agriculture department inspection ~~fund~~ account, which is hereby created in the treasury of the state of Idaho.

(2) Moneys received by the division of animal industries for sales of licenses, for inspections or fines shall be deposited to the livestock disease control and T.B. indemnity ~~fund~~ account.

(3) Moneys received by the department of agriculture under the bonded warehouse law~~,~~ and the weightmaster's licensing act~~, title 22, chapter 19, Idaho Code, relating to horticultural and nursery inspection, title 22, chapter 23, Idaho Code, relating to nurseryman's and florist's bond and license~~ shall be deposited to the credit of the general ~~fund~~ account.

Approved March 22, 1988.

CHAPTER 116
(S.B. No. 1302)

AN ACT

RELATING TO REVENUE ANTICIPATION BORROWING BY TAXING DISTRICTS; AMENDING SECTIONS 63-3102, 63-3103, 63-3104, 63-3105, 63-3106, AND 63-3107, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE AND SALE BY TAXING DISTRICTS OF REVENUE ANTICIPATION BONDS AND NOTES IN ANTICIPATION OF TAXES, STATE APPROPRIATED FUNDS, AND OTHER ANTICIPATED REVENUES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3102, Idaho Code, be, and the same is hereby amended to read as follows:

63-3102. AUTHORITY TO BORROW MONEY. Any taxing district shall have power from time to time by resolution to borrow money and issue ~~tax~~ revenue anticipation bonds or notes, bearing interest at such rate as may be determined by the governing board, and maturing not more than one (1) year from the date thereof, for the purpose of providing funds in anticipation of the collection of taxes of the current fiscal year, ~~and~~ in anticipation of the distribution of state appropriated funds, and in anticipation of other revenues of any nature, for the year in which said ~~tax~~ revenue anticipation bonds or notes are issued, exclusive of taxes required to be raised to pay the principal of outstanding bonded indebtedness of the taxing district, the proceeds of such bonds or notes to be used for the purpose for which said taxes

are levied or such funds or other revenues are appropriated. The amount authorized to be borrowed by means of such ~~tax~~ revenue anticipation bonds or notes shall not exceed seventy-five per cent (75%) of the taxes levied for the current fiscal year and not yet collected by said taxing district, ~~and~~ seventy-five per cent (75%) of the anticipated distribution from the public school income fund not yet collected for the current fiscal year, and seventy-five per cent (75%) of other revenues anticipated, as shown by the budget duly adopted by the taxing district and certified in accordance with section 63-624A, Idaho Code, and not yet collected for the fiscal year. If the tax levy or budget for any fiscal year has not been completed, then the amount of ~~tax~~ revenue anticipation bonds or notes issued in anticipation of taxes, state funds, or other revenues to be levied for such fiscal year shall not exceed seventy-five per cent (75%) of the taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year. In determining the amount of ~~tax~~ revenue anticipation bonds or notes which may be issued, the governing body shall declare in the resolution providing for the issuance of such bonds or notes the amount of taxes levied or state funds or other revenues anticipated for the current fiscal year and the amount of such taxes or state funds or other revenues anticipated not yet collected by said taxing district, or in the event that the tax levy or budget for the fiscal year has not been completed, the governing authority shall declare in the resolution providing for the issuance of such ~~tax~~ revenue anticipation bonds or notes the amount of taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year. In each instance, taxes raised or to be raised to pay the principal of outstanding bonded indebtedness of the taxing district shall not be included in the amount of taxes or state funds or other revenues anticipated against which such ~~tax~~ revenue anticipation bonds or notes are authorized to be issued. Such ~~tax~~ revenue anticipation bonds or notes shall be negotiable instruments, and the full faith, credit and resources of the taxing district shall be pledged for the payment of the same. Such bonds or notes shall be issued in such form and detail as shall be determined by the governing authority of the taxing district by resolution duly adopted.

SECTION 2. That Section 63-3103, Idaho Code, be, and the same is hereby amended to read as follows:

63-3103. SALE OF ~~TAX~~ REVENUE ANTICIPATION BONDS OR NOTES. Such ~~tax~~ revenue anticipation bonds or notes may be sold at public or private sale at such times, in such amounts and on such terms as may be determined by the governing body.

SECTION 3. That Section 63-3104, Idaho Code, be, and the same is hereby amended to read as follows:

63-3104. CREATION OF FUND TO PAY BONDS OR NOTES AT MATURITY — PAYMENT OF BONDS OR NOTES. To provide for the payment of said ~~tax~~ revenue anticipation bonds or notes at maturity, there shall be created by the resolution providing for the issuance of said ~~tax~~ revenue

anticipation bonds or notes a special fund to be known as the "Tax Revenue Anticipation Bond or Note Redemption Fund." Whenever any tax revenue anticipation bonds or notes have been issued in anticipation of the collection of taxes, or of state appropriated funds or other revenues, all such moneys thereafter collected or received, the collection of which has been so anticipated, shall be placed in the "Tax Revenue Anticipation Bond or Note Redemption Fund" until such time as the funds accumulated therein shall be sufficient to pay all such tax revenue anticipation bonds or notes outstanding, together with interest thereon at maturity, and the funds so accumulated in the "Tax Revenue Anticipation Bond or Note Redemption Fund" are hereby appropriated and set apart for such purpose only, and shall be used for no other purpose; provided, however, that nothing in this section shall be construed to limit the payment of the principal of and interest on said tax revenue anticipation bonds or notes solely to the taxes or other funds or revenues, in anticipation of which said bonds or notes were issued, but such bonds or notes shall be the direct and general obligation of the taxing district.

SECTION 4. That Section 63-3105, Idaho Code, be, and the same is hereby amended to read as follows:

63-3105. TAX LEVY TO COVER DEFICIENCY IN BOND OR NOTE PAYMENTS. In the event that the taxes collected for any fiscal year prior to date on which final installment of such taxes becomes delinquent, or other anticipated funds or revenues, shall not be sufficient to pay the tax revenue anticipation bonds or notes issued in anticipation of the collection of taxes or other funds or revenues of such fiscal year, the taxing district shall, in providing for the levy of taxes for the succeeding fiscal year, include in such tax levy for the succeeding fiscal year the amount necessary to cover such deficiency in the collection of such taxes or other funds or revenues, such levy in the succeeding year to be in an amount which, together with the amount of taxes then in such "Tax Revenue Anticipation Bond or Note Redemption Fund" shall be sufficient to provide for the payment of principal of and interest on the tax revenue anticipation bonds or notes issued in anticipation of such taxes, funds, or other revenues and payable out of such fund.

SECTION 5. That Section 63-3106, Idaho Code, be, and the same is hereby amended to read as follows:

63-3106. ISSUANCE AND SALE OF REFUNDING BONDS OR NOTES BY TAXING DISTRICTS TO PAY FOR TAX REVENUE ANTICIPATION BONDS OR NOTES. A taxing district shall have power to issue refunding bonds or notes, with like limitations upon interest and maturity, and shall issue refunding bonds or notes where such refunding bonds or notes shall be necessary to provide for the payment of any tax revenue anticipation bonds or notes at maturity, or to provide for the payment of any tax revenue anticipation notes or bonds heretofore issued by any taxing district where such tax revenue anticipation notes or bonds are outstanding and unpaid after their maturity date. Said refunding bonds or notes shall

be authorized by resolution and shall be issued, sold and paid as herein provided for the issuance, sale and payment of tax revenue anticipation bonds or notes. At no time shall the total amount outstanding of such tax revenue anticipation bonds or notes and such refunding bonds or notes exceed seventy-five per cent (75%) of the amount of taxes levied or state funds or other revenues anticipated for the current fiscal year and not yet collected by said taxing district, or if such refunding bonds or notes are issued before the tax levy or budget for any fiscal year has been completed, then the total amount outstanding of such tax revenue anticipation bonds or notes and such refunding bonds or notes shall not exceed seventy-five per cent (75%) of the amount of taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year; provided that where refunding bonds or notes have been issued or the issuance thereof has been provided for by the adoption of a resolution for the purpose of refunding any tax revenue anticipation bonds or notes, the said tax revenue anticipation bonds or notes to be refunded by said refunding bonds or notes shall not be included in determining the total amount of tax revenue anticipation bonds and notes outstanding, but for that purpose shall be treated as having been refunded and retired by such refunding bonds or notes.

SECTION 6. That Section 63-3107, Idaho Code, be, and the same is hereby amended to read as follows:

63-3107. CONSTRUCTION. This act shall be construed as full authority for the issuance of such tax revenue anticipation bonds or notes, and it shall not be necessary to comply with the requirements or provisions of any other statute relative to the issuance or sale of bonds or notes of any taxing district, in connection with the issuance of tax revenue anticipation bonds or notes issued under the authority of this act.

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 22, 1988.

CHAPTER 117
(S.B. No. 1307)

AN ACT

RELATING TO COUNTY HIGHWAY SYSTEMS; AMENDING SECTION 40-604, IDAHO CODE, TO STRIKE REFERENCE TO A COUNTY DIRECTOR OF HIGHWAYS.

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

SECTION 1. That Section 40-604, Idaho Code, be, and the same is hereby amended to read as follows:

40-604. DUTIES AND POWERS OF COMMISSIONERS. Commissioners shall:

(1) Exercise general supervision over all highways in the county highway 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.

Approved March 22, 1988.

CHAPTER 118
(S.B. No. 1314)

AN ACT

RELATING TO THE VALIDITY OF A TEACHING CERTIFICATE; AMENDING SECTION 33-1204, IDAHO CODE, TO DELETE A REQUIREMENT THAT THE VALIDITY OF A CERTIFICATE EXPIRES WHEN THE HOLDER ATTAINS THE AGE OF SEVENTY; AND AMENDING SECTION 33-515, IDAHO CODE, TO DELETE THE LIMITATION WHEN THE AGE OF SIXTY-FIVE IS ATTAINED.

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

SECTION 1. That Section 33-1204, Idaho Code, be, and the same is hereby amended to read as follows:

33-1204. VALIDITY, DURATION, RENEWAL AND LAPSE OF CERTIFICATES. The state board of education shall by uniform regulation provide for the validity, duration, renewal and lapse of certificates.

1. The validity of provisional certificates shall be limited to not more than three (3) years; they shall be endorsed for only the grade, grades or subjects the holders may teach; and their renewal shall be premised upon the completion of not less than eighteen (18) semester hours or twenty-seven (27) quarter hours of professional training applicable toward the issuance of a standard certificate and undertaken since the first issuance, or the latest renewal as the case may be, of said certificate;

2. ~~Except-as-otherwise-provided-in-this-subsection,-the--validity of--all--certificates--shall-terminate-when-the-holder-thereof-attains the-age-of-seventy-(70)-years,-except-that-the-service-thereunder--may be--continued--until-the-close-of-the-school-year-in-which-said-age-is attained.-Subject-to-the-provisions-of-section--33-1212,--Idaho--Code, certificates-may-be-continued-after-the-holder-attains-the-age-of-seventy--(70)--years--upon-the-specific-annual-request-of-the-school-district-employing-the-holder.~~

~~3.~~ No certificate shall lapse because of nonuse while the holder thereof is serving in the armed forces of the United States in time of war, or has been called into service of the armed forces at any time. Upon filing a request therefor by the holder of such certificate, not later than one (1) year after the termination of such military service, the validity of such certificate shall be extended for a period equal to the time spent in such military service. The provisions of this paragraph shall not apply to any person who voluntarily enlists at the end of the period in which he was called into military service.

SECTION 2. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection 13 of section 33-1001, Idaho Code, and each school nurse

and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district~~, until the age of sixty-five (65) years is attained, and~~ subject to the provisions included in this chapter.

After the third full year of employment and at least once annually, the performance of each such certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the fifteenth day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the twenty-fifth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.

Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance.

Nothing herein shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning administrative or supervisory employees to classroom teaching duties or removing an extra duty assignment from a certificated employee with appropriate reduction of salaries from pre-existing salary levels.

Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 67-2345, Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in

the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.

If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, the action of the board shall be consistent with the procedures specified in section 33-513(5), Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

Approved March 22, 1988.

CHAPTER 119
(H.B. No. 496, As Amended in the Senate)

AN ACT

RELATING TO HEARING AID DEALERS AND FITTERS; AMENDING SECTION 54-2902, IDAHO CODE, TO REQUIRE REGISTRATION OF CERTAIN BUSINESS ENTITIES AND TO PLACE RESTRICTIONS ON GOVERNMENT AND OTHER NONPROFIT ENTITIES; AMENDING SECTION 54-2906, IDAHO CODE, TO INCREASE THE MAXIMUM REGISTRATION FEE WHICH MAY BE AUTHORIZED BY THE BOARD; AMENDING SECTION 54-2908, IDAHO CODE, TO INCREASE THE MAXIMUM FEE WHICH MAY BE CHARGED FOR A TEMPORARY PERMIT; AND AMENDING SECTION 54-2911, IDAHO CODE, TO REQUIRE COMPLIANCE WITH CONTINUING EDUCATION REQUIREMENTS AS PART OF LICENSE RENEWAL CONDITIONS, AND TO INCREASE THE MAXIMUM FEE WHICH MAY BE CHARGED FOR RENEWAL OF A LICENSE.

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

SECTION 1. That Section 54-2902, Idaho Code, be, and the same is hereby amended to read as follows:

54-2902. LICENSE REQUIRED -- POCKET IDENTIFICATION CARD -- EXCEPTIONS -- REGISTRATION OF BUSINESS ENTITIES -- RESTRICTIONS ON GOVERNMENT AND OTHER NONPROFIT ENTITIES. (a) No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way advertise or represent himself as a person who practices the fitting and sale of hearing aids after January 2, 1972, unless he holds an unsuspended, unrevoked license issued by the board

as provided in this ~~act~~ chapter. The license shall be posted in the licensee's office or established place of business. A pocket identification card shall be issued by the board to each licensee. A license under this act shall confer upon the holder the right to select, fit and sell hearing aids.

(b) Nothing in this act shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license, provided that it employs only properly licensed natural persons in the direct sale and fitting of such products. ~~Such corporations, partnerships, trusts, associations or other like organizations shall file annually with the board a list of all licensed hearing aid dealers and fitters directly or indirectly employed by it. Such organization shall also file with the board a statement on a form approved by the board that they submit themselves to the rules and regulations of the board and the provisions of this act which the board shall deem applicable to them.~~

(c) No person, corporation, partnership, trust, association or other like organization which operates or conducts its business under an assumed business name which does not contain the full name of a person licensed as a hearing aid dealer and fitter shall fit, offer for sale or sell a hearing aid at retail without:

(1) Registering with the board, which registration shall show:

(i) The name of the licensee responsible for fitting and dealing in hearing aids;

(ii) The address and telephone number of its principal place of business and the address of any other business location which it maintains; and

(iii) The names of all persons employed by or representing such business who are licensed as a hearing aid dealer and fitter.

(2) Notifying the board within ten (10) days of any changes which occur with reference to the provisions in subsection (c)(1) of this section.

(3) Filing with the board a statement signed by a licensee that the business agrees to abide by all rules and regulations of the board and the provisions of chapter 29, title 54, Idaho Code.

(d) No state or local governmental entity or agency or other nonprofit organization shall sell hearing aids for compensation provided however, a hospital, as defined in section 39-1301, Idaho Code, may dispense hearing aids for compensation if:

(1) The hospital provides audiological services within the hospital; and

(2) The patient was referred to the hospital for audiological testing by a physician; and

(3) The fitting of the hearing aid is done by a natural person licensed pursuant to chapter 29, title 54, Idaho Code.

SECTION 2. That Section 54-2906, Idaho Code, be, and the same is hereby amended to read as follows:

54-2906. REGISTRATION OF APPLICANTS -- FEE -- RECIPROCAL LICENSING -- FEE. (a) The board shall register each applicant without discrimination or examination who satisfactorily passes the experience requirement as provided in section 54-2905, Idaho Code, or passes an examination as provided in section 54-2907, Idaho Code, and upon the applicant's payment of the fee established by board regulations of at least twenty dollars ~~($20.00)~~ but not to exceed ~~one~~ two hundred fifty dollars ($~~1~~0250) ~~(fee--to-be-established-by-board-regulations)~~ shall issue to the applicant a license. The license shall be effective until June 30 of the year following the year in which issued.

(b) Whenever the board determines that another state has requirements substantially equivalent to or higher than those in effect pursuant to this ~~act~~ chapter and that such state has a program equivalent to or stricter than the program for determining whether applicants pursuant to this ~~act~~ chapter are qualified to dispense and fit hearing aids, and provided such other state will license without examination and upon substantially the same conditions as applicant holding license issued under this chapter pursuant to sections 54-2906 and 54-2911, Idaho Code, the board may issue licenses to applicants who hold current, unsuspended and unrevoked licenses to fit and sell hearing aids in such other state. Fee for such license will be at least twenty dollars ($20.00) but not to exceed ~~one~~ two hundred fifty dollars ($~~1~~0250) and will be established by board regulations.

SECTION 3. That Section 54-2908, Idaho Code, be, and the same is hereby amended to read as follows:

54-2908. TEMPORARY PERMIT -- FEE. (a) An applicant who fulfills the requirements regarding age, character, education and health as set forth in subsection (a) of section 54-2907, Idaho Code, and who is under the direction and supervision of a person holding a valid hearing aid dealers and fitters license, may obtain a temporary permit upon application to the board. Previous experience, or a waiting period shall not be required to obtain a temporary permit.

(b) Upon receiving an application as provided under this section and accompanied by a fee of at least twenty dollars ($20.00) but not to exceed ~~one~~ two hundred fifty dollars ($~~1~~0250), the board shall issue a temporary permit which shall entitle the applicant to engage in the fitting and sale of hearing aids for a period of one (1) year. A person holding a valid hearing aid dealers and fitters license shall be responsible for the supervision and training of such applicant and shall maintain adequate personal contact.

(c) If a person who holds a temporary permit under this section has not successfully passed the licensing examination within one (1) year from the date of issuance, the temporary permit may be renewed or reissued until the next qualifying examination upon payment of at least twenty dollars ($20.00) but not to exceed ~~one~~ two hundred fifty dollars ($~~1~~0250).

SECTION 4. That Section 54-2911, Idaho Code, be, and the same is hereby amended to read as follows:

54-2911. ANNUAL RENEWAL OF LICENSES -- CONTINUING EDUCATION -- FEE -- GRACE PERIOD -- REINSTATEMENT FEE. Each person who engages in the fitting and sale of hearing aids shall annually comply with the continuing education requirements not to exceed ten (10) hours annually, as may be established by board rule and, on or before June 30, pay to the board a fee of at least twenty dollars ($20.00) but not to exceed one two hundred fifty dollars ($~~100~~250) (fee to be determined by board regulation) for a renewal of his license and shall keep such license posted in his office or established place of business at all times. A thirty (30) day grace period shall be allowed after June 30, during which time licenses may be renewed on payment of the required fee to the board. After expiration of the grace period, the board may renew such license upon payment of a reinstatement fee of twenty-five dollars ($25.00) together with all delinquent renewal fees. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal, provided such renewal application is made within three (3) years from the date of such expiration.

Approved March 23, 1988.

CHAPTER 120
(H.B. No. 512)

AN ACT

RELATING TO COLOR OF LAMPS AND GLOBES ON CERTAIN AUTHORIZED MOTOR VEHICLES; AMENDING SECTION 49-830A, IDAHO CODE, TO ALLOW THE DIRECTOR OF LAW ENFORCEMENT TO DESIGNATE VEHICLES BELONGING TO PERSONNEL OF VOLUNTARY FIRE DEPARTMENTS AS A CLASS OF VEHICLES WHICH MAY BE AUTHORIZED TO USE CERTAIN LIGHTS.

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

SECTION 1. That Section 49-830A, Idaho Code, be, and the same is hereby amended to read as follows:

49-830A. COLOR OF LAMPS AND GLOBES LIMITED TO CERTAIN VEHICLE CLASSES. For the purposes of this chapter lighting devices utilizing various colors of lighted globes approved by the director of law enforcement for use on vehicles shall be restricted to the following class of vehicles:

(a) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.

(b) Fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, ambulances and designated emergency vehicles. With the exception of school buses as provided in section 49-809A, Idaho Code, only fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, ambu-

lances, and designated emergency vehicles may display red flashing lights or red lenses or globes which are visible from the front of the vehicle.

(c) All vehicles. Any motor vehicles shall be entitled to display a flashing amber light to warn motorists of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the vehicle displaying such lighting. The driver of an approaching vehicle shall yield the right of way to any stationary vehicle displaying a flashing amber light.

Approved March 23, 1988.

CHAPTER 121
(H.B. No. 621)

AN ACT

RELATING TO THE PAYMENT OF TAXES DUE TO THE STATE; AMENDING CHAPTER 20, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2026, IDAHO CODE, TO PROVIDE THAT CERTAIN TAXES DUE TO THE STATE SHALL BE PAID BY ELECTRONIC FUNDS TRANSFER, AND PROVIDING AUTHORITY FOR THE BOARD OF EXAMINERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 20, 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 67-2026, Idaho Code, and to read as follows:

67-2026. TAXES TO BE PAID BY ELECTRONIC FUNDS TRANSFER. (1) After July 1, 1988, all taxes due the state must be paid by electronic funds transfer whenever the amount due is one hundred thousand dollars ($100,000) or greater. Whenever the payment of taxes is required to be made by electronic funds transfer under this section and the due date falls on a Saturday, Sunday, or legal holiday, the payment may be made on the first business day thereafter.

(2) The board of examiners, in coordination with the state treasurer and those affected departments, shall adopt rules necessary to implement the provisions of this section including, but not limited to, rules:

(a) Coordinating the filing of tax returns with the payment of taxes by electronic funds transfer; and

(b) Specifying the form and content of electronic funds transfer messages in order to ensure the proper receipt and crediting of the tax payment.

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

on and after its passage and approval.

Approved March 23, 1988.

CHAPTER 122
(H.B. No. 719)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1989; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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 amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$3,583,000
Operating Expenditures	312,100
Capital Outlay	22,300
TOTAL	$3,917,400
FROM:	
General Account	$1,751,800
Interagency Billing and Receipts Account	2,165,600
TOTAL	$3,917,400

SECTION 2. There is hereby appropriated to the Attorney General the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General Account	$1,428,600	$260,900	$22,300	$1,711,800
Interagency Billing and Receipts Account	2,154,400	11,200		2,165,600
TOTAL	$3,583,000	$272,100	$22,300	$3,877,400
II. SPECIAL SERVICES LITIGATION:				
FROM:				
General Account		$ 40,000		$ 40,000
GRAND TOTAL	$3,583,000	$312,100	$22,300	$3,917,400

SECTION 3. It is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 2, may be used at the

discretion of the Attorney General to assist in defraying expenses relating to or resulting from the discharge of the Attorney General's 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.

SECTION 4. There is hereby reappropriated to the Attorney General any unexpended and unencumbered balances of the General Account money appropriated by Section 2, Program II., Chapter 151, Laws of 1987, to be expended for the Special Services Litigation Program for the period July 1, 1988, through June 30, 1989.

SECTION 5. There is hereby reappropriated to the Attorney General any unexpended and unencumbered balances of the General Account money appropriated by Section 2, Program B, Chapter 279, Laws of 1986, and reappropriated by Section 4, Chapter 151, Laws of 1987, to be expended for the Reserved Water Rights Technical Studies Program for the period July 1, 1988, through June 30, 1989.

Approved March 23, 1988.

CHAPTER 123
(H.B. No. 725)

AN ACT
EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1989.

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 amount for the period July 1, 1988, through June 30, 1989:

FROM:

General Account	$ 6,300,100
Idaho Law Enforcement Telecommunications Account	201,100
Drug Enforcement Donation Account	163,000
Federal Justice Assistance Account	1,552,500
Federal Motor Carrier Safety Account	28,900
Idaho State Racing Commission Account	269,800
State Brand Board Account	1,418,300
Small Track Fund Account	60,000
Breeder Fund Account	60,000
Interagency Billing and Receipts Account	211,300
Peace Officers Account	699,000
Domestic Violence Account	185,700
TOTAL	$11,149,700

SECTION 2. There is hereby appropriated to the Department of Law Enforcement the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 904,900	$ 312,500			$ 1,217,400
Federal Motor Carrier Safety Account	27,900	1,000			28,900
Interagency Billing and Receipts Account	30,000	5,000			35,000
TOTAL	$ 962,800	$ 318,500			$ 1,281,300
II. POLICE SERVICES:					
FROM:					
General Account	$2,777,400	$1,380,400	$212,500		$ 4,370,300
Idaho Law Enforcement Telecommunications Account	90,300	100,900	9,900		201,100
Drug Enforcement Donation Account			163,000		163,000
Federal Justice Assistance Account	358,700	159,300	150,000	$ 618,000	1,286,000
Interagency Billing and Receipts Account	35,700	129,600			165,300
TOTAL	$3,262,100	$1,770,200	$535,400	$ 618,000	$ 6,185,700
III. BRAND INSPECTION:					
FROM:					
State Brand Board Account	$1,193,600	$ 194,700	$ 30,000		$ 1,418,300
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Account	$ 152,500	$ 117,300			$ 269,800
Small Track Fund Account				$ 60,000	60,000
Breeder Fund Account				60,000	60,000
TOTAL	$ 152,500	$ 117,300		$ 120,000	$ 389,800
V. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Account	$ 475,600	$ 132,000	$ 31,500		$ 639,100

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Interagency Billing and Receipts Account	5,000	1,000			6,000
TOTAL	$ 480,600	$ 133,000	$ 31,500		$ 645,100
VI. POST ACADEMY:					
FROM:					
Peace Officers Account	$ 274,200	$ 346,400	$ 16,000	$ 62,400	$ 699,000
Interagency Billing and Receipts Account		5,000			5,000
TOTAL	$ 274,200	$ 351,400	$ 16,000	$ 62,400	$ 704,000
VII. COMMISSION ON ALCOHOL AWARENESS:					
FROM:					
General Account	$ 38,900	$ 34,400			$ 73,300
VIII. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Domestic Violence Account	$ 70,600	$ 25,500		$ 89,600	$ 185,700
Federal Justice Assistance Account		12,000		254,500	266,500
TOTAL	$ 70,600	$ 37,500		$ 344,100	$ 452,200
GRAND TOTAL	$6,435,300	$2,957,000	$612,900	$1,144,500	$11,149,700

Approved March 23, 1988.

CHAPTER 124
(H.B. No. 726)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO RACING COMMISSION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 338, LAWS OF 1987; 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 338, Laws of 1987, there is hereby appropriated to the Department of Law Enforcement for the Idaho Racing Commission the following amount to be expended according to the designated expense classes from the listed accounts for the period July 1, 1987, through June 30, 1988:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Idaho State Racing Commission Account	$25,000	$30,000	$4,500		$59,500
County Dog Racing Fund Account				$30,000	30,000
TOTAL	$25,000	$30,000	$4,500	$30,000	$89,500

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

Approved March 23, 1988.

CHAPTER 125
(H.B. No. 732)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1989; AND APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR A "BROADCASTING EQUIPMENT CHALLENGE GRANT" AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amount, according to the designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
General Account	$506,400	$191,100	$25,000	$ 722,500
Corporation for Public Broadcasting	430,600	533,100	25,000	988,700
TOTAL	$937,000	$724,200	$50,000	$1,711,200

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, 1988, through June 30, 1989. This appropriation shall be administered by the State Board of Education as a "Broadcasting Equipment Challenge Grant" for the Idaho Educational Public Broadcasting System. The purpose of the appropriation is to secure private donations in an effort to match federal funds for broadcasting equip-

ment through the Corporation for Public Broadcasting, and is contingent upon adherence to the legislative intent set forth in this section.

It is legislative intent that the cash receipts accruing to the Idaho Educational Public Broadcasting System's Capital Campaign Fund for the period July 1, 1988, through June 30, 1989, will be used to equally match this appropriation on a dollar-for-dollar basis. The Idaho Educational Public Broadcasting System may request quarterly allotments of the General Account as may be matched by cash receipts, not to exceed the maximum amount provided herein.

Approved March 23, 1988.

CHAPTER 126
(H.B. No. 733)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. It is legislative intent that the expenditures to the State Board of Education for Vocational Education not exceed the following amount from the listed accounts for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$17,751,200
Carl Perkins Vocational Education Act Account	4,213,900
Interagency Billing and Receipts Account	135,000
Displaced Homemaker Account	140,000
State Council on Vocational Education Account	119,200
TOTAL	$22,359,300

SECTION 2. There is hereby appropriated to the State Board of Education for Vocational Education the following amount, to be expended for the designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND SUPERVISION:					
FROM:					
General Account	$ 910,800	$199,500	$8,100		$ 1,118,400

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Carl Perkins Vocational Education Act Account	149,400	133,300			282,700
TOTAL	$1,060,200	$332,800	$8,100		$ 1,401,100
B. GENERAL PROGRAMS:					
FROM:					
General Account				$ 2,440,500	$ 2,440,500
Carl Perkins Vocational Education Act Account				3,432,000	3,432,000
TOTAL				$ 5,872,500	$ 5,872,500
C. POST-SECONDARY PROGRAMS:					
FROM:					
General Account				$14,192,300	$14,192,300
Carl Perkins Vocational Education Act Account				180,000	180,000
Interagency Billing and Receipts Account				135,000	135,000
TOTAL				$14,507,300	$14,507,300
D. DISPLACED HOMEMAKER PROGRAM:					
FROM:					
Displaced Homemaker Account		$ 5,000		$ 135,000	$ 140,000
Carl Perkins Vocational Education Act Account				319,200	319,200
TOTAL		$ 5,000		$ 454,200	$ 459,200
E. IDAHO STATE COUNCIL ON VOCATIONAL EDUCATION:					
FROM:					
State Council on Vocational Education Account	$ 67,000	$ 52,200			$ 119,200
GRAND TOTAL	$1,127,200	$390,000	$8,100	$20,834,000	$22,359,300

SECTION 3. 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 3, Chapter 309, Laws of 1987, to be used for nonrecurring expenditures only for the period of July 1, 1988, through June 30, 1989.

Approved March 23, 1988.

CHAPTER 127
(H.B. No. 734)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1989; AUTHORIZING AND APPROPRIATING CERTAIN MONEYS TO THE STATE TREASURER; 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 State Treasurer the following amount from the listed accounts, to be expended according to designated expense classes for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$304,900	$ 36,500	$10,900	$352,300
Interagency Billing and Receipts Account	166,700	65,500	5,000	237,200
TOTAL	$471,600	$102,000	$15,900	$589,500

SECTION 2. There is hereby appropriated from the Interagency Billing and Receipts Account to the State Treasurer, any other provisions of law notwithstanding, an amount not to exceed $178,000 of interest earnings otherwise to be deposited in the General Account for the period July 1, 1988, through June 30, 1989, to be used solely and only for the payment of bank service fees. The appropriation is further limited to an amount not to exceed earnings on amounts deposited in banks during fiscal year 1987 as compensating balances for services to the state.

SECTION 3. 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 23, 1988.

CHAPTER 128
(H.B. No. 740)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1989.

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 amount for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$2,225,800
Federal Vocational Rehabilitation Account	6,724,100
Vocational Rehabilitation Cost Recovery Account	190,100
Interagency Billing and Receipts Account	7,000
TOTAL	$9,147,000

SECTION 2. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

A. RENAL DISEASE:	
FROM:	
General Account	$ 426,100
FOR:	
Trustee and Benefit Payments	$ 426,100
B. VOCATIONAL REHABILITATION:	
FROM:	
General Account	$1,799,700
Federal Vocational Rehabilitation Account	6,724,100
Vocational Rehabilitation Cost Recovery Account	190,100
Interagency Billing and Receipts Account	7,000
TOTAL	$8,720,900
FOR:	
Personnel Costs	$3,018,700
Operating Expenditures	647,100
Capital Outlay	47,000
Trustee and Benefit Payments	5,008,100
TOTAL	$8,720,900
GRAND TOTAL	$9,147,000

Approved March 23, 1988.

CHAPTER 129
(H.B. No. 741)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the State Library Board the following amount, to be expended according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

FROM:	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
General Account	$874,500	$425,500	$113,700	$ 14,600	$1,428,300
Library Services and Construction Act Account	124,800	138,800	23,000	619,400	906,000
Access Project Public Library Account				25,000	25,000
Interagency Billing and Receipts Account		10,000	7,000	33,000	50,000
TOTAL	$999,300	$574,300	$143,700	$692,000	$2,409,300

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 307, Laws of 1987, to be used for nonrecurring expenditures only for the period July 1, 1988, through June 30, 1989.

Approved March 23, 1988.

CHAPTER 130
(H.B. No. 742)

AN ACT
EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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 amount for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$ 772,800
State Historical Society Foundation Account	252,700
Historical Preservation Account	463,900
TOTAL	$1,489,400

SECTION 2. There is hereby appropriated to the State Board of Education for the Idaho State Historical Society the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. HISTORICAL PRESERVATION AND EDUCATION:					
FROM:					
General Account	$457,900	$221,400	$15,000	$ 2,500	$ 696,800
State Historical Society Foundation Account		89,000	55,000		144,000
Historical Preservation Account	239,700	184,200		40,000	463,900
TOTAL	$697,600	$494,600	$70,000	$42,500	$1,304,700
B. HISTORIC SITES MAINTENANCE AND INTERPRETATION:					
FROM:					
General Account	$ 37,200	$ 33,500	$ 5,300		$ 76,000
State Historical Society Foundation Account	82,400	23,300	3,000		108,700
TOTAL	$119,600	$ 56,800	$ 8,300		$ 184,700
GRAND TOTAL	$817,200	$551,400	$78,300	$42,500	$1,489,400

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 359, Laws of 1987, to be used for nonrecurring expenditures only for the period July 1, 1988, through June 30, 1989.

Approved March 23, 1988.

CHAPTER 131
(S.B. No. 1259)

AN ACT

RELATING TO THE BUREAU OF INDUSTRIAL HYGIENE; REPEALING SECTION 67-3106, IDAHO CODE, WHICH ESTABLISHES AND OUTLINES POWERS AND DUTIES FOR A BUREAU OF INDUSTRIAL HYGIENE.

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

SECTION 1. That Section 67-3106, Idaho Code, be, and the same is hereby repealed.

Approved March 23, 1988.

CHAPTER 132
(S.B. No. 1270, As Amended)

AN ACT

RELATING TO THE PATERNITY ACT; AMENDING SECTION 7-1103, IDAHO CODE, TO DEFINE THE WORD FATHER AS USED IN THE ACT; AMENDING SECTION 7-1106, IDAHO CODE, TO PROVIDE FOR VOLUNTARY ACKNOWLEDGMENTS OF PARENTAGE; AMENDING SECTION 7-1111, IDAHO CODE, TO ALLOW COMMENCEMENT OF PATERNITY ACTION BY FILING VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE; AMENDING SECTION 7-1121, IDAHO CODE, TO CLARIFY THE VALIDITY OF PATERNITY AND SUPPORT ORDERS ESTABLISHED DURING THE FATHER'S MINORITY; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 7-1103, Idaho Code, be, and the same is hereby amended to read as follows:

7-1103. DEFINITIONS. When used in this act:

(1) The phrase "child born out of wedlock" refers to a child who is begotten and born outside of lawful matrimony.

(2) The word "child" refers to child born out of wedlock.

(3) The word "mother" refers to the mother of a child born out of wedlock.

(4) The word "father" refers to the biological father of a child born out of wedlock.

(5) The word "court" refers to the district court which is hearing the cause.

SECTION 2. That Section 7-1106, Idaho Code, be, and the same is hereby amended to read as follows:

7-1106. ~~COMPROMISE---AGREEMENTS~~ VOLUNTARY ACKNOWLEDGMENTS --

APPROVAL BY COURT -- EFFECT. (1) ~~An-agreement-or--compromise--made--by the-mother-or-by-some-authorized-person-on-behalf-of-either-the-mother or--child--concerning-the-support-of-either-is-binding-upon-the-mother and-child-only-when-the-court-determines-that-adequate--provision--has been--made-and-is-fully-secured-and-approves-said-agreement-or-compromise.~~ In lieu of contested paternity proceedings, a verified voluntary acknowledgment of parentage executed jointly by the father and the mother of a child may be filed with a court of competent jurisdiction and proper venue. After filing, either parent may, upon notice to the other parent, move the court for entry of an order of filiation. Upon notice to both parents, the state of Idaho may move the court for entry of an order of filiation if the child who is the subject of the acknowledgment is or was a recipient of public assistance.

(2) ~~The-complete-and-continuous-performance-of-the--agreement--or compromise,--when--so--approved,--bars-other-remedies-of-the-mother-or child-for-the-support-and--education--of--the--child.~~ The voluntary acknowledgment of parentage may also contain agreements regarding custody, support and visitation. Such agreements, if approved by the court, shall have the same force and effect as a judgment of the court. However, the court shall have the same power to investigate the facts regarding custody, support and visitation prior to entering an order relative to those issues as it would have if no agreement had been filed; and provided further, that an agreement regarding the issues of child support, custody, or visitation shall be approved only if the court finds it to be in the best interest of the child.

SECTION 3. That Section 7-1111, Idaho Code, be, and the same is hereby amended to read as follows:

7-1111. COMMENCEMENT OF PROCEEDINGS. (1) Proceedings are commenced by either the filing of a verified voluntary acknowledgment of parentage executed by both the mother and father of the child; or by the filing of a verified complaint, alleging that the person named as defendant is the father of the child and petitioning the court to issue a summons. The service of summons, the complaint, and all pleadings shall be in accordance with the Idaho rules of civil procedure.

(2) A voluntary acknowledgment of parentage may be executed by the mother, whether a minor or not, and the father, whether a minor or not, and regardless of the marital status of the mother or father. The acknowledgment shall be verified by both the mother and the father.

SECTION 4. That Section 7-1121, Idaho Code, be, and the same is hereby amended to read as follows:

7-1121. ORDER FOR SUPPORT -- CONTINUANCE BEYOND AGE OF 18 -- OTHER PAYMENTS BY FATHER. In a proceeding in which the court has made an order of filiation, the court shall direct a father possessed of sufficient means or able to earn such means to pay monthly or at other fixed periods a fair and reasonable sum for the support and education of the child until the child is eighteen (18) years of age. If the child continues his formal education subsequent to reaching the age of eighteen (18) years, the court may, in its discretion, order the con-

tinuation of support payments until the child discontinues his education or reaches the age of twenty-one (21) years, whichever is sooner.

The order of filiation may direct the father to pay or reimburse amounts paid for the support of the child prior to the date of the order of filiation and may also direct him to pay or reimburse amounts paid for: (1) the funeral expenses if the child has died; (2) the necessary expenses incurred by or for the mother in connection with her confinement and recovery; and (3) such expenses in connection with the pregnancy of the mother as the court may deem proper.

If the father is a minor at the time the order is entered, the order shall continue in effect as a valid order after the father reaches majority, and cannot be disaffirmed by the minor himself or personal representatives.

Any child support order issued or modified under this section after July 1, 1986, shall contain a provision allowing the obligee to enforce the order by income withholding if arrearages at least equal to the support payable for one (1) month accumulate under the order; and shall include the notice required in section 32-1205, Idaho Code, advising the obligor that the obligee can seek enforcement of the order by means of a mandatory income withholding order issued pursuant to this chapter without further notice to the obligor whenever there are arrearages at least equal to the support payment for one (1) month.

Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree.

SECTION 5. 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 March 23, 1988.

CHAPTER 133
(S.B. No. 1332, As Amended)

AN ACT

RELATING TO THE PRACTICE OF DENTURITRY; AMENDING SECTION 54-3303, IDAHO CODE, TO PROVIDE THAT WORK FOR THE HOMEBOUND NEED NOT BE DONE ON THE LICENSEE'S PREMISES; AMENDING SECTION 54-3305, IDAHO CODE, TO PROVIDE THAT THE PROVISIONS OF THIS CHAPTER DO NOT APPLY TO A DENTAL TECHNICIAN AS DEFINED BY BOARD RULE, WHO WORKS UNDER THE SUPERVISION OF A LICENSED DENTURIST OR LICENSED DENTIST; AMENDING SECTION 54-3312, IDAHO CODE, TO INCREASE INITIAL AND ANNUAL RENEWAL LICENSE FEES FOR DENTURISTS; AMENDING SECTION

54-3313, IDAHO CODE, TO PROVIDE FOR ANNUAL CONTINUING EDUCATION AS A PRECONDITION FOR ANNUAL RENEWAL OF A DENTURIST'S LICENSE; AMENDING SECTION 54-3314, IDAHO CODE, TO PROVIDE THAT A LICENSED DENTURIST MAY BE DISCIPLINED UPON CONVICTION, FINDING OF GUILT, RECEIPT OF A WITHHELD JUDGMENT OR SUSPENDED SENTENCE FOR A FELONY OR OTHER CRIMES; AND AMENDING CHAPTER 33, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3323, IDAHO CODE, TO PROVIDE FOR AN INJUNCTION PROCEDURE TO ENJOIN VIOLATIONS OF THE PROVISIONS OF CHAPTER 33, TITLE 54, IDAHO CODE.

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

SECTION 1. That Section 54-3303, Idaho Code, be, and the same is hereby amended to read as follows:

54-3303. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(a) "Board" means the state board of denturitry.

(b) "Denture" means any removable full upper or lower prosthetic dental appliance to be worn in the human mouth.

(c) "Denturist" means a person licensed under this chapter to engage in the practice of denturitry.

(d) "Practice of denturitry" means:

(1) the making, fitting, constructing, altering, reproducing or repairing of a full upper or lower removable prosthetic denture, the repairing of a removable partial upper or lower prosthetic denture, the furnishing or supplying of such a denture directly to a person or advising the use of any such denture;

(2) the taking or making, or the giving of advice, assistance or facilities respecting the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of making, constructing, fitting, furnishing, supplying, altering, repairing or reproducing any such full upper or lower removable prosthetic denture;

(3) the practice of denturitry within the context of this chapter requires that all work except cast frame work or work required to meet the needs of the homebound be performed on the licensee's premise.

SECTION 2. That Section 54-3305, Idaho Code, be, and the same is hereby amended to read as follows:

54-3305. EXCEPTIONS. The prohibitions of this chapter do not apply to:

(a) a person interning under the supervision of a denturist;

(b) the practice of dentistry or medicine by persons authorized to do so by this state;

(c) a student of denture technology in pursuit of clinical studies under an approved school program;

(d) a denture technician, as defined by board rule, performing services under the direction of a licensed denturist or licensed dentist when the service does not involve contact with the intended user.

SECTION 3. That Section 54-3312, Idaho Code, be, and the same is hereby amended to read as follows:

54-3312. FEES. The board shall be entitled to charge and collect the following fees subject to adjustment as prescribed by section 54-3309(c), Idaho Code:

(a) An application fee (which shall include the cost of an examination when required) of not to exceed ~~two~~ three hundred dollars ($~~2~~300);

(b) An initial license fee of not to exceed ~~two~~ three hundred dollars ($~~2~~300);

(c) A renewal fee of not to exceed ~~two~~ six hundred dollars ($~~2~~600).

SECTION 4. That Section 54-3313, Idaho Code, be, and the same is hereby amended to read as follows:

54-3313. LICENSING. A denturist license shall be valid for a period of one (1) year, whereupon a renewal license will be issued upon payment of the renewal fee and the submission of proof of the completion of not less than ~~twenty-four~~ twelve (~~2~~12) hours continuing education accredited by the board during the ~~two~~ one (~~2~~1) years immediately preceding the date of application for renewal. A license issued effective as of a date other than July 1 will be valid until midnight June 30 next following the date it was issued. The license shall bear on its face the address where the licensee's denturist services will be performed.

SECTION 5. That Section 54-3314, Idaho Code, be, and the same is hereby amended to read as follows:

54-3314. SUSPENSION OR REVOCATION OF LICENSE. (a) The board shall have the power to refuse to issue a license, suspend or revoke a license, or place a licensed person on probation for a period specified by the board and subject to such conditions as the board shall impose, or reprimand or censure a licensee for any of the following causes:

(1) Conviction ~~of~~, finding of guilt, receipt of a withheld judgment or suspended sentence in this or any other state of a felony or of any other crime where such crime bears a demonstrable relationship to the practice of denturitry.

(2) Incompetence or gross negligence in the practice of denturitry.

(3) Fraud or misrepresentation in the practice of denturitry.

(4) Use of any narcotic or dangerous drug or intoxicating liquor to an extent that such use impairs the ability to conduct safely the practice of denturitry.

(5) The ~~willful~~ violation of any provision of this chapter or rules adopted thereunder.

(b) The board shall have the power to examine and inspect the place of business of any licensed denturist at a reasonable time and

in a reasonable manner to assure compliance with this chapter.

(c) The board shall have the right to establish standards of conduct and practice, and the power to enforce such standards with monetary penalties and/or revocation or suspension of license.

SECTION 6. That Chapter 33, 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 54-3323, Idaho Code, and to read as follows:

54-3323. INJUNCTION PROCEDURE. Whenever any person, corporation, partnership or association of any kind or nature violates any of the provisions of this act, the board, without regard to criminal prosecution, may maintain an action in the name of the state of Idaho to enjoin said person, corporation, partnership or association from any further violations, such action to be brought either in the county in which said acts are claimed to have been or are being committed, in the county where the defendant resides, or in Ada county. Upon the filing of a verified complaint in the district court, the court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue an injunction pendente lite without bond, on request of the board, enjoining the defendant from the commission of any such act or acts constituting said violations. A copy of said complaint shall be served upon the defendant, and the proceedings shall thereafter be conducted as in any other similar civil action. If the commission of said act or acts be established, the court shall enter a decree perpetually enjoining said defendant from committing said act or acts. In case of violation of any injunction issued under the provisions of this section, the court, or the judge thereof at chambers, may summarily try and punish the offender for his contempt of court.

Approved March 23, 1988.

CHAPTER 134
(S.B. No. 1343)

AN ACT

RELATING TO PETITIONS TO IRRIGATION DISTRICTS; AMENDING SECTION 43-1101, IDAHO CODE, TO PROVIDE THAT AS MANY PARTIES OWNING SEPARATE TRACTS OR PARCELS OF LANDS IN ANY IRRIGATION DISTRICT OR WHO ARE UNITED IN INTEREST TO WHICH THE SAME STATE OF FACTS APPLY, MAY UNITE IN THE SAME PETITION; AND AMENDING SECTION 43-1103, IDAHO CODE, TO PROVIDE DUTIES OF THE BOARD OF DIRECTORS REGARDING PETITIONS AND TO DELETE LANGUAGE ALLOWING PARTIES TO UNITE IN A PETITION.

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

SECTION 1. That Section 43-1101, Idaho Code, be, and the same is hereby amended to read as follows:

43-1101. PETITION. Any person or persons owning land within any irrigation district and forming a part thereof may file with the board of directors of such irrigation district a petition in writing praying for the exclusion of the land or lands owned by them and described in such petition from such irrigation district. As many parties owning separate tracts or parcels of lands in any irrigation district or who are united in interest to which the same state of facts apply, may unite in the same petition. The petition shall be acknowledged by all of the petitioners. A filing fee in the amount of five dollars ($5.00) per each parcel of land described in the petition shall accompany the filing of each petition, plus an exclusion fee in the amount of twenty-five dollars ($25.00) for each lot containing less than one (1) acre which is in a subdivision as defined in section 50-1301, Idaho Code, or an exclusion of fifty dollars ($50.00) for each acre or portion thereof in all other parcels of property, for which the district shall provide a suitable receipt evidencing payment. Any petition not accompanied by the required filing fee shall be summarily rejected. All other costs of the exclusion proceeding shall be assessed as provided in section 43-1105, Idaho Code.

SECTION 2. That Section 43-1103, Idaho Code, be, and the same is hereby amended to read as follows:

43-1103. HEARING ON PETITION -- ORDER OF EXCLUSION. The board of directors of the irrigation district may conduct its own investigation of the facts alleged in the petition and, by resolution duly adopted, which may address the allegations of several petitions, accept the facts as alleged and determine that no hearing is required prior to granting the petition or petitions for exclusion. If the allegations are not thus accepted such petition must be heard by the board of directors of such irrigation district within one hundred eighty (180) days of filing of the petition. If no hearing is held within one hundred eighty (180) days, the land described in the petition is excluded from the district. ~~As many parties owning separate tracts or parcels of lands in any irrigation district or are united in interest to which the same state of facts apply, may unite in the same petition.~~ Upon the hearing, the petitioner or petitioners must establish by competent evidence the allegations of the petition, and the chairman or presiding member of the board is hereby empowered to administer oaths for the purpose of such hearing.

When the allegations of such petition are established, the board must make an order forthwith changing the boundaries of such district so as to exclude the lands described in such petition which the proof has established to be entitled to exclusion, and thereafter the lands so excluded shall not form a part of such irrigation district for any purpose except as hereinafter provided: provided, however, that the lands so ordered excluded shall not be relieved of their obligation to pay their proportionate share already created and existing of any bonded or contract indebtedness of such irrigation district, and such

lands shall remain a part of such irrigation district for the purpose of discharging such bonded or contract indebtedness.

No hearing shall be held when, prior to the date set for the hearing, the board issues an order excluding the land described in the petition from the district.

Approved March 23, 1988.

CHAPTER 135
(S.B. No. 1353)

AN ACT

RELATING TO SCHOOL DISTRICT BONDS; AMENDING SECTION 33-1107, IDAHO CODE, TO PROVIDE THAT SCHOOL DISTRICT BONDS SHALL BE ISSUED IN DENOMINATIONS OF ONE HUNDRED DOLLARS OR MULTIPLES THEREOF, NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS, AND IN FORM PRESCRIBED BY THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

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

SECTION 1. That Section 33-1107, Idaho Code, be, and the same is hereby amended to read as follows:

33-1107. PLAN AND FORM OF BONDS -- AMORTIZATION. School district bonds shall be issued in denominations of one hundred dollars ($100) or multiples thereof, not to exceed ~~five~~ one hundred thousand dollars ($5100,000), and in form prescribed by the state ~~board--of--education~~ superintendent of public instruction.

No school district bonds shall be issued except upon an amortization plan, each issue of bonds to be redeemed in full within twenty (20) years from the date of the bonds. The first amortized principal payment shall mature and be payable not more than two (2) years from and after the date of the bonds, and the various annual maturities of any issue of bonds shall as nearly as practicable be in such principal amounts as will, together with accruing interest on all outstanding bonds of such issue, be met and paid by an equal annual tax levy during the term for which such bonds shall be issued. No bond shall mature and be payable as to principal in partial payments.

Each bond shall bear interest from the date of issue, payable semiannually on the first days of such months as shall be determined by the board of trustees, at such interest rate as said board may determine. Each bond of any issue shall be numbered in a consecutive series. Each interest payment on each bond shall be evidenced by an interest coupon thereto attached. Such coupons shall be numbered in a consecutive series; shall be identified with the bond to which attached; shall show the number and name of the issuing school district, and the date and place of payment of such interest.

The foregoing plan and form of bonds and bonding may be departed from whenever in the judgment of the board of trustees such departure

will result to the benefit and advantage of the district, and the board of trustees may issue and sell such bonds with such annual maturities as it shall determine either prior to or after the fixing of the interest rates such bonds will bear, and in every such instance it shall be permissible for the board of trustees to issue such bonds in the annual maturities so determined upon and bearing the rate or rates of interest ascertained upon the sale of such bonds, and the plan and form thereof together with the contract, if any, for the issue must be approved by the state superintendent of public instruction.

Approved March 23, 1988.

CHAPTER 136
(S.B. No. 1362)

AN ACT

RELATING TO RELOCATION ASSISTANCE; AMENDING CHAPTER 20, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-2012, IDAHO CODE, TO PROVIDE GUIDELINES FOR RELOCATION ASSISTANCE PAYMENTS.

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

SECTION 1. That Chapter 20, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-2012, Idaho Code, and to read as follows:

40-2012. FEDERAL UNIFORM RELOCATION ASSISTANCE ACT. (1) Regardless of any of the other provisions of title 40, chapter 20, Idaho Code, when any department, agency or instrumentality of the state, or any county, municipality, or other political subdivision, or any other public or private entity undertakes any project or activity subject to the provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, as amended, public laws 91-646, and 100-17, title IV (hereinafter the federal uniform relocation act) which results in the acquisition of real property or in any person or persons being displaced from their homes, businesses, or farms, such state department, agency or instrumentality, county, municipality or other political subdivision, or other public or private entity is hereby authorized to provide relocation assistance, and to make relocation payments to such displaced person and to do such other acts and follow such procedures and practices as may be necessary to comply with the provisions of the federal uniform relocation act.

(2) Any payment made or to be made under the authority granted herein shall be for compensating or reimbursing the displaced person or owner of real property in accordance with the requirements of the federal uniform relocation act and such payments shall not for any purpose be deemed or considered compensation for real property

acquired or compensation for damages to remaining property.

(3) The Idaho transportation department is authorized to issue such regulations and procedures as it determines to be necessary or appropriate to carry out the provisions of this chapter.

Approved March 23, 1988.

CHAPTER 137
(S.B. No. 1375)

AN ACT

RELATING TO FLAT RATE ASSESSMENTS BY IRRIGATION DISTRICTS; AMENDING SECTION 43-701, IDAHO CODE, TO PROVIDE THAT WHEN AN IRRIGATION DISTRICT HAS ADOPTED A FLAT RATE METHOD OF ASSESSING RESIDENTIAL LOTS OF ONE ACRE OR LESS, THE SHARE OF ASSESSMENT EXPENSE TO BE APPORTIONED AGAINST THE RESIDENTIAL LOTS AND THE SHARE TO BE APPORTIONED AGAINST TRACTS OF LANDS ASSESSED BY THE REGULAR METHOD SHALL BE DETERMINED SEPARATELY SO AS TO ALLOCATE BETWEEN RESIDENTIAL LOTS AND ALL OTHER PARCELS THE ASSESSMENT EXPENSES; AMENDING SECTION 43-701B, IDAHO CODE, TO PROVIDE THAT FLAT RATE ASSESSMENTS MAY BE CERTIFIED TO COUNTY OFFICERS FOR COLLECTION OR THEY MAY BE COLLECTED BY THE IRRIGATION DISTRICT IN SUBSTANTIALLY THE SAME MANNER THAT OTHER ASSESSMENTS ARE COLLECTED AND TO PROVIDE THAT THE BOARD OF DIRECTORS OF AN IRRIGATION DISTRICT MAY ESTABLISH MAXIMUM LOT SIZES FOR FLAT RATE ASSESSMENTS WITHIN A SPECIFIED RANGE; AMENDING SECTION 43-701C, IDAHO CODE, TO PROVIDE THAT LISTS MAY BE CERTIFIED BY THE TREASURER OF THE IRRIGATION DISTRICT TO THE COUNTY AUDITOR; AMENDING SECTION 43-701D, IDAHO CODE, TO PROVIDE THAT THE TREASURER OF THE IRRIGATION DISTRICT MAY NOTIFY APPROPRIATE COUNTY OFFICERS; AMENDING CHAPTER 7, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-701DD, IDAHO CODE, TO ALLOW AN IRRIGATION DISTRICT TO COLLECT FLAT RATE ASSESSMENTS; AMENDING SECTION 43-701F, IDAHO CODE, TO PROVIDE FOR AN AMOUNT OF COSTS INCURRED BY AN IRRIGATION DISTRICT IN PREPARING AND CERTIFYING ANY LIST OF TRACTS TO BE INCLUDED IN THE NOTIFICATION TO THE COUNTY IF THE IRRIGATION DISTRICT IS UTILIZING THE COUNTY FOR COLLECTING THE FLAT RATE ASSESSMENT; AND AMENDING SECTION 43-701G, IDAHO CODE, TO ALLOW FOR ACCELERATED COLLECTION OF INDEBTEDNESS ON FLAT RATE ASSESSMENTS IF THE DISTRICT IS GOING TO UTILIZE COUNTY OFFICERS TO COLLECT THE ASSESSMENT OR IF THE DISTRICT IS GOING TO COLLECT THE ASSESSMENT ITSELF.

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

SECTION 1. That Section 43-701, Idaho Code, be, and the same is hereby amended to read as follows:

43-701. PREPARATION OF ASSESSMENT BOOK -- LEVY OF ASSESSMENTS. The secretary of the board of directors shall be the assessor of the

district, and on or before August 1 of each year shall prepare an assessment book containing a full and accurate list and description of all of the land of the district, and a list of the persons who own, claim or have in possession or control thereof during said year, giving the number of acres listed to each person: provided, that where the property to be listed is described by metes and bounds description, the assessor of the district may give to each tract of land within the district which is described by metes and bounds description an irrigation district assessment number, which number shall be placed on the assessment roll to indicate the certain piece of land bearing such number, and entered on a plat book to indicate what tract is designated by such irrigation district assessment number, and no further description of such land shall be necessary upon the irrigation district assessment roll. The assessor of the district must, in the event irrigation district assessment numbers are used in lieu of the metes and bounds description, on or before the first day of August of each year, file with the board of directors of the district an accurate and complete list of all irrigation district assessment numbers entered on the assessment rolls for the year, showing opposite each number an accurate description of the tract of land designated by such number. Thereafter, in all cases where an irrigation district assessment number is used to designate the same tract of land in the assessment of succeeding year, the assessor of the district shall not include such number in his list of the irrigation district assessment numbers filed with the board of directors of the district. Whenever a tract of land which has been given an irrigation district assessment number is subdivided, the assessor of the district shall give each subdivision a new irrigation district assessment number, which number with an accurate description of the tract of land designated by such new number, shall be included in his list of irrigation district assessment numbers filed with the board of directors; and provided, that in all irrigation districts where the collection of assessments is made by county officers as provided for by sections 43-727, 43-728 and 43-729, Idaho Code, said assessment book shall be prepared on or before June fifteenth of each year and the provisions of this section with reference to assessment numbers shall not apply. If the name of the person owning, claiming, possessing or controlling any tract of said land is not known, it shall be listed to unknown owners.

In all districts in which an assessment is levied for the purpose of maintaining and operating the works of said district, at a regular meeting of the board between August 1 and November 8 of each year, the board of directors shall levy an assessment upon all the lands of the district for the expense of maintaining and operating the property of the district; provided, that in all districts where the collection of assessments is made by county officers as provided by sections 43-727, 43-729, Idaho Code, said levy shall be made on or before the third Tuesday of July of each year.

At the time of meeting of the board of directors to levy assessments as in this section provided, the board of directors of the irrigation district are authorized to determine the aggregate amount necessary to be raised for all purposes connected with the maintaining and operating of the works of said district, and may determine the

total amount of said sum necessary and required to pay the expense of making the assessment book and extension of the assessments thereon, giving notice of assessments and making collections of assessments, which shall be designated as assessment expense fund. If the district has adopted a flat rate method of assessing residential lots of one (1) acre or less as authorized by section 43-701B, Idaho Code, the share of the assessment expense to be apportioned against the residential lots and the share to be apportioned against the tracts of land assessed by the regular method shall be determined separately so as to allocate as accurately as reasonably possible, between (1) such residential lots and (2) all other parcels, the assessment expenses specified above. The balance of said amount necessary to be raised shall be designated as operation and maintenance fund. The board of directors are authorized to apportion the total amount of assessment expense fund against the several tracts of land as shown on the assessment book, so that each tract shall pay its proportionate share of the cost of making assessments and collections thereof. The amount of said assessment designated operation and maintenance fund shall be spread upon all the lands in the district and shall be proportionate to the benefits received by such lands growing out of the maintenance and operation of the said works of said district. Such assessments shall be carried out by the secretary and entered into an appropriate column on the assessment roll immediately and shall be subject to review by the board of correction hereinafter provided for.

In districts that furnish water to landowners who have previously petitioned out of such district, the board of directors shall assess such owners in the same proportionate amount for maintenance and operation of the irrigation works of the district as they do on the land within such district, and in addition thereto shall assess such landowners in the same proportionate amount for bond interest and redemption of bonds outstanding under the provisions of chapters 4, 5, and 6, of this title, or other contract indebtedness of the district, as they do against the land of the district, and such assessment shall be considered as a toll, and if not paid by the first day of January following such assessment, the board of directors may refuse to deliver water to such landowner until this, or any other delinquent payment has been paid.

SECTION 2. That Section 43-701B, Idaho Code, be, and the same is hereby amended to read as follows:

43-701B. FLAT RATE ASSESSMENTS FOR TRACTS OF ONE ACRE OR LESS. Notwithstanding the provisions of section 43-701, Idaho Code, whenever the cost of making and collecting assessments against residential tracts, one (1) acre or less in size, is determined by the board of directors to be burdensome on the district and on the owners of such lots, the board may assess all such tracts at a flat rate, to be determined by dividing the total amount assessable against all such tracts by the total number of such tracts, and the flat rate assessments thus determined ~~shall~~ may be certified to the county officers as specified in section 43-701C, Idaho Code, for collection or may be collected by the district in substantially the same manner that other

assessments are collected pursuant to this chapter. The board, in the reasonable exercise of its discretion, may establish the maximum lot size for flat rate assessments at any size within the range between one-fourth (1/4) acre and one (1) acre. Tracts included or retained in an irrigation district for drainage purposes only shall be assessed only for drainage costs and ~~shall~~ may be certified to the county officers on a separate list. The board may, in its discretion, exclude from the flat rate assessment procedure any tracts upon which liens for construction costs exist under the provisions of sections 43-328 through and including 43-330, Idaho Code.

SECTION 3. That Section 43-701C, Idaho Code, be, and the same is hereby amended to read as follows:

43-701C. FLAT RATE ASSESSMENTS -- PREPARATION AND CERTIFICATION OF LISTS -- CHANGES IN LEGAL DESCRIPTIONS. As soon as possible after the board of directors determines to make flat rate assessments as provided in section 43-7018, Idaho Code, the treasurer of the district shall prepare a list containing the legal description, the assessor's parcel number and the name and last known address of the owner of record of each residential tract, one (1) acre or less in size, assessed by the district for all purposes, and a separate list in like manner for such tracts assessed only for drainage. The list or lists ~~shall~~ may be certified by the treasurer to the county auditor of the county in which the lands are situate. When an irrigation district includes lands in more than one (1) county, separate lists ~~shall~~ may be prepared for each county. When a tract lies partly in one (1) county and partly in one or more other counties, only the portion in any county shall be included in the list for that county if the treasurer is certifying a list or lists to the county auditor. If the legal description of any tract or tracts on any such list differs from the legal description as shown by the assessor's records, the auditor shall notify the irrigation district treasurer of the discrepancy and the description in the list shall be changed by the irrigation district treasurer, by an addendum, to conform with the assessor's records; provided, however, that where the discrepancy between the descriptions occurs because a portion of the parcel lies outside the boundaries of the irrigation district, no change in description shall be required, and the irrigation district assessments shall be effective only as to the portions of any such parcel that are within the boundaries of the irrigation district.

SECTION 4. That Section 43-701D, Idaho Code, be, and the same is hereby amended to read as follows:

43-701D. FLAT RATE ASSESSMENTS -- COLLECTION BY COUNTY OFFICERS. After any list of tracts has been certified and conformed as provided for in section 43-701C, Idaho Code, the treasurer of the district ~~shall~~ may notify the appropriate county officers, on or before the third Tuesday of July of each year, of the amount assessed against the tracts identified on each such list, and the amount assessed shall be uniform for all tracts on the same list. After the receipt of any such

notification from the treasurer of any irrigation district, the appropriate county officer shall each year enter upon the county assessment roll against the property therein described the levy so made by the board of directors of said district as shown upon the notification furnished to the said county officer as above provided, in manner similar to that in which other municipal, school or highway district assessments are entered by him on said assessment roll, except that the sum assessed and charged against each description of land therein contained for such irrigation district purposes shall be entered by the officer as the operation and maintenance assessment or the drainage assessment of the (name of district) irrigation district against the same. Such district operation and maintenance tax shall be collected and accounted for by the county officers in the same manner as other municipal taxes and paid over to the district treasurer together with any penalties or interest collected thereon, and the collection thereof shall be enforced in the same manner, and neglect to pay the same shall be subject to the same penalties as the other taxes of the county; provided, however, that the collection of such district assessments by such county officers, as herein provided, shall not make the bonds, contracts and interest due from such irrigation districts the obligation of such county or counties.

SECTION 5. That Chapter 7, 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 43-701DD, Idaho Code, and to read as follows:

43-701DD. FLAT RATE ASSESSMENTS -- COLLECTION BY DISTRICT. If the district has adopted a flat rate method of assessing residential lots of one (1) acre or less as authorized by section 43-701B, Idaho Code, and if the district has elected not to have that assessment collected by county officers pursuant to section 43-701D, Idaho Code, the assessment shall be collected by the district in substantially the same manner that other assessments are collected pursuant to this chapter.

SECTION 6. That Section 43-701F, Idaho Code, be, and the same is hereby amended to read as follows:

43-701F. FLAT RATE ASSESSMENTS -- ASSESSMENT AND COLLECTION EXPENSES. The costs incurred by the irrigation district in preparing and certifying any list of tracts as provided for in section 43-701C, Idaho Code, shall be assessed against the tracts described in that list, at the same amount for each tract, and the amount so assessed shall be included in the first notification made by the irrigation district treasurer to the county as provided for in section 43-701D, Idaho Code, ~~and thereafter~~ if the district is utilizing the county for collecting the assessment. Thereafter all tracts on any one list shall be regarded as a single tract for determining assessment expense as provided for in section 43-701, Idaho Code. The county commissioners initially shall levy an additional fee against the tracts described in any such list for the cost of transferring and conforming the list and

initiating the collection process, at a uniform amount for each tract, and may levy annually an additional assessment for the current cost of collection and remittance to the district, at a uniform amount for each tract.

SECTION 7. That Section 43-701G, Idaho Code, be, and the same is hereby amended to read as follows:

43-701G. FLAT RATE ASSESSMENTS -- ACCELERATED COLLECTION OF INDEBTEDNESS. In order to implement the flat rate assessments authorized in section 43-701B, Idaho Code, the board of directors, before any list of tracts is certified to the county officers as provided for in section 43-701C, Idaho Code, or before the list is used by the district for collection of flat rate assessments utilizing its own personnel and procedures, shall assess, against all tracts it has determined to assess at a flat rate as in this chapter provided, the entire unpaid balance of principal and any accrued interest on any contract or bonded indebtedness apportioned to each such tract. If any landowner shall object to such assessment, his tract of land shall not be included in the list certified to the county officers, and that tract shall be assessed by the district in the regular manner for all purposes, instead of under the flat rate procedure authorized in this chapter.

Approved March 23, 1988.

CHAPTER 138
(S.B. No. 1382)

AN ACT

RELATING TO TERMINATION OF PARENT AND CHILD RELATIONSHIP; AMENDING SECTION 16-2002, IDAHO CODE, TO REDEFINE THE TERM "AUTHORIZED AGENCY".

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

SECTION 1. That Section 16-2002, Idaho Code, be, and the same is hereby amended to read as follows:

16-2002. DEFINITIONS. When used in this act, unless the text otherwise requires:

a. "Court" means the district court.

b. "Child" or "minor" means a person less than eighteen (18) years of age.

c. The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of the act.

d. "Neglected" used with respect to a child refers to those situations in which the child lacks proper support or parental care neces-

sary for his health, morals, and well-being.

e. "Abuse" used with respect to a child refers to those situations in which physical cruelty in excess of that required for reasonable disciplinary purposes has been inflicted by a parent or other person in whom legal custody of the child has been vested.

f. "Legal custody" means status created by court order embodying the following rights and responsibilities:

(1) the right to physical possession of the child,

(2) the right and duty to protect, train and discipline the child, and

(3) the responsibility to provide the child with food, shelter, education and medical care,

provided that such rights and responsibilities shall be exercised subject to the powers, rights, duties and responsibilities of the guardian of the person.

g. "Guardianship of the person" means those rights and duties imposed upon a person appointed as guardian of a minor under the laws of Idaho. It includes but is not necessarily limited either in number or kind to:

(1) the authority to consent to marriage, to enlistment in the armed forces of the United States, and to major medical, psychiatric and surgical treatment; to represent the minor in legal actions; and to make other decisions concerning the child of substantial legal significance;

(2) the authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order;

(3) the rights and responsibilities of legal custody except where legal custody has been vested in another individual or in an authorized child placement agency;

(4) when the parent and child relationship has been terminated by judicial decree with respect to the parents, or only living parent, or when there is no living parent, the authority to consent to the adoption of the child and to make any other decision concerning the child which the child's parents could make.

h. "Guardian ad litem" means a person appointed as such pursuant to law, by the court to protect the interest of a minor or an incompetent in a case before the court.

i. "Authorized agency" means the state department of health and welfare or a voluntary child placement agency licensed to care for and place children by the state department of health and welfare ~~rehabilitation services~~.

j. "Parent" means (1) the mother, (2) a father as to whom a child is legitimate, (3) a person as to whom a child is presumed to be a legitimate child, or (4) an adoptive parent; but such term does not include a parent as to whom the parent and child relationship has been terminated by judicial decree.

k. "Parent and child relationship" includes all rights, privileges, duties and obligations existing between parent and child, including inheritance rights, and shall be construed to include adoptive parents.

l. "Protective supervision" means a legal status created by court

order in proceedings not involving violations of the law but where the legal custody of the child is subject to change, whereby the child is permitted to remain in his home under the supervision of an authorized agency designated by the court and is subject to return to the court during the period of protective supervision.

m. "Parties" includes the child and the petitioners.

Approved March 23, 1988.

CHAPTER 139
(S.B. No. 1384, As Amended)

AN ACT

RELATING TO PROCEEDINGS FOR ADOPTION; AMENDING SECTION 16-1506, IDAHO CODE, TO PROVIDE SPECIFIC RESIDENCY REQUIREMENTS, TO REQUIRE THE PERSON OR PERSONS ADOPTING TO APPEAR BEFORE THE COURT OF THE COUNTY WHERE THE PETITION WAS FILED, TO MODIFY THE FORM WHERE CONSENT IS GIVEN FOR THE ADOPTION, AND TO PROVIDE FOR AN INVESTIGATIVE REPORT WITH CERTAIN INFORMATION TO BE RETURNED TO THE COURT.

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

SECTION 1. That Section 16-1506, Idaho Code, be, and the same is hereby amended to read as follows:

16-1506. PROCEEDINGS ON ADOPTION. Proceedings to adopt a child shall be commenced by the filing of a petition together with a copy thereof. Said petition shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the county in which said person or persons reside ~~and have residence~~. The petitioners shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the name and address of the petitioner or petitioners, the name of the child proposed to be adopted and the name by which it shall be known if and when adopted, the degree of relationship of the child, if any, to the petitioner or petitioners and the names of any person or agency whose consent to said adoption is necessary. At the time fixed for hearing such petition the person adopting a child, and the child adopted, and the spouse of petitioner if a natural parent of the child, must appear before the court of the county ~~where the person adopting resides~~ wherein the petition was filed. Petitioner shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated. Any person or persons whose consent is required shall execute such consent in writing, ~~and acknowledge the same before any officer authorized by the laws of this or any other state to take acknowledgment of deeds~~ in a form consistent with the provisions of subsection

(f) of section 16-2005, Idaho Code, which consent being filed in the court where the application is made, shall be deemed a sufficient appearance on the part of such person or persons. If any adoptive parent, or a person not a minor being adopted by a resident adult under the provisions of section 16-1501, Idaho Code, is a member of the armed services and is unable to attend the hearing, his appearance and testimony shall be received by means of deposition, which shall be filed in the court at the time of the hearing.

Upon the filing of a petition to adopt a minor child by a person unrelated to the child or unmarried to a natural parent of the child and at the discretion of the court upon the filing of any other petition for adoption, a copy of such petition, together with a statement containing the full names and permanent addresses of the child and the petitioners, shall be served by the court receiving the petition within five (5) days on the director of the department of health and welfare by registered mail or personal service. It shall then be the duty of the said director, through the personnel of the department or through such qualified child-placing agency incorporated under chapter 3, title 30, Idaho Code, as the director may designate, to verify the allegations of the petition, and as soon as possible not exceeding thirty (30) days after service of the petition on the director to make a thorough investigation of the matter and report his findings in writing to the court~~, and return therewith the petition, statement and all other papers, records or files relating to said adoption to the court~~. The investigative report shall include reasonably known or available medical and genetic information regarding both natural parents and sources of such information as well as reasonably known or available providers of medical care and services to the natural parents. The petition, statement and all other papers, records or files relating to the adoption shall be returned to the court with the investigative report. The department of health and welfare may require the petitioner to pay all or any part of the costs of the investigation. If the report disapproves of the adoption of the child, motion may be made to the court to dismiss the petition.

Proceedings for termination of parent-child relationship in accordance with chapter 20, title 16, Idaho Code, and proceedings for adoption may be consolidated and determined at one (1) hearing provided that all of the requirements of this chapter as well as chapter 20, title 16, Idaho Code, be fully complied with.

Approved March 23, 1988.

CHAPTER 140
(S.B. No. 1396)

AN ACT

RELATING TO LICENSING OF VEHICLE DEALERS; AMENDING SECTION 49-2409, IDAHO CODE, TO ALLOW ADDITIONAL FORMS OF SECURITY TO SATISFY BONDING REQUIREMENTS FOR LICENSURE; AND AMENDING SECTION 49-2411,

IDAHO CODE, TO PROVIDE A PROCEDURE TO SATISFY A JUDGMENT AGAINST A DEALER BY RECOVERY AGAINST A DEALER'S BOND OR OTHER SECURITY.

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

SECTION 1. That Section 49-2409, Idaho Code, be, and the same is hereby amended to read as follows:

49-2409. LICENSE BOND. (1) Before any vehicle 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 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, or odometer fraud in the conduct of the business for which he is licensed:

(~~1~~a) New vehicle dealer, twenty thousand dollars ($20,000).

(~~2~~b) Used vehicle dealer, twenty thousand dollars ($20,000).

(~~3~~c) New motorcycle or motor scooter dealer, ten thousand dollars ($10,000).

(~~4~~d) Used motorcycle or motor scooter dealer, ten thousand dollars ($10,000).

(~~5~~e) Mobile home or travel trailer dealer, twenty thousand dollars ($20,000).

(~~6~~f) Motor home dealer, twenty thousand dollars ($20,000).

(~~7~~g) 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.

(2) The bond required in this section ~~may be continuous in form and the total aggregate liability on the bond shall be limited to the payment of the amounts set forth in this section.~~ shall be in the following form:

(a) A corporate surety bond, by a surety licensed to do business in this state; or

(b) A certificate of deposit, in a form prescribed by the director; or

(c) A cash deposit with the director.

SECTION 2. 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 salespersons acting for the dealer, in his behalf, or within the scope of the employment of such

salesperson, or shall suffer any loss or damage by reason of the violation by such dealer or salesperson of any of the provisions of this act, such person shall have a right of action against such dealer and his salesperson.

(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 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 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 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.

(4) Whenever any person is awarded a final judgment in a court of competent jurisdiction in the state of Idaho for any loss or damage by reason of the violation by such dealer or salesperson of any of the provisions of this chapter, or chapter 4, title 49, Idaho Code, section 49-1128, Idaho Code, chapter 6, title 48, Idaho Code, or any rule or regulation promulgated by the department in connection with the purchase of a vehicle, or federal motor vehicle safety standards, or in connection with the purchase of a vehicle if the loss or damage is a result of odometer tampering, or odometer fraud, the judgment creditor may file a verified claim with the corporate surety who has provided the dealer's surety bond, or with the chairman of the dealer advisory board where the dealer has deposited with the director, a cash bond or certificate of deposit.

(a) The claim shall be filed no sooner than thirty (30) days and no later than one (1) year after the judgment has become final.

(b) The claim shall:

(i) Be accompanied by a certified copy of the judgment;

(ii) State the amount of the claim if different from the judgment amount; and

(iii) State that demand has been made upon the dealer for payment of the judgment, and the dealer has failed to pay the judgment in full within thirty (30) days.

(5) Where a dealer has satisfied the bonding requirement with cash or a certificate of deposit, the chairman shall make written notification to the dealer against whom the judgment was obtained, that a claim has been made. The dealer may, within ten (10) days from the date of receipt of the notice, submit written objections to the dealer advisory board as to why the judgment should not be satisfied from the cash deposit or certificate of deposit.

(6) Within sixty (60) days from the date the claim was filed with the dealer advisory board, if it has found the claimant complied with section 49-2411(4), Idaho Code, the board shall authorize the director to satisfy the judgment from the dealer's deposited funds in so far as he is able. Upon receipt of any payment, the claimant shall deliver a properly executed satisfaction of judgment or a partial satisfaction of judgment to the director. If additional claims have been filed prior to payment, or the chairman of the dealer advisory board has knowledge that additional claims are pending which may exceed the amount of the bond, the chairman may delay any payments until all claims are finalized. If the claims exceed the amount of the bond, the deposited funds shall be prorated among the claimants based on the amount of their judgments.

(7) A judgment against a dealer or salesperson for violation of the provisions of this chapter, rules and regulations of the department, the provisions of chapter 4, title 49, Idaho Code, section 49-1128, Idaho Code, chapter 6, title 49, Idaho Code, the federal motor vehicle safety standards, or odometer fraud, shall be grounds for revocation of the dealer and the salesperson's license.

(8) The Idaho transportation board is authorized to promulgate reasonable rules and regulations not inconsistent with this chapter

for the purpose of carrying out the provisions of section 49-2411, Idaho Code.

(9) Should a dealer's license be revoked, voluntarily surrendered or not renewed, leaving funds on deposit with the department, those funds shall be refunded within thirty (30) days after the expiration of a five (5) year period from the date of revocation, surrender, or nonrenewal of the license unless the dealer advisory board has been notified in writing that a claim or cause of action is pending. In that case, the refund, if any, will be made upon the resolution of the claim or claims. In no case shall the dealer advisory board, the department, the state of Idaho, or any of their employees or agents be liable to any claimant for any amounts other than the funds deposited by the dealer.

Approved March 23, 1988.

CHAPTER 141
(S.B. No. 1494)

AN ACT

RELATING TO PARI-MUTUEL RACING; AMENDING SECTION 54-2502, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 54-2509, IDAHO CODE, TO ELIMINATE REQUIRED HORSE RACING IN CONJUNCTION WITH DOG RACING; AMENDING SECTION 54-2513, IDAHO CODE, AS AMENDED BY CHAPTERS 282 AND 316, LAWS OF 1987, TO STRIKE OBSOLETE REFERENCES, TO PROVIDE FOR DISTRIBUTION OF CERTAIN RECEIPTS FROM DOG RACING, TO PROVIDE FOR THE IDAHO HORSE BREEDERS' AND OWNERS' AWARD ACCOUNT, AND TO PROVIDE FOR THE TRACK IMPROVEMENT AND INDUSTRY PROMOTION ACCOUNT; 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 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, mule racing or dog 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.

"Idaho centennial futurity" shall mean those races to be held in Idaho to promote Idaho bred horses and the centennial celebration. The races to be approved as centennial futurity races shall be those futurity and stakes races as are approved by the Idaho racing commission.

SECTION 2. That Section 54-2509, Idaho Code, be, and the same is hereby amended to read as follows:

54-2509. PENALTY FOR VIOLATIONS OF LAW -- POWER OF COMMISSION. (1) Any person holding a race meet, and any other person required by this act or the rules and regulations of the commission to be licensed, participating, directly or indirectly, in a race meet, without first being licensed by the commission, and any person violating any of the terms or provisions of this act is guilty of a misdemeanor.

(a) There shall be an absolute prohibition of the use of live lures in the state of Idaho for the training of or racing of racing dogs. Any violation of the provisions of this section shall be a felony punishable by a fine not exceeding twenty-five thousand dollars ($25,000), or by a prison term not to exceed seven (7) years, or by both such fine and imprisonment. In addition the state racing commission shall not license any breeder, trainer or kennel whose dogs have been trained or raced with the use of live lures. The racing commission shall adopt rules and regulations that will provide for the humane treatment of the dogs involved in any aspect of training for or engaging in dog racing.

~~(b) In addition to other provisions governing Idaho pari-mutuel dog racing, the racing commission shall not grant a dog racing license to any person that has not been duly licensed by the commission to conduct a mixed horse race meet with a minimum of forty (40) days of horse racing. Upon failure of the licensee to conduct the full forty (40) days of mixed horse racing in accordance with the license issued by the racing commission, the commission shall immediately suspend the dog racing license of the licensee.~~

(2) The commission shall have the power to exclude from any and all race courses in this state any person who the commission deems detrimental to the best interests of racing, or any person who violates any of the provisions of this act or any rule, regulation, or order of the commission.

(3) It shall be lawful to conduct race meets on or at a race track, or otherwise, at any time during the week.

(4) Any person maintaining a license issued by the commission, who violates the provisions of this act or the rules and regulations of the commission, may have such license suspended or revoked. In addition to such suspension or revocation the commission may levy a monetary penalty commensurate with the gravity of the offense, not to exceed two thousand five hundred dollars ($2,500). The commission, by rule and regulation shall provide a summary procedure for such determination at the track, the penalty amount for specified violations,

and shall provide for an appeal of any summary decision to the commission. All hearings before the commission as allowed by this act or the rules and regulations of the commission shall be subject to chapter 52, title 67, Idaho Code.

(5) All law enforcement officers in this state shall assist in the enforcement of this act and the rules and regulations of the commission.

SECTION 3. That Section 54-2513, Idaho Code, as amended by Chapters 282 and 316, Laws of 1987, 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 for horse races shall distribute all sums deposited in any pool as follows:

(1) Seventy-nine per cent (79%) of any win, place or show pool to the winner thereof, one per cent (1%) to the horse racing commission for deposit in the Idaho centennial futurity account, and twenty per cent (20%) to the licensee;

(2) Seventy-eight and one-quarter per cent (78.25%) of any daily double, exacta or trifecta pool to the winner thereof, one per cent (1%) to the horse racing commission for deposit in the Idaho centennial futurity account, three quarters of one per cent (.75%) to the horse racing commission for deposit in the horse racing account, and twenty per cent (20%) to the licensee;

(3) Seventy-nine per cent (79%) of any quinella pool to the winner thereof, one per cent (1%) to the horse racing commission for deposit in the Idaho centennial futurity account, and twenty per cent (20%) to the licensee.

~~[(A)--Each-licensee-conducting-the-pari-mutuel-system--shall--distribute-eighty-per-cent-(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-racing commission-in-addition-to-the-sums-provided--and--in--accordance--with subsection-(B)-or-(C)-of-this-section.]~~

~~(B)--Pursuant--to--subsection--(A)--of-this-section,-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-constituted-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)--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.~~

[(B) Each licensee conducting the pari-mutuel system for horse races shall retain twenty per cent (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 racing commission, for deposit in the racing commission account, which is

hereby created in the dedicated fund.

(2) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated, shall be paid to the Idaho state racing commission for deposit in the track distribution account, which is hereby created in the dedicated fund, for further distribution to certain Idaho horse race tracks, defined as follows:

a. recipient horse racing 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 horse racing 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 horse racing tracks shall be made monthly.

(3) One-half of one per cent (.50%) of gross daily receipts from horse races, 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 horse breed, to lawfully constituted representatives of each horse 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) Seventeen and three-quarters per cent (17.75%) of gross daily receipts from horse races 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 racing commission for deposit in the public school income fund. The licensee's percentage shall be retained by the licensee.]

~~(8)--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.~~

~~[~~(C) Each licensee conducting the pari-mutuel system for dog racing shall retain twenty and one-half per cent (20.5%) 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 racing commission, for deposit in the racing commission account.

(2) One per cent (1%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for payment to the county in which the dog racing facility is located. The board of county commissioners shall spend such revenues only for visitor promotion.

(3) One-half of one per cent (.50%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for deposit in the Idaho horse breeders' and owners' award account, which is hereby created in the dedicated fund for further distribution as follows:

a. Fifty per cent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, to the breeders of Idaho bred winners of each approved horse race in Idaho in proportion to the handle generated by each breed; and

b. Fifty per cent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, in equal amounts to the owners of Idaho bred horse race winners.

(4) During calendar years 1988, 1989 and 1990, by not later than December 15, each licensee conducting the pari-mutuel system for dog racing shall pay one hundred thousand dollars ($100,000) to the racing commission for deposit in the track improvement and industry promotion account, which is hereby created in the dedicated fund. Moneys in the account shall be distributed by the racing commission, as soon as possible after receipt, as follows:

a. The sum of fifty thousand dollars ($50,000) each year for the years 1988 and 1989 shall be paid to the Idaho horse council for the purpose of conducting an Idaho horse census and for the purpose of promoting the Idaho horse industry, subject to the approval of the Idaho racing commission.

b. The balance of all such moneys shall be paid to owners of horse racing tracks in the state of Idaho in proportion to the number of racing commission approved horse race days actually raced in the year in which the commission receives moneys at each horse race track, subject to the rules and regulations promulgated by the Idaho racing commission. Each commission approved horse race track shall receive that pro-

portion of the moneys in the track improvement and industry promotion account as is equal to that track's percentage of the total horse race track days held in Idaho during that calendar year. The moneys to be paid to each horse race track shall be used solely for the purpose of improvement, repair, maintenance and upkeep of each such horse race track, grandstands, horse buildings, barns and stalls, lighting and horse race track equipment, subject to the rules and regulations of the racing commission.

(5) Seventeen and three-quarters per cent (17.75%) of gross daily receipts from dog races 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 racing commission for deposit in the public school income fund. The licensee's percentage shall be retained by the licensee.}

(D) Moneys paid to the horse racing commission pursuant to the provisions of subsection (A) of this section, from daily double, exacta, trifecta or quinella pools shall be deposited in the Idaho centennial futurity account, which is hereby created in the dedicated fund. The account may receive gifts, donations or assignments from any other source. Moneys in the account are reserved exclusively for the payment of preliminary expenses, promotional expenses, operational expenses, and purses to conduct Idaho centennial futurity races for Idaho bred horses during this state's centennial celebration at sites licensed by the commission for that purpose. The horse racing commission shall coordinate all activities leading up to the centennial futurity races with the Idaho centennial commission. Moneys in the account are hereby appropriated to the horse racing commission for such purposes.

{(DE) Each 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.}

(EF) Following the last Idaho centennial futurity race in 1990, the moneys that have been deducted for deposit in the Idaho centennial

futurity account shall cease to be deducted for that purpose and shall be added to winner's pool for that race.

[(EG) No dog racing facility shall be granted racing dates by the Idaho state racing commission if such facility is located within one hundred (100) miles of any operating pari-mutuel horse racing facility in the state of Idaho which conducted pari-mutuel horse racing in 1986.]

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 23, 1988.

CHAPTER 142
(S.B. No. 1538)

AN ACT

APPROPRIATING MONEYS FOR DEPOSIT IN THE PUBLIC HEALTH TRUST ACCOUNT FOR FISCAL YEAR 1989; AND APPROPRIATING MONEYS FROM THE PUBLIC HEALTH TRUST ACCOUNT FOR FISCAL YEAR 1989.

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

SECTION 1. There is hereby appropriated from the listed account the following amount, to be deposited in the Public Health Trust Account for the designated program for the period July 1, 1988 through June 30, 1989:

FOR:	
Public Health District Programs	$2,609,700
FROM:	
General Account	$2,609,700

SECTION 2. There is hereby appropriated the following amount to be expended for the designated program from the listed account for the period July 1, 1988 through June 30, 1989:

FOR:	
Public Health District Programs	$2,609,700
FROM:	
Public Health Trust Account	$2,609,700

Approved March 23, 1988.

CHAPTER 143
(S.B. No. 1539)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1989; 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 Supreme Court the following amount, from the listed accounts, for the period July 1, 1988, through June 30, 1989:

FROM:

General Account	$11,427,900
Water Resources Adjudication Account	60,600
Interagency Billing and Receipts Account	81,000
TOTAL	$11,569,500

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 amount 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 the Chief Judge's 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.

Approved March 23, 1988.

CHAPTER 144
(S.B. No. 1542)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the State Board of

Education for the Idaho State School for the Deaf and the Blind the following amount, to be expended from the listed accounts for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$3,487,300
State School for the Deaf and the Blind Income Account	51,800
Federal Deaf and Blind Children Account	121,200
Interagency Billing and Receipts Account	27,400
TOTAL	$3,687,700

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 251, Laws of 1987, to be used for nonrecurring expenditures only for the period July 1, 1988, through June 30, 1989.

Approved March 23, 1988.

CHAPTER 145
(S.B. No. 1484)

AN ACT

RELATING TO THE LEGISLATIVE ACCOUNT; AMENDING SECTION 67-451, IDAHO CODE, TO INCREASE THE AMOUNT OF GENERAL ACCOUNT MONEYS TRANSFERRED TO THE LEGISLATIVE ACCOUNT.

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	$ 900,000
March 1	$ 900,000

July 1 $ 5800,000

(3) 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.

(4) 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.

Law without signature.

CHAPTER 146
(H.B. No. 386)

AN ACT

RELATING TO SPECIAL FUEL TAXES; AMENDING SECTION 63-2440, IDAHO CODE, TO LIMIT THE USE OF SPECIAL FUEL PERMITS TO MOTOR VEHICLES OVER 26,000 POUNDS; AMENDING SECTION 63-2441, IDAHO CODE, TO PROVIDE PENALTIES FOR IMPROPER USE OF SPECIAL FUEL PERMITS ON VEHICLES OF 26,000 POUNDS AND UNDER; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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~~ twenty-six thousand (~~1~~26,000) 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 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 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~~ twenty-six thousand (~~1~~26,000) 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 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 the 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 contain 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.

SECTION 2. That Section 63-2441, Idaho Code, be, and the same is hereby amended to read as follows:

63-2441. PENALTIES. It shall be unlawful for any person to consume any special fuel in the propulsion of a motor vehicle over ~~sixteen~~ twenty-six thousand (~~1~~26,000) pounds maximum gross weight on the highways of this state unless such motor vehicle displays a valid

special fuel permit issued by the commission or a valid special fuel trip permit under section 63-2440(2), Idaho Code, unless such person is exempt from such requirement under section 63-2440, Idaho Code, or other provision of state or federal law. Such unlawful operation or display of any fictitious or counterfeit special fuel permit or decal or any fictitious or counterfeit special trip permit or display of a permit issued to a person other than the owner or operator of the vehicle on which it is displayed shall be a misdemeanor and any person convicted thereof may be punished in the manner provided in section 49-147, Idaho Code.

SECTION 3. This act shall be in full force and effect on and after January 1, 1989.

Approved March 24, 1988.

CHAPTER 147
(H.B. No. 387)

AN ACT

RELATING TO STOP SIGNS AND MOTOR VEHICLES; AMENDING SECTION 49-643, IDAHO CODE, TO CLARIFY THE STATUTE BY A GRAMMATICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-643, Idaho Code, be, and the same is hereby amended to read as follows:

49-643. STOP SIGNS AND YIELD SIGNS. (1) Preferential right-of-way may be indicated by stop signs or yield signs as authorized in section 49-589, Idaho Code.

(2) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or before entering the crosswalk on the near side of the intersection, <u>or</u> at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(3) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, or before entering the crosswalk on the near side of the intersection, or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping,

the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if such a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right-of-way.

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 24, 1988.

CHAPTER 148
(H.B. No. 402)

AN ACT

RELATING TO NURSERIES AND FLORISTS; AMENDING SECTION 22-2311, IDAHO CODE, TO DELETE A REQUIREMENT FOR INSPECTION OF EACH LICENSED NURSERY AT LEAST ONCE A YEAR.

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

SECTION 1. That Section 22-2311, Idaho Code, be, and the same is hereby amended to read as follows:

22-2311. INSPECTION OF LICENSED AND UNLICENSED NURSERIES -- ADDITIONAL INSPECTIONS AND SPECIAL SERVICES -- FEES. (1) The department shall inspect each licensed nursery ~~at least once each year, and~~ as often ~~thereafter~~ as the department considers necessary to determine and control pest, disease, and noxious weed conditions.

(2) The department may make additional inspections and perform special services as needed in addition to those in paragraph (a) of this subsection including, but not limited to:

(a) Inspections for and issuance of phytosanitary certificates and other certificates required for entrance of nursery stock into other states and foreign countries;

(b) Services performed to verify compliance with import regulations of other states and foreign countries; and

(c) Observing application of pesticides, including fumigants, on nursery stock for phytosanitary purposes.

(3) The director shall maintain a schedule of fees for such additional inspections as may be required or requested.

Approved March 24, 1988.

CHAPTER 149
(H.B. No. 421)

AN ACT

RELATING TO THE DUE DATE OF CERTAIN INCOME TAX RETURNS; AMENDING SECTION 63-3032, IDAHO CODE, TO CHANGE THE DUE DATE OF INCOME TAX RETURNS FILED FOR TAXABLE PERIODS OF LESS THAN A FULL YEAR.

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

SECTION 1. That Section 63-3032, Idaho Code, be, and the same is hereby amended to read as follows:

63-3032. TIME FOR FILING INCOME TAX RETURNS. (a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

(b) In the case of a return for any period of less than one (1) year, the return shall be filed on or before the date required in this section, or on or before such date as required for such tax period by the internal revenue code, whichever is later.

Approved March 24, 1988.

CHAPTER 150
(H.B. No. 431)

AN ACT

RELATING TO INFORMATION ON EXPOSURE TO AIDS; AMENDING CHAPTER 4, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-412A, IDAHO CODE, TO PROVIDE FOR AN EDUCATIONAL PAMPHLET TO BE PRESENTED TO EACH APPLICANT FOR A MARRIAGE LICENSE TO DETERMINE THE POTENTIAL PAST EXPOSURE TO AIDS.

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

SECTION 1. That Chapter 4, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-412A, Idaho Code, and to read as follows:

32-412A. EDUCATIONAL PAMPHLET AND SELF ADMINISTERED CONFIDENTIAL RISK APPRAISAL ON POSSIBLE AIDS EXPOSURE. Before any county recorder may issue a marriage license, each male and female applicant therefor shall be provided with a confidential AIDS educational pamphlet pre-

pared by the state department of health and welfare and provided to the county recorder by the department of health and welfare. The educational pamphlet shall contain information describing how AIDS can be contracted, what some of the symptoms of the disease are, what the effects of the disease are, and what can be done to prevent exposure to the disease.

Each applicant shall certify to the county recorder that he or she has read the educational pamphlet or has had the educational pamphlet read to them.

The confidential questionnaire shall be designed so that an answer to the various questions will indicate to the marriage license applicant his or her potential past exposure to situations, conditions, or procedures that are medically known to have caused AIDS.

The questionnaire shall state that the results of the questionnaire are confidential to the applicant, but that if any of the answers indicate that he or she is in the general population at risk for developing AIDS, he or she should contact a physician, or the district health department, or the state department of health and welfare.

Approved March 24, 1988.

CHAPTER 151
(H.B. No. 433)

AN ACT

RELATING TO THE CONTROL OF VENEREAL DISEASES; AMENDING CHAPTER 6, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-608, IDAHO CODE, TO PROVIDE A FELONY PENALTY FOR TRANSFER OF BODY FLUID WHICH MAY CONTAIN THE AIDS VIRUS.

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

SECTION 1. That Chapter 6, 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 39-608, Idaho Code, and to read as follows:

39-608. TRANSFER OF BODY FLUID WHICH MAY CONTAIN THE HIV VIRUS -- PUNISHMENT -- DEFINITIONS -- DEFENSES. (1) Any person who exposes another in any manner with the intent to infect or, knowing that he or she is or has been afflicted with acquired immunodeficiency syndrome (AIDS), AIDS related complexes (ARC), or other manifestations of human immunodeficiency virus (HIV) infection, transfers or attempts to transfer any of his or her body fluid, body tissue or organs to another person is guilty of a felony and shall be punished by imprisonment in the state prison for a period not to exceed fifteen (15) years, by fine not in excess of five thousand dollars ($5,000), or by both such imprisonment and fine.

(2) Definitions. As used in this section:
(a) "Body fluid" means semen (irrespective of the presence of spermatozoa), blood, saliva, vaginal secretion, breast milk, and urine.
(b) "Transfer" means engaging in sexual activity by genital-genital contact, oral-genital contact, anal-genital contact; or permitting the use of a hypodermic syringe, needle, or similar device without sterilization; or giving, whether or not for value, blood, semen, body tissue, or organs to a person, blood bank, hospital, or other medical care facility for purposes of transfer to another person.
(3) Defenses:
(a) Consent. It is an affirmative defense that the sexual activity took place between consenting adults after full disclosure by the accused of the risk of such activity.
(b) Medical advice. It is an affirmative defense that the transfer of body fluid, body tissue, or organs occurred after advice from a licensed physician that the accused was noninfectious.

Approved March 24, 1988.

CHAPTER 152
(H.B. No. 446)

AN ACT
RELATING TO WATER RIGHTS; AMENDING SECTION 42-245, IDAHO CODE, TO PROVIDE THAT A WATER RIGHT SHALL NOT BE CONCLUSIVELY DEEMED WAIVED AND RELINQUISHED FOR FAILURE TO FILE A CLAIM UNDER SECTION 42-243, IDAHO CODE, IF A CLAIM TO THE RIGHT IS FILED BY JUNE 30, 1990, IN A GENERAL WATER RIGHTS ADJUDICATION PROCEEDING COMMENCED PRIOR TO JUNE 30, 1988, UNDER THE PROVISIONS OF CHAPTER 14, TITLE 42, IDAHO CODE.

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

SECTION 1. That Section 42-245, Idaho Code, be, and the same is hereby amended to read as follows:

42-245. FAILURE TO FILE CLAIM WAIVES AND RELINQUISHES RIGHT. Any person claiming the right to divert or withdraw and use waters of the state who fails to file a claim as provided in section 42-243, Idaho Code, shall be conclusively deemed to have waived and relinquished any right, title or interest in said right.

The provisions of this section shall not apply if a claim to the right is filed by June 30, 1990, in a general water rights adjudication proceeding commenced prior to June 30, 1988, under the provisions of chapter 14, title 42, Idaho Code.

Approved March 24, 1988.

CHAPTER 153
(H.B. No. 447)

AN ACT

RELATING TO A WATER RIGHT; AMENDING SECTION 42-222, IDAHO CODE, TO FURTHER PROVIDE NONFORFEITURE OF WATER RIGHTS WHEN LANDS HAVE BEEN PLACED IN A FEDERAL CROPLAND SET-ASIDE PROGRAM, AND TO CORRECT A CODE CITATION.

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

SECTION 1. That Section 42-222, Idaho Code, be, and the same is hereby amended to read as follows:

42-222. CHANGE IN POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE, OR NATURE OF USE OF WATER UNDER ESTABLISHED RIGHTS -- FORFEITURE AND EXTENSION -- APPEALS. (1) Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. Such application shall be upon forms furnished by the department and shall describe the right licensed, claimed or decreed which is to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee as in this chapter provided. Upon receipt of such application it shall be the duty of the director of the department of water resources to examine same, obtain any consent required by section 42-108, Idaho Code, and if otherwise proper to provide notice of the proposed change in the same manner as applications under section 42-203A, Idaho Code. Such notice shall advise that anyone who desires to protest the proposed change shall file notice of protests with the department within ten (10) days of the last date of publication. Upon the receipt of any protest it shall be the duty of the director of the department of water resources to investigate the same and to conduct a hearing thereon. He shall also advise the watermaster of the district in which such water is used of the proposed change and the watermaster shall notify the director of the department of water resources of his recommendation on the application, and the director of the department of water resources shall not finally determine the action on the application for change until he has received from such watermaster his recommendation thereof, which action of the watermaster shall be received and considered as other evidence.

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in section 42-203A, Idaho Code;

except the director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area. The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby. A copy of the approved application for change shall be returned to the applicant and he shall be authorized upon receipt thereof to make the change and the original water right shall be presumed to have been amended by reason of such authorized change. In the event the director of the department of water resources determines that a proposed change shall not be approved as provided in this section, he shall deny the same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that all water rights appurtenant to land contracted in a federal cropland set-aside program, shall not be lost and forfeited for nonuse during the contracted period. The five (5) year period of nonuse for forfeiture of a water right shall begin to accrue upon termination of the contract if a period of nonuse did not occur prior to the effective date of the contract or shall continue to accrue if a period of nonuse occurred prior to the effective date of the contract. ~~Provided, further, that~~ Upon proper showing before the director of the department of water resources of good and sufficient reason for nonapplication to beneficial use of such water for such term of five (5) years, the director of the department of water resources is hereby authorized to grant an extension of time extending the time for forfeiture of title for nonuse thereof, to such waters for a period of not to exceed five (5) additional years. Application for an extension shall be made before the end of the five (5) year period upon forms to be furnished by the department of water resources and shall fully describe the right on which an extension of time to resume the use is requested and the reasons for such nonuse and shall be accompanied by the statutory filing fee; provided that water rights appurtenant to land contracted in a federal cropland set-aside program are exempt from this requirement. Upon the receipt of such application it shall be the duty of the director of the department of water resources to examine the same and to provide notice of the application for an extension in the same manner as applications under section 42-203A, Idaho Code. The notice shall fully describe the right, the extension for which is requested and the reason for such nonuse and shall state that any person desiring to object to the requested extension may submit a protest to the director of the department of water resources within ten (10) days of the last date of publication. Upon receipt of a protest it shall be the duty of the director of the department of water resources to investigate and conduct hearing thereon as in this chapter provided. The director of the department of water resources

shall find from the evidence presented in any hearing, or from information available to the department, the reasons for such nonuse of water and where it appears to the satisfaction of the director of the department of water resources that other rights will not be impaired by granting an extension of time within which to resume the use of the water and good cause appearing for such nonuse, he may grant one (1) extension of five (5) years within which to resume such use. In his approval of the application for an extension of time under this section the director of the department of water resources shall set the date when the use of water is to be resumed. Sixty (60) days before such date the director of the department of water resources shall forward to the applicant at his address of record a notice by certified mail setting forth the date on which the use of water is to be resumed and a form for reporting the resumption of the use of the water right. If the use of the water has not been resumed and report thereon made on or before the date set for resumption of use such right shall revert to the state and again be subject to appropriation, as provided in this section. In the event the director of the department of water resources determines that a proposed extension of time within which to resume use of a water right shall not be approved as provided in this section he shall deny same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(3) Any person or persons feeling themselves aggrieved by the determination of the department of water resources in approving or rejecting an application to change the point of diversion, place, period of use or nature of use of water under an established right or an application for an extension of time within which to resume the use of water as provided in this section, may, if a protest was filed and a hearing held thereon, seek judicial review pursuant to section 42-1701A(4), Idaho Code. If no protest was filed and no hearing held, the applicant may request a hearing pursuant to section 42-1701A(3), Idaho Code, for the purpose of contesting the action of the director and may seek judicial review of the final order of the director following the hearing pursuant to section 42-1701A(4), Idaho Code.

Approved March 24, 1988.

CHAPTER 154
(H.B. No. 457)

AN ACT

RELATING TO THE IDAHO DEPARTMENT OF ADMINISTRATION PURCHASING APPEALS PROCEDURES; AMENDING SECTION 67-5733, IDAHO CODE, TO CLARIFY THE PROCEDURES FOR CHALLENGE OF SPECIFICATIONS, ALLOWING THE ADMINISTRATOR OF THE DIVISON OF PURCHASING TO DISMISS A CHALLENGE TO A SPECIFICATION DOCUMENT, ALLOWING THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION TO APPOINT A DETERMINATIONS OFFICER TO REVIEW CHALLENGED SPECIFICATIONS, AND ALLOWING THE DIRECTOR OF THE DEPARTMENT

OF ADMINISTRATION TO DENY AN APPEAL FROM A BIDDER WHOSE BID HAS BEEN REJECTED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5733, Idaho Code, be, and the same is hereby amended to read as follows:

67-5733. ADMINISTRATIVE APPEALS. (1) (a) There shall be, beginning with the day of receipt of notice, a period of not more than ten (10) working days in which any vendor, registered as able to sell or supply the items to be acquired, may notify in writing the administrator of the division of purchasing of his intention to challenge the specifications and ~~briefly explain the nature of his challenge. Such vendor shall issue a specific challenge to the specifications within not more than ten (10) additional working days. The specific challenge shall describe the location of the challenged portion or clause in the specification document, unless the challenge concerns an omission, explain why any provision should be struck, added or altered, and contain suggested corrections. All registered vendors who were invited to bid on the property sought to be acquired shall be sent a copy of both the notice to challenge and the specific challenge and may indicate in writing their agreement or disagreement with the challenge within five (5) days. Any registered vendor may note his agreement or disagreement with the challenge.~~

~~Upon receipt of the challenges and responses the administrator of the division of purchasing shall make the corrections suggested or he shall present the matter to the director of the department of administration for the appointment of a determinations officer. The determinations officer, after hearing, if requested in writing by a registered vendor capable of supplying the property or on his own motion, shall refer the challenged portion and any related portions to the author of the specification to be rewritten with the advice and comments of the registered vendors capable of supplying the property and/or reject all or any part of any challenge. If specifications are to be rewritten, the matter shall be continued until the officer makes a final determination of the acceptability of the revised specifications.~~

~~The administrator shall reset the bid opening no later than thirty (30) days after a final determination of challenges or the amendment of specifications~~ shall specifically state the exact nature of his challenge. The specific challenge shall describe the location of the challenged portion or clause in the specification document, unless the challenge concerns an omission, explain why any provision should be struck, added or altered, and contain suggested corrections.

Upon receipt of the challenge, the administrator of the division of purchasing shall either deny the challenge, and such denial shall be considered the final agency decision, or he shall present the matter to the director of the department of administration for appointment of a determinations officer. If the director of the department of administration appoints a determinations officer, then all registered vendors who are invited to bid on the property sought to be acquired,

shall be sent a copy of both the notice to challenge and the appointment of determinations officer and may indicate in writing their agreement or disagreement with the challenge within five (5) days. Any registered vendor may note his agreement or disagreement with the challenge. The determinations officer may, on his own motion, refer the challenge portion and any related portions of the challenge to the author of the specification to be rewritten with the advice and comments of the registered vendors capable of supplying the property; rewrite the specification himself and/or reject all or any part of any challenge. If specifications are to be rewritten, the matter shall be continued until the determinations officer makes a final determination of the acceptability of the revised specifications.

The administrator shall reset the bid opening no later than fifteen (15) days after final determination of challenges or the amendment of the specifications. If the administrator denies the challenge, then the bid opening date shall not be reset.

The final decision of the determinations officer or administrator on the challenge to specifications shall not be considered a contested case within the meaning of the administrative procedure act; provided that a vendor disagreeing with specifications may include such disagreement as a reason for asking for appointment of a determinations officer pursuant to section 67-5733(1)(c), Idaho Code.

(b) There shall be, beginning with the day of receipt of notice of rejection, a period of five (5) working days in which a bidder whose bid was rejected may appeal such rejection to ~~a--determinations officer~~ the director of the department of administration. A rejected bidder within the meaning of this act is a bidder whose bid is not considered for any reason and shall not apply to a vendor whose bid is considered but who is determined not to be the lowest responsible bidder as defined in this act. The director shall either appoint a determinations officer to hear the appeal and shall upon receipt of a written recommendation from the determinations officer, sustain, modify or reverse the administrator's decision not to consider a bid; or deny the appeal and such denial shall be the final agency decision.

(c) A vendor whose bid is considered may, within five (5) working days following receipt of notice that he is not the lowest responsible bidder, apply to the director of the department of administration for appointment of a determinations officer. The application shall set forth in specific terms the reasons why the administrator's decision is thought to be erroneous. Upon receipt of the application, the director shall within three (3) working days:

(i) Deny the application, and such denial shall be considered the final agency decision; or

(ii) Appoint a determinations officer to review the record to determine whether the administrator's selection of the lowest responsible bidder is correct; or

(iii) Appoint a determinations officer with authority to conduct an adversary hearing within the context of the administrative procedure act.

A determinations officer appointed pursuant to section 67-5733(1)(c)(ii), Idaho Code, shall inform the director by written recommendation whether, in his opinion, the administrator's selection

of the lowest responsible bidder is correct. The determinations officer in making this recommendation may rely on the documents of record, statements of employees of the state of Idaho participating in any phase of the selection process, and statements of any vendor submitting a bid. An adversary hearing shall not be allowed and the determinations officer shall not be required to solicit statements from any person. Upon receipt of the recommendation from the determinations officer, the director shall sustain, modify or reverse the decision of the administrator on the selection of the lowest responsible bidder or the director may appoint a determinations officer pursuant to section 67-5733(1)(c)(iii), Idaho Code.

A determinations officer appointed pursuant to section 67-5733(1)(c)(iii), Idaho Code, shall prepare findings of fact and conclusions of law for the director of the department of administration. Upon receipt of the findings of fact and conclusions of law, the director shall sustain, modify or reverse the decision of the administrator on the selection of the lowest responsible bidder.

(d) In the case of a sole source procurement, there shall be a period of not more than five (5) working days from the last date of public notice in which any vendor, able to sell or supply the item(s) to be acquired, may notify the administrator of the division of purchasing, in writing, of his intention to challenge the sole source procurement and briefly explain the nature of the challenge.

Upon receipt of the challenge, the director shall appoint a determinations officer to hear the challenge and, upon receipt of the written recommendation of the determinations officer, sustain, modify or reverse the approval for the sole source procurement. If unregistered, the vendor issuing the challenge shall be required to register as a vendor to the state.

(e) The administrator of the division of purchasing may, on his own initiative, file a complaint with the director for a hearing before a determinations officer. The director shall appoint a determinations officer who shall make written recommendations to the director and the director shall render whatever decision is necessary to resolve the complaint.

(2) The director of the department of administration is hereby authorized and directed to appoint a determinations officer whenever one is required by this act. The officer shall meet and render whatever determination is called for. When a complaint is filed pursuant to section 67-5733(1)(b), Idaho Code, no bid may be awarded until the final decision is rendered by the director of the department of administration; provided that in all other cases where a determinations officer is appointed by the director, the director shall have the power to allow the acquisition contract to be awarded to the successful bidder prior to or after the decision of the determinations officer if he determines such award to be in the best interest of the state. Any determinations officer appointed pursuant to this act shall exist only for the duration of unresolved complaints on an acquisition and shall be dismissed upon resolution of all such complaints. The determinations officer shall be guided in his determination by the best economic interests of the state for both the near future and more extended periods of time. In addition to the powers conferred on the

determinations officer, the director of the department of administration may: impose the penalty prescribed by section 67-5734(3), Idaho Code; enjoin any activity which violates this act; direct that bids be rejected, or sustained; direct that specifications be rejected, sustained or modified; and direct further legal action.

(3) A challenge filed pursuant to section 67-5733(1)(a), Idaho Code, shall not be considered to be a contested case as that term is defined in the administrative procedure act, provided that all other final decisions rendered by the director of the department of administration pursuant to section 67-5733, Idaho Code, shall be considered to be contested cases as that term is defined in the administrative procedure 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.

Approved March 24, 1988.

CHAPTER 155
(H.B. No. 453)

AN ACT

RELATING TO MEDICAL ASSISTANCE; AMENDING SECTION 56-101, IDAHO CODE, TO PROVIDE AN ADDITIONAL DEFINITION FOR "FACILITY"; AMENDING CHAPTER 1, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-114, IDAHO CODE, TO PROVIDE FOR PAYMENTS TO FREE STANDING SPECIAL CARE FACILITIES; AND AMENDING SECTION 56-131, IDAHO CODE, TO STRIKE OBSOLETE PROVISIONS, AND TO PROVIDE PROPER REFERENCES.

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

4. "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.

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

(10) "Interest rate limitation" means that the interest rate allowed for working capital loans and for loans for major movable equipment for intermediate care facilities for the mentally retarded shall be the prime rate as established by the Bank of America Corpora-

tion, San Francisco, California, plus one percent (1%) at the date the loan is made. All interest expense greater than the amount derived by using the limitation above shall be nonreimbursable; provided, however, that this interest rate limitations shall not be imposed against loans or leases which were made prior to July 1, 1984. Said loans or leases being subject to the tests of reasonableness, relationship to patient care and necessity.

(11) "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.

(12) "Major movable equipment" means such items as accounting machines, beds, wheelchairs, desks, furniture, vehicles, 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.

(17) "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.

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

(20) "Utilities" shall mean all expenses for heat, electricity, water and sewer. Utilities shall be exempt from the percentile cap.

SECTION 2. 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 56-114, Idaho Code, and to read as follows:

56-114. NEW FREE-STANDING SPECIAL CARE FACILITIES. For the first fiscal year of a free-standing special care facility established on or after January 1, 1989, 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. Thereafter, such determination for such facility shall be done in substantially the manner required in sections 56-110, 56-112 and 56-113, Idaho Code.

SECTION 3. That Section 56-131, Idaho Code, be, and the same is hereby amended to read as follows:

56-131. MULTIPLE-USE PLANS. ~~Not--later--than-November-30,-1981,~~ ~~t~~The director shall promulgate such rules~~,-to-be-effective-January--1,~~ ~~1982~~, as he deems advisable to enable and encourage ~~existing~~ facilities to adopt plans for offering additional services or programs within their institutions which will promote appropriate levels of care for recipients residing in their service areas and, as a result, achieve cost savings for the medicaid program. In developing such rules, the director shall consult with representatives of free-standing skilled care, free-standing intermediate care, free standing special care, and hospital-based facilities.

Approved March 24, 1988.

CHAPTER 156
(H.B. No. 485)

AN ACT

RELATING TO WINE TAXES; AMENDING SECTION 23-1319, IDAHO CODE, TO REPEAL THE LOWER TAX RATE APPLIED TO WINE PRODUCED IN IDAHO.

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

SECTION 1. That Section 23-1319, Idaho Code, be, and the same is hereby amended to read as follows:

23-1319. EXCISE TAX -- SALES INCLUDED -- REFUND FOR EXPORT SALES -- REFUND FOR BREAKAGE OR SPOILAGE -- DISTRIBUTION OF REVENUE. Upon all wines sold by a distributor or winery to a retailer or consumer for use within the state of Idaho pursuant to this act there is hereby imposed an excise tax of forty-five cents (45¢) per gallon ~~on all wines produced outside the state of Idaho, and there is hereby imposed an excise tax of twenty cents (20¢) per gallon on all wines produced inside the state of Idaho~~. Sales of wine by a distributor or winery for the purpose of and resulting in export of wine from this state for resale outside this state shall be exempt from the taxes on wine imposed by this chapter.

(a) Every sale of wine by a distributor to a retailer shall constitute a sale of wine for resale or consumption in this state, whether the sale is made within or without this state, and the distributor shall be liable for the payment of taxes. In every transfer of wine by a licensed winery to its licensed retail outlet, the winery shall be liable for payment of taxes.

(b) When wine has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes prior to payment of taxes on it, the distributor, upon satisfactory proof of destruction or spoilage, shall be entitled to deduct from existing inventories, subject to tax, the amount of wine so destroyed or spoiled.

(c) If the tax commission determines that any amount due under this chapter has been paid more than once or has been erroneously or illegally collected or computed, the commission shall set forth that fact in its records and the excess amount paid or collected may be credited on any amount then due and payable to the commission from that person and any balance refunded to the person by whom it was paid or to his successors, administrators or executors. The commission is authorized and the state board of tax appeals is authorized to order the commission in proper cases to credit or refund such amounts whether or not the payments have been made under protest and certify the refund to the state board of examiners.

(d) No credit or refund shall be allowed or made after three (3) years from the time the payment was made, unless before the expiration of that period a claim is filed by the taxpayer. The three (3) year period allowed by this subsection for making refunds or credit claims shall not apply in cases where the tax commission asserts a deficiency of tax imposed by law, and taxpayers desiring to appeal or otherwise seek a refund of amounts paid in obedience to deficiencies must do so within the time limits elsewhere prescribed by law.

(e) All revenue received pursuant to this chapter shall be distributed as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims as authorized in subsection (c) of this section and those moneys are continuously appropriated.

(2) The balance remaining after distributing the amount in paragraph (1) of this subsection shall be distributed as follows:

(a) Twelve percent (12%) shall be distributed to the alcoholism treatment account; and

(b) The remainder shall be distributed to the general account.

Approved March 24, 1988.

CHAPTER 157
(H.B. No. 486)

AN ACT

RELATING TO THE OCCASIONAL SALES EXEMPTION FROM SALES TAX; REPEALING SECTION 63-3612A, IDAHO CODE; AND AMENDING SECTION 63-3622K, IDAHO CODE, TO CONSOLIDATE THE PROVISIONS RELATING TO THE OCCASIONAL SALES EXEMPTION, AND TO EXCLUDE FROM THE EXEMPTION CERTAIN TRANSFERS OF MOTOR VEHICLES.

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

SECTION 1. That Section 63-3612A, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 63-3622K, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622K. OCCASIONAL SALES. (a) There are exempted from the taxes imposed by this chapter occasional sales of tangible personal property~~;--including-sales-of-animals-by-any-4-H-Club-or-FFA-Club--held in-conjunction-with-a-fair-or-the-western-Idaho-spring-lamb-sale;-providing;-however;-that-this-exemption-shall-not-apply-to-the-sale;-purchase;--or-use-of-self-propelled-motor-vehicles-unless-they-are-transferred--in--a--transaction--falling--within--the--scope---of---section 63-3612A(b),--Idaho--Code;--a-change-in-the-form-of-doing-business;-or section-63-3612A(c),-Idaho-Code;-the-sale-of-a-going-business;-or-section-63-3612A(f),-Idaho-Code;-the-sale-of-motor-vehicles-between--family-members.~~

(b) As used in this section, the term "occasional sale" means:

(1) A sale of property not held or used by a person in the course of an activity for which he is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number or of such a nature as to constitute the seller a "retailer" under section 63-3610(c), Idaho Code.

(2) Any transfer of all or substantially all of the property held or used by a person in a business requiring a seller's permit when, after such transfer, the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purpose of this section, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having a "real or ultimate ownership" of the property of such corporation or other entity.

(3) The sale of substantially all of the operating assets of a business or of a separate division, branch, or identifiable segment to a buyer who continues operation of the business. For the purpose of this subsection, a "separate division, branch, or identifiable segment" shall be deemed to exist if, prior to its sale, the income and expense attributable to such "separate division, branch, or identifiable segment" could be separately ascertained from the books of accounts and records.

(4) Sales by persons who are not defined as "retailers" in section 63-3610, Idaho Code.

(5) Sales of animals by any 4-H club or FFA club held in conjunction with a fair or the western Idaho spring lamb sale.

(c) As used in this section, the term "occasional sale", when applied to the sale of a self-propelled motor vehicle, means only:

(1) Sales of motor vehicles between members of a family related within the second degree of consanguinity, unless a sales or use tax was not imposed on the sale of that motor vehicle at the time of purchase, in which situation the sale is taxable.

(2) Sales of motor vehicles that fall within the scope of the transactions detailed in subsection (b) (2) or (3).

Approved March 24, 1988.

CHAPTER 158
(H.B. No. 505)

AN ACT

RELATING TO CREDIT UNIONS; AMENDING SECTION 26-2115, IDAHO CODE, TO PROVIDE FOR A CHANGE IN THE TITLES OF OFFICERS AND DIRECTORS OF A CREDIT UNION AND TO PROVIDE THEIR DUTIES; AMENDING SECTION 26-2142, IDAHO CODE, TO PROVIDE FOR THE SEQUENCE OF DISTRIBUTION OF ASSETS UPON LIQUIDATION OF A CREDIT UNION; AMENDING SECTION 26-2155, IDAHO CODE, TO PROVIDE THAT IN NO CASE SHALL THE DEPOSIT OF STATE FUNDS IN ANY CREDIT UNION EXCEED AT ANY ONE TIME THE TOTAL OF THE RESERVES AND UNDIVIDED EARNINGS OF THE CREDIT UNION OR THE TOTAL SUM COVERED BY SHARE AND DEPOSIT INSURANCE PROVIDED BY CERTAIN GUARANTEE OR DEPOSIT INSURANCE ORGANIZATIONS; AND AMENDING SECTION 26-2178, IDAHO CODE, TO PROVIDE FOR A CHANGE IN THE NAMES OF OFFICERS OF IDAHO CORPORATE CREDIT UNIONS.

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

SECTION 1. That Section 26-2115, Idaho Code, be, and the same is hereby amended to read as follows:

26-2115. OFFICERS. (1) Within ten (10) days following the organizational meeting and each annual meeting, the directors shall elect from their own number a ~~president~~ chairman of the board, one (1) or more vice-~~presidents~~ chairmen, ~~a treasurer,~~ and a secretary~~, of whom~~

~~the last two (2) may be the same individual. An assistant treasurer may be appointed by the board of directors from the membership.~~ They shall also elect any other officers that are specified in the bylaws.

(2) The terms of the officers shall be one (1) year, or until their successors are chosen and have been duly qualified. The ~~president~~ chairman and secretary shall execute a certificate of election, on a form approved by the department of finance, which shall set forth the names and addresses of the officers, directors, and committee members elected or appointed. One (1) copy of the certificate of election shall be filed with the department of finance within ten (10) days after such election or appointment.

~~The certificate of election shall be executed on a form approved by the department of finance and one (1) copy of each shall be filed with the department of finance within ten (10) days after such election or appointment.~~

(3) The ~~terms~~ duties of the officers and committees shall be ~~for such terms respectively as the bylaws provide, and until their successors are chosen and have been duly qualified~~ prescribed in the bylaws.

(4) The board of directors shall appoint a president to act as the chief executive officer of the credit union and be in active charge of its operations.

(5) Notwithstanding any other provision of this chapter, a credit union may use any titles it chooses for the officials holding the positions described in this section, as long as such titles are not misleading.

SECTION 2. That Section 26-2142, Idaho Code, be, and the same is hereby amended to read as follows:

26-2142. VOLUNTARY AND/OR INVOLUNTARY LIQUIDATION. (a) A credit union may elect to dissolve voluntarily and wind up its affairs in the following manner: The board shall adopt a resolution recommending that the credit union be dissolved voluntarily and directing that the question of dissolution be submitted to a regular or special meeting of the members. After the adoption of the resolution to voluntarily dissolve, no receipts shall be accepted nor withdrawals permitted from its share or deposit accounts, nor shall any loans be made nor any dividends declared nor paid pending final determination by its membership on the voluntary dissolution. At a meeting especially called to consider the matter, a majority of the entire membership may vote to dissolve the credit union, provided a copy was mailed to the members of the credit union at least ten (10) days prior thereto. Any member not present at such meeting may, within the next twenty (20) days vote in favor of or may oppose dissolution by signing a statement in form approved by the department of finance and such vote shall have the force and effect as if cast at such meeting. The credit union shall thereupon immediately cease to do business except for the purposes of liquidation, and the president and secretary shall within five (5) days following such meeting notify the department of finance of intention to liquidate and shall include a list of the names of the directors and officers of the credit union together with their addresses.

(b) If the department of finance, after issuing notice of suspen-

sion and providing opportunity for a hearing, rejects the credit union's plan to continue operations, the department of finance may issue a notice of involuntary liquidation and appoint a liquidating agent. The credit union may request a stay of execution of such action by appealing to the appropriate court of the jurisdiction in which the credit union is located. Involuntary liquidation may not be ordered prior to following the suspension procedures outlined in this chapter.

(c) The credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business, and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted. The board, or in the case of involuntary dissolution, the liquidating agent, shall ~~use~~ apply and distribute the assets of the credit union ~~to--pay:--first,--expenses incidental--to--liquidation--including--a--surety--bond--that-shall-be required;-second,-any-liability-due-nonmembers;-third,-preferred-obligations.--Assets-then-remaining-shall-be-distributed--to--the--members proportionately--to-the-shares-held-by-each-member-as-of-the-date-dissolution-was-voted.~~ or the proceeds from any disposition of the assets of the credit union in the following sequence:

(1) secured creditors up to the value of their collateral;

(2) costs and expenses of liquidation, including a surety bond that shall be required;

(3) wages due the employees of the credit union;

(4) costs and expenses incurred by creditors in successfully opposing the release of the credit union from certain debts as allowed by the department of finance;

(5) taxes owed to the United States or any other governmental unit;

(6) debts owed to the United States;

(7) general creditors, secured creditors to the extent their claims exceed the value of their collateral and owners of deposit accounts to the extent such accounts are uninsured; and

(8) members, to the extent of uninsured share accounts and the organization that insured the accounts of the credit union.

As soon as the board or the liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, the director shall execute a certificate of dissolution. The credit union shall be subject to examination by and reporting to the department of finance to determine that all procedures have been observed as required by this chapter, and shall pay such examination fees as are determined by the department of finance in accordance with its schedules.

(d) If the credit union shall not be completely liquidated and its assets discharged within three (3) years after the special meeting of the members, the director may take possession of the books, records and assets and proceed to complete liquidation. If the director determines after one (1) year from the commencement of liquidation proceedings that the liquidation is not proceeding in a reasonable and expeditious manner under all of the circumstances, he may take posses-

sion of the books, records, and assets and appoint a liquidating agent who shall give a bond to complete the liquidation.

(e) Liquidation through the stabilization fund may be utilized after meeting the requirements of this section. The procedure of liquidation shall be as outlined in the practice and procedure policies as adopted by the Idaho credit union league stabilization fund and approved by the director of finance.

SECTION 3. That Section 26-2155, Idaho Code, be, and the same is hereby amended to read as follows:

26-2155. DESIGNATION OF DEPOSITORY -- REPORTING OF RESERVES AND UNDIVIDED EARNINGS. (1) The state treasurer shall designate credit unions qualified under this chapter as a state depository or depositories. Such designation shall be determined by competitive bidding or by other means generally accepted as standard business practice. In no case shall the deposit or deposits of state funds in the account of any public entity in any ~~state depository above the total covered by federal insurance~~ credit union exceed at any one time, ~~in the aggregate,~~ the total of the reserves and undivided earnings of such credit union or the total sum covered by share and deposit insurance provided by either the national credit union share insurance fund or by a deposit guarantee corporation authorized to issue share and deposit insurance contracts in this state, whichever sum shall be less. In the event that any credit union has been designated as a depository under this chapter, such designation shall continue in force until revoked by the treasurer.

(2) Every credit union designated as a state depository and holding any deposit of the funds of the state of Idaho under the provisions of this section shall, on or before beginning to hold such deposits, file with the state treasurer the affidavit of one (1) of its officers showing the amount of the reserves and undivided earnings of such credit union. Such affidavits shall be effective for the purposes of this section, to and including January 31 next following the date of their filing but no longer, and, on or before that date, if such credit union is to continue as a designated state depository under this section, a like affidavit shall be filed in like manner for the succeeding year. No such credit union shall receive deposits from nor act as depository for the funds of the state of Idaho unless and until an affidavit as is herein required and which still continues in effect is on file with the state treasurer in accordance with this section.

(3) The state treasurer is authorized in his or her discretion and from time to time to negotiate for the payment to designated state depositories of reasonable compensation for services rendered in acting as such depositors. The method and/or rate of such compensation and the terms and conditions thereof shall be fixed by the state treasurer after such negotiation, which may include the calling of bids for specific services. All bids received, whether by a formal bidding process or by negotiation, and the compensation fixed by the treasurer, which shall be in the form of a written agreement, shall be a matter of public record.

SECTION 4. That Section 26-2178, Idaho Code, be, and the same is hereby amended to read as follows:

26-2178. OFFICERS -- IDAHO CORPORATE CREDIT UNION. Within sixty (60) days following the organizational meeting and at each annual meeting, the directors shall elect from their own number a ~~president~~ chairman, one (1) or more vice- ~~presidents~~ chairmen, a treasurer and a secretary, of whom the last two (2) may be the same individual. An assistant treasurer may be appointed by the board of directors. The ~~president~~ chairman and secretary shall execute a certificate of election which shall set forth the names and addresses of the officers, directors and members elected or appointed. The certificate of election shall be executed on a form approved by the department of finance and one (1) copy of each shall be filed with the department of finance within ten (10) days after such election or appointment. The terms of the officers shall be for such terms respectively as the bylaws provide, and until their successors are chosen and have been duly qualified.

Approved March 24, 1988.

CHAPTER 159
(H.B. No. 511)

AN ACT

RELATING TO THE REIMBURSEMENT FOR DRIVER EDUCATION PROGRAMS; AMENDING SECTION 33-1707, IDAHO CODE, BY INCREASING THE AUTHORIZED REIMBURSEMENT FOR EACH STUDENT WHO HAS SUCCESSFULLY COMPLETED THE PROGRAM.

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 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 ~~ninety-three~~ one hundred dollars ($~~93.00~~100), 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

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 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 24, 1988.

CHAPTER 160
(H.B. No. 523)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING CHAPTER 3, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-318A, IDAHO CODE, TO ALLOW AN IRRIGATION DISTRICT TO TRADE-IN OR EXCHANGE PERSONAL PROPERTY OF THE DISTRICT.

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

SECTION 1. 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 43-318A, Idaho Code, and to read as follows:

43-318A. TRADE-IN OR EXCHANGE OF DISTRICT PROPERTY. Whenever the board of directors of an irrigation district finds and by resolution declares that the district no longer has use for any personal property of the district, or finds and declares that such property is no longer economical to use, the district may, in lieu of the sale of said property as provided in section 43-318, Idaho Code, dispose of the property by exchanging the same in part payment for new or replacement property.

If the acquisition of the new or replacement property is required to be let to bid under the provisions of section 43-901, Idaho Code, the district shall include in its request for bids, a full description of the property to be exchanged as part payment, and shall permit any interested bidder to examine the same, and any contract let as a result of said bid shall be awarded on the basis of net cost to the district after allowance for the property to be exchanged in part payment.

Exchange of property will be permitted only when, in the opinion

of the board of directors of the district, the sale of the property under the provisions of section 43-318, Idaho Code, will yield a lesser monetary return to the district than the exchange thereof as herein provided.

Approved March 24, 1988.

CHAPTER 161
(H.B. No. 524)

AN ACT

RELATING TO BUTTER; AMENDING SECTION 37-332, IDAHO CODE, TO DEFINE WHEY BUTTER AND WHEY CREAM BUTTER AND TO INCLUDE THE DEFINITION WITHIN THE DEFINITION OF BUTTER; AND AMENDING SECTION 37-332a, IDAHO CODE, TO PROVIDE FOR GRADE DESIGNATIONS ON CONTAINERS OF BUTTER.

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

SECTION 1. That Section 37-332, Idaho Code, be, and the same is hereby amended to read as follows:

37-332. BUTTER AND WHEY BUTTER -- DEFINITIONS AND QUALITY~~IES~~. Butter is the product made by gathering the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of other milk constituents, with or without salt or a harmless coloring matter. Butter shall be clean and non-rancid and shall contain not less than eighty per cent (80%) of butter fat. Whey butter or whey cream butter is the food product made by gathering the fat of fresh or ripened whey cream separated from cheese whey and formed into a mass, which also contains a small portion of other milk constituents, with or without salt or a harmless coloring matter. Whey butter shall be clean and nonrancid and shall contain not less than eighty per cent (80%) butter fat. The term butter includes whey butter and whey cream butter.

SECTION 2. That Section 37-332a, Idaho Code, be, and the same is hereby amended to read as follows:

37-332a. BUTTER GRADES. The official state consumer grades for butter sold or distributed within this state shall be "grade AA," "grade A," "grade B" and "undergrade". "Grade AA" butter is butter scoring not less than 93. "Grade A" butter is butter scoring 92. "Grade B" butter is butter scoring 90 or 91. "Undergrade" butter is butter scoring less than 90. United States AA, A, and B grades and emblems of butter shall be accepted in lieu of the corresponding Idaho AA, A, and B grades and emblems of butter, but all United States grades of butter below B shall, for the purpose of this section, correspond to Idaho "undergrade" butter. It is hereby declared to be

unlawful to sell, or offer for sale any butter within the state of Idaho unless the wrappers and containers in which said butter is packaged are conspicuously labeled as ~~herein-provided~~ to grades. Any butter that scores less than 90 and is sold or offered for sale within the state of Idaho must be conspicuously labeled with the words "undergrade butter" upon the wrappers and container in which said butter is packaged. ~~Butter-scoring-90-or-better-may--be--labeled--on--the wrappers-and-container-in-which-said-butter-is-packaged-as-to-grade-or may--be-unlabeled-as-to-grade-but-said-wrappers-and-container-in-which said-butter-is-packaged-shall-not-be--labeled--with--terms--indicating quality--butter--except--as--to--those-terms-of-grade-herein-specified unless-said-butter-scores-93-or-better.-Provided,-however,-that-butter sold-or-offered-for-sale-under-a-grade--label--must--conform--to--said grade.~~

Approved March 24, 1988.

CHAPTER 162
(H.B. No. 546)

AN ACT

RELATING TO STATISTICAL REPORTING BY INSURERS; AMENDING SECTIONS 41-336A AND 41-336B, IDAHO CODE, TO CHANGE THE REPORT DUE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-336A, Idaho Code, be, and the same is hereby amended to read as follows:

41-336A. STATISTICAL REPORTS. (1) As a condition of doing business in the state of Idaho each insurer transacting insurance covering:

(a) Liability for malpractice of any person licensed under chapter 18, title 54, Idaho Code;

(b) Liability for malpractice of any person licensed under chapter 1, title 3, Idaho Code;

(c) Liability for the manufacture, design, production, processing or modification of any product;

(d) Liability for casualties, including all types of casualty insurance as defined in section 41-506, Idaho Code; or

(e) Any other risk or risks, whether liability or otherwise, that the director of the department of insurance may specify;

shall report to the director such statistics as the director may designate by rule or regulation. The statistics shall be reported to the director annually, by the first day of ~~March~~ July, for the preceding year ending December 31. The statistics shall separately address the experience of the state of Idaho and all other experience including the state of Idaho.

(2) The reports required by subsection (1) above shall include, but shall not be limited to, the following for each insurer for each type of insurance for which a report is required:

(a) Number of exposures;
(b) Direct premiums written;
(c) Direct premiums earned;
(d) Direct losses paid
  (i) amount,
  (ii) number of claims;
(e) Direct losses incurred;
(f) Direct losses unpaid
  (i) amount reported,
  (ii) number of claims; and
(g) Net losses incurred but not reported.

(3) Reports required by subsection (1) of this section shall be made on forms required by the director and shall contain the information required by rule and regulation of the director.

(4) The director may annually compile and review all reports submitted under the provisions of this section. When reports are submitted representing no less than seventy-five percent (75%) of the premiums written for each reporting line of insurance for the reporting year, the director shall evaluate the premium rates in Idaho for each reporting line of insurance. The findings of such review and evaluation, and the reports required of insurers under this section, shall be made available to any interested citizen, insured or licensed insurer.

SECTION 2. That Section 41-336B, Idaho Code, be, and the same is hereby amended to read as follows:

41-336B. DISPOSITION OF CLAIMS REPORT. (1) As a condition of doing business in the state of Idaho, each insurer transacting insurance subject to the provisions of section 41-336A, Idaho Code, shall report to the director annually by the first day of ~~March~~ July, for each of the two (2) years next preceding the initial report and for one (1) year next preceding filing the report thereafter for each and every claim as defined in section 41-336A, Idaho Code, caused by the insured, for policies issued in the state of Idaho, if the claim resulted in:

(a) A final judgment in any amount;
(b) A settlement in any amount;
(c) A final disposition not resulting in payment on behalf of the insured.

(2) Reports required in subsection (1) of this section shall be made on forms required by the director and shall contain the information required by rule and regulation of the director.

(3) The director shall make reports required hereunder available to the public in a manner which will not reveal the names of any person, manufacturer or seller involved.

(4) There shall be no liability on the part of, and no cause of action shall arise against, any insurer reporting hereunder or its agents or employees, or the director or employees of the state, for

any action taken by them in good faith compliance with the provisions of this section.

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 24, 1988.

CHAPTER 163
(H.B. No. 549)

AN ACT

RELATING TO RECHARGE PROJECTS WITHIN THE BOUNDARIES OF IRRIGATION DISTRICTS; AMENDING CHAPTER 7, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-701I, IDAHO CODE, TO AUTHORIZE THE LEVY OF AN ASSESSMENT BY THE BOARD OF DIRECTORS OF AN IRRIGATION DISTRICT FOR PRELIMINARY STUDY COSTS AND PURCHASE OR LEASE OF WATER FOR A GROUND WATER RECHARGE PROJECT WITHIN ALL OR A PART OF THE DISTRICT; AND TO PROVIDE FOR ASSESSMENTS TO BE PROPORTIONATE TO BENEFITS RECEIVED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 7, 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 43-701I, Idaho Code, and to read as follows:

43-701I. RECHARGE PROJECTS -- LEVY FOR PRELIMINARY STUDY COSTS -- PURCHASE OR LEASE OF WATER. If a ground water recharge project within all or part of the district is or may be deemed necessary by the board of directors of an irrigation district and a bond issue or other method of financing the project will be required, the board of directors may levy an assessment pursuant to section 43-701, Idaho Code, proportionate to the benefits received by the various tracts of land within all or part of the district, in an amount sufficient to obtain data, surveys, examinations, plans and professional services necessary to determine the cost or feasibility of the project, to purchase or lease water necessary for the project under such terms as are in compliance with section 42-222, Idaho Code, or to obtain authorization for the project. The board of directors may contract with any state or federal agency as well as any individual, firm, partnership, association, corporation or other recognized legal entity in order to obtain the data, surveys, examinations, plans or professional services that are required pursuant to this section.

SECTION 2. An emergency existing therefor, which emergency is

hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 24, 1988.

CHAPTER 164
(H.B. No. 572)

AN ACT

RELATING TO SALES BY WINE DISTRIBUTORS; AMENDING SECTION 23-1311, IDAHO CODE, TO PERMIT THE SALE OF WINE BY A DISTRIBUTOR TO A BONA FIDE EMPLOYEE.

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

SECTION 1. That Section 23-1311, Idaho Code, be, and the same is hereby amended to read as follows:

23-1311. SALES BY DISTRIBUTORS -- RESTRICTIONS. No distributor may sell any wine produced, manufactured, imported, or bought by such distributor, for use within this state, except to the holder of a valid retail wine license or wine by the drink license or to the state liquor dispensary. Provided however, any distributor may sell any wine produced, manufactured, imported, or bought by such distributor, for use within this state, to a bona fide employee of such distributor. No distributor shall permit, for a consideration, wine to be consumed upon the premises of the distributor.

Approved March 24, 1988.

CHAPTER 165
(H.B. No. 398, As Amended in the Senate)

AN ACT

RELATING TO STATE BUILDINGS AND FACILITIES; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5711B, IDAHO CODE, TO PROVIDE THE ADMINISTRATOR OF THE DIVISION OF PUBLIC WORKS, DEPARTMENT OF ADMINISTRATION, WITH THE AUTHORITY TO ENTER INTO CONTRACTS FOR THE REPAIR, PRESERVATION OR PREVENTION OF DAMAGE TO PROPERTY OR LIFE WHEN AN EMERGENCY EXISTS WHICH MAY DAMAGE PROPERTY, THREATEN PUBLIC HEALTH OR SAFETY, TO ALLOW THAT SUCH CONTRACTS BE MADE WITH AS MUCH COMPETITION AS PRACTICABLE UNDER THE CIRCUMSTANCES, AND WAIVING THE REQUIREMENTS FOR WRITTEN PLANS AND SPECIFICATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5711B, Idaho Code, and to read as follows:

67-5711B. EMERGENCY CONTRACTING AUTHORIZED DIVISION OF PUBLIC WORKS. The director of the department of administration, the administrator of the division of public works, or a designee of either official may make or authorize others to make emergency public works contracts when there exists a threat to public health, welfare, or safety under emergency conditions; provided that such emergency public works contracts shall be made with such competition as is practicable under the circumstances. The administrator may declare an emergency when one (1) or more of the following conditions exist: an imminent life-threatening environment; or an imminent threat to property; or an imminent loss of significant state resources. The administrator may also waive the requirements of section 67-2309, Idaho Code, regarding written plans and specifications. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

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 25, 1988.

CHAPTER 166
(H.B. No. 565)

AN ACT

RELATING TO SALES TAX EXEMPTIONS FOR INDIAN TRIBES; AMENDING SECTION 63-3622Z, IDAHO CODE, TO INCLUDE ALL SALES WITHIN THE EXEMPTION AND TO PROVIDE A DEFINITION OF "RESERVATION"; AND DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3622Z, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622Z. SALES BY INDIAN TRIBES. (1) There is hereby exempted from the taxes imposed by this chapter ~~the sale of tangible personal property~~ sales occurring within the boundaries of an Indian reservation located in Idaho when the business or enterprise ~~selling the tangible personal property~~ is wholly owned and operated by ~~a federally recognized~~ an Idaho Indian tribe identified in section 67-4001, Idaho Code.

(2) As used in this section the word "reservation" means lands which are:

(a) Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; or, established by acts of the United States congress; or established by formal decision of the executive branch of the United States; or

(b) Held by an Idaho Indian tribe not holding lands which meet the definition of subsection (2)(a) of this section and are tribal lands held in trust by the United States for the use and benefit of such tribe but not placed in trust after the effective date of this 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 November 5, 1987.

Approved March 25, 1988.

CHAPTER 167
(S.B. No. 1296, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE OPERATOR'S AND CHAUFFEUR'S LICENSES; AMENDING SECTION 49-301, IDAHO CODE, TO INCREASE THE MAXIMUM GROSS WEIGHT FOR VEHICLES WHICH REQUIRE DRIVERS LICENSED AS CHAUFFEURS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-301, Idaho Code, be, and the same is hereby amended to read as follows:

49-301. DEFINITIONS. For the purposes of this chapter:

(1) "Board" means the Idaho transportation board of this state.

(2) "Chauffeur" means a person who is employed by another for the principal purpose of driving a motor vehicle, or a person who drives a motor vehicle while in use as a public contract or common carrier of persons or property. Persons driving vehicles licensed for a maximum gross weight of less than ~~sixty~~ seventy thousand (70,000) pounds which are engaged in pick-up and/or delivery service, in utility and repair services, in farming op~~erations~~, or in route sales, are not required to be licensed as a chauffeur.

(3) "Department" means the Idaho transportation department of this state acting directly or through its duly authorized officers and agents.

(4) "Director" means the director of the Idaho transportation

department of this state.

(5) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(6) "Motor vehicle" means a motor vehicle as defined by section 49-101, Idaho Code.

(7) "Nonresident" means a person who is not a resident of this state.

(8) "Operator" means a person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

(9) "Owner" means a person who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.

(10) "Person" means a natural person, firm, copartnership, association or corporation.

(11) "Resident" means a person who has resided continuously in the state of Idaho for a period of ninety (90) days.

(12) "School bus" means a motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(13) "Street or highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

(14) "Vehicle" means a 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 horsedrawn or used exclusively upon stationary rails or tracks.

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 25, 1988.

CHAPTER 168
(S.B. No. 1543)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO GEOLOGICAL SURVEY PROGRAM FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho the following amount to be expended for the Idaho Geological Survey Program according to the designated expense classes from the listed account, for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$350,400
Operating Expenditures	58,900
Capital Outlay	8,000
TOTAL	~~$417,300~~
FROM:	
General Account	$417,300

SECTION 2. There is hereby reappropriated to the Idaho Geological Survey any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 247, Laws of 1987, to be used for nonrecurring expenditures only for the period of July 1, 1988, through June 30, 1989.

Approved March 25, 1988.

CHAPTER 169
(H.B. No. 445)

AN ACT

RELATING TO THE SCOPE OF THE INSURANCE CODE; AMENDING CHAPTER 1, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-117A, IDAHO CODE, TO PROVIDE FOR A LIMITED MONETARY PENALTY AGAINST COMPANIES AND INDIVIDUALS WHO TRANSACT INSURANCE WITHOUT PROPER LICENSING; AND AMENDING SECTION 41-3243, IDAHO CODE, TO PROVIDE THAT PENALTIES BE SUBJECT TO THE PROVISIONS OF SECTION 41-117A, IDAHO CODE.

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

SECTION 1. That Chapter 1, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-117A, Idaho Code, and to read as follows:

41-117A. PENALTY FOR TRANSACTING INSURANCE WITHOUT PROPER LICENSING. The director may impose an administrative penalty not to exceed fifteen thousand dollars ($15,000), for deposit in the general account of the state of Idaho, upon any person who transacts insurance of any kind or character or transmits for a person, other than himself, an application for a policy of insurance without proper licensing, or after such licensing shall have been suspended or revoked.

SECTION 2. That Section 41-3243, Idaho Code, be, and the same is hereby amended to read as follows:

41-3243. PENALTIES. (1) Any person who wilfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society, shall upon conviction be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisonment in the county jail not less than thirty (30) days nor more than one (1) year, or both.

(2) Any person who wilfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

(3) Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this state shall upon conviction be subject to the penalties prescribed by section 41-117A, Idaho Code ~~(general penalty)~~.

(4) Any person guilty of a wilful violation of, or neglect or refusal to comply with, the provisions of this chapter for which a penalty is not otherwise prescribed, shall upon conviction, be subject to the penalty prescribed by section 41-117, Idaho Code ~~(general penalty)~~.

Approved March 26, 1988.

CHAPTER 170
(H.B. No. 448, As Amended)

AN ACT

RELATING TO LIMITATIONS ON BUDGET REQUESTS; AMENDING SECTION 63-2220, IDAHO CODE, TO PROVIDE A LIMITATION ON THE BUDGET REQUESTS OF HIGHWAY DISTRICTS OR COUNTY HIGHWAY SYSTEMS FOR WHICH NO AD VALOREM TAX LEVY WAS MADE DURING THE PREVIOUS YEAR; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-2220, Idaho Code, be, and the same is hereby amended to read as follows:

63-2220. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (2), for its fiscal year commencing in 1986 and each year thereafter, no taxing

district shall certify a budget request to finance the ad valorem portion of its operating budget that exceeds:

(i) the greater of (a) or (b):

(a) the dollar amount of ad valorem taxes certified for its operating budget in 1978, 1979, 1980, or the year preceding the current tax year, whichever is greater, which amount may be increased by a growth factor of not to exceed five percent (5%), except that for school districts, the budget request shall not include the dollar amount made available to that school district under the provisions of section 33-1009 4., Idaho Code, during the previous year, and except that a school district shall not use the dollar amount of ad valorem taxes certified in 1978; or

(b) an amount determined by applying the lesser of one hundred five percent (105%) of the current year tax rate or the statutory maximum tax rate to the market value for assessment purposes; or

(ii) the dollar amount of ad valorem taxes certified for its operating budget during the last year in which a levy was made, if no levy was made during 1978 or 1979 or 1980; or

(iii) the dollar amount of the actual budget request, if the taxing district is newly created; or

(iv) in the case of school districts, the amount of the district contribution calculation applied to the current year's market value for assessment purposes; or

(v) in the case of highway districts or county highway systems for which no ad valorem levy has been made during the previous year, one-fourth (1/4) of the levy permitted under the provisions of chapter 8, title 40, Idaho Code, and such levy shall be deemed a levy for a newly created taxing district.

(2) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for operating budget purposes which exceeds the limitation imposed by subsection (1), unless authority to exceed such limitation has been approved by a two-thirds (2/3) majority of the taxing district's electors voting on the question at an election called for that purpose, and the dollar amount of ad valorem taxes certified pursuant to such voter approval shall be used in applying the limitations imposed by subsection (1)(i) above for a period not to exceed five (5) years after such voter approval, provided such election was held after November 7, 1978.

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, 1988.

Approved March 26, 1988.

CHAPTER 171
(H.B. No. 454)

AN ACT

RELATING TO ASSESSMENTS OF THE BEEF COUNCIL; AMENDING SECTION 25-2908, IDAHO CODE, TO DELETE THE REQUIREMENT THAT THE BEEF COUNCIL SHALL REFUND ALL OR A PORTION OF AN ASSESSMENT UPON REQUEST OF THE PERSON PAYING THE ASSESSMENT; DECLARING AN EMERGENCY AND PROVIDING FOR IMPLEMENTATION OF THIS ACT.

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

SECTION 1. That Section 25-2908, Idaho Code, be, and the same is hereby amended to read as follows:

25-2908. DISBURSEMENTS. A total of at least twenty per cent (20%) of all funds so collected by the council~~,--minus-refunds,~~ shall be paid by it to the national livestock and meat board and the beef industry council for their use in promotional, research and educational activities.

~~Any-person-shall-have-the-right-to-request--from--the--council--in writing,--within--ten-(10)-days-after-payment-thereof,-a-refund-of-all or-any-portion-of-the-assessment-levied-hereunder-and-paid-by-him.~~

SECTION 2. 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 when the Attorney General certifies to the Secretary of State and the Beef Council that a federal marketing order regarding beef assessments and a provision in that marketing order prohibiting refunds of assessments are valid and binding.

The Attorney General's required certification must be made prior to October 1, 1988. If the certification is not made, then Section 1 of this act shall be null, void and of no force and effect.

Approved March 26, 1988.

CHAPTER 172
(H.B. No. 470)

AN ACT

RELATING TO MEDICAL MALPRACTICE INSURANCE; REPEALING CHAPTER 41, TITLE 41, IDAHO CODE, RELATING TO MEDICAL MALPRACTICE INSURANCE AND A TEMPORARY JOINT UNDERWRITING ASSOCIATION.

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

SECTION 1. That Chapter 41, Title 41, Idaho Code, be, and the same is hereby repealed.

Approved March 26, 1988.

CHAPTER 173
(H.B. No. 513)

AN ACT

RELATING TO HOSPITAL DISTRICTS; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1325a, IDAHO CODE, TO PROVIDE FOR THE DISSOLUTION OF HOSPITAL DISTRICTS.

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

SECTION 1. That Chapter 13, 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 39-1325a, Idaho Code, and to read as follows:

39-1325a. PETITIONS FOR DISSOLUTION OF HOSPITAL DISTRICTS. Proceedings for the dissolution of a hospital district may be initiated by a petition containing the signatures of qualified electors of the district or owners of property within the district equal in number to ten per cent (10%) of the qualified electors and taxpayers of the district, the same percentage required for the organization of the district.

The petition, when completed and verified, shall be filed with the clerk of the court of the county or counties if more than one (1) county is involved. The county commissioners shall publish notice and hold a hearing on the matter. If necessary, they shall hold an election on the matter. The hearing and election shall be held in accordance with the terms and provisions of sections 40-1803 through 40-1809, Idaho Code. The disposition of hospital district assets on dissolution and the provision for payment of district indebtedness shall be made in accordance with the provisions of sections 63-4105 and 63-4106, Idaho Code.

Approved March 26, 1988.

CHAPTER 174
(H.B. No. 515)

AN ACT

RELATING TO THE HOTEL/MOTEL ROOM SALES TAX; AMENDING SECTION 67-4711, IDAHO CODE, TO ESTABLISH A STANDARD THIRTY DAY TAX PERIOD; AMENDING SECTION 67-4718, IDAHO CODE, TO ESTABLISH A STANDARD THIRTY

DAY TAX PERIOD; AMENDING SECTION 67-4917A, IDAHO CODE, TO ESTABLISH A STANDARD THIRTY DAY TAX PERIOD; AND AMENDING SECTION 67-4917B, IDAHO CODE, TO ESTABLISH A STANDARD THIRTY DAY TAX PERIOD.

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

SECTION 1. 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) "Council" means the state of Idaho travel and convention industry council.

(3) "Department" means the department of 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 ~~R~~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)~~ thirty-one (31) continuous days.

SECTION 2. That Section 67-4718, Idaho Code, be, and the same is hereby amended to read as follows:

67-4718. ASSESSMENT -- 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)~~ thirty (30) days.

(2) The council may, by duly adopted resolution, determine that a lesser amount of assessment shall be imposed and the 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.

(3) 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 distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the tax commission to be paid shall be paid through the state refund account and those moneys are continuously appropriated.

(b) An amount of money equal to the actual cost of the collection and administration of the tax imposed by the provisions of this section shall be retained by the commission. The amount 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 at the end of each fiscal year shall be distributed as provided in paragraph (c) of this subsection.

(c) All remaining moneys received pursuant to this chapter shall be distributed to the Idaho travel and convention account, established in the dedicated fund, and all such moneys are set aside and appropriated to the department to administer pursuant to the provisions of this chapter.

SECTION 3. That Section 67-4917A, Idaho Code, be, and the same is hereby amended to read as follows:

67-4917A. PURPOSES. The purposes of this act are to provide authority to auditorium or community center districts organized under chapter 49, title 67, Idaho Code, to levy and collect a "hotel/motel room sales tax" on the receipts derived by hotels and motels within the district from the furnishing of hotel and motel rooms, except no tax shall be imposed where residence therein is maintained continuously under the terms of a lease or similar agreement for a period in excess of ~~seven (7)~~ thirty (30) days; and to provide for the levy of such sales tax in addition to the levy by a district authorized to levy and collect ad valorem taxes; and to provide for the collection, administration and remittance of said taxes by the state tax commission on behalf of an auditorium or community center district.

SECTION 4. That Section 67-4917B, Idaho Code, be, and the same is hereby amended to read as follows:

67-4917B. HOTEL/MOTEL ROOM SALES TAX. The board shall have power

and authority to levy a sales tax of not to exceed five per cent (5%) of the receipts derived by hotels and motels within the district from the furnishing of hotel and motel rooms, except no tax shall be imposed where residence therein is maintained continuously under the terms of a lease or similar agreement for a period in excess of ~~seven (7)~~ thirty (30) days. The levy and collection of said sales tax shall not be subject to the limitations or other provisions of sections 67-4913, 67-4914, 67-4915 and 67-4916, Idaho Code. The revenues received by the district from such sales tax shall be deposited in the depository of the district. Promptly following the adoption by the board of the resolution to levy such tax, the secretary of the board shall certify to the state tax commission that such levy has been adopted and shall state the effective date thereof and shall transmit to the commission a certified copy of such resolution. The effective date of any such levy shall not be earlier than the first day of the month not less than sixty (60) days following certification of such levy to the commission.

Approved March 26, 1988.

CHAPTER 175
(H.B. No. 531)

AN ACT

RELATING TO PRIVATE ROADS IN SUBDIVISIONS; AMENDING SECTION 50-1301, IDAHO CODE, TO PROVIDE A DEFINITION OF PRIVATE ROAD AND TO ALPHABETIZE DEFINITIONS; AMENDING SECTION 50-1309, IDAHO CODE, TO PROVIDE FOR DEDICATION OF PRIVATE ROADS AND TO PROVIDE FOR JURISDICTION OVER PRIVATE ROADS WITHIN A SUBDIVISION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-1301, Idaho Code, be, and the same is hereby amended to read as follows:

50-1301. DEFINITIONS. The following definitions shall apply to terms used in sections 50-1301 through 50-13~~2~~933, Idaho Code.

5~~1~~. Easement: A right of use, falling short of ownership, and usually for a certain stated purpose~~.~~;

~~1~~2. Owner: The proprietor of the land, (having legal title);

~~2~~3. Plat: The drawing, map or plan of a subdivision, cemetery, townsite or other tract of land, or a replatting of such, including certifications, descriptions and approvals;

4. Private road: A road within a subdivision plat that is not dedicated to the public;

6~~5~~. Sanitary restriction: The requirement that no building or shelter which will require a water supply facility or a sewage disposal facility for people using the premises where such building or shelter is located shall be erected until written approval is first

obtained from the state board of health by its administrator or his delegate approving plans and specifications either for public water and/or sewage facilities, or individual parcel water and/or sewage facilities~~.~~;

46. Street: A public street, road, thoroughfare, alley or highway; a right of way for public use;

37. Subdivision: A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bona fide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of the above definition.

SECTION 2. That Section 50-1309, Idaho Code, be, and the same is hereby amended to read as follows:

50-1309. CERTIFICATION OF PLAT -- ~~DONATION~~ DEDICATION OF STREETS AND ALLEYS -- DEDICATION OF PRIVATE ROADS TO PUBLIC -- JURISDICTION OVER PRIVATE ROADS. 1. The owner or owners of the land included in said plat shall make a certificate containing the correct description of the land, with the statement as to their intentions to include the same in the plat, and make a dedication of all public streets and alleys shown on said plat, which certificate shall be acknowledged before an officer duly authorized to take acknowledgements and shall be indorsed on the plat. The surveyor or engineer making the survey shall certify the correctness of said plat.

2. No dedication or transfer of a private road to the public can be made without the specific approval of the governing agency accepting such private road.

3. Highway districts and single county-wide highway districts shall not have jurisdiction over private roads designated as such on subdivision plats and shall assume no responsibility for the design, construction, maintenance and/or repair of private roads.

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 26, 1988.

CHAPTER 176
(H.B. No. 536, As Amended in the Senate)

AN ACT

RELATING TO THE ESTABLISHMENT OF CROP MANAGEMENT AREAS WITHIN WHICH THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE SHALL PRESCRIBE OR

PROHIBIT CERTAIN CROP MANAGEMENT PRACTICES; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 10, TITLE 22, IDAHO CODE, TO PROVIDE LEGISLATIVE PURPOSE, TO DEFINE TERMS, TO PRESCRIBE PROCEDURES FOR DESIGNATION OF AN AREA, TO AUTHORIZE INSPECTIONS, TO PROVIDE FOR DISPOSITION OF VIOLATIVE MATERIALS AT OWNER'S EXPENSE AND AUTHORIZE SETTING OF FEES, AND TO PROVIDE PENALTIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 10, Title 22, Idaho Code, and to read as follows:

CHAPTER 10
CROP MANAGEMENT AREAS

22-1001. PURPOSE. The legislature recognizes the fact that in order to produce crops that are free from pests, disease or other detrimental influence, and to control such pests, disease or other detrimental influence, it is frequently necessary to apply certain crop management practices over an area which may include several farms, orchards, nurseries or other crop producing entities. Such practices may include, but are not limited to, use of clean seed, destruction of infested or undesirable plants, use of chemicals, and prohibiting introduction of host materials. The legislature further recognizes that it is in the public interest that the director of the Idaho department of agriculture be authorized to designate certain areas as crop management areas and to stipulate those practices which shall be followed in the management area insofar as they affect the particular crop.

22-1002. DEFINITIONS. As used in this chapter:

(1) "Department" means the Idaho department of agriculture.

(2) "Director" means the director of the Idaho department of agriculture or his duly authorized agent.

(3) "Management area" means that area in which certain specified crop management practices are required.

(4) "Pest" means any organism or entity which is detrimental to the production of a crop or the quality of the product of that crop.

(5) "Restricted area" means that portion of a management area in which special restrictions on the management of certain plant materials are imposed.

(6) "Undesirable plant" means any plant species which is detrimental, by competition, cross-pollination, or any other means to the production of the crop for which the management area was established or the quality of the product of that crop.

22-1003. DESIGNATION OF A CROP MANAGEMENT AREA. The director may provide for establishment of a crop management area after presentation of a petition signed by not less than fifteen (15) registered electors residing within the confines of the proposed crop management area.

The director shall give the petition to the county clerk of the county or counties who shall examine the signatures and certify the number of valid signatures of electors residing within the confines of the proposed crop management area and transmit the petition to the director of the department of agriculture. Upon receipt of a valid petition, it shall be the duty of the director to conduct a public hearing in the area proposed to be designated as a crop management area to inform the public of the possible designation and the reasons therefor. Notice of the hearing shall be published in two (2) consecutive weekly issues of a newspaper of general circulation in the area immediately prior to the date set for hearing.

Following the public hearing, the director may, if he finds it in the public interest, establish a crop management area within the boundaries specified in the petition. He shall issue findings of fact and conclusions of law that support his decision to establish a crop management area. If a property owner in the affected area disagrees with the director's decision, he may appeal to the district court of the county in which the affected property is located. The director may make and enforce rules and regulations which may be necessary, subject to legislative review, to maintain the management area. Rules and regulations may include, but shall not be limited to:

(1) Specification of the kind and quality of seed or other propagative material which may be planted in the area.

(2) Specification of treatments, chemical or otherwise, which shall be used to control pests or undesirable plants in the area.

(3) Transportation of vegetative material into, within, or out of the area.

(4) Disposition of infested crops, undesirable plants or other material which may include destruction of the crops, plants or other material.

(5) Disposition of vegetative material planted in violation of the rules and regulations.

22-1004. INSPECTION. (1) For the purpose of carrying out the provisions of this chapter, the director may enter on any public or private land at reasonable times.

(2) Should the director be denied access to any land where access is sought for the purposes set forth in this chapter, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for such purposes. The court may, upon such application, issue the search warrant for the purposes requested.

22-1005. DISPOSITION AT OWNER'S EXPENSE -- FEE SCHEDULE AUTHORIZED. (1) Disposition of infested or violative material shall be at the expense of the owner thereof.

(2) Subject to legislative review, the director may, by regulation, issue a schedule of fees for services performed in implementing the provisions of this chapter. Such services may include, but shall not be limited to, inspection, analysis and certification. Receipts collected under provisions of this chapter shall be deposited in the agricultural inspection account and used to pay expenses incurred in the enforcement of the provisions of this chapter.

22-1006. VIOLATIONS — PENALTIES. Any person who violates any provision of this chapter or who interferes with the carrying out of the provisions of this chapter or regulations promulgated thereunder shall be guilty of a civil offense, and may be liable for treble the damages sustained and all costs of the suit including a reasonable attorney's fee. In addition, a civil fine of not more than three thousand dollars ($3,000) may be imposed per incident of violation. All civil offenses shall be heard in the magistrates division of the district court.

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 26, 1988.

CHAPTER 177
(H.B. No. 539)

AN ACT

RELATING TO HOSPITAL DISTRICT TAX LEVIES; AMENDING SECTION 39-1333, IDAHO CODE, TO PROVIDE FOR TAX LEVIES TO REPAY ORGANIZATIONAL INDEBTEDNESS INCURRED ON OR AFTER MARCH 21, 1985, BY HOSPITAL DISTRICTS.

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 set 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 organization, to finance general preliminary expenses of the district or for any other purpose of the hospital district law, and before making a tax levy, 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. To repay any such organizational indebtedness incurred, on or after March 21, 1985, the board shall have authority to levy and collect an additional tax not to exceed one (1) mill per annum on the dollar on all taxable property within the district. Such additional levy shall not be used for any purpose other than repayment of the organizational indebtedness and interest thereon. Such additional levy may be imposed until the organizational indebtedness and interest thereon is paid in full.

Approved March 26, 1988.

CHAPTER 178
(H.B. No. 541)

AN ACT

RELATING TO LIMITATIONS ON BUDGET REQUESTS OF TAXING DISTRICTS; AMENDING SECTION 63-2220, IDAHO CODE, TO UPDATE THE BASE YEARS FOR LEVY CERTIFICATION PURPOSES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-2220, Idaho Code, be, and the same is hereby amended to read as follows:

63-2220. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (2), for its fiscal year commencing in 1986 and each year thereafter, no taxing district shall certify a budget request to finance the ad valorem portion of its operating budget that exceeds:

(i) the greater of (a) or (b):

(a) the dollar amount of ad valorem taxes certified for its operating budget in ~~1978, 1979, 1980, or the year~~ any one of the three (3) years preceding the current tax year, whichever is greater, which amount may be increased by a growth factor of not to exceed five percent (5%), except that for school districts, the budget request shall not include the dollar amount made available to that school district under the provisions of section 33-1009 4., Idaho Code, during the previous year, and except that a school district shall not use the dollar amount of ad valorem taxes certified in 1978; or

(b) an amount determined by applying the lesser of one hundred five percent (105%) of the current year tax rate or the statutory maximum tax rate to the market value for assessment

purposes; or

(ii) the dollar amount of ad valorem taxes certified for its operating budget during the last year in which a levy was made, if no levy was made during 1978 or 1979 or 1980; or

(iii) the dollar amount of the actual budget request, if the taxing district is newly created; or

(iv) in the case of school districts, the amount of the district contribution calculation applied to the current year's market value for assessment purposes.

(2) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for operating budget purposes which exceeds the limitation imposed by subsection (1), unless authority to exceed such limitation has been approved by a two-thirds (2/3) majority of the taxing district's electors voting on the question at an election called for that purpose, and the dollar amount of ad valorem taxes certified pursuant to such voter approval shall be used in applying the limitations imposed by subsection (1)(i) above for a period not to exceed five (5) years after such voter approval, provided such election was held after November 7, 1978.

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, 1988.

Approved March 26, 1988.

CHAPTER 179
(H.B. No. 545)

AN ACT

RELATING TO DISHONORED CHECKS; AMENDING SECTION 28-3-510A, IDAHO CODE, TO INCREASE THE MAXIMUM COLLECTION COST A HOLDER OF A CHECK, THAT HAS BEEN DISHONORED BY NONACCEPTANCE OR NONPAYMENT, MAY ASSESS IF THE HOLDER OF THE DISHONORED CHECK HAS NOTIFIED THE DRAWER BY A POSTED NOTICE AT THE POINT OF SALE THAT THE DRAWER WILL BE REQUIRED TO PAY A SET COLLECTION FEE IF THE CHECK IS DISHONORED; AND AMENDING SECTION 28-3-510C, IDAHO CODE, TO INCREASE THE MAXIMUM SET COLLECTION FEE FOR A DISHONORED CHECK.

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

SECTION 1. That Section 28-3-510A, Idaho Code, be, and the same is hereby amended to read as follows:

28-3-510A. CHECKS DISHONORED BY NONACCEPTANCE OR NONPAYMENT -- LIABILITY FOR INTEREST -- RATE -- COLLECTION COSTS AND ATTORNEYS' FEES. Whenever a check as defined by section 28-3-104(2)(b), Idaho

Code, has been dishonored by nonacceptance or nonpayment and has not been paid within fifteen (15) days and after the holder of such check sends such notice of dishonor as provided by section 28-3-510B, Idaho Code, to the drawer at his last known address, then if the instrument does not provide for the payment of interest, or collection costs and attorneys' fees, the drawer of such instrument shall also be liable for payment of interest at the rate of twelve per cent (12%) per annum from the date of dishonor and cost of collection not to exceed twenty dollars ($20.00) or the face amount of the check, whichever is the lesser; provided, however, that if the holder of the dishonored check has notified the drawer by a posted notice at the point of sale that the drawer will be required to pay a set collection fee if the check is dishonored, the holder is not required to give the notice of dishonor as provided by section 28-3-510B, Idaho Code, and may assess a collection cost of the noticed amount regardless of the size of the check, but the set fee may not exceed ~~ten~~ fifteen dollars ($~~10~~15.00). In addition, in the event of court action on the check, the court, after such notice and the expiration of said fifteen (15) days, shall award a reasonable attorneys' fee as part of the damages payable to the holder of the check. This section shall not apply to any instrument which has been dishonored by reason of any justifiable stop payment order.

SECTION 2. That Section 28-3-510C, Idaho Code, be, and the same is hereby amended to read as follows:

28-3-510C. CONSEQUENCES FOR FAILING TO COMPLY WITH REQUIREMENTS. No interest, collection costs and attorneys' fees shall be recovered on any dishonored check under the provisions of section 28-3-510A, Idaho Code, where the holder of such check or any agent, employee or assignee of the holder has demanded:

(1) Interest or collection costs in excess of that provided by section 28-3-510A, Idaho Code; or

(2) Interest or collection costs prior to the expiration of fifteen (15) days after the certified mailing of notice of dishonor, as provided by sections 28-3-510A and 28-3-510B, Idaho Code; or

(3) Attorneys' fees either without having such fees set by the court, or prior to the expiration of fifteen (15) days after the certified mailing of notice of dishonor, as provided by sections 28-3-510A and 28-3-510B, Idaho Code.

The provisions of this section shall not prohibit the collection of a set collection fee which does not exceed ~~ten~~ fifteen dollars ($~~10~~15.00), if the holder has notified the drawer at the point of sale that the drawer will be required to pay the set collection fee in the event a check is dishonored.

Approved March 26, 1988.

CHAPTER 180
(H.B. No. 550)

AN ACT

RELATING TO BUSINESS IMPROVEMENT DISTRICTS; AMENDING SECTION 50-2602, IDAHO CODE, TO REDEFINE "BUSINESS."

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

SECTION 1. That Section 50-2602, Idaho Code, be, and the same is hereby amended to read as follows:

50-2602. DEFINITIONS. As used in this chapter:

(1) "Business" means all types of business, including vacant structures, common areas, and lots within the district, and including professions.

(2) "Legislative authority" means the legislative authority of any city.

Approved March 26, 1988.

CHAPTER 181
(H.B. No. 563)

AN ACT

RELATING TO LONG-TERM CARE INSURANCE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 46, TITLE 41, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE, TO PROVIDE FOR THE SCOPE OF COVERAGE, TO PROVIDE DEFINITIONS, TO PROVIDE LIMITS OF GROUP LONG-TERM CARE INSURANCE, TO PROVIDE FOR DISCLOSURE AND PERFORMANCE STANDARDS FOR LONG-TERM CARE INSURANCE, AND TO PROVIDE FOR ADMINISTRATIVE PROCEDURES.

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

SECTION 1. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 46, Title 41, Idaho Code, and to read as follows:

CHAPTER 46
LONG-TERM CARE INSURANCE

41-4601. PURPOSE. The purpose of the provisions of this chapter is to promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care

insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

41-4602. SCOPE. The requirements of this chapter shall apply to policies delivered or issued for delivery in this state on or after January 1, 1989. The provisions of this chapter are not intended to supersede the obligations of entities subject to the provisions of this chapter to comply with the substance of other applicable insurance laws insofar as they do not conflict with the provisions of this chapter, except that laws and regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance. A policy which is not advertised, marketed or offered as long-term care insurance or nursing home insurance need not meet the requirements of this chapter.

41-4603. DEFINITIONS. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means:

(a) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(b) In the case of a group long-term care insurance policy, the proposed certificate holder.

(2) "Certificate" means, for the purposes of this chapter, any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

(3) "Director" means the director of the Idaho department of insurance.

(4) "Group long-term care insurance" means a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(a) One or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations; or

(b) Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(i) Is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

(ii) Has been maintained in good faith for purposes other than obtaining insurance; or

(c) An association or a trust or the trustee(s) of a fund established, created or maintained for the benefit of members of one or more associations. Prior to advertising, marketing or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the director that the association or associations have at the outset a minimum of one hundred (100) persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at

least one (1) year; and have a constitution and by-laws which provide that:

(i) The association or associations hold regular meetings not less than annually to further purposes of the members;

(ii) Except for credit unions, the association or associations collect dues or solicit contributions from members; and

(iii) The members have voting privileges and representation on the governing board and committees.

Sixty (60) days after such filing the association or associations will be deemed to satisfy such organizational requirements, unless the director makes a finding that the association or associations do not satisfy those organizational requirements.

(d) A group other than as described in subsections (4)(a), (4)(b) and (4)(c), subject to a finding by the director that:

(i) The issuance of the group policy is not contrary to the best interest of the public;

(ii) The issuance of the group policy would result in economies of acquisition or administration; and

(iii) The benefits are reasonable in relation to the premiums charged.

(5) "Long-term care insurance" means any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual policies or riders whether issued by insurers, fraternal benefit societies, nonprofit health, hospital and medical service corporations, prepaid health plans, health maintenance organizations or any similar organization. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

(6) "Policy" means, for the purposes of this chapter, any policy, contract, subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, nonprofit health, hospital, or medical service corporation, prepaid health plan, health maintenance organization or any similar organization.

41-4604. EXTRATERRITORIAL JURISDICTION -- GROUP LONG-TERM CARE INSURANCE. No group long-term care insurance coverage may be offered to a resident of this state under a group policy issued in another state to a group described in section 41-4603(4)(d), Idaho Code, unless this state or another state having statutory and regulatory long-term care insurance requirements substantially similar to those adopted in this state has made a determination that such requirements

have been met.

41-4605. DISCLOSURE AND PERFORMANCE STANDARDS FOR LONG-TERM CARE INSURANCE. (1) The director may adopt regulations that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms.

(2) No long-term care insurance policy may:

(a) Be cancelled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(b) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

(c) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

(3) Preexisting condition:

(a) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, shall use a definition of "preexisting condition" which is more restrictive than the following: Preexisting condition means a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within six (6) months preceding the effective date of coverage of an insured person.

(b) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, may exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six (6) months following the effective date of coverage of an insured person.

(c) The director may extend the limitation periods set forth in paragraphs (a) and (b) of this subsection as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(d) The definition of "preexisting condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in paragraph (b) of this subsection expires. No long-term care insurance

policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisiting diseases or physical conditions beyond the waiting period described in paragraph (b) of this subsection.

(4) Prior institutionalization: No long-term care insurance policy which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty (30) days after discharge from the institution.

(5) The director may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

(6) Right to return - free look:

(a) Individual long-term care insurance policyholders shall have the right to return the policy within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. Individual long-term care insurance policies shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder shall have the right to return the policy within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

(b) A person insured under a long-term care insurance policy issued pursuant to a direct response solicitation shall have the right to return the policy within thirty (30) days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason. Long-term care insurance policies issued pursuant to a direct response solicitation shall have a notice prominently printed on the first page or attached thereto stating in substance that the insured person shall have the right to return the policy within thirty (30) days of its delivery and to have the premium refunded if after examination the insured person is not satisfied for any reason.

(7) An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application for an individual policy. In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request shall make such delivery not later than at the time of policy delivery. Such outline of coverage shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions and limitations contained in the policy;

(c) A statement of the renewal provisions, including any reservation in the policy of a right to change premiums; and

(d) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine governing contractual provisions.

(8) A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions and limitations contained in the policy; and

(c) A statement that the group master policy determines governing contractual provisions.

(9) No policy may be advertised, marketed or offered as long-term care or nursing home insurance unless it complies with the provisions of this chapter.

41-4606. ADMINISTRATIVE PROCEDURES. Regulations adopted pursuant to this chapter shall be in accordance with chapter 52, title 67, Idaho Code.

Approved March 26, 1988.

CHAPTER 182
(H.B. No. 566)

AN ACT

RELATING TO SECURITY FOR PAYMENT OF EXCISE TAXES BY DISTRIBUTORS OF BEER AND WINE IN THIS STATE; REPEALING SECTION 23-1049, IDAHO CODE; AMENDING CHAPTER 10, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1049, IDAHO CODE, TO PROVIDE THAT THE TAX COMMISSION MAY REQUIRE SECURITY FOR THE PAYMENT OF EXCISE TAXES; REPEALING SECTION 23-1320, IDAHO CODE; AMENDING CHAPTER 13, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1320, IDAHO CODE, TO PROVIDE THAT THE TAX COMMISSION MAY REQUIRE SECURITY FOR THE PAYMENT OF EXCISE TAXES.

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

SECTION 1. That Section 23-1049, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 10, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1049, Idaho Code, and to read as follows:

23-1049. SECURITY FOR TAX. The state tax commission, whenever it deems it necessary to insure compliance with this act, may require any person subject to this act to place with it such security as it may determine. The amount of the necessary security shall be fixed by the state tax commission but, except as provided hereafter, shall not be greater than three (3) times the estimated average monthly amount pay-

able by such persons pursuant to this act. In the case of persons habitually delinquent in their obligations under this act, the amount of the security shall not be greater than five (5) times the estimated average monthly amount payable by such persons pursuant to this act. The amount of the security may be increased or decreased by the state tax commission at any time, subject to the limitations set forth herein.

The state tax commission may sell the security at public auction or, in the case of security in the form of bearer bonds issued by the United States or the state of Idaho which have a prevailing market price, at a private sale at a price not lower than the prevailing market price if it becomes necessary to make such sale in order to recover any tax, interest or penalties due on any amount required to be collected. Notice of the sale must be given to the person who deposited the security at least ten (10) days before the sale. Such notice may be given personally or by mail addressed to the person at the address furnished to the state tax commission and as it appears in the records of the state tax commission. Upon such sale, any surplus above the amounts due shall be returned to the person who placed the security.

SECTION 3. That Section 23-1320, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 13, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1320, Idaho Code, and to read as follows:

23-1320. SECURITY FOR TAX. The state tax commission, whenever it deems it necessary to insure compliance with this act, may require any person subject to this act to place with it such security as it may determine. The amount of the necessary security shall be fixed by the state tax commission but, except as provided hereafter, shall not be greater than three (3) times the estimated average monthly amount payable by such persons pursuant to this act. In the case of persons habitually delinquent in their obligations under this act, the amount of the security shall not be greater than five (5) times the estimated average monthly amount payable by such persons pursuant to this act. The amount of the security may be increased or decreased by the state tax commission at any time, subject to the limitations set forth herein.

The state tax commission may sell the security at public auction or, in the case of security in the form of bearer bonds issued by the United States or the state of Idaho which have a prevailing market price, at a private sale at a price not lower than the prevailing market price if it becomes necessary to make such sale in order to recover any tax, interest or penalties due on any amount required to be collected. Notice of the sale must be given to the person who deposited the security at least ten (10) days before the sale. Such notice may be given personally or by mail addressed to the person at the address furnished to the state tax commission and as it appears in

the records of the state tax commission. Upon such sale, any surplus above the amounts due shall be returned to the person who placed the security.

Approved March 26, 1988.

CHAPTER 183
(H.B. No. 573, As Amended)

AN ACT

RELATING TO PERSONAL PROPERTY TAXES; AMENDING SECTION 63-1302, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONAL PROPERTY TAXES MAY BE PAID IN TWO INSTALMENTS; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-1302, Idaho Code, be, and the same is hereby amended to read as follows:

63-1302. TAX PAYABLE ON DEMAND -- DELINQUENCY DATE -- PENALTY. (1) All taxes shown on the personal property assessment roll, the manufactured home assessment roll, and on any subsequent roll, be it personal or manufactured home roll, shall be due and payable to the tax collector on demand and shall become delinquent if not paid on or before ~~December 20 of each year or the day following~~ the demand due date ~~if--so~~ specified by the tax collector on the demand tax notice~~, except that taxes upon equities in--state--lands--and--upon--leasehold improvements--which--are defined by law as personal property and which are located upon federal government, state, county, municipal,--Indian or--other--exempt--land--may~~. If no demand is made, the taxes shall be paid in two (2) instalments; the first half shall become delinquent if not paid on or before December 20 and the second half shall become delinquent if not paid on or before June 20, together with a penalty of two per cent (2%) of the amount of the delinquent instalment, plus interest at the rate of one per cent (1%) per month dating back to January 1. If the first half is not paid on or before December 20, the entire tax shall be due and payable together with a penalty of two per cent (2%) of the amount of tax due on the delinquent instalment, plus interest at the rate of one per cent (1%) per month dating back to January 1. In the event the taxpayer is unable to pay his personal property tax or manufactured home tax, due on or before December 20, he may appeal to the board of county commissioners. If sufficient information is given to satisfy the board that the taxes will be paid, and that an extension should be granted, the board of county commissioners may grant an extension of time to the taxpayer for the payment of the taxes, penalty and interest, not exceeding four (4) months. A warrant of distraint shall not be issued until expiration of the extended time.

(2) Taxes on transient personal property assessed under sections 63-1401 through 63-1414, Idaho Code, shall be payable on demand or if no demand is made, shall become delinquent if not paid on or before December 20.

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, 1988.

Approved March 26, 1988.

CHAPTER 184
(H.B. No. 578, As Amended)

AN ACT
RELATING TO HIGHWAYS; AMENDING SECTIONS 40-109 AND 40-202, IDAHO CODE, TO DELETE REFERENCES TO DISPOSITION OF CORPORATE-OWNED HIGHWAYS UPON DISSOLUTION OF THE CORPORATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-109, Idaho Code, be, and the same is hereby amended to read as follows:

40-109. DEFINITIONS -- H.

(1) "Highway district system" means all public highways within each highway district, except those included within the state highway system, those included within city highway systems of incorporated cities, 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 system," section 40-120, Idaho Code)

(4) "Highway users' fund bonds" mean those bonds issued for and on behalf of dissolved city highway 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 abandoned 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 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.~~

SECTION 2. That Section 40-202, Idaho Code, be, and the same is hereby amended to read as follows:

40-202. DESIGNATION OF HIGHWAYS. (1) The initial selection of the county highway system and highway district system may be accomplished in the following manner:

(a) The board of county or highway district commissioners shall cause a map to be prepared showing each highway in their jurisdiction, and the commissioners shall cause notice to be given of intention to adopt the map as the official map of that system, and shall specify the time and place at which all interested persons may be heard.

(b) After the hearing, the commissioners shall adopt the map, with any changes or revisions considered by them to be advisable in the public interest, as the official map of the respective highway system.

(2) If a county or highway district acquires an interest in real property for highway purposes, the respective commissioners shall:

(a) Cause any order or resolution enacted, and deed or other document establishing an interest in the property for their highway system purposes to be recorded in the county records; and

(b) Cause the official map of the county or highway district system to be amended as affected by the acceptance of the highway.

(3) Highways laid out and recorded by order of a board of commissioners, and all highways used 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 highway is dissolved, or discontinues the highway, the highway may become a public highway.~~ If a highway created in accordance with the provisions of this subsection is not designated on the official map of the respective highway system, there shall be no duty to maintain that highway, nor shall there be any liability for any injury or damage for failure to maintain it or any highway signs, until the highway is designated as a part of the county or highway district system by inclusion on the official map.

(4) Nothing in this section shall limit the power of any board of commissioners to subsequently include or exclude any highway from the county or highway district system in the same manner provided for the selection of the initial highway system as provided by law.

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 26, 1988.

CHAPTER 185
(H.B. No. 594)

AN ACT

RELATING TO THE TAX LEVY FOR THE DAIRY PRODUCTS COMMISSION; AMENDING SECTION 25-3117, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO PROVIDE CLARIFICATION OF THE COMMISSION'S AUTHORITY TO ADJUST THE RATE OF THE TAX LEVY WITHIN STATUTORY LIMITS.

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

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

25-3117. TAX LEVY. (1) From and after the 1st day of ~~June, 1979~~ July, 1988, there is hereby levied and imposed a tax of not to exceed one percent (1%) of the gross dollar daily or monthly settlements for the sale of all milk and cream produced in the state of Idaho and sold or contracted through commercial channels, which tax shall be due on or before the time when such milk or cream is first sold or contracted in the commercial channels and shall be paid at such time or times as the commission may, by rule or regulation, prescribe, as hereinafter provided, but not later than the 25th day of the month next succeeding the month in which milk or cream is sold or contracted in commercial channels. The tax provided in this section shall be levied and imposed at a rate of not more than one percent (1%) ~~unless~~ as the commission, by a vote of two-thirds (2/3) of its members, establishes ~~a rate of less than one percent (1%)~~.

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

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

Approved March 26, 1988.

CHAPTER 186
(H.B. No. 616)

AN ACT

RELATING TO TAX ON SURPLUS LINES OF INSURANCE; AMENDING SECTION 41-1229, IDAHO CODE, TO PROVIDE A SLIDING TAX RATE ON SURPLUS LINE INSURANCE DEPENDING ON THE EFFECTIVE DATE OF THE POLICY.

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

SECTION 1. That Section 41-1229, Idaho Code, be, and the same is hereby amended to read as follows:

41-1229. TAX ON SURPLUS LINES. (1) On or before the first day of March of each year each broker shall remit to the state treasurer through the director a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by him with unauthorized insurers during the preceding calendar year as shown by his annual statement filed with the director, and at the ~~same rate as is applicable to the premiums of authorized foreign insurers under chapter 4 of this code.~~ following rates:

BEGINNING EFFECTIVE DATE OF POLICY	RATE
January 1, 1987 through July 31, 1987	3%
August 1, 1987 through July 31, 1988	3.663%
August 1, 1988 and thereafter	3%

Such tax shall be in lieu of all other taxes upon such insurers with respect to the business so reported. When collected the tax shall be credited to the general fund.

(2) If a surplus line policy covers risks or exposures only partially in this state, the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

Approved March 26, 1988.

CHAPTER 187
(H.B. No. 626)

AN ACT

RELATING TO CONTINUING CARE COMMUNITIES; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-2750, 67-2751, 67-2752, 67-2753, 67-2754, 67-2755, 67-2756, 67-2757, 67-2758, 67-2759, 67-2760, 67-2761, 67-2762, 67-2763 AND 67-2764, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF PURPOSE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR AN ANNUAL REGISTRATION FEE, TO PROVIDE FOR DISCLOSURE OF FINANCIAL RESPONSIBILITY, TO PROVIDE

SPECIFICATIONS FOR RESIDENCE CONTRACTS, TO PROVIDE FOR HOLDING ADVANCE DEPOSITS IN ESCROW, AND TO PROVIDE FOR RELEASE OF DEPOSITS, TO PROHIBIT CROSS-COLLATERALIZATION, TO PROVIDE FOR AUDITS, TO PROVIDE FOR CIVIL LIABILITY, TO PROVIDE FOR INJUNCTIONS, TO PROVIDE GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF A REGISTRATION, TO PROVIDE INVESTIGATIVE POWERS TO THE DIRECTOR, AND TO PROVIDE FOR EXEMPTION FROM CRIMINAL PROSECUTION FOR TESTIMONY, TO PROVIDE CRIMINAL PENALTIES, AND TO PROVIDE REGULATORY AUTHORITY FOR THE DIRECTOR.

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

SECTION 1. That Chapter 27, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 67-2750, 67-2751, 67-2752, 67-2753, 67-2754, 67-2755, 67-2756, 67-2757, 67-2758, 67-2759, 67-2760, 67-2761, 67-2762, 67-2763 and 67-2764, Idaho Code, and to read as follows:

67-2750. SHORT TITLE. This act shall be known and may be cited as the "Idaho Continuing-Care Disclosure Act."

67-2751. STATEMENT OF PURPOSE. The legislature recognizes that continuing care communities have become an important and necessary alternative for the long-term residential, social and health maintenance needs for many of the state's elderly citizens.

The legislature finds and declares that tragic consequences can result to citizens of the state when a provider of services under a continuing care agreement becomes insolvent or unable to provide responsible care. The legislature recognizes the need for full disclosure with respect to the terms of agreements between prospective residents and the provider and the operations of such providers. Accordingly, the legislature has determined that these providers should be regulated in accordance with the provisions of this act. The provisions of this act apply equally to for-profit and not-for-profit provider organizations. The provisions of this act shall be the minimum requirements to be imposed upon any person, association or organization offering or providing continuing care as set forth in this act.

67-2752. DEFINITIONS. As used in this act:

(1) "Continuing care" means the furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, pursuant to an agreement requiring an entrance fee.

(2) "Department" means the department of finance.

(3) "Director" means the director of the department of finance or his authorized designee.

(4) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of a specified individual as a resident in a facility. A fee which is less than the

sum of the regular periodic charges for six (6) months of residency will not be considered to be an entrance fee for the purposes of this act.

(5) "Facility" means the place or places in which a person undertakes to provide continuing care to an individual.

(6) "Living unit" means a room, apartment, cottage or other area within a facility set aside for the exclusive use or control of one or more identified individuals.

(7) "Provider" means the promoter, developer, or owner of a continuing care facility, whether a natural person, partnership, unincorporated association, trust, or corporation, or any other person, or that person's successors or assigns that solicits or undertakes to provide continuing care to the public under a continuing care facility contract.

(8) "Resident" means an individual entitled to receive continuing care in a facility.

67-2753. REGISTRATION -- ANNUAL FEE. Each provider who provides continuing care services in this state shall register with the director on forms provided by the department and shall pay an annual registration fee. Such registration fee shall be fixed by the director but shall not exceed five hundred dollars ($500) per facility. No provider shall be allowed to operate a facility until so registered and until the provider has filed with the director a disclosure statement as set forth in section 67-2754, Idaho Code. All fees received by the director shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

67-2754. DISCLOSURE STATEMENT OF FINANCIAL RESPONSIBILITY. As a condition to registration with the department, each provider must file evidence of financial responsibility. Said evidence shall be on registration forms provided by the director. The registration forms shall request such information as the director, in his discretion, shall deem appropriate to carry out the functions of this act. The director shall require, however, the following information to be included on the provider's statement of financial responsibility:

(1) The names and business addresses of the officers, directors, trustees, managing or general partners, any person having a ten per cent (10%) or greater equity or beneficial interest in the provider, and any person who will be managing the facility on a day-to-day basis, and a description of these persons' interests in or occupations with the provider.

(2) Information as follows on all persons named in response to the information required in subsection (1) of this section:

(a) A description of the business experience of this person, if any, in the operation or management of similar facilities;

(b) The name and address of any professional service, firm, association, trust, partnership, or corporation in which this person has, or which has in this person, a ten per cent (10%) or greater interest and which it is presently intended shall currently or in the future provide goods, leases, or services to the facility, or to residents of the facility, of an aggregate value of five hun-

dred dollars ($500) or more within any year, including a description of the goods, leases, or services and the probable or anticipated cost thereof to the facility, provider, or residents or a statement that this cost cannot presently be estimated; and

(c) A description of any matter in which the person (1) has been convicted, or found guilty of, or received a withheld judgment for a felony, or been held liable, or enjoined in a civil action by final judgment, which civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or (2) is subject to a currently effective injunctive or restrictive court order in any action involving fraud, embezzlement, fraudulent conversion, or misappropriation of property; or (3) within the past five (5) years, had any local, state or federal license or permit suspended or revoked as a result of fraud, embezzlement, fraudulent conversion, or misappropriation of property.

(3) A statement as to whether the provider is, or is not affiliated with, eleemosynary, or other nonprofit organization, the extent of the affiliation, if any, the extent to which the affiliate organization will be responsible for the financial and contract obligations of the provider, and the provision of the federal internal revenue code, if any, under which the provider or affiliate is exempt from the payment of income tax.

(4) A detailed description of all fees required of residents, including the entrance fee and periodic charges, if any. The description shall include, but not be limited to:

(a) The circumstances under which the resident will be permitted to remain in the facility in the event of financial difficulties of the resident;

(b) The terms and conditions under which a contract for continuing care at the facility may be canceled by the provider or by the resident, and the conditions under which all or any portion of the entrance fee will be refunded in the event of cancellation of the contract by the provider or by the resident or in the event of the death of the resident prior to or following occupancy of a living unit;

(c) The manner by which the provider may adjust periodic charges or other recurring fees and the limitations on these adjustments, if any; and, if the facility is already in operation, or if the provider or manager operates one or more similar continuing care locations within this state, tables shall be included showing the frequency and average dollar amount of each increase in periodic charges, or other recurring fees at each facility or location for the previous five (5) years, or such shorter period as the facility or location may have been operated by the provider or manager.

(5) The health and financial conditions required for an individual to be accepted as a resident and to continue as a resident once accepted, including the effect of any change in the health or financial condition of a person between the date of entering a contract for continuing care and the date or initial occupancy of a living unit by that person.

(6) The provisions that have been made or will be made to provide reserve funding or security to enable the provider to perform its

obligations fully under contracts to provide continuing care at the facility, including the establishment of escrow accounts, trusts, or reserve funds, together with the manner in which these funds will be invested, and the names and experience of any individuals in the direct employment of the provider who will make the investment decisions.

(7) Certified financial statements of the provider, including (i) a balance sheet as of the end of the most recent fiscal year, and (ii) income statements for the three (3) most recent fiscal years of the provider or such shorter period of time as the provider shall have been in existence. The director shall only accept certified financial statements that have been prepared and certified by or under the direction of a certified public accountant. If the provider's fiscal year ended more than one hundred twenty (120) days prior to the date the disclosure statement is recorded, interim financial statements as of a date not more than ninety (90) days prior to the date of recording the statement shall be included, but need not be certified.

(8) A summary of a report of an actuary, updated every five (5) years, that estimates the capacity of the provider to meet its contract obligation to the residents. Disclosure statements of continuing care facilities established prior to January 1, 1988, do not need an actuary report or summary until January 1, 1993.

(9) If operation of the facility has not yet commenced, a detailed and itemized statement of the anticipated source and application of the funds used or to be used in the purchase or construction of the facility. Said statements shall also include a detailed and itemized estimate of the funds, if any, that are anticipated to be necessary to fund start-up losses and provide reserve funds to assure full performance of the obligations of the provider under contracts for the provision of continuing care.

(10) Pro forma annual income statements and balance sheets for the facility for a period of not less than five (5) fiscal years with supporting documentation as the director may, in his discretion, require.

(11) All material information relevant to a decision of a prospective resident to enter into a continuing care contract with the provider, whether or not specifically requested by the director.

(12) All other information required by the director.

(13) The cover page of the disclosure statement shall state, in a prominent location and in boldface type, the date of the disclosure statement, the last date through which that disclosure statement may be delivered if not earlier revised, and that the delivery of the disclosure statement to a contracting party before the execution of a contract for the provision of continuing care is required by this act but that the disclosure statement has not been reviewed or approved by any government agency or representative to ensure accuracy or completeness of the information set out.

(14) A copy of the standard form of contract for continuing care used by the provider shall be attached to and be considered a part of the disclosure statement.

67-2755. SPECIFICATION FOR RESIDENCE CONTRACTS. (1) In addition

to such other provisions as may be considered proper to effectuate the purpose of any continuing care agreement, each agreement executed on and after the date of the adoption of this act shall be written in nontechnical language easily understood by a layperson and shall:

(a) Show the value of all property transferred, including donations, subscriptions, fees and any other amounts paid or payable by, or on behalf of, the resident or residents.

(b) Specify in detail all services which are to be provided by the provider to each resident.

(c) Describe the health and financial conditions upon which the provider may have the resident relinquish his space in the designated facility.

(d) State the fees and conditions that will apply if the resident marries while at the designated facility.

(e) Provide that the agreement may be cancelled upon the giving of notice of cancellation of at least thirty (30) days by the resident. An agreement may be cancelled by the provider if there has been a good faith determination in writing, signed by the medical director and the administrator of the facility, that a resident is a danger to himself or others.

(f) Provide in print no smaller than the largest type used in the body of said agreement, the terms governing the refund of any portion of the entrance fee.

(g) State the terms under which an agreement is cancelled by the death of the resident. The agreement may contain a provision to the effect that, upon the death of the resident, the moneys paid for the continuing care of such resident shall be considered earned and become the property of the provider.

(h) Provide for advance notice to the resident, of not less than thirty (30) days, before any change in fees or charges or the scope of care or services may be effective, except for changes required by state or federal assistance programs.

(i) Provide that charges for care paid in one (1) lump sum shall not be increased or changed during the duration of the agreed upon care, except for changes required by state or federal assistance programs.

(2) A resident shall have the right to rescind a continuing care agreement, without penalty or forfeiture, within (7) seven days after making an initial deposit or executing the agreement. A resident shall not be required to move into the facility designated in the agreement before the expiration of the seven (7) day period.

(3) If a resident dies before occupancy date, or through illness, injury or incapacity is precluded from becoming a resident under the terms of the continuing care agreement, the agreement is automatically rescinded and the resident or his legal representative shall receive a full refund of all moneys paid to the facility, except those costs specifically incurred by the facility at the request of the resident and set forth in writing in a separate addendum, signed by both parties to the agreement.

(4) No agreement for care shall permit dismissal or discharge of the resident from the facility providing care prior to the expiration of the agreement, without just cause for such a removal. Just cause

may include, but not be limited to, a good faith determination in writing, signed by the medical director and the administrator of the facility that a resident is a danger to himself or others while remaining in the facility. Dismissal for just cause shall not affect the resident's qualification for a refund under the contract.

(5) No act, agreement or statement of any resident, or of any individual purchasing care for a resident under any agreement to furnish care to the resident, shall constitute a valid waiver of any provision of this act intended for the benefit or protection of the resident or the individual purchasing care for the resident.

(6) Those agreements entered into prior to the effective date of this act or prior to the issuance of a certificate of authority to the provider shall be valid and binding upon both parties in accordance with their terms.

67-2756. ESCROW -- TRUST -- SURETY BOND -- COLLECTION OF DEPOSITS. (1) A provider shall establish an escrow account with a bank or a trust company, that is located in Idaho, agreed upon by the provider and the resident. The terms of this escrow account shall provide that the total amount of any entrance fee received by the provider prior to the date the resident is permitted to occupy a living unit in the facility be placed in this escrow account. These funds may be released only as follows:

(a) If the entrance fee applies to a living unit that has been previously occupied in the facility, the entrance fee shall be released to the provider when the living unit becomes available for occupancy by the new resident;

(b) If the entrance fee applies to a living unit which has not been previously occupied by any resident, the entrance fee shall be released to the provider when the escrow agent is satisfied that:

(i) Construction or purchase of the living unit has been completed and an occupancy permit, if applicable, covering the living unit has been issued by the local government having authority to issue such permits;

(ii) A commitment has been received by the provider for any permanent mortgage loan, long-term financing or other source of capital and any conditions of the commitment prior to disbursement of funds thereunder have been substantially satisfied; and

(iii) Aggregate entrance fees received or receivable by the provider pursuant to binding continuing care retirement community contracts, plus the anticipated proceeds of any first mortgage loan, long-term financing commitment, or other source of capital, are equal to not less than ninety per cent (90%) of the aggregate cost of constructing or purchasing, equipping and furnishing the facility plus not less than ninety per cent (90%) of the funds estimated in the statement of anticipated source and application of funds submitted by the provider as that part of the disclosure statement required in section 67-2754, Idaho Code, to be necessary to fund start-up losses and assure full performance of the obli-

gations of the provider pursuant to continuing care retirement community contracts.

(2) Upon receipt by the escrow agent of a request by the provider for the release of these escrow funds, the escrow agent shall approve release of the funds within five (5) working days unless the escrow agent finds that the requirements of subsection (1) of this section have not been met and notifies the provider of the basis for this finding. The request for release of the escrow funds shall be accompanied by any documentation the fiduciary requires.

(3) If the provider fails to meet the requirements for release of funds held in this escrow account within a time period the escrow agent considers reasonable, these funds shall be returned by the escrow agent to the persons who have made payment to the provider. The escrow agent shall notify the provider of the length of this time period when the provider requests release of the funds.

(4) An entrance fee held in escrow may be returned by the escrow agent to the person who made payment to the provider at any time upon receipt by the escrow agent of notice from the provider that this person is entitled to a refund of the entrance fee.

(5) In addition to the escrow requirement of this section, each provider shall provide a surety bond or an irrevocable letter of credit in a form acceptable to the department. Any surety bond offered as evidence of financial responsibility must be written by a company authorized to do business in this state. The bond must be in effect at any time that funds remain in escrow under the provisions of this section and shall be an amount not less than the aggregate value of all outstanding amounts in escrow.

67-2757. CROSS-COLLATERALIZATION PROHIBITED. No part of the entrance fee placed in escrow may be pledged by the provider as collateral for the purpose of securing loans for any purpose other than providing for the care of the resident.

67-2758. AUDITS. Each provider upon annual renewal of registration shall provide to the director certified audited reports of the financial condition of the facility and shall amend the disclosure required by section 67-2753, Idaho Code, as necessary. The annual audited reports shall be prepared by or under the supervision and direction of a certified public accountant according to generally accepted accounting principles and shall contain such additional information as may be required by the director. The annual renewal of registration shall be filed with the director not later than ninety (90) days after the close of the provider's fiscal year as used for state income tax purposes.

67-2759. CIVIL LIABILITY. (1) Any person who, as a provider, or on behalf of a provider:

(a) Enters into a contract for continuing care at a facility which has not registered under this act;

(b) Enters into a contract for continuing care at a facility without having first delivered a disclosure statement meeting the requirements of this act to the person contracting for such con-

tinuing care;

(c) Enters into a contract for continuing care at a facility with a person who has relied on a disclosure statement which contains a misstatement of a material fact or which omits a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading; or

(d) Engages in any fraudulent or deceptive practices in the provision of services to the resident, or prospective resident;

shall be deemed to have violated the terms of this act and shall be liable to the person contracting for such continuing care for damages and repayment of all fees paid to the provider, facility or person in violation of the provisions of this act, less the reasonable value of care and lodging provided to the resident by or on whose behalf the contract for continuing care was entered into prior to discovery of the violation, misstatement or omission or the time the violation, misstatement or omission should reasonably have been discovered, together with interest thereon at the legal rate for judgments and court costs and reasonable attorney fees.

(2) Liability under this section shall exist regardless of whether or not the provider or person liable had actual knowledge of the misstatement or omission.

(3) A person may not file or maintain an action under this section if the person, before filing the action, received an offer, approved by the director, to refund all amounts paid the provider, facility or person in violation of the provisions of this act together with interest from the date of payment, less the reasonable value of care and lodging provided prior to the receipt of the offer and the person failed to accept the offer within thirty (30) days of receipt. At the time a provider makes a written offer of rescission, the provider shall file a copy with the director. The rescission offer shall recite the provisions of this section.

(4) An action shall not be maintained to enforce a liability created under this act unless brought before the expiration of six (6) years after the execution of the contract for continuing care which gave rise to the violation.

(5) Except as expressly provided in this act, civil liability in favor of a private party shall not arise against a person, by implication, from or as a result of the violation of this act or a rule or order promulgated or issued under this act. This act shall not limit a liability which may exist by virtue of any other statute or under common law if this act were not in effect.

67-2760. INJUNCTIONS. Whenever it appears to the director that any person has engaged in, or is about to engage in, any act or practice constituting a violation of any provision of this act or any rule or order hereunder, the director may:

(1) Issue an order directed at any such person requiring such person to cease and desist from engaging in such act or practice.

(2) Bring an action in any court which has appropriate jurisdiction to enjoin the acts or practices and to enforce compliance with this act or any rule or order hereunder. Upon a showing that a person

has engaged or is about to engage in an act or practice constituting a violation of this act or any rule or directive of the director promulgated hereunder, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The director shall not be required to post a bond.

67-2761. DENIAL, SUSPENSION, REVOCATION OF REGISTRATION -- GROUNDS. The director may by order deny, suspend or revoke registration of any provider:

(1) If he finds the order is in the public interest; or

(2) Any of the conditions described in section 67-2754(2)(c), Idaho Code, apply to the provider.

In addition the director may impose an administrative fine in an amount not to exceed five thousand dollars ($5,000) for each violation of the provisions of this act.

67-2762. OATHS -- SUBPOENAS -- PUNISHMENT -- EXEMPTION FROM CRIMINAL PROSECUTION FOR TESTIMONY. For the purpose of any investigation or proceeding under this act the director or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the director deems relevant or material to the inquiry.

(1) In case of contumacy by or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the director, may issue to that person an order requiring him to appear before the director or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question and any failure to obey such order of the court may be punished by the court as a contempt of court.

(2) No person is excused from attending and testifying, from producing any document or record before the director or from obeying the subpoena of the director or any officer designated by him or in any proceeding instituted by the director on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

67-2763. CRIMINAL PENALTIES. (1) Any person who willfully and knowingly violates any provision of this act, or any rule or order under the act, shall be guilty of a misdemeanor and be sentenced to pay a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one (1) year in the county jail or both for each violation.

(2) The director may refer such evidence as is available concerning violations of the provisions of this act or of any rule or order hereunder to the attorney general or the proper prosecuting attorney who may, with or without such a reference, institute the appropriate criminal proceedings under this act.

(3) Nothing in this act limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

67-2764. REGULATORY AUTHORITY. The director shall have the authority to adopt, amend or repeal such rules and regulations as are reasonably necessary for the enforcement of the provisions of this act. Any initial rules and regulations necessary to the implementation of this act shall be promulgated or published within six (6) months of the effective date of this act.

Approved March 26, 1988.

CHAPTER 188
(H.B. No. 628)

AN ACT

RELATING TO THE PRACTICE OF PHYSICAL THERAPY; AMENDING CHAPTER 22, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2218, IDAHO CODE, TO ALLOW REFERRALS TO DESIGNATED HEALTH PROFESSIONALS.

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

SECTION 1. That Chapter 22, 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 54-2218, Idaho Code, and to read as follows:

54-2218. REFERRALS TO OTHER HEALTH PROFESSIONALS. One who practices physical therapy may refer patients to a licensed medical physician, osteopathic physician, podiatrist, dentist or chiropractic physician.

Approved March 26, 1988.

CHAPTER 189
(S.B. No. 1545)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1989; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. It is legislative intent that the expenditures for the Superintendent of Public Instruction/State Department of Education not exceed the following amount for the period July 1, 1988, through June 30, 1989:

FROM:

General Account	$ 2,358,300
Interagency Billing and Receipts Account	98,100
Professional Standards Commission Account	240,300
Driver Training Account	1,523,100
Commodity Distribution Account	466,800
Computer Services Account	525,600
Indian Education Account	250,600
Elementary-Secondary Education Account	20,210,700
Educational Block Grant Account	2,554,800
Food Services Account	13,181,600
Association for the Humanities in Idaho Account	37,300
TOTAL	$41,447,200

SECTION 2. There is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amount, to be expended for designated programs from the listed accounts for the period July 1, 1988, through June 30, 1989:

A. MANAGEMENT:

FROM:

General Account	$ 272,800
Educational Block Grant Account	67,900
TOTAL	$ 340,700

B. FINANCE AND ADMINISTRATION:

FROM:

General Account	$ 1,133,200
Interagency Billing and Receipts Account	98,100
Driver Training Account	1,523,100
Commodity Distribution Account	466,800
Computer Services Account	525,600
Educational Block Grant Account	92,600
Food Services Account	13,181,600
TOTAL	$17,021,000

C. STATE-FEDERAL INSTRUCTIONAL SERVICES:

FROM:

General Account	$ 952,300
Professional Standards Commission Account	240,300
Association for the Humanities in Idaho Account	37,300
Indian Education Account	250,600
Elementary and Secondary Education Account	20,210,700
Educational Block Grant Account	2,394,300
TOTAL	$24,085,500
GRAND TOTAL	$41,447,200

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 Superintendent of Public Instruction/State Department of Education any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 238, Laws of 1987, to be used for nonrecurring expenditures only for the period July 1, 1988, through June 30, 1989.

Approved March 28, 1988.

CHAPTER 190
(H.B. No. 516)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2705, IDAHO CODE, TO TRANSFER SUBSTANCES FROM TEMPORARY TO PERMANENT STATUS AND TO TRANSFER ONE SUBSTANCE TO SCHEDULE II; AMENDING SECTION 37-2707, IDAHO CODE, TO ADD SUBSTANCES TO SCHEDULE II; AND AMENDING SECTION 37-2711, IDAHO CODE, TO INCLUDE TWO ADDITIONAL 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 des-

ignation:

(1) Acetylmethadol;
(2) ~~Alfentanil;~~
~~(3)~~ Allylprodine;
(43) Alphacetylmethadol;
(54) Alphameprodine;
(65) Alphamethadol;
(76) Alphamethylfentanyl;
(87) Benzethidine;
(98) Betacetylmethadol;
(109) Betameprodine;
(110) Betamethadol;
(121) Betaprodine;
(132) Clonitazene;
(143) Dextromoramide;
(154) Diampromide;
(165) Diethylthiambutene;
(176) Difenoxin;
(187) Dimenoxadol;
(198) Dimepheptanol;
(209) Dimethylthiambutene;
(210) Dioxaphetyl butyrate;
(221) Dipipanone;
(232) Ethylmethylthiambutene;
(243) Etonitazene;
(254) Etoxeridine;
(265) Furethidine;
(276) Hydroxypethidine;
(287) Ketobemidone;
(298) Levomoramide;
(309) Levophenacylmorphan;
(30) 3-Methylfentanyl;
(31) Morpheridine;
(32) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(323) Noracymethadol;
(334) Norlevorphanol;
(345) Normethadone;
(356) Norpipanone;
(37) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
(368) Phenadoxone;
(379) Phenampromide;
(380) Phenomorphan;
(391) Phenoperidine;
(402) Piritramide;
(413) Proheptazine;
(424) Properidine;
(435) Propiram;
(446) Racemoramide;
(457) Tilidine;
(468) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the exis-

tence 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) Hallucinogenic substances. 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 (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(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-methylenedioxymethamphetamine (MDMA)
(8) 3,4,5-trimethoxy amphetamine;
(9) Bufotenine;
(10) Diethyltryptamine;
(11) Dimethyltryptamine;
(12) Ibogaine;
(13) Lysergic acid diethylamide;
(14) Marihuana;
(15) Mescaline;
(16) Parahexyl;
(17) Peyote;
(18) N-ethyl-3-piperidyl benzilate;
(19) N-methyl -3- piperidyl benzilate;
(20) Psilocybin;

(21) Psilocyn;

(22) Tetrahydrocannabinols. 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 such as the following;

Δ^1 cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration.

Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers.

$\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)

(23) Thiophene analog of phencyclidine (1-(1-(2-thienyl)cyclohexyl) piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;

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

(25) 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.

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

~~(1) 3-Methylfentanyl (N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phelylpropanamide), its optical and geometric isomers, salts and salts of isomers.~~

~~(2) 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers.~~

~~(3) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its optical isomers, salts and salts of isomers.~~

~~(4) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (PEPAP), its optical isomers, salts and salts of isomers.~~

(51) N-[1-(1-methyl-2-phenyl)ethyl-4-piperidyl]-N-phenylacetamide (acetyl-alpha-methylfentanyl), its optical isomers, salts and

salts of isomers.

(6~~2~~) N-(1-(1-methyl-2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers.

(~~7~~3) N-(1-benzyl-4-piperidyl)-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers.

(~~8~~4) N-(1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl)-N-phenylpropanamide (beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers.

~~(9)--3-methylfentanyl),-its-optical-and-geometric--isomers,--salts and-salts-of-isomers;~~

(5) N-[3-methyl-1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenyl-propanamide(beta-hydroxy-3-methylfentanil), its optical and geometric isomers, salts and salts of isomers.

(~~10~~6) N-(3-methyl-1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (3-methylthiofentanyl), its optical and geometric isomers, salts and salts of isomers.

(~~11~~7) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

(~~12~~8) N-(1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (thiofentanyl), its optical isomers, salts and salts of isomers.

(9) N-[1-(2-phenylethyl)-4-piperidyl]-N-(4-fluorophenyl)-propanamide (para-fluorofentanyl), its optical isomers, salts and salts of isomers.

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 apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, naltrexone and their respective 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) Alfentanil;
(2) Alphaprodine;
(~~2~~3) Anileridine;
(3~~4~~) Bezitramide;
(4~~5~~) Bulk Dextropropoxyphene (nondosage forms);
(5~~6~~) Dihydrocodeine;
(6~~7~~) Diphenoxylate;
(7~~8~~) Fentanyl;
(8~~9~~) Isomethadone;
(9~~10~~) Levomethorphan;
(10~~11~~) Levorphanol;
(11~~12~~) Metazocine;
(12~~13~~) Methadone;
(13~~14~~) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(14~~5~~) Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl propane-carboxylic acid;
(15~~6~~) Pethidine (meperidine);
(16~~7~~) Pethidine--Intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine;
(17~~8~~) Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate;
(18~~9~~) Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
(~~19~~20) Phenazocine;
(20~~1~~) Piminodine;

(2~~1~~2) Racemethorphan;
(2~~2~~3) Racemorphan;
(2~~3~~4) 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) Hallucinogenic substances. ~~Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. food and drug administration approved drug product~~

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. food and drug administration approved drug product (21 C.F.R. 1308.12 (f)).
(2) Nabiline .....(another name for nabilone: (+)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo (b,d)pyran-9-one) (21 C.F.R. 1308.12 (f)).

(g) 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;
(b) Methylamine;
(c) Ephedrine;
(d) Pseudoephedrine.

Except that any combination or compound containing ephedrine, or any of its salts and isomers, or pseudoephedrine, or any of its salts and isomers which is prepared for dispensing or over-the-counter distribution is not a controlled substance for the purpose of this section.

(2) Immediate precursors to phencyclidine (PCP):
(a) 1-phenylcyclohexylamine;
(b) 1-piperidinocyclohexanecarbonitrile (PCC).

SECTION 3. That Section 37-2711, Idaho Code, be, and the same is

hereby amended to read as follows:

37-2711. SCHEDULE IV. (a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) No more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;
(2) Barbital;
(3) Bromazepam;
(4) Camazepam;
(5) Chloral betaine;
(6) Chloral hydrate;
(7) Chlordiazepoxide;
(8) Clobazam;
(9) Clonazepam;
(10) Clorazepate;
(11) Clotiazepam;
(12) Cloxazolam;
(13) Delorazepam;
(14) Diazepam;
(15) Estazolam;
(16) Ethchlorvynol;
(17) Ethinamate;
(18) Ethyl loflazepate;
(19) Fludiazepam;
(20) Flunitrazepam;
(21) Flurazepam;
(22) Halazepam;
(23) Haloxazolam;
(24) Ketazolam;
(25) Loprazolam;
(26) Lorazepam;
(27) Lormetazepam;
(28) Mebutamate;
(29) Medazepam;
(30) Meprobamate;
(31) Methohexital;
(32) Methylphenobarbital (mephobarbital);

(33) Midazolam;
(34) Nimetazepam;
(~~34~~5) Nitrazepam;
(35~~6~~) Nordiazepam;
(36~~7~~) Oxazepam;
(37~~8~~) Oxazolam;
(38~~9~~) Paraldehyde;
(39~~40~~) Petrichloral;
(40~~1~~) Phenobarbital;
(41~~2~~) Pinazepam;
(42~~3~~) Prazepam;
(43~~4~~) Temazepam;
(44~~5~~) Tetrazepam;
(45~~6~~) Triazolam;
(47) Quazepam.

(d) Fenfluramine - Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(1) Fenfluramine.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Diethylpropion;

(2) Mazindol;

(3) Pemoline (including organometallic complexes and chelates thereof);

(4) Phentermine;

(5) Pipradrol;

(6) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(f) Other substances. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Pentazocine.

(g) The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Approved March 28, 1988.

CHAPTER 191
(H.B. No. 555)

AN ACT

RELATING TO THE WHEAT COMMISSION; AMENDING SECTION 22-3310, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO PROVIDE THAT MONEYS OF THE COMMISSION SHALL BE MAINTAINED IN A BANK ACCOUNT; REPEALING SECTION 22-3319, IDAHO CODE; AND AMENDING CHAPTER 33, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3319, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT AND DISBURSEMENT OF FUNDS OF THE COMMISSION.

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

SECTION 1. That Section 22-3310, Idaho Code, be, and the same is hereby amended to read as follows:

22-3310. COMMISSION ACCEPTING GRANTS, DONATIONS AND GIFTS. The commission may accept grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this ~~act~~ chapter which may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this ~~act~~ chapter shall be paid into a bank account in the name of the Idaho wheat commission and ~~shall be paid into the "Idaho Wheat Commission Fund" which is hereby created in the office of the state treasurer, state of Idaho,~~ such moneys ~~to be kept in said "Idaho Wheat Commission Fund" and~~ are hereby continuously appropriated and made available for defraying the expenses of the commission in carrying out the provisions of this ~~act~~ chapter.

SECTION 2. That Section 22-3317, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 33, 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 22-3319, Idaho Code, and to read as follows:

22-3319. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative budget office, the state auditor, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited annually by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the state auditor and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.

Approved March 28, 1988.

CHAPTER 192
(H.B. No. 556)

AN ACT

RELATING TO THE APPLE COMMISSION; REPEALING SECTION 22-3607, IDAHO CODE; AND AMENDING CHAPTER 36, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3607, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT AND DISBURSEMENT OF FUNDS OF THE COMMISSION.

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

SECTION 1. That Section 22-3607, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 36, 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 22-3607, Idaho Code, and to read as follows:

22-3607. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of

this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative budget office, the state auditor, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited biennially by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the state auditor and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.

Approved March 28, 1988.

CHAPTER 193
(H.B. No. 557)

AN ACT

RELATING TO THE DAIRY PRODUCTS COMMISSION; REPEALING SECTION 25-3112, IDAHO CODE; AMENDING CHAPTER 31, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3112, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT AND DISBURSEMENT OF FUNDS OF THE COMMISSION; AMENDING SECTION 25-3117, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AND AMENDING SECTION 25-3119, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Section 25-3112, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 31, 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 25-3112, Idaho Code, and to read as

follows:

25-3112. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative budget office, the state auditor, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited annually by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the state auditor and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.

SECTION 3. That Section 25-3117, Idaho Code, be, and the same is hereby amended to read as follows:

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

cent (1%).

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

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

SECTION 4. That Section 25-3119, Idaho Code, be, and the same is hereby amended to read as follows:

25-3119. PERSONS REQUIRED TO PAY TAX ~~---DAIRY-PRODUCTS-COMMISSION FUND. (1)~~ The tax imposed in this ~~act~~ chapter shall be paid by the first purchaser or producer-handler to the commission. The commission shall receipt the purchaser or producer-handler therefor and promptly ~~turn-the-moneys-over-to-the-state-treasurer,-who--shall~~ deposit ~~them~~ the moneys in a bank account in the name of the ~~general-fund-of-the state-to-the-credit-of-a-special-account-to-be--known--as--the--"Idaho dairy products commission fund"-which-fund-is-hereby-created-in-the office-of-the-state-treasurer-of-the-state-of--Idaho~~. The commission may adopt, rescind, modify and amend regulations not consistent with this ~~act~~ chapter, related to the payment and collection of the tax provided for in the ~~act~~ chapter.

~~(2)--All-moneys-received-under-the-provisions-of-this-act-shall-be paid--to--the-Idaho-dairy-products-commission-to-be-deposited-into-the "Idaho-dairy-products-commission-fund,"-which-fund-is--hereby--created in--the--office--of--the--state--treasurer-of-the-state-of-Idaho.-Such moneys-shall-be-kept-in-said-"Idaho-dairy--products--commission--fund" and--are--hereby--appropriated--and--made--available-for-defraying-the expenses-of-the-commission-in-carrying-out-the-provisions-of-this-act.~~

~~(3)--All-salaries,-costs-and-expenses-incurred-by--the--commission in-performing-its-duties-in-the-exercise-of-its-powers-under-this-act, shall--be--paid--out-of-such-"Idaho-dairy-products-commission-fund"-in the-following-manner:-vouchers-therefor-shall-be-submitted-by-the-commission-to-the-state-auditor-and-upon-approval-by-the-state--board--of examiners,--the--state--auditor-shall-draw-his-warrant-upon-the-"Idaho dairy-products-commission-fund"-in-payment-therefor.~~

Approved March 28, 1988.

CHAPTER 194
(H.B. No. 602)

AN ACT

RELATING TO THE BARLEY COMMISSION; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 40, TITLE 22, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY, TO CREATE THE BARLEY COMMISSION, TO PROVIDE DEFINITIONS, TO PROVIDE FOR QUALIFICATIONS OF MEMBERS OF THE COMMISSION, TO PROVIDE FOR TERMS OF OFFICE FOR MEMBERS OF THE COMMISSION, TO PROVIDE FOR COMPENSATION OF THE MEMBERS OF THE COMMISSION, TO PROVIDE FOR A CHAIRMAN AND ADMINISTRATOR OF THE COMMISSION, TO PROVIDE FOR MEETINGS OF THE COMMISSION, TO PROVIDE FOR DUTIES AND POWERS OF THE COMMISSION, TO PROVIDE FOR DEPOSIT AND DISBURSEMENT OF FUNDS, TO PROVIDE FOR BONDS OF AGENTS AND EMPLOYEES, TO PROVIDE FOR THE APPOINTMENT OF AN ADMINISTRATOR, HIS DUTIES AND SALARY, TO PROVIDE FOR THE ESTABLISHMENT OF AN ADMINISTRATOR'S OFFICE, TO PROVIDE THAT THE STATE IS NOT LIABLE FOR ACTS OR OMISSIONS OF THE COMMISSION OR ITS EMPLOYEES, TO PROVIDE FOR A TAX ON ALL BARLEY GROWN IN IDAHO, TO PROVIDE FOR THE DELIVERY OF CERTAIN DOCUMENTS TO GROWERS, TO PROVIDE FOR PAYMENT OF THE TAX, TO PROVIDE PENALTIES, AND TO PROVIDE FOR REFERENDUMS ON CONTINUANCE OF THE REFUND PROVISIONS AND OF THE COMMISSION.

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

SECTION 1. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 40, Title 22, Idaho Code, and to read as follows:

CHAPTER 40
BARLEY--PROMOTION OF MARKETING

22-4001. DECLARATION OF POLICY. It is to the interest of all the people that the abundant natural resources of Idaho be protected, fully developed and uniformly distributed. Among the agricultural industries of the state of Idaho that contribute to the economic welfare of the state is the barley industry. Because of a surplus of barley grown in this state, and because a surplus during recurrent years has become excessive and difficult to market in the available markets, it is necessary, in order to provide a profitable enterprise for the barley growers of the state and to promote employment of labor and to assist the barley growers and those in the various industries dependent upon the barley growers, that additional markets be found and developed. It is the purpose of this chapter to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho barley.

22-4002. BARLEY COMMISSION CREATED -- MEMBERS. There is hereby created and established in the department of self-governing agencies

the Idaho barley commission to be composed of three (3) grower members appointed by the governor, one (1) from each of the three (3) commission districts referred to in section 22-4004, Idaho Code, who shall be appointed by the governor from a list of names with at least three (3) names for each appointive office for each district submitted to the governor by the Idaho grain producers association, inc., a grain growers' association representing barley growers throughout the state of Idaho, and each shall hold office for the term specified in section 22-4005, Idaho Code. The commissioners appointed by the governor may select a barley industry representative to serve a three (3) year term on the commission. The dean of the college of agriculture, university of Idaho, or his duly authorized representative, shall be an ex officio member of the commission without vote.

22-4003. DEFINITIONS. As used in this chapter:

(1) "Commercial channels" mean the sale of barley for use as food, feed, seed, or any industrial or chemurgic use, when sold to any commercial buyer, user, dealer, processor, cooperative, or to any person, public or private, who resells any barley or product produced from barley.

(2) "Commission" means the Idaho barley commission.

(3) "Crop reduction program" means an offer by an agency of the United States government to give growers an amount of barley as payment for reducing planted acreage of barley.

(4) "Delivery" means placing of barley into the primary channels of trade.

(5) "First purchaser" means any person, group, association or partnership that buys barley from the grower in the first instance, or any lienholder, public or private, including the commodity credit corporation, who may possess barley from the grower under any lien.

(6) "Grower" means any landowner personally engaged in growing barley, a tenant of the landowner personally engaged in growing barley, or both the owner and the tenant jointly, and includes a person, partnership, association, corporation, cooperative, trust, sharecropper or any and all other business units, devices and arrangements.

(7) "Sale" includes any pledge, mortgage or delivery of barley for sale after harvest to any person, public or private.

22-4004. QUALIFICATION OF MEMBERS. Members of the commission shall be selected and appointed because of their ability and disposition to serve the state's interest and for knowledge of the state's natural resources. Members appointed by the governor shall be citizens over twenty-five (25) years of age, residents of the state who have been actually engaged in growing barley in this state for at least five (5) years, and who derive a substantial portion of their income from growing barley in the state of Idaho. There shall be one (1) member from each of the following three (3) districts initially established as follows:

District 1. Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Lewis, Idaho, Adams, Valley and Washington Counties.

District 2. Payette, Gem, Boise, Custer, Canyon, Ada, Elmore, Camas, Blaine, Butte, Gooding, Lincoln, Jerome, Minidoka, Owyhee, Twin Falls and Cassia Counties.

District 3. Lemhi, Clark, Fremont, Jefferson, Madison, Teton, Bingham, Bonneville, Power, Bannock, Caribou, Oneida, Franklin and Bear Lake Counties.

22-4005. TERM OF MEMBERS. (1) Except as provided in subsection (3), the term of office of a member of the barley commission shall be three (3) years. Any member of the commission who has served for two (2) full consecutive terms shall not be eligible for reappointment until the expiration of a three (3) year period.

(2) Appointments to fill vacancies shall be for the balance of the unexpired term.

(3) (a) Beginning July 1, 1988, a member from district 1 will be appointed for a full four (4) year term ending in 1992. Subsequent terms will be for three (3) years.

(b) Beginning July 1, 1988, a member from district 2 will be appointed for a full three (3) year term ending in 1991. Subsequent terms will be for three (3) years.

(c) Beginning July 1, 1988, a member from district 3 will be appointed for a full two (2) year term ending in 1990. Subsequent terms will be for three (3) years.

22-4006. COMPENSATION OF MEMBERS. Members of the commission shall be compensated as provided in section 59-509(h), Idaho Code.

22-4007. CHAIRMAN AND ADMINISTRATOR OF COMMISSION. The commission shall elect one of the governor's appointed members as chairman and may employ an administrator who is not a member of the commission, or may contract with the Idaho wheat commission or a similar agency for the administration of the barley commission's business.

22-4008. MEETINGS OF COMMISSION. The commission shall meet at least once every three (3) months regularly and at such other times as called by the chairman. The chairman may call special meetings of the commission at any time or place.

22-4009. DUTIES AND POWERS OF COMMISSION. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of the provisions of this chapter, the commission shall, in conjunction with the Idaho grain producers association, inc., have the following duties, authorities and powers:

(a) To conduct a campaign of research, education and publicity.

(b) To find new markets for barley and barley products.

(c) To give, publicize and promulgate reliable information showing the value of barley and barley products for any purpose for which it is found useful and profitable.

(d) To make public and encourage the widespread national and international use of the special kinds of barley and barley products produced from all varieties of barley grown in Idaho.

(e) To investigate and participate in studies of the problems peculiar to the producers of barley in Idaho.

(3) The commission shall have the duty, power and authority:

(a) To take such action as the commission deems necessary or advisable in order to stabilize and protect the barley industry of the state and the health and welfare of the public.

(b) To sue and be sued.

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

(d) To appoint and employ officers, agents and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.

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

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

(g) To lease, purchase or own the real or personal property deemed necessary in the administration of the provisions of this chapter.

(h) To prosecute in the name of the state of Idaho any suit or action for collection of the tax or assessment provided for in the provisions of this chapter.

(i) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties.

(j) To incur indebtedness and carry on all business activities.

(k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to the inspection and audit by the state auditor and public at all times.

(l) To audit records of "first purchasers" of Idaho barley and otherwise to determine the time of proper collection amount or payment of the barley tax or any penalties thereto.

22-4010. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which may be specified as a condition of any grant, donation or gift, and all of the revenues received under the provisions of section 22-4017, Idaho Code, shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon

checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative budget office, the state auditor, and the division of financial management, a report showing the annual income to the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current fiscal year and a projection of anticipated expenses by category for the current fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited annually by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the state auditor and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.

22-4011. BONDS OF AGENTS AND EMPLOYEES. The administrator, or any agent or employee appointed by the commission shall be bonded to the state of Idaho in the time, form and manner as prescribed by chapter 8, title 59, Idaho Code. The cost of the bond is an administrative expense under this chapter.

22-4012. APPOINTMENT OF ADMINISTRATOR -- DUTIES -- SALARY. The commission may appoint an administrator who shall devote full time to the administration of the provisions of this chapter. He shall proceed immediately to prepare the plans and general program necessary and adequate to carry out the policies that are adopted by the commission. The administrator shall be paid a reasonable salary fixed by the commission, commensurate with his duties, and all necessary expenses.

22-4013. ESTABLISHMENT OF ADMINISTRATOR'S OFFICE. For the convenience of the majority of those most likely to be affected in the administration of the provisions of this chapter, the administrator, upon recommendation of the commission, shall establish and maintain an office for the administrator within the state of Idaho.

22-4014. STATE NOT LIABLE FOR ACTS OR OMISSIONS OF COMMISSION OR OF ITS EMPLOYEES. The state of Idaho is not liable for the acts or omissions of the commission or any member thereof or any officer, agent or employee thereof.

22-4015. IMPOSITION OF TAX. (1) From and after the first day of July, 1988, there is hereby levied and imposed a tax of two cents (2¢) per hundredweight on all barley grown in the state of Idaho or given

to Idaho growers under a crop reduction program, and sold or contracted through commercial channels, and each and every crop grown or barley given to growers under a crop reduction program thereafter. The tax shall be due on barley given to growers under a crop reduction program and sold or contracted through commercial channels, regardless of any deduction of the tax on this same barley prior to it being given to the grower. The tax shall be due on or before the time when such barley is first sold or contracted in the commercial channels and shall be paid at such time or times as the commission may, by rule or regulation, prescribe, as hereinafter provided, but not later than the 15th day of the month next succeeding the three (3) month period in which such barley is sold or contracted in commercial channels. The commission shall designate the quarters (three (3) month periods) for the purpose of collection of this tax.

(2) The tax 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 barley under his lien, the tax shall be deducted by the lienholder from the proceeds of the claim secured by such lien at the time the barley is pledged or mortgaged. The tax shall be deducted as provided in this section whether the barley is 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 tax, provided the amount of the tax is one dollar ($1.00) or less.

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

(4) Any person may request from the commission in writing, within thirty (30) days after payment thereof, a refund of all or any portion of an assessment levied hereunder on barley and paid by him. The commission shall make the refund not later than thirty (30) days after the end of the fiscal year in which the request is made.

22-4016. DELIVERY OF DOCUMENTS TO GROWERS. (1) The purchaser, at the time of settlement, shall make and deliver separate documents for each purchase to the grower.

(2) The documents shall, at a minimum, contain the following information:

(a) The name or names and address or addresses of the grower and seller.

(b) The name and address of the purchaser.

(c) The number of hundredweights of barley sold.

(d) The date of the purchase.

(3) The documents shall be legibly written and shall have no corrections or erasures on the face thereof.

(4) Unlawful or willful alteration of any document required under this chapter shall constitute a misdemeanor.

22-4017. PAYMENT OF TAX -- DISPOSITION OF RECEIPTS. The tax imposed in this chapter shall be paid by the first purchaser to the commission. The commission shall receipt the purchaser thereof and

promptly deposit the moneys in an account as provided in section 22-4010, Idaho Code. The commission may adopt, rescind, modify and amend regulations not inconsistent with this chapter, related to the payment and collection of the tax provided for in this chapter.

22-4018. PENALTIES. (1) Any person who shall violate or aid in the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than three hundred dollars ($300) or imprisonment not to exceed ninety (90) days, or both. Fines collected for violation of the provisions of this chapter shall be paid into the Idaho barley commission account.

(2) Any person or firm who makes payment to the commission at a date later than that prescribed in section 22-4015, Idaho Code, shall be subject to a late payment penalty as set forth by the commission by rule and regulation. Such penalty shall not exceed the rate of fifteen percent (15%) per annum on the amount due.

22-4019. REFERENDUM FOR BARLEY GROWERS. (1) After five (5) years from the effective date of this section a referendum shall be held to determine if barley growers favor the continuation of the refund provisions prescribed in section 22-4015, Idaho Code. The question shall be submitted by secret ballots upon which the words "Do you favor a barley commission that is funded by all growers with no refund provision?" are printed with a square before each of the printed words "YES" and "NO" with directions to insert an "X" mark in the square before the proposition which the voter favors. If a majority of the referendum vote is in favor of continuing the refund provision, the provisions of subsection (4) of section 22-4015, Idaho Code, shall be extended indefinitely or until such time that the commission deems it necessary to hold another referendum on the issue.

(2) After five (5) years from the effective date of the referendum required by the provisions of subsection (1) above, and every five (5) years thereafter, a referendum on the continuation of the barley commission may be held at the petition of barley growers, or at the request of the barley commission. The question shall be submitted by secret ballots upon which the words "Do you favor continuation of the barley commission?" are printed with a square before each of the printed words "YES" and "NO" with directions to insert an "X" mark in the square before the question which the voter favors. If a majority of the referendum vote is in favor of continuing the barley commission, all of the provisions of chapter 40, title 22, Idaho Code, shall continue. If a majority of the referendum vote is against continuing the barley commission, the assessment imposed by section 22-4015, Idaho Code, shall cease on the date the director of the department of agriculture announces the results of the referendum vote, and the commission shall prepare a plan for terminating all activities of the commission, effective as soon as possible, but not later than the close of the current fiscal year. If necessary, the director of the department of agriculture shall implement the provisions of the plan. The procedures necessary to initiate a referendum under the provisions of this subsection are as follows:

(a) A referendum shall be held if the Idaho department of agriculture receives a petition requesting such referendum signed by ten percent (10%) or more of growers of barley in at least two (2) of the three (3) districts as outlined in section 22-4004, Idaho Code, as determined by the number of growers subject to the tax imposed by section 22-4015, Idaho Code, in either of the two (2) immediate past years; or

(b) A referendum shall be held if the Idaho department of agriculture receives a written request for such referendum from the barley commission.

(3) (a) Any referendum shall be conducted only among growers who paid a barley assessment during one (1) of the previous two (2) years, whether or not a refund of such assessment was requested or made.

(b) Any referendum must be held and supervised by the Idaho department of agriculture.

(c) Any referendum shall be held, and the result determined and declared by the director of the department of agriculture, and recorded in the office of the secretary of state.

(d) Notice of any referendum must be given by the commission in a manner determined by it. The ballots must be prepared by the commission and forwarded to eligible growers, who shall return them within twenty (20) days after mailing by the commission.

(e) The commission shall pay the costs of any referendum.

Approved March 28, 1988.

CHAPTER 195
(H.B. No. 687, As Amended in the Senate)

AN ACT

RELATING TO TELECOMMUNICATION REGULATION; AMENDING TITLE 62, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 6, TITLE 62, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR THE APPLICABILITY OF THE PROVISIONS OF THE CHAPTER, TO PROVIDE A PROCEDURE FOR NOTICES OF ELECTION FOR CERTAIN TELECOMMUNICATIONS SERVICES TO BE SUBJECT TO THE CHAPTER, AND TO PROVIDE FOR CONTINUING AUTHORITY OF THE COMMISSION, TO REQUIRE THE FILING OF PRICE LISTS OR TARIFFS, TO PROVIDE FOR AVERAGE MESSAGE TELECOMMUNICATION SERVICE RATES, TO AUTHORIZE THE COMMISSION TO REQUIRE INTERCONNECTION OF SERVICES, TO REGULATE PRACTICES CONCERNING ACCESS CHARGES, TO ESTABLISH A UNIVERSAL SERVICE FUND, TO PROVIDE FOR REGULATORY FEES, TO RESTRICT WITHDRAWAL OR DISCONTINUANCE OF SERVICE, TO PROHIBIT SUBSIDIZATION OF CERTAIN SERVICES, TO PROVIDE A PROCEDURE FOR RESOLUTION OF INTER-TELEPHONE COMPANY DISPUTES, TO PROVIDE FOR THE STATUS OF EXISTING OR EXPANDED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, TO PROVIDE COMMISSION AUTHORITY TO RESOLVE SUBSCRIBER COMPLAINTS, TO PROVIDE FOR TELEPHONE COMPANY ANTI-TRUST LIABILITY, TO PROVIDE FOR PREEMPTION, TO

PROVIDE FOR PROCEDURE BEFORE THE COMMISSION AND APPEALS, TO PROVIDE CIVIL PENALTIES FOR VIOLATION OF ORDERS, DECISIONS, RULES OR REGULATIONS OF THE COMMISSION, TO PROVIDE SEVERABILITY, AND TO PROVIDE FOR MATTERS PENDING BEFORE THE COMMISSION ON THE EFFECTIVE DATE OF THE ACT; AMENDING SECTION 61-121, IDAHO CODE, TO DEFINE TERMS; AND AMENDING CHAPTER 6, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-622A, IDAHO CODE, TO PROVIDE FOR COST ALLOCATION AND COMMISSION AUTHORITY RELATING THERETO; AND PROVIDING FOR A REPORT TO THE LEGISLATURE.

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

SECTION 1. That Title 62, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 6, Title 62, Idaho Code, and to read as follows:

CHAPTER 6
TELECOMMUNICATIONS ACT OF 1988

62-601. SHORT TITLE. This chapter shall be known and may be referred to as the "Telecommunications Act of 1988."

62-602. LEGISLATIVE INTENT. The legislature of the state of Idaho hereby finds that universally available telecommunications services are essential to the health, welfare and economic well-being of the citizens of the state of Idaho and there is a need for establishing legislation to protect and maintain high-quality universal telecommunications at just and reasonable rates for all classes of customers and to encourage innovation within the industry by a balanced program of regulation and competition. The commission shall administer these statutes with respect to telecommunication rates and services in accordance with this policy.

62-603. DEFINITIONS. As used in this chapter:

(1) "Basic local exchange service" means the provision of access lines to residential and small business customers with the associated transmission of two-way interactive switched voice communication within a local exchange area.

(2) "Basic local exchange rate" shall mean the monthly charge imposed by a telephone corporation for basic local exchange service, but shall not include any charges resulting from action by a federal agency or taxes or surcharges imposed by a governmental body which are separately itemized and billed by a telephone corporation to its customers.

(3) "Chapter" as used herein shall mean chapter 6, title 62, Idaho Code.

(4) "Commission" means the Idaho public utilities commission.

(5) "Local exchange area" means a geographic area encompassing one or more local communities as described in maps, tariffs or rate schedules filed with and approved by the commission, where basic local exchange rates rather than message telecommunication service rates apply.

(6) "Message telecommunication service (MTS)" means the transmission of two-way interactive switched voice communication between local exchange areas for which charges are made on a per-unit basis, not including wide area telecommunications service (WATS), or its equivalent, or individually negotiated contracts for telecommunication services.

(7) "Residential customers" shall mean persons to whom telecommunication services are furnished at a dwelling and which are used for personal or domestic purposes and not for business, professional or institutional purposes.

(8) "Small business customers" shall mean a business entity, whether an individual, partnership, corporation or any other business form, to whom telecommunication services are furnished for occupational, professional or institutional purposes, and which business entity does not subscribe to more than five (5) access lines within a building.

(9) "Telecommunication service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means (which includes message telecommunication service and access service), which originate and terminate in this state, and are offered to or for the public, or some portion thereof, for compensation. "Telecommunication service" does not include the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service, surveying, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), and such services shall not be subject to the provisions of title 61, Idaho Code, or title 62, Idaho Code.

(10) "Telephone corporation" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing telecommunication services for compensation within this state. Telephone corporations providing radio paging, mobile radio telecommunications services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service or surveying are exempt from any requirement of this chapter or title 61, Idaho Code, in the provision of such services; provided, that the providers of these exempted services shall have the benefits given them under section 62-608, Idaho Code.

62-604. APPLICABILITY OF CHAPTER. (1) (a) Any telephone corporation, except any mutual nonprofit or cooperative telephone corporation, which did not, on January 1, 1988, hold a certificate of public convenience and necessity issued by the commission and, which does not provide basic local exchange service, shall, on and after the effective date of this act, be subject to the provisions of this chapter

and shall be exempt from the provisions of title 61, Idaho Code.

(b) All telephone corporations, as set forth in subparagraph (1)(a) of this section, shall file a notice with the commission, which notice shall set forth the following information:

(i) the name of the telephone corporation and the address of its principal place of business within the state;

(ii) a description of the telecommunication services offered by such telephone corporation and the area served by it or in which it offers telecommunication services,

(c) Such notice shall be filed on or before the 1st day of January of each year following the effective date of this act.

(2) Any telephone corporation holding a certificate of public convenience and necessity on January 1, 1988, issued by the commission pursuant to title 61, Idaho Code, may, pursuant to section 62-605, Idaho Code:

(a) elect to exclude its telecommunication services, other than basic local exchange service including recurring and nonrecurring charges therefor, from regulation pursuant to title 61, Idaho Code, and such excluded telecommunication services shall thereafter be subject to the provisions of this chapter;

(b) notwithstanding any other provision of this chapter, a telephone corporation which, pursuant to section 61-538, Idaho Code, was, prior to the effective date of this chapter, subject to the provisions of such section, shall continue to be subject to the provisions of section 61-538, Idaho Code, notwithstanding such telephone corporation is subject to the provisions of this chapter.

62-605. PROCEDURE FOR NOTICE OF ELECTION -- COMMISSION CONTINUING AUTHORITY. (1) A telephone corporation which held a certificate of public convenience and necessity on January 1, 1988, may file with the commission a notice that such telephone corporation elects to be subject to the provisions of this chapter for telecommunication services other than basic local exchange service, which notice shall include the following:

(a) The name and address of the telephone corporation;

(b) A narrative description of the telecommunication services provided by the telephone corporation and the geographic area and market served by the telephone corporation.

(2) Upon the expiration of thirty (30) days from the filing of such notice of election, said telephone corporation shall, as to telecommunication services other than basic local exchange service, be exempt from the provisions of title 61, Idaho Code, and such telecommunication services shall thereafter be subject to the provisions of this chapter.

(3) Nothing contained in the provisions of this chapter or title 61, Idaho Code, shall be construed to prevent any person or entity from providing telecommunication services in competition with a telephone corporation as to those services which have been excluded from regulation under title 61, Idaho Code, pursuant to the provisions of this chapter, or with a telephone corporation, other than a mutual, nonprofit or cooperative telephone corporation, which was not, on the effective date of this act, subject to regulation by the commission

pursuant to title 61, Idaho Code.

(4) Nothing contained in the provisions of this chapter shall be construed to prevent any telephone corporation from maintaining on file with the commission a tariff or price list describing the details of its services.

(5) For any telecommunication service which was subject, on the effective date of this act, to title 61, Idaho Code, and which at the election of the telephone corporation became subject to this chapter, the commission shall have continuing authority to review the quality of such service, its general availability, and terms and conditions under which it is offered. Upon complaint to the commission and after notice to the telephone corporation providing such service and hearing, the commission finds that the quality, general availability or terms and conditions for such service are adverse to the public interest, the commission shall have authority to negotiate or require changes in how such telecommunication services are provided. In addition, if the commission finds that such corrective action is inadequate, it shall have the authority to require that such telecommunication services be subject to the requirements of title 61, Idaho Code, rather than the provisions of this chapter.

62-606. REQUIREMENT FOR PRICE LIST OR TARIFF FILING. All telephone corporations which provide message telecommunication services, WATS service or access to their local exchange network for the provision of such services by the use of special access or private line access and switched access, or their equivalents, shall file with the commission for information purposes tariffs or price lists which reflect the availability, price, and terms and conditions for those services. Changes to such tariffs or price lists shall be effective not less than ten (10) days after filing with the commission, and giving public notice to affected customers.

62-607. AVERAGING OF MESSAGE TELECOMMUNICATION SERVICE RATES. Each provider of message telecommunication service which is subject to the provisions of the chapter, shall average its rates for such service on its routes of similar distance within the state of Idaho unless otherwise authorized by the commission. Nothing contained herein shall be construed to prohibit volume discounts, or other discounts in promotional offerings.

62-608. COMMISSION AUTHORITY TO REQUIRE INTERCONNECTION FOR THE PURPOSE OF PROVIDING MESSAGE TELECOMMUNICATION SERVICES. A telephone corporation providing basic local exchange service shall not be required to provide message telecommunication services. In the event a telephone corporation which provides basic local exchange service does not have interconnection with a provider of message telecommunication services, the commission may order any provider of message telecommunication service in the state to interconnect with that telephone corporation upon such terms as will be just and equitable to such provider.

62-609. IMPUTED AND NONDISCRIMINATORY ACCESS CHARGES -- COMMIS-

SION AUTHORITY. (1) A telephone corporation, which provides basic local exchange service, and which also provides message telecommunications service shall impute to itself its prices of special access or private line access and switched access for the use of essential facilities used in the provision of message telecommunications service, special access or private line access services and WATS service or their equivalents. Such imputation shall be in the aggregate on a service by service basis. All other providers of message telecommunications service, special access or private line access services and WATS service or their equivalents shall impute to themselves, in the aggregate on a service by service basis, their individual cost of special or switched access or its equivalent in their pricing.

The commission shall define in an appropriate proceeding what are essential facilities for the purpose of this subsection and shall resolve any dispute which may arise under this subsection.

(2) Telecommunication services which are subject to the provisions of this chapter and which services utilize special or switched access, shall be made available by the telephone corporation for resale. No telephone corporation shall, as to its prices or charges for or the provision of such services, make or grant any preference or advantage to any telephone corporation or to a provider of services exempted from regulation under section 62-603(9), Idaho Code, or subject any telephone corporation or any provider of services exempted from regulation under section 62-603(9), Idaho Code, to any prejudice or competitive disadvantage with respect to its prices or charges for providing access to its local exchange network nor establish or maintain any unreasonable difference as to its prices or charges for access to its local exchange network.

(3) Notwithstanding the provisions of section 62-614, Idaho Code, if, after negotiation, a dispute under this section exists between or among telephone corporations or between or among telephone corporation(s) and provider(s) of services exempted from regulation under section 62-603(9), Idaho Code, such dispute shall be determined by the commission upon petition of any affected telephone corporation or provider(s) of services exempted from regulation under section 62-603(9), Idaho Code.

Information disclosed to the commission for resolution of disputes under this section shall be provided by the telephone corporations with appropriate safeguards for the protection of business or trade secrets.

62-610. UNIVERSAL SERVICE FUND. (1) The commission shall establish a universal service fund (USF) for the purpose of maintaining the universal availability of local exchange service at reasonable rates and to promote the availability of message telecommunications service (MTS) at reasonably comparable prices throughout the state of Idaho.

(2) The USF shall be funded by imposing a statewide end user surcharge on local exchange service and MTS and WATS type services.

(a) The local exchange surcharge shall be a cents per line charge with a business-residential differential equal to the statewide average business-residential price ratio. Providers of local exchange service shall remit the local exchange surcharge revenues

to the fund administrator on a monthly basis.

(b) The MTS and WATS surcharge shall be recovered on a percentage basis through a surcharge applied to the monthly bill of each end user or by a cents per minute charge applied to the bills of all end users. Providers of MTS or WATS services shall remit the revenues derived from such surcharge to the fund administrator on a monthly basis.

(c) The surcharges set forth in paragraphs (a) and (b) of this subsection shall be collected by all telephone corporations, including telephone corporations subject to the provisions of this chapter and mutual nonprofit and cooperative telephone corporations, providing the services upon which the surcharge is levied.

(3) Telephone corporations which provide local exchange service and access service for MTS/WATS providers and which have rates for these respective services which meet both of the following criteria shall be eligible for distributions from the USF:

(a) The telephone corporation's average residence and business local exchange service rates for one-party single line service are in excess of one hundred and twenty-five percent (125%) of the weighted statewide average rates for residence and business local exchange service rates for one-party single line service respectively, and

(b) The telephone corporation's average per minute charge for MTS/WATS access services it provides is in excess of one hundred and twenty-five percent (125%) of the weighted statewide average for the same or similar MTS/WATS access services.

(4) Distributions from the fund shall be available to the individual telephone corporations in Idaho providing basic local exchange service to meet residual revenue requirements remaining after deducting the revenue generated by all intrastate telecommunication services, from the telephone corporation's total intrastate telecommunication service revenue requirement as determined by the commission, including local exchange and MTS/WATS access services priced at one hundred and twenty-five percent (125%) or more of the weighted statewide average and contributions from the federal universal service fund. The commission shall provide, by order, for not less than seventy-five percent (75%) nor more than one hundred percent (100%) of the residual revenue requirement of the individual telephone corporation to be funded by the universal service fund. The commission shall retain its authority to approve rate design consistent with this subsection, but notwithstanding such authority, the commission shall supply full funding for any commission determined revenue requirement. Distributions from the fund shall be made monthly.

(5) The commission shall:

(a) Adopt rules for the implementation and administration of the universal service fund established in this section.

(b) Determine which telephone corporations meet the eligibility standards;

(c) Provide for the receipt and collection of the surcharge for the universal service fund; and

(d) Provide for the administration and distribution of the fund to telephone corporations in a manner determined by the commis-

sion.

(6) "Local Exchange Service," as used in section 62-609, Idaho Code, means the provision of access lines to customers with the associated transmission of two-way interactive switched voice communication within a local exchange area.

62-611. REGULATORY FEES. Telephone corporations whose services are subject to the provisions of this chapter, shall pay to the commission a special regulatory fee to be determined by the commission, pursuant to procedures set forth in chapter 10, title 61, Idaho Code, in such amount as may be necessary to defray the amount to be expended by the commission for expenses in supervising and regulating telephone corporations pursuant to this chapter.

62-612. RESTRICTION ON WITHDRAWAL OR DISCONTINUANCE OF SERVICE. (1) A telephone corporation subject to this chapter which provides basic local exchange or message telecommunication service, may not withdraw or otherwise discontinue such service to a local exchange area unless one or more alternative telephone corporations are furnishing the respective telecommunication service or equivalent service to the customers in such local exchange area at the time such service is withdrawn or otherwise discontinued.

(2) A telephone corporation proposing to withdraw or otherwise discontinue the services set forth in subsection (1) of this section to a local exchange area shall file a notice of such withdrawal or discontinuance of service with the commission and shall publish a notice of such withdrawal in a legal newspaper circulated within the local exchange area, and provide such other reasonable notice as may be required by the commission.

(3) Any person or telephone corporation affected by a withdrawal or discontinuance of such services by a telephone corporation subject to this chapter, may within thirty (30) days from the date of publication of the notice apply to the commission to determine whether such withdrawal or discontinuance of service is authorized pursuant to this section.

62-613. SUBSIDIZATION OF CERTAIN SERVICES NOT ALLOWED. A telephone corporation may not subsidize telecommunication services which are subject to this chapter by those telecommunication services which are subject to regulation pursuant to title 61, Idaho Code. Provided, payments to the universal service fund established by section 62-610, Idaho Code, shall not be considered to be a violation of this section.

62-614. RESOLUTION OF INTER-TELEPHONE CORPORATION DISPUTES. (1) If a telephone corporation providing basic local exchange service which has exercised the election provided in section 62-604(2)(a), Idaho Code, and any other telephone corporation subject to title 61, Idaho Code, or any mutual, nonprofit or cooperative telephone corporation, are unable to agree on any matter relating to telecommunication issues between such companies, then either telephone corporation may apply to the commission for determination of the matter.

(2) Upon receipt of the application, the commission shall have

jurisdiction to conduct an investigation, and upon request of either party, to conduct a hearing and, based upon evidence presented to the commission, to issue its findings and order determining such dispute in accordance with applicable provisions of law and in a manner which shall best serve the public interest.

62-615. STATUS OF EXISTING OR EXPANDED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND EXISTING AREAS OF SERVICE. (1) For telephone corporations, or their successors in interest, which provide basic local exchange service, their existing certificates of public convenience and necessity shall represent an exclusive service area franchise for telecommunication services which remain subject to title 61, Idaho Code, within the certificated area of such telephone corporation, provided that the commission may alter or amend the geographic area of a certificate upon a finding that such alteration or amendment is required by the public interest. No telephone corporation shall provide telecommunications services to customers or end-users located within another telephone corporation's certificated service area, except through interconnection arrangements consented to by the certificate holder or required by the commission pursuant to section 61-513, Idaho Code.

(2) A telephone corporation which is the holder of a certificate of public convenience and necessity issued pursuant to title 61, Idaho Code, may apply to the commission for an exclusive addition to its certificate of public convenience and necessity to serve an otherwise unserved and uncertificated area. The application shall describe the proposed addition to the service area, and the commission shall cause a copy thereof to be served on all telephone corporations subject to either title 61, Idaho Code, or this chapter. Within sixty (60) days of service of the application, any telephone corporation may file a notice of intent to provide the requested telecommunication services to the area of the proposed addition on a nonexclusive basis. If no notice of intent to provide service on a nonexclusive basis is received, then the commission may enter an order granting the exclusive addition to the applicant's certificate pursuant to title 61, Idaho Code. If any telephone corporation files a notice of intent to provide service on a nonexclusive basis the commission shall determine whether it would be in the public interest to allow a telephone corporation to serve the area on a nonexclusive basis, or, if it determines that it would best serve the public interest to grant an exclusive franchise for such area, it shall approve that telephone corporation which it determines will best serve the public and may establish the terms and conditions under which such service shall be offered.

(3) Any mutual, nonprofit or cooperative telephone corporation providing basic local exchange service may apply to the commission for a certificate for an exclusive service area for telecommunication service on or before June 30, 1989. The application shall describe the area currently served by the mutual, nonprofit or cooperative corporation and shall provide a listing of other telecommunication services offered by such corporation. The application shall be granted by the commission within sixty (60) days of filing unless the commission determines that the matters stated therein are not true. The filing

of such application and granting of such certificate shall have no effect upon the exempt status of such mutual, nonprofit or cooperative corporation under sections 61-104 or 61-129, Idaho Code.

(4) Notwithstanding any other provision of this section, any telephone corporation, which on January 1, 1988, was authorized by the commission to provide message telecommunication services or was providing message telecommunication services within the state of Idaho, may continue to provide such message telecommunication services if the provision of such services is not otherwise prohibited or restricted by title 61, Idaho Code.

62-616. COMMISSION AUTHORITY TO RESOLVE SUBSCRIBER COMPLAINTS. The commission shall have the authority to investigate and resolve complaints made by subscribers to telecommunication services which are subject to the provisions of this chapter which concern the quality and availability of local exchange service, or whether price and conditions of service are in conformance with filed tariffs or price lists, deposit requirements for such service or disconnection of such service by telephone corporations subject to the provisions of this chapter. The commission may, by order, render its decision granting or denying in whole or in part the subscriber's complaint or providing such other relief as is reasonable based on the evidence presented to the commission at the hearing. Any final order of the commission entered pursuant to this section may be enforced against any telephone corporation by an affected person or by the commission.

62-617. TELEPHONE CORPORATION ANTITRUST LIABILITY. No action under the antitrust laws or any other provision or doctrine of law of the state of Idaho shall lie against a telephone corporation for providing service in compliance with any order of the commission.

62-618. PREEMPTION. The provisions of this chapter preempt, eliminate, and prohibit any economic, franchise or licensing regulation of telephone corporations subject to this chapter by cities, counties, incorporated or unincorporated areas, special use districts, or any other local governmental entity, of any kind.

62-619. PROCEDURE BEFORE COMMISSION -- APPEALS. (1) In all matters arising under this chapter, which are submitted to the commission for decision, order or review, procedure shall be governed by the commission's rules of practice and procedure.

(2) Reconsideration of, appeal from, and stay of orders issued pursuant to this chapter shall be governed by law as for orders of the commission in other matters.

62-620. CIVIL PENALTY FOR VIOLATION. Any telephone corporation who violates or fails to comply with any final order, decision, rule or regulation duly issued by the commission pursuant to this chapter shall be subject to a civil penalty of not to exceed two thousand dollars ($2,000) for each day that the violation continues.

Actions to recover penalties under this act shall be brought in the name of the state of Idaho, in the district court in and for the

county in which the cause of action or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides. Such action shall be commenced and prosecuted to final judgment by the attorney for the commission. In any such action, all penalties incurred up to the time of commencing the same may be sued for and recovered. In all such action, the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general account. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order.

62-621. SEVERABILITY. If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this chapter, 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.

62-622. MATTERS PENDING ON EFFECTIVE DATE. This chapter shall not prohibit determination of matters pending before the commission or a court of this state on the effective date of this act, and such matters shall, to the extent applicable, be determined as if this chapter were not if effect.

SECTION 2. That Section 61-121, Idaho Code, be, and the same is hereby amended to read as follows:

61-121. TELEPHONE CORPORATION -- TELECOMMUNICATION SERVICES. (1) The term "telephone corporation" when used in ~~this act includes~~ title 61, Idaho Code, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, ~~owning, controlling, operating or managing any telephone line for compensation--within this state; provided, telephone corporations providing mobile telephone service are exempt from regulation by the commission in the provision of mobile telephone service.~~ providing telecommunication services for compensation within this state. Telephone corporations providing radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service or surveying are exempt from any requirement of title 61, or chapter 6, title 62, Idaho Code, in the provision of such services.

(2) "Telecommunication service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means (which includes message

telecommunication service and access service), which originate and terminate in this state, and are offered to or for the public, or some portion thereof, for compensation. "Telecommunication service" does not include the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service, surveying, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), and such services shall not be subject to the provisions of title 61, Idaho Code, or title 62, Idaho Code.

SECTION 3. 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 61-622A, Idaho Code, and to read as follows:

61-622A. COMMISSION AUTHORITY -- COST ALLOCATION. For any telephone corporation which provides telecommunication services pursuant to both title 61, Idaho Code, and title 62, Idaho Code, the commission shall establish procedures for allocation of costs between telecommunication services provided pursuant to title 61, Idaho Code, and telecommunication services provided pursuant to title 62, Idaho Code. Such allocations shall reasonably reflect how joint-use facilities are utilized, provide reasonable stability for telephone corporations to do business planning and pricing and minimize the cost of accounting and record keeping to the extent possible. In developing such allocation methods, the commission may adopt procedures which are based on gross allocation factors derived from relative changes in total intrastate telecommunication service revenues or expenses or other measures of relative change between the provision of telecommunication services subject to title 61, Idaho Code, and telecommunication services subject to title 62, Idaho Code. The commission shall have the authority to establish just and reasonable rates for all telecommunication services which remain subject to title 61, Idaho Code.

SECTION 4. On or before January 1, 1991, the commission shall report to the legislature on the effect of this act on telecommunication services within the state of Idaho, together with the commission's recommendations for changes in the law, if any.

Approved March 28, 1988.

CHAPTER 196
(H.B. No. 412, As Amended in the Senate)

AN ACT

RELATING TO MOBILE HOME PARKS; AMENDING SECTION 55-2003, IDAHO CODE, TO PROVIDE THAT A TENANT MAY HAVE AN AGENT OF RECORD; AMENDING

SECTION 55-2004, IDAHO CODE, TO PROVIDE THAT THE ACT DOES NOT ABROGATE ANY RIGHTS; AMENDING SECTION 55-2005, IDAHO CODE, TO PROVIDE THAT RENTAL AGREEMENTS MUST BE IN WRITING, AND TO PROVIDE FOR THE TERMINATION OF EXISTING AGREEMENTS; AMENDING SECTION 55-2006, IDAHO CODE, TO REQUIRE WRITTEN NOTICE OF CHANGES, AND TO PROVIDE REQUIREMENTS FOR THE CONTENT OF A NOTICE; AMENDING SECTION 55-2007, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 55-2008, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE CONTENT OF RULES; AMENDING SECTION 55-2009, IDAHO CODE, TO PROVIDE CONDITIONS FOR THE SALE OR TRANSFER OF MOBILE HOMES; AMENDING SECTION 55-2010, IDAHO CODE, TO PROVIDE FOR WRITTEN RULES; AMENDING SECTION 55-2012, IDAHO CODE, TO PROVIDE THAT REQUESTS FOR LOT IMPROVEMENTS MUST BE IN WRITING; AMENDING CHAPTER 20, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-2013A, IDAHO CODE, TO PROVIDE FOR TENANT ASSOCIATIONS; AMENDING SECTION 55-2014, IDAHO CODE, TO STRIKE REFERENCE TO A REQUIREMENT FOR A TENANT TO POST A BOND BEFORE FILING AN ACTION FOR DAMAGES OR SPECIFIC PERFORMANCE; AND AMENDING SECTION 55-2015, IDAHO CODE, TO PROVIDE ADDITIONAL CONDITIONS OF RETALIATORY CONDUCT BY A LANDLORD THAT ARE PROHIBITED.

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

SECTION 1. That Section 55-2003, Idaho Code, be, and the same is hereby amended to read as follows:

55-2003. DEFINITIONS. For purposes of this chapter:

(1) "Landlord" means the owner of a mobile home park and includes the agents of the landlord.

(2) "Mobile home lot" means a portion of a mobile home park designated as the location of one (1) mobile home and its accessory buildings, and intended for the exclusive use of the occupants of that mobile home.

(3) "Mobile home park" means any real property which is rented or held out for rent to others for the placement of two (2) or more mobile homes for the primary purpose of production of income.

(4) "Tenant" means any person, except a transient, who rents a mobile home lot or their agent of record.

(5) "Transient" means a person who rents a mobile home lot for a period of less than one (1) month.

SECTION 2. That Section 55-2004, Idaho Code, be, and the same is hereby amended to read as follows:

55-2004. CHAPTER GOVERNS. This chapter shall regulate and determine legal rights, remedies and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot, except in those instances in which the landlord is renting both the lot and the mobile home to the tenant. All such rental agreements shall be unenforceable to the extent of any conflict with any provision of this chapter. This chapter does not abrogate any rights the park owner or tenant has under the laws and constitution of the United

States or the state of Idaho.

SECTION 3. That Section 55-2005, Idaho Code, be, and the same is hereby amended to read as follows:

55-2005. RENTAL AGREEMENT. (1) From and after the effective date of this chapter, any landlord offering mobile home lot for rent shall ~~offer~~ provide the prospective tenant a written rental agreement ~~if the landlord or tenant so requests.~~ This agreement must be executed by both parties. The provisions of this chapter shall apply to all such agreements and to all other rental agreements to the extent applicable as set forth in this chapter.

(2) The requirement of subsection (1) of this section shall not apply if:

(a) The mobile home park or part thereof has been acquired ~~or is under imminent threat of~~ by eminent domain or condemnation for a public works project; or

(b) An employer-employee relationship exists between a landlord and tenant.

(3) The provisions of this section shall apply to any tenancy in existence on the effective date of this act, but only after expiration of the term of any oral or written rental agreement governing such tenancy, not to exceed twelve (12) months from the date of enactment of this section. Existing contracts may be perpetuated by agreement of both parties.

SECTION 4. That Section 55-2006, Idaho Code, be, and the same is hereby amended to read as follows:

55-2006. ~~RENT~~ ADJUSTMENTS TO RENT, SERVICES, UTILITIES OR RULES. (1) A landlord may increase or decrease rents only after ninety (90) days' written notice to the tenants.

(2) Rental increases shall be uniform throughout the mobile home park.

(3) A landlord shall give written notice of such change to each affected mobile home owner at least ninety (90) days prior to any increase in lot rental amount, reduction in services or utilities provided by the landlord or changes in rules or regulations not to exceed one (1) change in any category per six (6) month period.

(4) Notwithstanding the foregoing provisions, a rental agreement may include an escalation clause for a pro rata share of any increase or decrease in the mobile home park's ad valorem taxes, utility assessments, or other services as included in the monthly rental charge, after the effective date of such a change. Issues of public safety, health or property degradation may also be included in this section. The landlord shall give thirty (30) days' written notice to a tenant before such an increase or decrease.

SECTION 5. That Section 55-2007, Idaho Code, be, and the same is hereby amended to read as follows:

55-2007. REQUIRED PROVISIONS AND EXCLUSIONS. (1) Any rental

agreement executed between the landlord and tenant shall contain:

(a) The terms for the payment of rent, including time and place, and any additional charges to be paid by the tenant. Additional charges that occur less frequently than monthly shall be itemized in a billing to the tenant;

(b) The rules of the park;

(c) The names and addresses of the manager of the mobile home park and the owner of the mobile home park or a person who resides in the ~~county~~ state where the mobile home park is located who is authorized to act as agent for the owner; and

(d) The terms and conditions under which any deposit or portion thereof may be withheld by the landlord upon termination of the rental agreement if any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a rental agreement.

(2) Any rental agreement executed between the landlord and tenant shall not contain:

(a) Any provision by which the tenant agrees to waive or forego rights or remedies under this chapter; or

(b) Any provision allowing the landlord to charge an "entrance fee" or an "exit fee."

SECTION 6. That Section 55-2008, Idaho Code, be, and the same is hereby amended to read as follows:

55-2008. RULES. A written rule of the park is enforceable against the tenant if it is part of the rental agreement signed by the tenant. A rule adopted or amended after the tenant enters into the rental agreement is not enforceable unless the tenant consents to it or is given ninety (90) days' notice in writing ~~if the tenant has dependent children or pets or is given sixty (60) days' notice in writing if the tenant has no dependent children or pets~~ except as provided in section 55-2006(4), Idaho Code. Rules shall be fairly and uniformly enforced ~~and shall be changed no more than four (4) times annually~~ contain the effective date.

SECTION 7. That Section 55-2009, Idaho Code, be, and the same is hereby amended to read as follows:

55-2009. SALES OF MOBILE HOMES AND TRANSFER OF MOBILE HOME SPACES. (1) No landlord shall deny any mobile home tenant who owns his mobile home the right to sell a mobile home on a rented space or require the tenant to remove the mobile home from the space solely on the basis of the sale.

(2) The landlord shall not exact a commission or fee for the sale of a mobile home on a rented space unless the landlord has acted as agent for the seller pursuant to a written agreement. The landlord may act as agent for the seller only upon the voluntary agreement of the seller.

(3) ~~The landlord may require that a tenant give thirty (30) days' notice in writing prior to the sale of their mobile home on a rented space if the prospective purchaser of the mobile home desires to leave~~

~~the mobile home on the rented space and become a tenant.~~

~~(4)~~ A new rental agreement must be signed between the landlord and a prospective tenant prior to the sale, transfer, assignment or subletting of the mobile home if the mobile home is to remain in the park. From the date of sale, assignment, transfer or subletting the new tenant shall be bound by the terms of the agreement.

~~(5)~~ The landlord shall approve or disapprove of the transfer, assignment or subletting of the mobile home space on the same basis that the landlord approves or disapproves of any new tenant. Notice of approval or disapproval shall be given in writing within five (5) working days of receiving a written application.

~~(6)~~ No mobile home shall be removed from any park until the rental payments, including the month when the mobile home is moved, are paid, or the provisions of section 55-2009A, Idaho Code, have been fully complied with and the landlord notified of date and time of removal.

SECTION 8. That Section 55-2010, Idaho Code, be, and the same is hereby amended to read as follows:

55-2010. TERMINATIONS. (1) Tenancy during the term of a rental agreement may be terminated by the landlord only for one or more of the following reasons:

(a) Substantial or repeated violation of the written rules of the mobile home park. The tenant shall be given written notice to comply. If the tenant does not comply within three (3) days, the tenant may be given notice of a twenty (20) day period in which to vacate. In the case of periodic rather than continuous violation, said notice shall specify that the same violation repeated shall result in the termination.

(b) Nonpayment of rent or other charges specified in the rental agreement. The tenant shall be given written notice. If the tenant does not pay within three (3) days the tenant may be given notice of a twenty (20) day period in which to vacate.

(c) Cessation of the mobile home space rental operation, provided that the landlord gives the tenant not less than one hundred twenty (120) days' notice in writing prior to the date designated in the notice of termination.

(2) A landlord shall give the tenant no less than ninety (90) days' written notice of an intention not to renew the rental agreement.

(3) A tenant shall notify the landlord in writing thirty (30) days prior to the expiration of a rental agreement of an intention not to renew rental agreement.

(4) Any tenant who is a member of the armed forces may, without penalty, terminate a rental agreement with less than thirty (30) days' notice if he receives reassignment orders which do not allow greater notice.

(5) The tenant may terminate the rental agreement upon thirty (30) days' written notice whenever a change in the location of the tenant's employment requires a change in his residence.

SECTION 9. That Section 55-2012, Idaho Code, be, and the same is hereby amended to read as follows:

55-2012. IMPROVEMENTS. (1) The landlord shall not restrict the tenant's freedom of choice in purchasing goods or services but may reserve the right to approve or disapprove any exterior improvements on a mobile home lot. Any request for lot improvements or changes must be submitted in writing. The approval or disapproval must be given in writing, be reasonable and be uniformly applied.

(2) Improvements, except those fixed to the soil, the removal of which would significantly damage the landscape of the mobile home lot, shall remain the property of the tenant. In removing improvements on termination of the rental agreement, the tenant shall leave the mobile home lot in better or substantially the same condition as upon taking possession.

SECTION 10. That Chapter 20, 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 55-2013A, Idaho Code, and to read as follows:

55-2013A. TENANT ASSOCIATIONS. The tenants in a mobile home park have the right to organize a tenant or homeowner's association to further their mutual interest and to conduct any other business and programs which the association shall determine. An association shall have the right to use the facilities of the park to conduct its business and programs. When an association is organized it shall notify the landlord.

SECTION 11. That Section 55-2014, Idaho Code, be, and the same is hereby amended to read as follows:

55-2014. TENANT ACTION FOR DAMAGES -- SPECIFIC PERFORMANCE---- ~~BOND. (1)~~ A tenant may file an action against a landlord for damages and specific performance as provided for by section 6-320, Idaho Code, except that no tenant may file an action against a landlord for damages and specific performance for failure to provide reasonable waterproofing and weather protection of the premises.

~~(2)--Before a tenant may file an action for--damages--or--specific performance--under--the--provisions--of this chapter,-the tenant shall place-with-the-court,-an-indemnity-bond-or-sufficient-moneys-to--cover the--landlord's--legal--expenses--and--court-costs-as-nearly-as-can-be estimated-by-the-presiding-judge. If-the-tenant--is--not--awarded--any damages-or-specific-performance-by-the-court,-the-tenant-shall-forfeit the--indemnity--bond-or-moneys.-If-any-moneys-remain-after-reimbursing the-landlord-for-his-legal-expenses-and-court-costs,-the--court--shall return--those--moneys-to-the-tenant.-If-the-tenant-is-awarded-any-damages-or-specific-performance-by--the--court,--the--indemnity--bond--or moneys-shall-be-returned-to-him-along-with-any-damages-and-court-costs awarded-by-the-court.~~

SECTION 12. That Section 55-2015, Idaho Code, be, and the same is

hereby amended to read as follows:

55-2015. RETALIATORY CONDUCT BY LANDLORD PROHIBITED. The landlord shall not terminate a tenancy, refuse to renew a tenancy, increase rent or decrease services he normally supplies, or threaten to bring an action for repossession of a mobile home lot as retaliation against the tenant because the tenant has:

(a) Complained in good faith about a violation of a building, safety or health code or regulation pertaining to a mobile home park to the governmental agency responsible for enforcing the code or regulation.

(b) Complained to the landlord concerning the maintenance or condition of the park, rent charged or rules and regulations.

(c) Organized, became a member of ~~a tenant's league~~ or served as an official in a homeowner's association, or similar organization, at a local, regional, state or national level.

(d) Retained counsel or an agent to represent his interests.

Approved March 28, 1988.

CHAPTER 197
(H.B. No. 525)

AN ACT

RELATING TO BUSINESS SITUS FOR TAX PURPOSES; AMENDING SECTION 63-3023, IDAHO CODE, TO CLARIFY THAT TRANSACTIONS PRODUCING CAPITAL GAINS, DIVIDENDS AND INTEREST CONDUCTED BY IDAHO RESIDENT BROKER-DEALERS OR INVESTMENT ADVISERS OR EXEMPT INSTITUTIONS THROUGH NATIONAL STOCK MARKET SECURITIES TRADING SHALL NOT CREATE IDAHO TAXABLE STATUS FOR NONRESIDENTS OTHERWISE EXEMPT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3023, Idaho Code, be, and the same is hereby amended to read as follows:

63-3023. BUSINESS SITUS. (a) The term "business situs" shall include or be constituted by the owning or operating of business facilities or property or conducting business or farming operations, including soliciting business, within the state of Idaho, working for salary or wages, being a member of a partnership which transacts business within this state, being a stockholder of a corporation having income from Idaho sources having elected to file federal returns thereon pursuant to subchapter S of the Internal Revenue Code, being a person who is the beneficiary of any estate or trust deriving income, other than dividends and/or interest, from Idaho sources, or any other activity from which income is received, realized or derived from Idaho sources; provided, however, the receipt of income derived solely from

interest and/or dividends from sources within the state of Idaho is expressly declared to be insufficient to establish business situs unless coupled with one or more of the qualifications hereinbefore set forth.

(b) Notwithstanding the provisions of subsection (a) of this section, transactions and investments made, placed or directed by Idaho resident registered broker-dealers and investment advisers or institutions exempt from registration under the Idaho securities act in securities listed with or through the New York Stock Exchange, the American Stock Exchange or any other stock exchange registered with the United States Securities and Exchange Commission and approved by the director of the department of finance which generate dividends, interest, capital gains or similar profits or returns for nonresidents not otherwise subject to Idaho income taxation shall not create Idaho business situs for said nonresidents.

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 28, 1988.

CHAPTER 198
(H.B. No. 624)

AN ACT

RELATING TO THE MOTOR FUELS TAX AND THE PROCEEDS THEREFROM; AMENDING SECTION 63-2405, IDAHO CODE, TO INCREASE THE MOTOR FUEL TAX RATE TO EIGHTEEN CENTS PER GALLON; AMENDING SECTION 40-701, IDAHO CODE, TO CHANGE THE DISTRIBUTION FORMULA FOR FUNDS IN THE HIGHWAY DISTRIBUTION ACCOUNT BEGINNING ON JULY 1, 1990; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 63-2405, Idaho Code, be, and the same is hereby amended to read as follows:

63-2405. IMPOSITION OF TAX. An excise tax is hereby imposed on all gasoline and/or aircraft engine fuel received. The tax is to be paid by the licensed distributor, and measured by the total number of gallons received by him, at the rate of ~~fourteen-and-one-half~~ eighteen cents (~~14-1/2~~ 18¢) per gallon. From May 1, 1981, to April 30, 1992, the rate of the excise tax to be imposed on gasohol, shall be four cents (4¢) per gallon less than the amount of the excise tax that is imposed on gasoline and/or aircraft engine fuel by this section. On and after May 1, 1992, the same amount of excise tax shall be imposed

on gasohol as is imposed on gasoline and/or aircraft engine fuels. That tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

SECTION 2. That Section 40-701, Idaho Code, be, and the same is hereby amended to read as follows:

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) Until July 1, 1990, mMoneys 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.

(3) Beginning July 1, 1990, moneys in the highway distribution account shall be apportioned thirty-four and one-fifth per cent (34 1/5%) to the local units of government, fifty-nine and four-fifths per cent (59 4/5%) 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.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after April 1, 1988. Section 2 of this act shall be in full force and effect on and after July 1, 1988.

Approved March 28, 1988.

CHAPTER 199
(S.B. No. 1260)

AN ACT

RELATING TO COLLECTION OF CHILD SUPPORT; AMENDING CHAPTER 2, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-245, IDAHO CODE, TO PROVIDE THAT ACTIONS TO COLLECT CHILD SUPPORT ARREARAGES MUST BE COMMENCED WITHIN FIVE YEARS AFTER THE CHILD'S MAJORITY OR SOONER DEATH.

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

SECTION 1. That Chapter 2, 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 5-245, Idaho Code, and to read as follows:

5-245. ACTIONS TO COLLECT CHILD SUPPORT ARREARAGES. An action or proceeding to collect child support arrearages accrued under a support order must be commenced within five (5) years after the child reaches the age of majority or within five (5) years after the child's death, if death occurs before the child reaches majority.

Approved March 28, 1988.

CHAPTER 200
(S.B. No. 1331)

AN ACT

RELATING TO SUPPORT OF HISTORICAL SOCIETIES; AMENDING SECTION 31-864, IDAHO CODE, TO STRIKE A LIMITATION OF ANNUAL EXPENDITURES FOR THE SUPPORT OF HISTORICAL SOCIETIES, AND TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 31-864, Idaho Code, be, and the same is hereby amended to read as follows:

31-864. HISTORICAL SOCIETIES AND MUSEUMS -- SUPPORT BY COUNTY. The board of county commissioners of any county may expend annually ~~not more than twenty thousand dollars ($20,000)~~ such amounts as necessary for the support of county or local historical societies which are incorporated as Idaho nonprofit corporations and which operate primarily within the county, or for the support of museums or of historical restoration projects within the county undertaken or operated by Idaho nonprofit organizations, or for the marking and development of historic sites by Idaho nonprofit corporations. For the pur-

poses of this act, the board of county commissioners of any county is authorized and empowered to levy not more than ~~six-tenths--(6/10)--of one--(1)-mill~~ twelve one-thousandths percent (.012%) on each dollar of ~~assessed-valuation~~ market value for assessment purposes of taxable property within the county.

Approved March 28, 1988.

CHAPTER 201
(S.B. No. 1340, As Amended)

AN ACT

RELATING TO FEES; REPEALING SECTION 49-158, IDAHO CODE, RELATING TO ADDITIONAL FEES FOR MOTOR VEHICLE LICENSURE; AND AMENDING SECTIONS 31-870 AND 63-2201A, IDAHO CODE, TO PROVIDE THAT FEES COLLECTED SHALL BE REASONABLY RELATED TO, BUT SHALL NOT EXCEED, THE ACTUAL COST OF THE SERVICE BEING RENDERED.

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

SECTION 1. That Section 49-158, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 31-870, Idaho Code, be, and the same is hereby amended to read as follows:

31-870. FEES FOR COUNTY SERVICES. Notwithstanding any other provision of law, a board of county commissioners may impose and collect fees for those services provided by the county which would otherwise be funded by ad valorem tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered. Taxing districts other than counties may impose fees for services as provided in section 63-2201A, Idaho Code.

SECTION 3. That Section 63-2201A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2201A. FEES FOR SERVICES. Notwithstanding any other provision of law, the governing board of any taxing district may impose and cause to be collected fees for those services provided by that district which would otherwise be funded by ad valorem tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered.

Approved March 28, 1988.

CHAPTER 202
(S.B. No. 1399, As Amended)

AN ACT

RELATING TO PARKING PRIVILEGES FOR THE HANDICAPPED; AMENDING SECTION 49-695, IDAHO CODE, TO PROVIDE FOR EXPIRATION AND RENEWAL OF SPECIAL LICENSE PLATES AND CARDS FOR THE HANDICAPPED, TO REQUIRE APPLICATION FOR PRIVILEGES TO INCLUDE WRITTEN CERTIFICATION FROM A LICENSED PHYSICIAN TO VERIFY IMPAIRMENT, AND TO PROVIDE A FEE FOR ISSUANCE OF A CARD; AMENDING SECTION 49-696, IDAHO CODE, TO PROVIDE FOR A FEE AND FOR EXPIRATION OF SPECIAL TEMPORARY CARDS FOR THE HANDICAPPED; AND AMENDING SECTION 49-697, IDAHO CODE, TO PROVIDE FOR A FEE, EXPIRATION AND RENEWAL OF SPECIAL CARDS FOR THE HANDICAPPED, AND TO PROVIDE CONSISTENCY OF PENALTIES FOR UNAUTHORIZED USE.

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

SECTION 1. 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) 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~~

Application for special license plates or cards ~~or license plates~~ for the handicapped~~, and provide for implementation of the provisions of this section~~ shall be made upon a form furnished by the department and shall be accompanied by a written certification from a licensed physician verifying the stated impairment. Each special card shall expire two (2) years from the date of issuance and renewal of the card shall be made in the same manner as the original application.

The fee for a special handicapped card shall be five dollars ($5.00), two dollars ($2.00) of which shall be retained by the county and credited to the county current expense fund, and three dollars ($3.00) of which shall be transmitted to the state treasurer for deposit in the state highway account, established in section 40-702, Idaho Code.

(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(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. In addition to the annual registration of the vehicle, renweal of the special plates shall be required every two (2) years, at which time written certification from a licensed physician shall be submitted with the registration application. 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) orf this section. Any unauthorized use of such special card shall be an infraction.

SECTION 2. That Section 49-696, Idaho Code, be, and the same is hereby amended to read as follows:

49-696. CARDS FOR CERTAIN TEMPORARILY DISABLED PERSONS -- QUALIFICATIONS -- RULES AND PENALTY. Any person who shall submit satisfactory proof to the department that he is so temporarily disabled as to be unable to move without the aid of crutches or a wheelchair, shall be entitled to receive for one (1) motor vehicle only, a special card to be affixed to a motor vehicle in a conspicuous place designated by the department, bearing distinguishing marks, letters or numerals indicating that the vehicle is utilized by such a temporarily disabled person, such card granting special parking privileges temporarily as provided by section 49-695(6), Idaho Code. This special temporary card shall expire one (1) year from the date of issuance, or sooner as specified by the department on the card. The fee for a temporary card shall be five dollars ($5.00), two dollars ($2.00) of which shall be retained by the county and credited to the county current expense fund, and three dollars ($3.00) of which shall be transmitted to the state treasurer for deposit in the state highway account, established in section 40-702, Idaho Code. The board shall promulgate such rules and regulations as ~~he~~ it deems necessary to carry into effect the provisions of this section. Any unauthorized use of such distinguishing card shall constitute an infraction.

SECTION 3. That Section 49-697, Idaho Code, be, and the same is hereby amended to read as follows:

49-697. CARDS FOR HANDICAPPED PERSONS -- QUALIFICATIONS -- RULES AND PENALTY. Any person who shall submit satisfactory proof to the department that he is a handicapped person as provided in subsection (2) of section 49-695, Idaho Code, shall be entitled to receive a special card to be affixed to a motor vehicle in a conspicuous place designated by the department, letters or numerals indicating that the vehicle is utilized by such a handicapped person, such card granting special parking privileges as provided by subsection (6) of section 49-695, Idaho Code. This special card shall expire two (2) years from the date of issuance. Renewals shall be made in the same manner as the original application. The fee shall be as provided in section 49-695(3), Idaho Code. The board shall promulgate such rules and regulations as it deems necessary to carry into effect the provisions of this section. Any unauthorized use of such distinguishing card shall constitute ~~a misdemeanor~~ an infraction.

Approved March 28, 1988.

CHAPTER 203
(S.B. No. 1401)

AN ACT
RELATING TO MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-113, IDAHO CODE, TO CHANGE THE COLOR, DESIGN AND CONTENTS OF THE STANDARD ISSUE OF PLATES BEGINNING JANUARY 1, 1992.

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.

Commencing January 1, 1987 license numbering plates for vehicles covered in section 49-126(1), Idaho Code, shall be reissued beginning with the number 1 in each county in accordance with the twelve (12) registration periods therein described with subsequent mandatory reissues reoccurring every fifth January 1 thereafter.

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. 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. 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.

g. Commencing January 1, 1992, with the general reissue of license number plates, the color and design of the plates shall be comparable to the color and design of the statehood centennial issue of license plates with blue numerals and letters on a multicolored red, white and blue background. Each number plate must bear upon its face the inscriptions "Famous Potatoes" and "Scenic Idaho."

Approved March 28, 1988.

CHAPTER 204
(S.B. No. 1429)

AN ACT

RELATING TO STANDARDS FOR SHOOTING PRESERVES; AMENDING SECTION 36-2203, IDAHO CODE, TO CHANGE STANDARDS FOR A TRACT OR TRACTS OF LAND TO BE DESIGNATED AS A SHOOTING PRESERVE.

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

SECTION 1. That Section 36-2203, Idaho Code, be, and the same is hereby amended to read as follows:

36-2203. STANDARDS. (a) Each shooting preserve shall contain a minimum of one hundred sixty (160) acres in ~~a single~~ any tract of land (including water area, if any) and shall be restricted to not more than one thousand six hundred (1,600) ~~contiguous~~ acres (including water area, if any). Tracts included in the preserve do not need to be contiguous.

(b) The tract or tracts of land concerned must be owned or leased by the licensee; ~~it~~ must be adaptable to use as a game breeding and/or controlled shooting area; ~~it~~ must be of such nature that the ~~game~~ birds propagated and/or released thereon are not likely to become diseased and a menace to other wildlife; and the operation of a shooting preserve must be of such a nature as to not likely work a fraud upon persons paying a fee to hunt thereon.

(c) No license shall be granted for any shooting preserve, any portion of which is less than one (1) mile distant from any state or federal park, wilderness area, refuge or wildlife management area operated by the state or federal government.

Approved March 28, 1988.

CHAPTER 205
(S.B. No. 1431, As Amended)

AN ACT

RELATING TO HUNTING AND FISHING LICENSES; AMENDING SECTION 36-404, IDAHO CODE, TO PROVIDE FOR AN EIGHTH CLASS OF LICENSE; AMENDING SECTION 36-406, IDAHO CODE, TO PROVIDE FOR A LICENSE OF THE EIGHTH CLASS, TO PROVIDE PRIVILEGES FOR HOLDERS OF THIS LICENSE, TO PROVIDE FEES AND TO PROVIDE FOR REMITTANCE OF THOSE FEES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 36-404, Idaho Code, be, and the same is hereby amended to read as follows:

36-404. CLASSES OF LICENSES. The licenses required by the provisions of this title shall be of ~~seven~~ eight (~~7~~8) classes. Licenses of the first five (5) classes mentioned in this section may be purchased or obtained only by persons who meet residency requirements under the provisions of section 36-202(r) and (s), Idaho Code, or who are valid holders of a lifetime license certificate.

Class 1: Adult Combination -- Hunting -- Fishing -- Trapping Licenses. Licenses to be issued only to persons who are residents of the state of Idaho.

Class 2: Youth Hunting -- Trapping Licenses. (a) Hunting license. Licenses to be issued only to persons who are residents of the state of Idaho and are between twelve (12) and seventeen (17) years of age, inclusive.

(b) Trapping licenses. Licenses to be issued only to persons who

are residents of the state of Idaho and are seventeen (17) years of age or younger.

Class 3: Youth Combination -- Fishing Licenses. Licenses to be issued only to persons who are residents of the state of Idaho between fourteen (14) and seventeen (17) years of age, inclusive.

Class 4: Senior Resident Combination License. Licenses to be issued only to persons over sixty-five (65) years of age who have been bona fide residents of the state of Idaho for a continuous period of not less than five (5) years last preceding application.

Class 5: Resident Lifetime Combination -- Hunting -- Fishing License. Licenses to be issued only to persons who are valid holders of a lifetime license certificate.

Class 6: Nonresident Hunting -- Fishing -- Trapping -- Licenses. Licenses required of persons who are nonresidents.

Class 7: Duplicate License -- Tag. A license or tag to be issued as a replacement for an original license or tag lost or mutilated. Said license or tag shall be issued in the same class and type as the original and upon issuance of such duplicate license or tag the original license or tag shall become null and void.

Class 8: Resident Hunting and Fishing License with Tags, Permits and Stamps. Licenses to be issued only to persons who meet residency requirements under the provisions of section 36-202(r) and (s), Idaho Code.

SECTION 2. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of fifteen dollars ($15.00) for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, ten dollars ($10.00) for a fishing license entitling the purchaser to fish in the public waters of the state, six dollars ($6.00) for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and twenty-five dollars ($25.00) for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

(b) Youth Licenses -- Hunting -- Trapping. A license of the second class may be had by a person possessing the qualifications therein described on payment of four dollars ($4.00) for a hunting license, and five dollars ($5.00) for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Youth Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of nine dollars ($9.00) for a combined fishing and hunting license, and six dollars ($6.00) for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of three dollars ($3.00) for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-411, Idaho Code, before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of sixty-nine dollars ($69.00) entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, an archery hunt permit, a muzzleloader permit, an upland game permit, a migratory waterfowl stamp, a steelhead trout permit and an anadromous salmon permit. All persons authorized to sell such license shall charge a commission of one dollar ($1.00) for each license sold, to be retained by them as compensation for sale of the license. This shall be in addition to the sixty-nine dollar ($69.00) charge. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit and set aside in those accounts as specified in subsections (a), (c) and (g) of section 36-107, Idaho Code, provided that three dollars ($3.00) shall be deposited and set aside for the purposes set forth in subsection (h) of section 36-107, Idaho Code, and in subsection (h) of section 36-409, Idaho Code, and that two dollars ($2.00) shall be deposited and set aside for the purposes set forth in section 36-414, Idaho Code. All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules and regulations of the commission regarding the fish and wildlife of the state.

SECTION 3. This act shall be in full force and effect on and after January 1, 1989.

Approved March 28, 1988.

CHAPTER 206
(S.B. No. 1437, As Amended)

AN ACT
RELATING TO NONRESIDENT FISHING LICENSES AND PERMITS; AMENDING SECTION 36-407, IDAHO CODE, TO PROVIDE A NONRESIDENT THREE DAY FISHING LICENSE WITH STEELHEAD TROUT OR ANADROMOUS SALMON PERMITS.

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 sixth 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 section 36-409(b), Idaho Code. A license of this kind may be had upon payment of eighty-five dollars ($85.00).

(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 ($35.00).

(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 Ten Day Fishing License. A license entitling a person to fish in the waters of the state for a period of ten (10) consecutive days only. A license of this kind may be had upon payment of seventeen dollars ($17.00).

(f) Nonresident Three Day Fishing License. A license entitling a person to fish in the waters of the state for a period of three (3) consecutive days only. A license of this kind may be had upon payment of ten dollars ($10.00).

(g) Nonresident Two Day Hunting License. A license issued only to a person twelve (12) years of age or older, entitling the person to hunt upland game birds (to include turkeys), migratory game birds, cottontail rabbits, and pygmy rabbits for any two (2) consecutive days. A person holding this license may not hunt pheasants in an area during the first five (5) days of the pheasant season in that area. A license of this type may be had upon payment of forty-five dollars ($45.00).

(g~~h~~) Nonresident Falconry Hunting License. A license entitling a person possessing a valid falconry permit in a state or province other

than Idaho, to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals, migratory waterfowl and to purchase any tags or stamps required, may be had upon payment of seventy-five dollars ($75.00). The director may issue a special permit for a regulated meet scheduled for a specific number of days upon payment of ten dollars ($10.00). Only trained raptors may be used under a license or special permit issued under the provisions of this subsection.

(gi) 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 five dollars ($5.00) per day for each effective day thereof.

(j) Nonresident Three Day Fishing License with Steelhead or Salmon Permit. A license entitling a nonresident to fish in the waters of the state for a period of three (3) consecutive days for steelhead trout or anadromous salmon during an open season for those fish may be had upon payment of twenty dollars ($20.00). The three (3) day license holder may fish for and take one (1) steelhead trout and one (1) anadromous salmon or either two (2) steelhead trout or two (2) anadromous salmon subject to the limitations prescribed in this title and rules and regulations promulgated by the commission. A nonresident may purchase as many of the licenses provided in this subsection as he desires provided that the nonresident is otherwise eligible to do so. Moneys collected pursuant to this subsection shall be remitted in a manner in accordance with section 36-107(h), Idaho Code.

Approved March 28, 1988.

CHAPTER 207
(H.B. No. 391)

AN ACT
RELATING TO PROPERTY TAXING DISTRICTS; AMENDING SECTION 63-2215, IDAHO CODE, TO REQUIRE CONTIGUOUS DISTRICT BOUNDARIES.

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

SECTION 1. That Section 63-2215, Idaho Code, be, and the same is hereby amended to read as follows:

63-2215. LEGAL DESCRIPTION AND MAP OF BOUNDARIES OF NEWLY ORGANIZED OR ALTERED TAXING UNITS TO BE FILED WITH THE COUNTY RECORDER, COUNTY ASSESSOR AND STATE TAX COMMISSION. (a) Any city, town, village, school district, cemetery, fire, water, sewer, hospital, or other district or municipality which has the power to levy taxes, which shall be formed or organized after this act becomes effective, or which shall change any existing boundaries thereof after this act becomes effective, shall cause one (1) copy of the legal description and map prepared in a draftsmanlike manner which shall plainly and

clearly designate the boundaries of such district or municipality as formed or organized, or in the case of alteration of the boundaries of an existing district or municipality, a complete legal description as altered and a supplemental map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of the altered portion of the district, to be filed with the county recorder, county assessor in the counties within which the unit is located, and the state tax commission within ten (10) days following the effective date of such formation, organization, or alteration.

(b) The county assessor, county auditor and state tax commission shall retain on file in their respective offices all copies of legal descriptions of taxing district boundaries and maps filed by the various taxing jurisdictions authorized to impose a levy on property.

(c) The state tax commission shall be responsible for providing copies of uniform system tax code area numbers and maps to the county assessor, county auditor and county treasurer and various companies having operating property subject to assessment in the state of Idaho and under the jurisdiction of the state tax commission for assessment and taxation purposes.

(d) "Tax code area" for purposes of this section shall mean a geographical area made up of one (1) or more taxing districts with one (1) total levy within its boundary.

(e) Unless otherwise specifically authorized to form with noncontiguous boundaries, or to annex or deannex properties so as to make noncontiguous boundaries, all taxing districts shall form with and maintain contiguous boundaries.

Approved March 29, 1988.

CHAPTER 208
(H.B. No. 466)

AN ACT

RELATING TO THE PROTECTION OF STATE-OWNED RANGE LANDS FROM WILDFIRE; AMENDING SECTION 38-105, IDAHO CODE, TO AUTHORIZE THE STATE BOARD OF LAND COMMISSIONERS TO ENTER INTO AGREEMENTS FOR THE PROTECTION OF STATE-OWNED RANGE LANDS WHETHER OR NOT THE LANDS ARE ADJACENT TO OR INTERMINGLED WITH FOREST LANDS; AND AMENDING CHAPTER 1, TITLE 38, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 38-131A, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF DEFICIENCY WARRANTS FOR COSTS OF FIRE SUPPRESSION ON STATE-OWNED RANGE LANDS.

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

SECTION 1. That Section 38-105, Idaho Code, be, and the same is hereby amended to read as follows:

38-105. STATE FOREST AND RANGE LANDS -- APPLICATION OF CHAPTERS. The provisions of this chapter shall be applicable to the forest and

range lands belonging to the state with the same force and effect as they apply to privately owned forest and range lands within the state; except that for the protection of state-owned range lands, the state board of land commissioners may enter into agreements or otherwise provide for a reasonable arrangement assuring the timely suppression of fires on or threatening state-owned range lands whether or not said lands are adjacent to or intermingled with forest lands.

SECTION 2. That Chapter 1, Title 38, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 38-131A, Idaho Code, and to read as follows:

38-131A. DEFICIENCY WARRANTS FOR COSTS OF FIRE SUPPRESSION ON STATE-OWNED RANGE LANDS. The state board of land commissioners may authorize the issuance of deficiency warrants for the purpose of paying the costs of fire suppression on state-owned range lands whether or not said lands are adjacent to or intermingled with forest lands. When so authorized, the state auditor shall, after notice to the state treasurer, draw deficiency warrants against the general account.

Approved March 29, 1988.

CHAPTER 209
(H.B. No. 479)

AN ACT

RELATING TO GAME TAGS; AMENDING SECTION 36-409, IDAHO CODE, TO INCREASE THE FEE FOR A NONRESIDENT BEAR TAG.

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

SECTION 1. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- ARCHERY PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, or turkey in accordance with the laws of this state and regulations promulgated by the commission; provided further, that the holder of a senior resident permit may be issued a bear, deer or elk tag without charge; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (r) of section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a hunting license, as provided in section 36-407(a), Idaho Code, or has

obtained a license to hunt, as provided in section 36-406(e), Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear or turkey in accordance with the laws of this state and regulations promulgated by the commission.

(c) Schedule of Game Tag Fees.

Game	Resident	Nonresident
Moose	$60.00	$500.00
Bighorn Sheep	60.00	500.00
Mountain Goat	60.00	500.00
Elk	13.50	235.00
Deer	7.50	90.00
Antelope	26.50	90.00
Mountain Lion	10.00	100.00
Bear	6.00	490.00
Turkey	6.00	25.00

(d) Game Tags Required -- To Be Endorsed on License. The appropriate tag must be had for the hunting or taking of each and every one (1) of the aforementioned wildlife. Provided, however, that the requirements for a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. All of said tags are to bear and have serial numbers to be endorsed on the purchaser's license by the vendor at the time of sale.

(e) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission regulation.

(f) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any persons participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased at a fee of five dollars ($5.00).

(g) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased at a fee of five dollars ($5.00).

(h) Upland Game Permit. The commission may, under rules and regulations as it may prescribe, issue an upland game permit that must be purchased by all persons over sixteen (16) years of age prior to hunting upland game, provided that a permit shall not be required to hunt forest grouse (blue, ruffed or spruce), sharp-tailed grouse, sage grouse, mourning dove, turkey, cottontail rabbit, pygmy rabbit or snowshoe hare. The fee for such a permit shall be five dollars ($5.00) and the proceeds from the sale of such permits shall be utilized for the acquisition of state and federal lands or interests of less than fee simple in private lands and the development, management, improvement, sale or exchange of upland game habitat. This subsection shall be null and void and of no force and effect on and after July 1, 1995.

(i) Penalty. Failure to comply with any of the provisions of this section shall constitute a misdemeanor.

Approved March 29, 1988.

CHAPTER 210
(H.B. No. 497)

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; CREATING THE LOCAL ECONOMIC DEVELOPMENT ACT AND PROVIDING FOR REVENUE ALLOCATION FINANCING OF URBAN RENEWAL PROJECTS; PROVIDING A SHORT TITLE; PROVIDING A STATEMENT OF FINDINGS AND PURPOSE; DEFINING TERMS; AUTHORIZING THE CREATION OF REVENUE ALLOCATION AREAS WITHIN AN URBAN RENEWAL PLAN; PROVIDING FOR THE RECOMMENDATION OF THE URBAN RENEWAL AGENCY; PROVIDING FOR PUBLIC HEARING AND ORDINANCE; PROVIDING FOR TRANSMITTAL OF DOCUMENTS; PROVIDING A METHOD OF DETERMINING TAX LEVIES AND ALLOCATION OF TAX REVENUES WITHIN A REVENUE ALLOCATION AREA; PROVIDING FOR THE ISSUANCE OF BONDS AND THE PLEDGE OF REVENUE ALLOCATION FUNDS THEREFOR; PROVIDING THAT CERTAIN BONDS ARE NOT GENERAL OBLIGATIONS; PROVIDING LIMITATIONS ON REVIEW; AND PROVIDING SEVERABILITY.

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

SECTION 1. SHORT TITLE. This act may be known and cited as the "Local Economic Development Act."

SECTION 2. FINDINGS AND PURPOSE. It is hereby found and declared that there exists in municipalities with a population of less than 100,000 residents a need to raise revenue to finance the economic growth and development of urban renewal areas. The purpose of this act is to provide for the allocation of a portion of the property taxes levied against taxable property located in a revenue allocation area for a limited period of time to assist in the financing of urban renewal plans, to encourage private development in urban renewal areas, to prevent or arrest the decay of urban areas due to the inability of existing financing methods to promote needed public improvements, to encourage taxing districts to cooperate in the allocation of future tax revenues arising in urban areas in order to facilitate the long-term growth of their common tax base, and to encourage private investment within urban areas. The foregoing purposes are hereby declared to be valid public purposes for municipalities.

SECTION 3. DEFINITIONS. The following terms used in this chapter shall have the following meanings, unless the context otherwise requires:

(1) "Act" or "this act" means this revenue allocation act.

(2) "Agency" or "urban renewal agency" means a public body cre-

ated pursuant to section 50-2006, Idaho Code.

(3) "Authorized municipality" or "municipality" means any incorporated city which has a population of less than 100,000 residents and which has established an urban renewal agency.

(4) "Base assessment roll" means the equalized assessment rolls, for all classes of taxable property, on January 1 of the year in which the local governing body of an authorized municipality passes an ordinance adopting or modifying an urban renewal plan containing a revenue allocation financing provision, except that the base assessment roll shall be adjusted as follows: the equalized assessment valuation of the taxable property in a revenue allocation area as shown upon the base assessment roll shall be reduced by the amount by which the equalized assessed valuation as shown on the base assessment roll exceeds the current equalized assessed valuation of any taxable property located in the revenue allocation area, and by the equalized assessed valuation of taxable property in such revenue allocation area that becomes exempt from taxation subsequent to the date of the base assessment roll. The equalized assessed valuation of the taxable property in a revenue allocation area as shown on the base assessment roll shall be increased by the equalized assessed valuation, as of the date of the base assessment roll, of taxable property in such revenue allocation area that becomes taxable after the date of the base assessment roll.

(5) "Clerk" means the city clerk of the municipality.

(6) "Deteriorated area" means:

(a) Any area, including slum area, in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(b) Any area which by reason of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, results in economic underdevelopment of the area, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use.

(c) Any area which is predominately open and which because of obsolete platting, diversity of ownership, deterioration of struc-

tures or improvements, or otherwise, results in economic underdevelopment of the area or substantially impairs or arrests the sound growth of a municipality. The provisions of section 50-2008(d), Idaho Code, shall apply to open areas.

(d) Any area which the local governing body certifies is in need of redevelopment or rehabilitation as a result of a flood, storm, earthquake, or other natural disaster or catastrophe respecting which the governor of the state has certified the need for disaster assistance under any federal law.

(7) "Facilities" mean land, rights in land, buildings, structures, machinery, landscaping, extension of utility services, approaches, roadways and parking, handling and storage areas, and similar auxiliary and related facilities.

(8) "Local governing body" means the city council of a municipality.

(9) "Plan" or "urban renewal plan" means a plan, as it exists or may from time to time be amended, prepared and approved pursuant to section 50-2008, Idaho Code, and any method or methods of financing such plan, which methods may include revenue allocation financing provisions.

(10) "Project" or "urban renewal project" may include undertakings and activities of a municipality in an urban renewal area for the elimination of deteriorated or deteriorating areas and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include:

(a) Acquisition of a deteriorated area or a deteriorating area or portion thereof;

(b) Demolition and removal of buildings and improvement;

(c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, open space, off-street parking facilities, public facilities or buildings and other improvements necessary for carrying out, in the urban renewal area, the urban renewal objectives of this act in accordance with the urban renewal plan.

(d) Disposition of any property acquired in the urban renewal area (including sale, initial leasing or retention by the agency itself) at its fair value for uses in accordance with the urban renewal plan except for disposition of property to another public body;

(e) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan;

(f) Acquisition of real property in the urban renewal area which, under the urban renewal plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property;

(g) Acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, insanitary or

unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or to prevent the spread of blight or deterioration, or to provide land for needed public facilities;

(h) Lending or investing federal funds; and

(i) Construction of foundations, platforms and other like structural forms.

(11) "Project costs" include, but are not limited to:

(a) Capital costs, including the actual costs of the construction of public works or improvements, facilities, buildings, structures, and permanent fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures, and permanent fixtures; the acquisition of equipment; and the clearing and grading of land;

(b) Financing costs, including interest during construction and capitalized debt service or repair and replacement or other appropriate reserves;

(c) Real property assembly costs, meaning any deficit incurred from the sale or lease by a municipality of real or personal property within a revenue allocation district;

(d) Professional service costs, including those costs incurred for architectural, planning, engineering, and legal advice and services;

(e) Direct administrative costs, including reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan;

(f) Relocation costs;

(g) Other costs incidental to any of the foregoing costs.

(12) "Revenue allocation area" means that portion of an urban renewal area the equalized assessed valuation (as shown by the taxable property assessment rolls) of which the local governing body has determined, on and as a part of an urban renewal plan, is likely to increase as a result of the initiation of an urban renewal project. The base assessment roll or rolls of revenue allocation area or areas shall not exceed at any time ten percent (10%) of the current assessed valuation of all taxable property within the municipality.

(13) "State" means the state of Idaho.

(14) "Tax" or "taxes" mean all ad valorem tax levies upon taxable property.

(15) "Taxable property" means taxable real property, personal property, operating property, or any other tangible or intangible property included on the equalized assessment rolls.

(16) "Taxing district" means a taxing district as defined in section 63-621, Idaho Code, as that section now exists or may hereafter be amended.

SECTION 4. AUTHORITY TO CREATE REVENUE ALLOCATION AREA. An authorized municipality is hereby authorized and empowered to adopt, at any time, a revenue allocation financing provision, as described in this chapter, as part of an urban renewal plan. A revenue allocation financing provision may be adopted either at the time of the original adoption of an urban renewal plan or thereafter as a modification of

an urban renewal plan. Urban renewal plans existing prior to the effective date of this section may be modified to include a revenue allocation financing provision.

SECTION 5. RECOMMENDATION OF URBAN RENEWAL AGENCY. In order to implement the provisions of this chapter, the urban renewal agency of the municipality shall prepare and adopt a plan for each revenue allocation area and submit the plan and recommendation for approval thereof to the local governing body. The plan shall include a statement listing:

(1) The kind, number, and location of all proposed public works or improvements within the revenue allocation area;

(2) An economic feasibility study;

(3) A detailed list of estimated project costs;

(4) A fiscal impact statement showing the impact of the revenue allocation area, both until and after the bonds are repaid, upon all taxing districts levying taxes upon property on the revenue allocation area; and

(5) A description of the methods of financing all estimated project costs and the time when related costs or monetary obligations are to be incurred.

SECTION 6. PUBLIC HEARING AND ORDINANCE REQUIRED. (1) To adopt a new urban renewal plan containing a revenue allocation financing provision, the local governing body of an authorized municipality must enact an ordinance in accordance with chapter 9, title 50, Idaho Code, and section 50-2008, Idaho Code. To modify an existing urban renewal plan, to add or change a revenue allocation, an authorized municipality must enact an ordinance in accordance with chapter 9, title 50, Idaho Code, and conduct a public hearing as provided in section 50-2008(c), Idaho Code. No urban renewal project, plan, or modification thereto shall be held ineffective for failure to comply with the requirements of this section if compliance with the section is substantial and in good faith.

(2) A revenue allocation financing provision adopted in accordance with this chapter shall be effective retroactively to January 1 of the year in which the local governing body of the authorized municipality enacts such ordinance.

(3) The local governing body of an authorized municipality shall prepare a notice stating (a) that an urban renewal plan or modification thereto has been proposed and is being considered for adoption, and that such plan or modification thereto contains a revenue allocation financing provision that will cause property taxes resulting from any increases in equalized assessed valuation in excess of the equalized assessed valuation as shown on the base assessment roll to be allocated to the agency for urban renewal purposes; and (b) that a public hearing on such plan or modification will be held by the local governing body pursuant to section 50-2008(c), Idaho Code. The notice shall also state the time, date, and place of the hearing. At least thirty (30) days but not more than sixty (60) days prior to the date set for final reading of the ordinance, the local governing body shall publish the notice in a newspaper of general circulation and transmit

the notice, together with a copy of the plan and recommendation of the urban renewal agency, to the governing body of each taxing district which levies taxes upon any taxable property in the revenue allocation area and which would be affected by the revenue allocation financing provision of the urban renewal plan proposed to be approved by the local governing body.

SECTION 7. TRANSMITTAL OF REVENUE ALLOCATION AREA DESCRIPTION AND OTHER DOCUMENTS TO TAXING AGENCIES. After the effective date of an ordinance enacted by the local governing body of an authorized municipality, the clerk of the authorized municipality shall transmit, to the county auditor and tax assessor of the county in which the revenue allocation area is located, to the affected taxing districts, and to the state tax commission, a copy of the ordinance enacted, a copy of the legal description of the boundaries of the revenue allocation area, and a map or plan indicating the boundaries of the revenue allocation area. Such documents shall be transmitted as promptly as practicable following the enactment of such ordinance.

SECTION 8. DETERMINATION OF TAX LEVIES -- CREATION OF SPECIAL FUND. (1) For purposes of calculating the rate at which taxes shall be levied by or for each taxing district in which a revenue allocation area is located, the county commissioners shall, with respect to the taxable property located in such revenue allocation area, use the equalized assessed value of such taxable property as shown on the base assessment roll rather than on the current equalized assessed valuation of such taxable property.

(2) With respect to each such taxing district, the tax rate calculated under subsection (1) of this section shall be applied to the current equalized assessed valuation of all taxable property in the taxing district, including the taxable property in the revenue allocation area. The tax revenues thereby produced shall be allocated as follows:

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

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

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

(iii) If such taxing district is a school district, a further portion of the taxes levied by such district or on its behalf on the taxable property located within the revenue allocation area, which portion is the amount equal to the percentage specified in section 33-1002(7)(a), Idaho Code, multiplied by the difference between the current equalized assessed valuation of such taxable property and the equalized

assessed valuation of such taxable property as shown on the base assessment roll.

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

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

(4) For the purposes of sections 63-621 through 63-626, Idaho Code, during the period when revenue allocation under this chapter is in effect, and solely with respect to any taxing district in which a revenue allocation area is located, the county commissioners shall, in fixing any tax levy, take into consideration the equalized assessed valuation of the taxable property situated in the revenue allocation area as shown in the base assessment roll, rather than the current equalized assessed value of such taxable property.

(5) For all other purposes, including, without limitation, for purposes of sections 33-802, 33-1002, 63-923 and 63-2220, Idaho Code, reference in the Idaho Code to the term "market value for assessment purposes" (or any other such similar term) shall mean market value for assessment purposes as defined in section 63-202, Idaho Code.

SECTION 9. ISSUANCE OF BONDS -- BOND PROVISIONS. (1) If the local governing body of an authorized municipality has enacted an ordinance adopting a revenue allocation financing provision as part of an urban renewal plan, the urban renewal agency established by such municipality is hereby authorized and empowered:

(a) To apply the revenues allocated to it pursuant to section 8 of this act, for payment of the projected costs of any urban renewal project located in the revenue allocation area;

(b) To borrow money, incur indebtedness and issue one or more series of bonds to finance or refinance, in whole or in part, the urban renewal projects authorized pursuant to such plan within the limits established by paragraph (c) below; and

(c) To pledge irrevocably to the payment of principal of and interest on such monies borrowed, indebtedness incurred or bonds issued by the agency the revenues allocated to it pursuant to section 8 of this act.

All bonds issued under this section shall be issued in accordance with section 50-2012, Idaho Code, except that such bonds shall be payable solely from the special fund or funds established pursuant to section 8 of this act.

(2) The agency shall be obligated and bound to pay such borrowed moneys, indebtedness, and bonds as the same shall become due, but only

to the extent that the moneys are available in a special fund or funds established under section 8 of this act; and the agency is authorized to maintain an adequate reserve therefor from any moneys deposited in such a special fund or funds.

(3) Nothing in this chapter shall in any way impair any powers an urban renewal agency may have under subsection (a) of section 50-2012, Idaho Code.

(4) When the principal of and interest on such moneys, indebtedness and bonds have been paid in full, or when deposits in the special fund or funds created under this chapter are sufficient to pay such principal and interest as they come due, and to fund reserves, if any, the allocation of revenues under section 8 of this act, shall thereupon cease; any moneys in such fund or funds in excess of the amount necessary to pay such principal and interest shall be distributed to the affected taxing districts in which the revenue allocation area is located in the same manner and proportion as the most recent distribution to the affected taxing districts of the taxes on the taxable property located within the revenue allocation area; and the powers granted to the urban renewal agency under section 9 of this act shall thereupon terminate.

SECTION 10. BONDS NOT GENERAL OBLIGATION OF AGENCY OR MUNICIPALITY. Except to the extent of moneys deposited in a special fund or funds under this act and pledged to the payment of the principal of and interest on bonds or other obligations, the agency shall not be liable on any such bonds or other obligations. The bonds issued and other obligations incurred by any agency under this chapter shall not constitute a general obligation or debt of any municipality, the state or any of its political subdivisions. In no event shall such bonds or other obligations give rise to general obligation or liability of the agency, the municipality, the state, or any of its political subdivisions, or give rise to a charge against their general credit or taxing powers, or be payable out of any funds or properties other than the special fund or funds of the agency pledged therefor; and such bonds and other obligations shall so state on their face. Such bonds and other obligations shall not constitute an indebtedness or the pledging of faith and credit within the meaning of any constitutional or statutory debt limitation or restriction.

SECTION 11. LIMITATIONS ON REVIEW. No direct or collateral action attacking or otherwise questioning the validity of any urban renewal plan, project or modification thereto (including one containing a revenue allocation provision), or the adoption or approval of such plan, project or modification, or any of the findings or determinations of the agency or the local governing body in connection with such plan, project or modification, shall be brought prior to the effective date of the ordinance adopting or modifying the plan or after the elapse of sixty (60) days from and after the effective date of the ordinance adopting or modifying the plan. No direct or collateral action attacking or otherwise questioning the validity of bonds issued pursuant to section 9 of this act shall be brought prior to the effective date of the ordinance authorizing such bonds or after the elapse of

sixty (60) days from and after the effective date of the ordinance authorizing such bonds.

SECTION 12. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved March 29, 1988.

CHAPTER 211
(H.B. No. 548)

AN ACT

RELATING TO FOREST PRACTICES; AMENDING SECTION 38-1310, IDAHO CODE, TO ADD A BASIS FOR CITATION OF VIOLATORS AND TO CORRECT CITATIONS; AND AMENDING SECTION 38-1312, IDAHO CODE, TO PROVIDE THAT PERSONS CONVERTING FOREST LANDS TO OTHER USES MUST COMPLY WITH THE NOTICE REQUIREMENTS AND OTHER PROVISIONS OF THE FOREST PRACTICES ACT AND WITH THE REQUIREMENTS OF RULES AND REGULATIONS RELATING TO FOREST PRACTICES EXCEPT FOR PROVISIONS RELATING TO REFORESTATION.

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

SECTION 1. That Section 38-1310, Idaho Code, be, and the same is hereby amended to read as follows:

38-1310. MISDEMEANOR VIOLATIONS -- FINES -- EXEMPTION. (1) A violation of: subsections (1) through (4) of section 38-1306 or section 38-1312, Idaho Code, an order issued under subsection ~~(3)~~ 2) of section 38-1307, Idaho Code, a rule adopted under section 38-1304, Idaho Code, or a material misrepresentation or false statements in the notice or notice of change required by section 38-1306 or section 38-1312, Idaho Code, is a misdemeanor. Each day's violation of an order issued under subsection (~~3~~2) of section 38-1307, Idaho Code, is a separate offense. Each violation of section 38-1309, Idaho Code, is a separate offense.

(2) Fines collected under this act shall be deposited in the general ~~fund~~ account.

(3) Sections 38-1306-- and 38-1308~~7~~, Idaho Code, do not apply to forest practices performed by the department on forest land owned by the state of Idaho, but do apply to political subdivisions thereof.

SECTION 2. That Section 38-1312, Idaho Code, be, and the same is hereby amended to read as follows:

38-1312. CONVERSION OF FOREST LAND. (1) This act does not prevent the conversion of forest land to any other use. However, conversions shall require the filing of a notification as required in

section 38-1306, Idaho Code, as well as compliance with the provisions of this chapter and rules and regulations promulgated pursuant thereto, except for provisions relating to reforestation. When forest land is converted to another use, vegetative cover sufficient to provide continuing soil productivity and stabilization shall be established within one (1) year of completion of the forest practice on disturbed areas larger than one (1) acre, except that the director may grant an extension of time if weather or other conditions interfere.

(2) The provisions of this section shall not apply to activities regulated under chapters 13 and 15, title 47, Idaho Code.

Approved March 29, 1988.

CHAPTER 212
(H.B. No. 554)

AN ACT

RELATING TO THE TAXATION OF RESERVED MINERAL RIGHTS; AMENDING SECTION 63-2801, IDAHO CODE, TO PROVIDE THAT DE MINIMIS VALUES OF RESERVED MINERAL RIGHTS NEED NOT BE ASSESSED, AND TO PROVIDE THAT SUCH NONASSESSMENT DOES NOT CONSTITUTE A DELINQUENCY.

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

SECTION 1. That Section 63-2801, Idaho Code, be, and the same is hereby amended to read as follows:

63-2801. VALUATION OF MINES FOR TAXATION. All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal or other valuable mineral or metal deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of said mine or mining claim is used for other than mining purposes, and has a separate and independent value for such other purposes, in which case said surface ground or any part thereof so used for other than mining purposes, shall be taxed at its value for such other purposes, and all machinery used in mining, and all property and surface improvements upon mines or mining claims, which have a value separate and independent of such mines or mining claims and the net annual proceeds of all mines and mining claims shall be taxed: provided, that nothing in this chapter contained must be construed so as to exempt from taxation improvements, buildings, erections, structures or machinery placed upon any mining claims, or used in connection therewith: provided that all mineral rights reserved to any grantor, except the United States or the state of Idaho, by the terms of any conveyance of lands other than lands acquired under the mining laws of the United States shall be assessed for taxation purposes at the rate of not less than five dollars ($5.00) per acre of the mineral rights so reserved, to be assessed against the recorded owner thereof. When, in the opinion of the county

assessor, the value of reserved mineral rights does not warrant the expenditure to appraise and assess such value, such de minimis values need not be appraised or assessed, but the failure to assess such values does not constitute a failure to pay such taxes on the part of the owner, and does not constitute a delinquency on the part of the owner.

Approved March 29, 1988.

CHAPTER 213
(H.B. No. 561)

AN ACT

RELATING TO THE POWERS AND DUTIES OF DISTRICT BOARD OF HEALTH; AND AMENDING SECTION 39-414, IDAHO CODE, TO PERMIT A HEALTH DISTRICT TO EXCHANGE OR SELL REAL PROPERTY AND TO ENTER INTO LEASES WITH THE IDAHO HEALTH FACILITIES AUTHORITY.

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

SECTION 1. That Section 39-414, Idaho Code, be, and the same is hereby amended to read as follows:

39-414. POWERS AND DUTIES OF DISTRICT BOARD. The district board of health shall have and may exercise the following powers and duties:

(1) To administer and enforce all state and district health laws, regulations, and standards.

(2) To do all things required for the preservation and protection of the public health and preventive health, and such other things delegated by the director of the state department of health and welfare and this shall be authority for the director to so delegate.

(3) To determine the location of its main office and to determine the location, if any, of branch offices.

(4) To enter into contracts with any other governmental or public agency whereby the district board agrees to render services to or for such agency in exchange for a charge reasonably calculated to cover the cost of rendering such service. This authority is to be limited to services voluntarily rendered and voluntarily received and shall not apply to services required by statute, rule, and regulations, or standards promulgated pursuant to this act or chapter 1, title 39, Idaho Code.

(5) All moneys or payment received or collected by gift, grant, devise, or any other way shall be deposited to the respective division or subaccount of the public health district in the public health district account authorized by section 39-422, Idaho Code.

(6) To establish a fiscal control policy required by the state auditor.

(7) To cooperate with the state board and the department of health and welfare.

(8) To enter into contracts with other governmental agencies, and

this act hereby authorizes such other agencies to enter into contracts with the health district, as may be deemed necessary to fulfill the duties imposed upon the district in providing for the health of the citizens within the district.

(9) To purchase, exchange or sell real property and construct, rent, or lease such buildings as may be required for the accomplishment of the duties imposed upon the district and to further obtain such other personal property as may be necessary to its functions.

(10) To accept, receive and utilize any gifts, grants, or funds and personal and real property that may be donated to it for the fulfillment of the purposes outlined in this act.

(11) To establish a charge whereby the board agrees to render services to or for entities other than governmental or public agencies for an amount reasonably calculated to cover the cost of rendering such service.

(12) To enter into a lease of real or personal property as lessor or lessee, or other transaction with the Idaho health facilities authority for a term not to exceed ninety-nine (99) years upon a determination by the district board that the real or personal property to be leased is necessary for the purposes of the district, and to pledge nontax revenues of the district to secure the district's obligations under such leases.

Approved March 29, 1988.

CHAPTER 214
(H.B. No. 592, As Amended)

AN ACT

RELATING TO RATES FOR OFFICIAL NOTICES; AMENDING SECTION 60-105, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN RATES FOR FIRST AND SUBSEQUENT INSERTIONS, FOR BOTH STRAIGHT-SET AND TABLE OR FIGURE MATTER FOR THE PERIOD OF OCTOBER 1, 1988 THROUGH SEPTEMBER 30, 1989, AND TO PROVIDE A SUBSEQUENT INCREASE IN RATES ON AND AFTER OCTOBER 1, 1989.

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

SECTION 1. That Section 60-105, Idaho Code, be, and the same is hereby amended to read as follows:

60-105. RATES FOR OFFICIAL NOTICES. (Effective October 1, 1988 through September 30, 1989) The rate to be charged for all official notices required by law to be published in any newspaper in this state, by any state, county, municipal official or other person, shall be as follows: four and one-half cents (4 1/2¢) for each pica in a column line for the first insertion and three and one-half cents (3 1/2¢) for each pica in a column line for each subsequent insertion. For table and figure matter, the rate shall be five and one-half cents (5 1/2¢) for each pica in a column line for the first insertion, and

three and one-half cents (3 1/2¢) for each pica in a column line for each subsequent insertion. In the event that a column line ends in a one-half (1/2) pica measurement, the rate for such one-half (1/2) pica shall be one-half (1/2) the rate established for a full pica for the type of matter set forth herein. For purposes of this section, the type used shall not be smaller than 7 point nor greater than 8 point.

SECTION 2. That Section 60-105, Idaho Code, be, and the same is hereby amended to read as follows:

60-105. RATES FOR OFFICIAL NOTICES. (Effective on and after October 1, 1989) The rate to be charged for all official notices required by law to be published in any newspaper in this state, by any state, county, municipal official or other person, shall be as follows: ~~four~~ five cents (4~~5~~¢) for each pica in a column line for the first insertion and ~~three~~ four cents (3~~4~~¢) for each pica in a column line for each subsequent insertion. For table and figure matter, the rate shall be ~~five~~ six cents (5~~6~~¢) for each pica in a column line for the first insertion, and ~~three~~ four cents (3~~4~~¢) for each pica in a column line for each subsequent insertion. In the event that a column line ends in a one-half (1/2) ~~pica measu~~rement, the rate for such one-half (1/2) pica shall be one-half (1/2) the rate established for a full pica for the type of matter set forth herein. For purposes of this section, the type used shall not be smaller than 7 point nor greater than 8 point.

SECTION 3. Section 1 of this act shall be effective for the period of October 1, 1988 through September 30, 1989 and shall be repealed and null and void on and after September 30, 1989. Section 2 of this act shall be in full force and effect on and after October 1, 1989.

Approved March 29, 1988.

CHAPTER 215
(H.B. No. 622)

AN ACT

RELATING TO THE CREATION OF WATER AND SEWER SUBDISTRICTS; AMENDING CHAPTER 32, TITLE 42, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 42-3218A, 42-3218B, 42-3218C AND 42-3218D, IDAHO CODE, TO PROVIDE FOR THE CREATION OF WATER AND SEWER SUBDISTRICTS, TO PROVIDE FOR AN ELECTION AND TO PROVIDE ELECTION PROCEDURES, TO REQUIRE THE BOARD OF DIRECTORS OF THE DISTRICT TO ESTABLISH, NAME AND DESCRIBE THE SUBDISTRICT AND TO GIVE NOTICE, TO DECLARE A SUBDISTRICT A POLITICAL SUBDIVISION UNDER THE CONTROL OF THE BOARD OF DIRECTORS WHICH CREATED IT, TO ALLOW THE SUBDISTRICT TO ISSUE BONDS UPON VOTER APPROVAL; AND AMENDING SECTION 42-3218, IDAHO CODE, TO PROVIDE THAT TERRITORY MAY BE DESIGNATED A SUBDISTRICT AS A CONDITION OF INCLUSION WITHIN A DISTRICT.

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

SECTION 1. That Chapter 32, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 42-3218A, 42-3218B, 42-3218C, and 42-3218D, Idaho Code, and to read as follows:

42-3218A. SUBDISTRICTS -- AUTHORITY TO ESTABLISH -- ELECTION. The board of directors of any water or sewer district organized under the provisions of chapter 32, title 42, Idaho Code, may at any time, on their own motion, call an election to submit to the qualified electors of a proposed water or sewer subdistrict the question of the creation of a water or sewer subdistrict. The election shall be called, held, and conducted pursuant to the provisions of chapter 32, title 42, Idaho Code. The proceedings calling the election shall set forth the boundaries of the proposed water or sewer subdistrict and shall provide for the submission of the question of the creation of the water or sewer subdistrict to the qualified electors residing within the proposed boundaries of the water or sewer subdistrict. No proposition for the creation of a water or sewer subdistrict shall be determined to have carried unless the proposition shall receive a majority of the votes cast. Whenever the creation of more than one (1) water or sewer subdistrict is submitted at the same election, separate ballots and separate propositions shall be used in voting on the question of creating each water or sewer subdistrict. A district's authority to establish a water or sewer subdistrict pursuant to the provisions of this act shall only be operative where the property to be included within the water or sewer subdistrict is the same property that is the subject of annexation or inclusion proceedings before the district, pursuant to section 42-3218, Idaho Code.

42-3218B. ESTABLISHMENT. Whenever a proposition for the creation of a water or sewer subdistrict shall have been approved in the manner set forth in section 42-3218A, Idaho Code, the board of directors of the water or sewer district shall enter in the minutes of the board an order providing for the establishment and creation of the water or sewer subdistrict setting forth therein the legal description of the boundaries thereof, and shall designate therein a name for such water or sewer subdistrict. Within ten (10) days after the entry of the order creating a water or sewer subdistrict, the board of directors shall certify the fact of the creation of the water or sewer subdistrict to the board of county commissioners of each county in which any part of the water or sewer subdistrict is located, by the filing of a certified copy of the order of the board of directors creating and establishing the water or sewer subdistrict.

42-3218C. NATURE AND POWERS. Each water or sewer subdistrict created and established as provided in sections 42-3218A through 42-3218D, Idaho Code, shall be a political subdivision of the state of Idaho. The board of directors entering the order creating and establishing a water or sewer subdistrict shall be the governing body of all water or sewer subdistricts created by the board, and shall pos-

sess those powers as provided in chapter 32, title 42, Idaho Code, on behalf of the water or sewer subdistrict, including the power to order, conduct and hold all elections in water or sewer subdistricts for the purpose of incurring debt and issuing bonds pursuant to chapter 32, title 42, Idaho Code.

42-3218D. INDEBTEDNESS -- BOND ISSUES. Water or sewer subdistricts may incur debt and issue bonds for the purpose of acquiring, purchasing, or improving a water or sewer site or sites, and acquiring or constructing new water or sewer facilities. The governing body of a water or sewer subdistrict may submit to the qualified electors of the water or sewer subdistrict the question of whether the governing body of the water or sewer subdistrict shall be empowered to issue negotiable bonds of the water or sewer subdistrict in an amount and for a period of time to be named in the notice of election. Notice of the bond election shall be given, the election shall be conducted and the returns thereof canvassed and the qualifications of electors voting or offering to vote shall be as provided in chapter 32, title 42, Idaho Code.

SECTION 2. That Section 42-3218, Idaho Code, be, and the same is hereby amended to read as follows:

42-3218. INCLUSION OF PROPERTY PETITIONED -- HEARING -- ORDER -- ANNEXATION OF PROPERTY PETITIONED -- HEARING -- ORDER -- ANNEXATION OF PROPERTY BY ELECTION -- ELECTION PROCEDURE. The boundaries of any district organized under the provisions of this act may be changed in the manner herein prescribed, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any such change of boundaries not been made.

(a) The owners of real property may file with the board a petition, in writing, praying that such real property be included in the district. The petition shall describe the property owned by the petitioners, and such petition shall be deemed to give assent of the petitioners to the inclusion in said district of the property described in the petition, and shall be accompanied by a reasonable filing fee in an amount to be determined by the board. Such petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged. The secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition should not be

granted. The failure of any person to show cause in writing shall be deemed as an assent on his part to the inclusion of such lands in the district as prayed in the petition. If the petition is granted, the board shall make an order to that effect and file the same with the clerk of the district court together with a copy of the petition and proof of publication certified by the secretary of the board. The clerk of the district court shall present the same to the court and upon order of the court the property shall be included in the district.

(b) The territory adjoining or in close proximity to and in the same county with any district created under the provisions of this act may be annexed to the district by either of the following procedures: (1) A petition for annexation of real property described in such petition, which has been signed by the owners of not less that sixty per cent (60%) of the area in land within the territory to be annexed, and which contains the separate property descriptions of such petitioners, and which is acknowledged in the same manner that conveyances of land are required to be acknowledged, accompanied by a reasonable filing fee in an amount to be determined by the board, may be filed with the board. Upon filing with the board of such a petition, the secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested, including the staff and employees of said district and any one designated by said district, to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The failure of any person to show cause in writing shall be deemed as an assent to the annexation of such lands into the district as prayed in the petition. The board shall have full discretion to determine if the petition shall be granted. If the petition is granted, the board shall make an order to that effect and file the same with the clerk of the district court together with a copy of the petition and proof of publication certified by the secretary of the board. The clerk of the district court shall present the same to the court and upon order of the court the property shall be included in the district. (2) Upon filing with the board of a petition signed by registered voters owning real property residing in the territory to be annexed, who constitute at least twenty per cent (20%) of the taxpayers in such territory, praying for an election to determine if annexation shall be made of property designated in such petition, together with payment of a reasonable filing fee in an amount to be determined by the board, the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands to be annexed and the prayer of such petition; giving notice to all persons interested, including the staff and

employees of said district and anyone designated by said district to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition shall not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The board shall have full discretion to determine if the petition shall be granted, and if such petition is granted, the board shall direct that an election be held. The election shall be conducted as nearly as may be in the same manner as general elections in this state, except that the board shall establish as many voting places within such territory proposed to be annexed as are by the board deemed necessary and shall define the boundaries of such voting places. The board shall determine the hours that the polls shall be open, provided that the polls shall be open not less than seven (7) hours and shall appoint three (3) judges of election for each voting place, one (1) of whom shall be designated by the board to be the clerk of such election precinct. Each elector shall take an oath that he has the qualifications of an elector before casting his vote, which shall be that he has resided within the area to be annexed for thirty (30) days and has the qualifications of a voter in a general election in this state.

The secretary of the board of directors shall publish notice of the time and place of such election, not less than twenty (20) days nor more than sixty (60) days after the board of directors has given its concurrence to the holding of such election. The notice shall particularly describe the property to be annexed, the name of the district to which the territory is proposed to be annexed, and the terms and conditions prescribed by the board under which the property may be annexed. The notice shall be published weekly for at least two (2) weeks prior to the election in a weekly newspaper published in the county, and if there be no such newspaper, then in some newspaper of general circulation therein, at least once a week for two (2) successive weeks. The notice shall designate the places in the territory where the election will be held, and shall require the voters to cast ballots which shall contain the words:

For annexation to .... District.

Against annexation to .... District.

The judges of the election shall make their return thereof to the board of directors of the district, which shall canvass the returns and render a statement of the results of the election on the records of the board. If the majority of the votes cast favor annexation, the board shall enter an order annexing the property described in the notice of election and upon the filing of a copy thereof with the clerk of the district court, and upon order of the court, the territory shall thereupon become annexed to the district and shall thenceforth be a part of the district.

(c) In all proceedings for inclusion or annexation hereunder, the board shall have the power to prescribe terms and conditions under which said property may be included in the district, including the condition that such property may only be annexed or included within the district if the property is also established as a water or sewer

subdistrict of the district, pursuant to sections 42-3218A through 42-3218D, Idaho Code, and may be required to pay the district its pro rata share of construction costs theretofore incurred by the district pursuant to any bond issue theretofore made or otherwise; provided, however, that such terms and conditions shall be announced by the board at or before the hearing to be held pursuant to subparagraphs (a) and (b) above. Within ten (10) days of the announcement of the terms and conditions under which the property may be included the majority of the petitioners filing petitions under the provisions of subparagraphs (a) or (b) may withdraw their petitions, and no further proceedings shall thereafter be had by the board upon such petitions.

(d) All public streets, roads, highways or alleys upon or within which is situated any part of the operative system or equipment of the district and all public streets, roads, highways and alleys which abut against or touch property annexed or to be annexed to the district, to the extent they abut against or touch such property and are not included in a different district, shall be deemed to be included in the district as a part of the annexation and shall be included in the legal description and map which the district must file in the offices of the county assessor, county recorder and the state tax commission as required by section 63-2215, Idaho Code; provided, however, that upon application by the district to the state tax commission, if the commission finds after consultation with the county assessor and the county recorder that exemption from the requirements of this subparagraph (d) will not unduly burden state and local tax administration, the commission by order may exempt the district from the requirements of this subparagraph (d), but the district shall be required to comply with section 63-2215, Idaho Code.

Approved March 29, 1988.

CHAPTER 216
(H.B. No. 632)

AN ACT

RELATING TO ALCOHOLIC LIQUOR SALES; AMENDING SECTION 23-309, IDAHO CODE, TO ALLOW STATE LIQUOR STORE VENDORS AND SPECIAL DISTRIBUTORS TO ACCEPT PAYMENT FOR LIQUOR SALES BY CHECK OR MONEY ORDER; AND AMENDING SECTION 23-914, IDAHO CODE, TO ALLOW THE STATE LIQUOR DISPENSARY TO ACCEPT PAYMENT FOR LIQUOR SALES TO LICENSEES BY CHECK OR MONEY ORDER.

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

SECTION 1. That Section 23-309, Idaho Code, be, and the same is hereby amended to read as follows:

23-309. SALES TO BE FOR CASH, CHECK OR MONEY ORDER. No vendor of any state liquor store or special distributor shall sell any alcoholic liquor except for cash~~;--provided,--however,--that~~ , check or money

order. In addition, the dispensary ~~may~~ shall, under such rules and regulations as may be adopted by it, authorize the vendor of a state liquor store or special distributor to accept a check from persons licensed for the retail sale of liquor by-the-drink pursuant to chapter 9, title 23, Idaho Code, as payment for purchases from the dispensary. Dishonor of any check given by such person shall constitute grounds for suspension or revocation of such person's license pursuant to section 23-933, Idaho Code, in addition to any other remedy provided by law.

SECTION 2. That Section 23-914, Idaho Code, be, and the same is hereby amended to read as follows:

23-914. LICENSEE MUST PURCHASE FROM DISPENSARY -- PRICE. All liquor sold by any licensee shall be purchased from the Idaho liquor dispensary through its regular retail stores and distributors at the posted price thereof. The state liquor dispensary is hereby authorized and directed to make such sales for cash, check or money order to be paid at the time of purchase upon a special permit issued to such licensee in such form as shall be prescribed by the superintendent of the state liquor dispensary. The posted price as used herein shall mean the retail price of such liquor as fixed and determined by the state liquor dispensary.

It shall be unlawful for any licensee to sell, or keep for sale, or have on his premises for any purpose whatsoever, any liquor except that purchased as herein authorized and provided, and any licensee found in possession of, selling or keeping for sale any liquor not purchased as herein authorized shall be guilty of a felony and upon conviction thereof shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or by imprisonment in the state prison for not more than five (5) years, or by both such fine and imprisonment. Any license issued to such person shall be immediately and permanently revoked. The amount of liquor to be sold to licensees hereunder in any city or village shall be determined by the superintendent or other executive officer of the Idaho liquor dispensary, but such sales shall be regulated so as to maintain adequate stocks of merchandise for sale to persons other than said licensees.

~~Provided--that~~ The provisions of this section notwithstanding, railroad companies shall have the right to have in ~~its~~ their possession ~~in--Idaho~~ liquors other than ~~that~~ those purchased from the Idaho liquor dispensary.

Approved March 29, 1988.

CHAPTER 217
(S.B. No. 1280, As Amended)

AN ACT

RELATING TO WATER PROJECTS; AMENDING SECTION 42-1760, IDAHO CODE, TO BROADEN THE PURPOSES FOR WHICH THE IDAHO WATER RESOURCE BOARD MAY

EXPEND, LOAN, OR GRANT MONEYS FROM THE WATER MANAGEMENT ACCOUNT.

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

SECTION 1. That Section 42-1760, Idaho Code, be, and the same is hereby amended to read as follows:

42-1760. WATER MANAGEMENT ACCOUNT. (1) There is hereby created and established in the trust and agency fund the water management account. All moneys in the account are appropriated continuously to the water resource board to be used and administered by it for the purposes specified in subsection (2) of this section, and shall not be subject to the provisions of the standard appropriations act of 1945 or section 67-3516, Idaho Code.

(2) The board may expend, loan or grant moneys from the water management account for new water projects or the rehabilitation of existing water projects limited to the following purposes: ~~(i)~~ reclamation~~;~~, ~~(ii)~~ upstream storage~~;~~, ~~(iii)~~ offstream storage~~;~~, ~~(iv)~~ aquifer recharge~~;~~, ~~or--(v)~~ reservoir site acquisition and~~/or~~ protection, water supply, water quality, recreation, and water resource studies, including feasibility studies for qualifying projects.

(a) Expenditures may be made from the account to provide public moneys for participation in any project constructed with funds from the water resource board revolving development account provided by section 42-1756, Idaho Code.

(b) Grants and loans may be made by the board from the account for any project in the public interest for the projects authorized by this section; no single grant shall exceed $50,000 unless legislative approval has been obtained.

(3) The director of the department of water resources shall assist the board in any way the board deems necessary to fulfill the policy and purpose of the water management account, including technical evaluation of proposed projects and coordination in state and federal agencies.

Approved March 29, 1988.

CHAPTER 218
(S.B. No. 1281, As Amended, As Amended)

AN ACT

RELATING TO THE TATTOOING AND EARTAGGING OF WOLVES; AMENDING SECTION 36-712, IDAHO CODE, TO DELETE THE REQUIREMENT FOR THE EARTAGGING OF WOLVES, TO PROVIDE APPLICATION TO CANINES EXHIBITING PRIMARY WOLF CHARACTERISTICS AND TO PROVIDE FEES; AMENDING CHAPTER 7, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-715, IDAHO CODE, TO PROVIDE DUTIES OF THE DEPARTMENT OF FISH AND GAME

REGARDING ENFORCING AND ADMINISTERING THE UNITED STATES ENDANGERED SPECIES ACT; AND PROVIDING APPLICATION OF PORTIONS OF THIS ACT.

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

SECTION 1. That Section 36-712, Idaho Code, be, and the same is hereby amended to read as follows:

36-712. TATTOOING ~~AND EAR-TAGGING~~ OF WOLVES -- WHEN REQUIRED. (a) Any wolf that is captured alive to be later released or which is born or held in captivity for any purpose must be reported to the department within three (3) days of the capture or commencement of captivity. If a person capturing or holding in captivity such animal fails to report the animal as required in this section, the person shall be guilty of a misdemeanor and shall be punished by a fine not in excess of one thousand dollars ($1,000) for each animal the person possesses which has not been reported as required in this section.

(b) Each animal reported as required in subsection (~~1~~a) of this section shall be permanently tattooed ~~and ear-tagged~~ in a manner that will provide positive individual identification of the animal. No tattoo ~~or ear-tag~~ is required under this section if the animal is subject to a permanent individual identification process by another state or federal agency.

(c) Any person holding a wolf in captivity shall immediately report to the department any death, escape, release, transfer of custody or other disposition of the animal.

(d) Any canine exhibiting primary wolf characteristics shall be classified as a wolf for the purpose of identification. All such canines shall be tattooed, registered and licensed by the department of fish and game. The department shall be responsible for collection of fees to administer this program as outlined by rule and regulation.

SECTION 2. That Chapter 7, Title 36, Idaho Code, be and the same is hereby amended by the addition of a NEW SECTION to be known and designated as Section 36-715, Idaho Code, and to read as follows:

36-715. DUTIES OF THE DEPARTMENT OF FISH AND GAME REGARDING THE ENDANGERED SPECIES ACT. (1) Since wolf/dog hybridizations are known to exist within Idaho and these hybrids are not protected by the United States endangered species act, a biological evaluation shall be required of the animal to determine species priority before the department of fish and game may take any action in accordance with the United States endangered species act.

(2) The department of fish and game shall not be authorized to expend funds, transfer assets or enter into a cooperative agreement with any agency, department or entity of the United States government concerning wolves unless expressly authorized by state statute except that the department is authorized to provide a representative to participate on the northern rocky mountain wolf recovery team and to participate in activities regarding nuisance wolves.

(3) If a wolf is sighted, the burden of proof concerning the reported presence of the wolf within Idaho shall rest with the

observer and the department of fish and game shall take no action to enforce the United States endangered species act regarding wolves in absence of that proof.

SECTION 3. This act shall be in full force and effect on and after July 1, 1988; provided, however, that the provisions of Section 1 of this act requiring tattooing shall not apply to wolves held in captivity on June 30, 1988.

Approved March 29, 1988.

CHAPTER 219
(S.B. No. 1311, As Amended)

AN ACT

RELATING TO JUDICIAL CONFIRMATION OF ACTIONS OF POLITICAL SUBDIVISIONS; AMENDING TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 13, TITLE 7, IDAHO CODE, TO PROVIDE FOR JUDICIAL CONFIRMATION OF ACTIONS OF POLITICAL SUBDIVISIONS FOR BONDS AND OBLIGATIONS; AND DECLARING AN EMERGENCY.

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 13, Title 7, Idaho Code, and to read as follows:

CHAPTER 13
JUDICIAL CONFIRMATION

7-1301. SHORT TITLE. This chapter shall be known as the "Judicial Confirmation Law."

7-1302. LEGISLATIVE DECLARATION. The legislature of the state of Idaho determines, finds and declares in connection with this chapter:

(1) An early judicial examination into and determination of the validity of the power of any political subdivision to issue bonds or obligations and execute any agreements or security instruments therefor promotes the health, comfort, safety, convenience and welfare of the people of the state.

(2) The provision in this chapter of the purposes, powers, duties, privileges, immunities, rights, liabilities and disabilities pertaining to issuance of bonds or execution of obligations by political subdivisions will serve a public function and effect a public purpose.

(3) Any notice provided for in this chapter is reasonably calculated to inform each person of interest in any proceedings thereunder which may directly and adversely affect his legally protected interests, if any.

(4) The rule of strict construction shall have no application to this chapter, but this chapter shall be liberally construed to effect the purposes and objects for which it is intended.

(5) Any act prior to or subsequent to the effective date of this chapter may be confirmed pursuant to this chapter.

7-1303. DEFINITIONS. Except where the context otherwise requires, the definitions in this section govern the construction of the judicial confirmation law. All other words should be given their ordinary and customary meaning.

(1) "Agreement" means any agreement or contract between a political subdivision and individuals, corporations, or any other political subdivision or public agency as authorized by section 67-2328, Idaho Code, relating to bonds or obligations of the political subdivision.

(2) "Bond" means any agreement, which may or may not be represented by a physical instrument, including notes, warrants, or certificates of indebtedness, that evidences an indebtedness of any political subdivision or a fund thereof, where the political subdivision agrees to pay a specified amount of money, with or without interest, at a designated time or times to either registered owners or bearers.

(3) "Executive officer" means the de jure or de facto governor of this state, mayor, chairman, president or other titular head or chief official of the political subdivision proceeding under this chapter, but "executive officer" does not include a city manager, county manager or other chief administrator of a political subdivision who is not its elected head.

(4) "Governing body" means:

(a) The state commission or state board responsible for the exercise of a power by the state or responsible for an instrument, act or project of the state to which court proceedings authorized by this chapter and initiated by the state pertain; and

(b) The city council, board of commissioners, board of trustees, board of directors, board of regents or other legislative body of a political subdivision under this chapter.

Governing body does not include the legislature of the state of Idaho if the political subdivision is the state or any corporation, instrumentality or other agency thereof.

(5) "Obligation" means an agreement that evidences an indebtedness of any political subdivision, other than a bond, and includes, but is not limited to, conditional sales contracts, lease obligations, and promissory notes.

(6) "Political subdivision" means the state of Idaho, or any corporation, instrumentality or other agency thereof, or any incorporated city, or any county, school district, water and/or sewer district, drainage district, special purpose district or other corporate district constituting a political subdivision of this state, any quasi-municipal corporation, housing authority, urban renewal authority, other type of authority, any college or university, or any other body corporate and politic of the state of Idaho, but excluding the federal government.

(7) "Security instrument" means any contract, deed or other security or other document of any kind, proposed, or executed or otherwise

made as security for bonds or obligations issued by a political subdivision.

7-1304. PETITION FOR JUDICIAL EXAMINATION AND DETERMINATION OF VALIDITY OF BOND, OBLIGATION, AGREEMENT, OR SECURITY INSTRUMENT -- FACTS -- VERIFICATION. (1) In its discretion the governing body of a political subdivision may file or cause to be filed a petition at any time in the judicial district court in and for the district in which the political subdivision is located wholly or in part, praying a judicial examination and determination of the validity of any bond or obligation or of any agreement or security instrument related thereto, of the political subdivision, whether or not such bond or obligation agreement has been validly exercised, or executed.

(2) Such petition shall set forth the facts on which the validity of such bond or obligation is founded and shall be verified by the executive officer of the political subdivision.

7-1305. ACTION IN NATURE OF PROCEEDINGS IN REM -- JURISDICTION OF PARTIES. The action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication and posting, as provided in this chapter.

7-1306. NOTICE OF FILING OF PETITION -- CONTENTS -- SERVICE BY PUBLICATION AND POSTING. (1) Notice of the filing of the petition shall be given by the clerk of the court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any instrument therein mentioned may be examined.

(2) The notice shall be served:

(a) By publication at least once a week for five (5) consecutive weeks by five (5) weekly insertions, in a newspaper of general circulation in the political subdivision; and

(b) By posting the same in a prominent place at or near the main door of the administrative office of the political subdivision at least thirty (30) days prior to the date fixed in the notice for the hearing on the petition.

(3) Jurisdiction shall be complete after such publication and posting.

7-1307. OWNER OF PROPERTY OR INTERESTED PARTY MAY MOVE TO DISMISS OR ANSWER -- EFFECT OF FAILURE TO APPEAR. (1) Any owner of property, taxpayer, elector or rate payer, in the political subdivision or any other person interested in the bond, obligation or agreements or security instrument related thereto, or otherwise interested in the premises may appear and move to dismiss or answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court.

(2) The petition shall be taken as confessed by all persons who fail to so appear.

7-1308. HEARING -- FINDINGS -- JUDGMENT AND DECREE -- COSTS. (1) The filing of the petition and publication and posting of the notice as provided in section 7-1306, Idaho Code, shall be sufficient

to give the court jurisdiction, and upon hearing the court shall examine into and determine all matters and things affecting each question submitted, shall make such findings with reference thereto and render such judgment and decree thereon as the case warrants.

(2) Costs may be divided or apportioned among any contesting parties in the discretion of the district court.

7-1309. APPEAL OF JUDGMENT -- TIME FOR APPLICATION. Appeal of the judgment of the court may be had as in other civil cases, except that such appeal must be filed within thirty (30) days after the time of the rendition of such judgment.

7-1310. APPLICABILITY OF IDAHO RULES OF CIVIL PROCEDURE -- EARLY HEARINGS. (1) The Idaho rules of civil procedure shall govern in matters of pleadings and practice where not otherwise specified herein.

(2) The court shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties.

(3) All cases in which there may arise a question of the validity of any matter under this chapter shall be advanced as a matter of immediate public interest and concern, and be heard at the earliest practicable time.

7-1311. EFFECT OF CHAPTER. (1) This chapter, without reference to other statutes of this state, except as otherwise expressly provided in this chapter, shall constitute full authority for the exercise of the powers herein granted.

(2) The powers conferred by this chapter shall be in addition and supplemental to, and not in substitution for, and the limitations imposed hereby shall not affect the powers conferred by, any other law.

(3) Nothing contained in this chapter shall be construed as preventing the exercise of any power granted to the political subdivision, acting by and through the governing body, or any officer, agent or employee of the political subdivision, or otherwise, by any other law.

(4) No part of this chapter shall repeal or affect any other law or part thereof, it being intended that this chapter shall provide a separate method of accomplishing its objectives and not an exclusive one; and this chapter shall not be construed as repealing, amending or changing any such other law.

7-1312. SEVERABILITY. If any provisions of this act or its application to any person, political subdivision, or circumstance is held invalid, the remainder of the act or the application of the provision to other persons, political subdivisions or circumstances is not affected.

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 29, 1988.

CHAPTER 220
(S.B. No. 1354)

AN ACT

RELATING TO THE CONDUCT OF SCHOOL ELECTIONS; AMENDING SECTION 33-403, IDAHO CODE, TO PROVIDE THE BOARD OF ELECTION SHALL CONSIST OF ONE OR MORE JUDGES AND A CLERK AS DETERMINED BY THE BOARD OF TRUSTEES AND TO PROVIDE THAT POLLING PLACES MEET ACCESSIBILITY STANDARDS; AND DECLARING AN EMERGENCY.

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)~~ one (1) or more 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 accessibility 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. 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 29, 1988.

CHAPTER 221
(S.B. No. 1364, As Amended in the House)

AN ACT

RELATING TO SINGLE COUNTY-WIDE HIGHWAY DISTRICTS; AMENDING SECTION 40-1401, IDAHO CODE, TO DELETE THE POPULATION RESTRICTION FOR ESTABLISHMENT OF A DISTRICT, TO ALLOW A REQUEST FOR AN ELECTION TO BE BROUGHT BY QUALIFIED ELECTORS AND TO PROVIDE FOR A PUBLIC HEARING; AMENDING SECTION 40-1404, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR SHALL APPOINT THE FIRST COUNTY-WIDE HIGHWAY DISTRICT COMMISSIONERS AND TO HOLD INELIGIBLE FOR THAT POSITION CURRENT COUNTY COMMISSIONERS AND CITY COUNCIL MEMBERS; AND AMENDING SECTIONS 40-1407, 40-1408, 40-1410 AND 40-1413, IDAHO CODE, TO INCLUDE REFERENCE TO COUNTY HIGHWAY SYSTEMS OR DEPARTMENTS.

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

SECTION 1. That Section 40-1401, Idaho Code, be, and the same is hereby amended to read as follows:

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, or shall, upon a request in writing from ten percent (10%) or more of the qualified electors residing in each of the county commissioner subdistricts, 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~~ The election for this question shall be held at the next general election following a decision by the board of county commissioners for such an election or

upon receipt of the qualified voters written requests to hold such election. At least one (1) public hearing shall be held by the board of county commissioners, prior to the election.

SECTION 2. That Section 40-1404, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ the election the county 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 governor shall appoint the first county-wide highway district commissioners. Where one (1) or more highway districts have been in existence at the time of the creation of the county-wide highway district, the governor shall appoint, whenever practicable, at least one (1) of the former highway district commissioners as they shall qualify by reason of residence in the territorial limits of the subdistricts of the county-wide highway district as a commissioner of the county-wide highway district. County commissioners and city council members shall not be eligible to hold office as a county-wide highway district commissioner. 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.

SECTION 3. That Section 40-1407, Idaho Code, be, and the same is hereby amended to read as follows:

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, and/or county highway systems already exist, the commissioners shall dissolve those districts or systems and transfer all

funds to the reorganized county-wide highway district.

SECTION 4. That Section 40-1408, Idaho Code, be, and the same is hereby amended to read as follows:

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 and/or county highway system shall be chargeable to and borne by each respective city highway system, or highway district and/or county highway system dissolved.

SECTION 5. That Section 40-1410, Idaho Code, be, and the same is hereby amended to read as follows:

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 and county highway departments 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 city highway system, highway or district and county highway system 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 or county highway systems.

SECTION 6. That Section 40-1413, Idaho Code, be, and the same is hereby amended to read as follows:

40-1413. BALANCE OF FUNDS OF DISSOLVED SYSTEM OR DISTRICT -- DISPOSITION -- NO FUNDS TO CITY. (1) After final payment of all expenses or 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 city highway system, or highway district and/or county highway department 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.

Approved March 29, 1988.

CHAPTER 222
(S.B. No. 1373, As Amended)

AN ACT

RELATING TO CONSERVATION EASEMENTS; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 21, TITLE 55, IDAHO CODE, TO DEFINE TERMS, TO CREATE A CONSERVATION EASEMENT AND PROVIDE FOR THE CONVEYANCE THEREOF, TO PROVIDE FOR ENFORCEMENT OF CONSERVATION EASEMENTS BY COURT ACTION, TO DECLARE A CONSERVATION EASEMENT VALID EVEN THOUGH CERTAIN COMMON LAW REQUIREMENTS FOR EASEMENTS ARE NOT MET, TO PROVIDE FOR INSTANCES WHEN THIS ACT SHALL BE APPLICABLE, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE THE EFFECT OF EMINENT DOMAIN, TO PROVIDE THAT OTHER INTERESTS ARE NOT IMPAIRED BY CONSERVATION EASEMENTS AND TO PROVIDE FOR TAXATION OF PROPERTY CONTAINING CONSERVATION EASEMENTS.

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

SECTION 1. That Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 21, Title 55, Idaho Code, and to read as follows:

CHAPTER 21
UNIFORM CONSERVATION EASEMENT ACT

55-2101. DEFINITIONS. As used in this chapter:

(1) "Conservation easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

(2) "Holder" means:

(a) A governmental body empowered to hold an interest in real property under the laws of this state or the United States; or

(b) A charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

(3) "Third-party right of enforcement" means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, charitable corporation, charitable association, or charitable trust, which, although eligible to be a holder, is not a holder.

55-2102. CONSERVATION EASEMENT CREATED -- CONVEYANCE -- ACCEPTANCE -- DURATION. (1) Except as otherwise provided in this chapter, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements.

(2) No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance.

(3) Except as provided in subsection (2) of section 55-2103, Idaho Code, a conservation easement is unlimited in duration unless the instrument creating it otherwise provides.

(4) An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

55-2103. PERSONS WHO MAY BRING ACTIONS -- POWERS OF THE COURT. (1) An action affecting a conservation easement may be brought by:

(a) An owner of an interest in the real property burdened by the easement;

(b) A holder of the easement;

(c) A person having a third-party right of enforcement; or

(d) A person authorized by other law.

(2) This chapter does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

55-2104. VALIDITY OF CONSERVATION EASEMENTS. A conservation easement is valid even though:

(1) It is not appurtenant to an interest in real property;

(2) It can be or has been assigned to another holder;

(3) It is not of a character that has been recognized traditionally at common law;

(4) It imposes a negative burden;

(5) It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

(6) The benefit does not touch or concern real property; or

(7) There is no privity of estate or of contract.

55-2105. APPLICABILITY OF THE ACT. (1) This chapter applies to any interest created after its effective date which complies with this chapter, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise. The instrument creating the conservation easement shall state it was created under the provisions of this chapter.

(2) This chapter applies to any interest created before its effective date if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the constitution or laws of this state or the United States.

This chapter does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable

servitude, restriction, easement, or otherwise, that is enforceable under other law of this state.

55-2106. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This chapter shall be applied and construed to effectuate its general purpose to make uniform the laws with respect to the subject of the chapter among states enacting it.

55-2107. EMINENT DOMAIN. A conservation easement pursuant to this chapter shall not be created through eminent domain proceedings pursuant to chapter 7, title 7, Idaho Code.

55-2108. OTHER INTERESTS NOT IMPAIRED BY CONSERVATION EASEMENTS. No interest in real property cognizable under the statutes, common law or custom in effect in this state prior to the effective date of this chapter shall be impaired, invalidated, or in any way adversely affected by reason of any provision of this chapter. No provision of this chapter shall be construed to mean that conservation easements were not lawful estates in land prior to the effective date of this chapter. Nothing in this chapter shall be construed so as to impair the rights of any entity with eminent domain authority pursuant to chapter 7, title 7, Idaho Code, with respect to right-of-way, easements or other property rights upon which facilities, plants, highway systems or other systems of that entity are located or are to be located. Nothing in this chapter shall be construed so as to impair or conflict with the provisions of chapter 46, title 67, Idaho Code, relating to the preservation of historic sites, or with the provisions of chapter 43, title 67, Idaho Code, relating to the preservation of recreational places.

55-2109. TAXATION. The granting of a conservation easement across a piece of property shall not have an effect on the market value of property for ad valorem tax purposes and when the property is assessed for ad valorem tax purposes, the market value shall be computed as if the conservation easement did not exist.

Approved March 29, 1988.

CHAPTER 223
(S.B. No. 1374, As Amended in the House)

AN ACT

RELATING TO SURFACE MINING; AMENDING SECTION 47-1505, IDAHO CODE, TO STRIKE AN AMBIGUOUS REFERENCE; AMENDING SECTION 47-1512, IDAHO CODE, TO PROVIDE THAT A BOND SHALL BE FILED AND MAINTAINED WITH THE STATE BOARD OF LAND COMMISSIONERS AND TO PROVIDE CONDITIONS WHEN THE STATE BOARD OF LAND COMMISSIONERS SHALL HAVE THE RIGHT TO ISSUE A CEASE AND DESIST ORDER AND SEEK INJUNCTIVE RELIEF TO STOP A SURFACE MINING OPERATOR FROM CONDUCTING OPERATIONS WHEN THE OPERATOR'S BOND HAS BEEN CANCELED OR WHEN THE OPERATOR'S SURETY

HAS HAD ITS LICENSE SUSPENDED OR REVOKED; AND AMENDING SECTION 47-1513, IDAHO CODE, TO REVISE PROCEDURES WHEN THE STATE BOARD OF LAND COMMISSIONERS DETERMINE THAT A SURFACE MINING OPERATOR HAS NOT COMPLIED WITH THE PROVISIONS OF THE STATE'S SURFACE MINING LAW AND THE BOARD IS SEEKING TO CANCEL THE RECLAMATION PLAN AND FORFEIT THE BOND IN THE AMOUNT NECESSARY TO RECLAIM AFFECTED LANDS, AND TO PROVIDE THAT AN AMENDMENT TO THE STATE'S SURFACE MINING LAW SHALL NOT AFFECT THE VALIDITY OR MODIFY THE AMOUNT, TERMS OR CONDITIONS OF ANY BOND IN EFFECT AS OF THE EFFECTIVE DATE OF THE AMENDMENT.

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

SECTION 1. That Section 47-1505, Idaho Code, be, and the same is hereby amended to read as follows:

47-1505. DUTIES AND POWERS OF BOARD. (a) In addition to the other duties and powers of the board prescribed by law, the board is granted and shall be entitled to exercise the following authority and powers and perform the following duties:

(1) To administer and enforce the provisions of this act and the rules and regulations and orders promulgated thereunder as provided in this act.

(2) To conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstrations and training in carrying out the provisions of this act. In carrying out the activities authorized by this section, the board may enter into contracts with and make grants to institutions, agencies, organizations and individuals, and shall collect and make available any information obtained therefrom.

(3) To adopt and promulgate reasonable rules and regulations respecting the administration of this act and such rules and regulations as may be necessary to carry out the intent and purposes of this act, provided that no regulations shall be adopted which require reclamation activities in addition to those set forth in this act. All such rules and regulations shall be adopted in accordance with and subject to the provisions of sections 67-5201 through 67-5207, Idaho Code.

(4) To enter upon affected lands at all reasonable times, for the purpose of inspection, to determine whether the provisions of this act have been complied with. Such inspections shall be conducted in the presence of the operator or his duly authorized employees or representatives, and the operator shall make such persons available for the purpose of inspections.

(5) To reclaim affected land with respect to which a bond has been forfeited, and, in the board's discretion, with the permission of the landowner, to reclaim such other land which becomes affected land ~~prior to or after the effective date of this act~~.

SECTION 2. 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 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 eighteen hundred dollars ($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 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 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 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 and maintained 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. Upon failure of the operator to make substitution of surety prior to the effective date of cancellation of the bond or within

thirty (30) days following notice of cancellation by the board, whichever is later, the board shall have the right to issue a cease and desist order and seek injunctive relief to stop the operator from conducting operations upon the lands covered by such bond until such substitution has been made.

(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~~ issue a cease and desist order and seek injunctive relief to stop 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 3. 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 may notify the operator of such noncompliance, and 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 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 the provisions of 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~~. Such complaint may be served by certified mail, and return receipt signed by the operator, an officer of a corporate operator, or the designated agent of the operator shall constitute service. The operator shall answer the complaint and request a hearing before a designated hearing officer within thirty (30) days from receipt of the complaint if matters asserted in the complaint are disputed. If the operator fails to answer the complaint and request a hearing, the matters asserted in the complaint shall be deemed admitted by the operator, and the board may proceed to cancel the reclamation plan and forfeit the bond in the amount necessary to reclaim affected lands. Upon request for a hearing by an operator, the board shall schedule a hearing before a hearing officer appointed by the board at a time not less than thirty (30) days after the date the operator requests a hearing. 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 not 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 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 affi-

davits 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) 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 procedures set forth in subsections (a), (d) and (e) of this section, 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 five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500) 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.~~ Any amendment to this chapter shall not affect the validity or modify the amount, terms or conditions of any bond in effect as of the effective date of such amendment.

Approved March 29, 1988.

CHAPTER 224
(S.B. No. 1376, As Amended)

AN ACT

RELATING TO CIGARETTE TAXES; REPEALING SECTION 63-2510, IDAHO CODE, RELATING TO PENALTIES; AMENDING CHAPTER 25, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2510, IDAHO CODE, TO PROVIDE FOR THE FILING OF CIGARETTE TAX RETURNS AND THE PAYMENT OF CIGARETTE TAXES, TOGETHER WITH THE RETURN; AMENDING CHAPTER 25, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2510A, IDAHO CODE, TO REQUIRE THAT BONDS BE POSTED BY CIGARETTE WHOLESALERS TO SECURE THE PAYMENT OF CIGARETTE TAXES; REPEALING SECTION 63-2519, IDAHO CODE, RELATING TO PROMULGATION OF RULES AND REGULATIONS; AMENDING CHAPTER 25, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2519, IDAHO CODE, TO PROVIDE FOR INJUNCTIONS PROHIBITING SALE OF CIGARETTES WITHOUT A VALID PERMIT OR LICENSE; PROVIDING FOR TRANSITION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-2510, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 25, 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 63-2510, Idaho Code, and to read as follows:

63-2510. PAYMENT OF TAX -- RETURNS -- ACCOUNTING FOR STAMPS. (1) The cigarette taxes imposed in section 63-2510, Idaho Code, are due from the person required under section 63-2508, Idaho Code, to affix stamps, and are payable to the state tax commission monthly, together with the return required in this section.

(2) Every person owing cigarette taxes and every wholesaler shall file a return with the state tax commission in such form as the commission shall prescribe. The return shall report all taxes due regarding cigarettes received during the month or other reporting period, approved by the state tax commission, to which the return relates. The return shall contain such other information as the state tax commission shall require, and shall be signed by the person required to file the return or by such person's duly authorized agent. The return shall be filed on or before the twentieth day of the month following the end of the taxable period to which the return relates.

(3) The amount allowed as compensation for affixing stamps under section 63-2509, Idaho Code, shall be separately stated on the return as a credit against taxes due on the return.

(4) In addition to reporting the tax due as provided in this section, the return shall provide an accounting of all cigarette stamps acquired, held, and affixed by the wholesaler. The return shall include:

(a) The number of stamps which were held at the beginning of the reporting period and were not affixed to packages;

(b) The number of stamps acquired during the reporting period;

(c) The number of stamps affixed to packages during the reporting period;

(d) The number of unaffixed stamps held at the end of the reporting period; and

(e) The number, if any, of stamps lost or destroyed. If stamps are lost or destroyed, a statement describing the circumstances giving rise to the loss or destruction shall accompany the return.

(5) In the event that any stamps obtained by a wholesaler are lost, destroyed, or otherwise unaccounted for, the wholesaler shall be liable for an amount of tax equal to the tax on the number of cigarettes to which such stamps would have been affixed, unless the wholesaler can establish, by clear and convincing evidence, that a specific number of stamps were actually destroyed or mutilated in such a manner as to render them unusable.

(6) A wholesaler may claim a credit against taxes due on the tax return for taxes previously paid on cigarettes, which after stamps are affixed, become unmarketable and are returned to the manufacturer. When such return is verified in such manner as the state tax commission may, by regulation provide, the credit applies to the tax return for the month in which the verification occurs; except that, any amount of credit exceeding the tax due on the tax return may be carried forward to the succeeding tax return, in chronological order until exhausted.

SECTION 3. That Chapter 25, 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 63-2510A, Idaho Code, and to read as follows:

63-2510A. BONDING. (1) At the time an application for a wholesaler's license or permit, under section 63-2503, Idaho Code, is submitted to the state tax commission, the applicant shall file a bond, in such form as the commission may determine, conditioned upon faithful performance of all of the requirements of this chapter. The total amount of the bond shall be fixed by the commission and shall be equivalent to, at least, twice the estimated average tax liability for the reporting period for which the applicant will be required to file a return, under section 63-2510, Idaho Code. The bond required shall, in no case, be less than one thousand dollars ($1,000). The total amount required to be secured by the bond may be increased or reduced by the commission at any time. Any bond given in conjunction with the provisions of this section shall be a continuing instrument, and shall

cover the period during which the license or permit in connection with which the bond is given is in effect, unless the surety on the bond is released or discharged by the commission. Any surety on any bond furnished by a wholesaler shall be discharged only by the commission. Any surety on any bond furnished by a wholesaler shall be discharged and released by the commission from, any and all, liability to the state, accruing on the bond after the expiration of thirty (30) days from the date upon which the surety shall have lodged with the commission a written request to be released and discharged. The request shall not operate to relieve, release, or discharge the surety from any liability accrued, or which will accrue, before the expiration of the thirty (30) day period. The commission shall promptly, upon receipt of the notice of the request, notify the wholesaler and require him to furnish a new bond. Unless the wholesaler files a new bond with the commission in the amount provided in this section before the expiration of the thirty (30) day period, the commission shall immediately cancel the wholesaler's license or permit.

(2) In the event that any taxes due under the provisions of this chapter are not paid by a wholesaler, and the unpaid taxes are assessed by the commission, and after all avenues for appeal of the assessment have been exhausted, the commission may apply the unpaid tax liability against the bond required in this section.

SECTION 4. That Section 63-2519, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 25, 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 63-2519, Idaho Code, and to read as follows:

63-2519. CIVIL ACTION -- INJUNCTION. If the state tax commission determines that any person is engaged in business as a wholesaler without holding a valid permit or license, it may proceed, by injunction or other legal process, to prevent the continuance of the business. An injunction, enjoining the continuance of the business by such person, may be granted without bond by any court or judge authorized by law to grant injunctions.

SECTION 6. Wholesalers required to file returns and pay taxes, pursuant to section 63-2510, Idaho Code, shall not be required to report tax in regard to any stamps affixed to packages after the effective date of this act, if such stamps were purchased from the commission before the effective date of this act.

SECTION 7. This act shall be in full force and effect on and after July 1, 1989.

Approved March 29, 1988.

CHAPTER 225
(S.B. No. 1381)

AN ACT

RELATING TO THE IDAHO HUMAN RIGHTS COMMISSION; AMENDING SECTIONS 67-5901, 67-5902, 67-5909 AND 67-5910, IDAHO CODE, TO PROHIBIT DISCRIMINATION BASED ON HANDICAP IN EMPLOYMENT, TO DEFINE HANDICAP AND TO PROVIDE LIMITATIONS IF A HANDICAPPED PERSON IS UNABLE TO PERFORM THE WORK OR IS A THREAT TO THE HEALTH OR SAFETY OF THE HANDICAPPED PERSON OR OTHERS.

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

SECTION 1. That Section 67-5901, Idaho Code, be, and the same is hereby amended to read as follows:

67-5901. PURPOSE OF ACT. The general purposes of this act are:

(1) To provide for execution within the state of the policies embodied in the federal Civil Rights Act of 1964, as amended, and the Age Discrimination in Employment Act of 1967, as amended.

(2) To secure for all individuals within the state freedom from discrimination because of race, color, religion, sex or national origin in connection with employment, public accommodations, education and real property transactions, and discrimination because of age or ~~handicap~~ in connection with employment, and thereby to protect ~~their~~ interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights and privileges of individuals within the state.

SECTION 2. That Section 67-5902, Idaho Code, be, and the same is hereby amended to read as follows:

67-5902. DEFINITIONS. In this act, unless the context otherwise requires:

(1) "Commission" means the commission on human rights created by this act;

(2) "Commissioner" means a member of the commission;

(3) "Discriminatory practice" means a practice designated as discriminatory under the terms of this act;

(4) "National origin" includes the national origin of an ancestor;

(5) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, any other legal or commercial entity, the state, or any governmental entity or agency;

(6) "Employer" means a person who has ten (10) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year. The term also means;

(a) a person who as contractor or subcontractor is furnishing

material or performing work for the state;

(b) agency of or any governmental entity within the state; and

(c) any agent of such employer.

(7) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person;

(8) "Labor organization" includes;

(a) an organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievance, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

(b) a conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization; or

(c) an agent of a labor organization.

(9) "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public;

(10) "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, or university and a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution;

(11) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal or any interest therein;

(12) "Real estate transaction" includes the sale, exchange, rental or lease of real property;

(13) "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or as the home or residence of one or more individuals;

(14) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.

(15) "Handicap" means a physical or mental condition of a person, whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques. A handicapped person is one who (a) has such a disability, or (b) has a record of such a disabil-

ity, or (c) is regarded as having such a disability.

(16) "Reasonable accommodation" means an adjustment which does not (a) unduly disrupt or interfere with the employer's normal operations, (b) threaten the health or safety of the handicapped person or others, (c) contradict a business necessity of the employer, or (d) impose undue hardship on the employer based on the size of the employer's business, the type of business, the financial resources, and the estimated cost and extent of the adjustment.

SECTION 3. That Section 67-5909, Idaho Code, be, and the same is hereby amended to read as follows:

67-5909. ACTS PROHIBITED. It shall be a prohibited act to discriminate against a person because of, or on a basis of, race, color, religion, sex or national origin, in any of the following and on the basis of age or handicap in subsections (1), (2), (3) and (4) ~~following~~, provided that the prohibition against discrimination because of handicap shall not apply if the particular disability, even with a reasonable accommodation by the employer, prevents the performance of the work required by the employer in that job.

(1) For an employer to fail or refuse to hire, to discharge, or to otherwise discriminate against an individual with respect to compensation or the terms, conditions or privileges of employment or to reduce the wage of any employee in order to comply with this act;

(2) For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against an individual or to classify or refer an individual for employment;

(3) For a labor organization;

(a) to exclude or to expel from membership, or to otherwise discriminate against, a member or applicant for membership,

(b) to limit, segregate or classify membership, or to fail or refuse to refer for employment an individual in any way,

1. which would deprive an individual of employment opportunities, or

2. which would limit employment opportunities or adversely affect the status of an employee or of an applicant for employment, or

(c) to cause or attempt to cause an employer to violate this act.

(4) For an employer labor organization or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by the employer or membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by an employment agency, indicating a preference, limitation, specification or discrimination; but a notice or advertisement may indicate a preference limitation, specification, or discrimination when such is a bona fide occupational qualification for employment;

(5) For a person;

(a) to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation, or

(b) to print, circulate, post, or mail or otherwise cause to be

published a statement, advertisement or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages of a place of public accommodation will be refused, withheld from, or denied an individual or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.

(6) For an educational institution;

(a) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, and privileges of the institution, or

(b) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, of an applicant for admission, except as permitted by the regulations of the commission,

(c) to print or publish or cause to be printed or published a catalogue or other notice or advertisement indicating a preference, limitation, specification, discrimination of an applicant for admission, or

(d) to announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members.

(7) For an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman;

(a) to refuse to engage in a real estate transaction with a person,

(b) to discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith,

(c) to refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person,

(d) to refuse to negotiate a real estate transaction with a person,

(e) to represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to refuse to permit him to inspect real property,

(f) to print, circulate, post or mail or cause to be so published a statement, advertisement or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto, or

(g) to offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.

(8) For a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of such a person;

(a) to discriminate against the applicant,

(b) to use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates directly or indirectly, an intent to make a limitation, specification, or discrimination.

(9) To insert in a written instrument relating to real property a provision which purports to forbid or restrict the conveyance, encumbrance, occupancy or lease thereof;

(10) For a person for the purpose of inducing a real estate transaction from which he may benefit financially;

(a) to represent that a change has occurred or will or may occur in the composition of the owners or occupants in the block, neighborhood, or area in which the real property is located, or

(b) to represent that this change will or may result in the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

SECTION 4. That Section 67-5910, Idaho Code, be, and the same is hereby amended to read as follows:

67-5910. LIMITATIONS. (1) This act does not apply to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association, or society of its religious activities.

(2) It is not a discriminatory practice;

(a) for an employer to employ an employee, or an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program, on the basis of his religion, sex, national origin, or age if religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise, or

(b) for an employer, employment agency, or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit involuntary retirement of any individual specified ~~by section 67-5910(7), Idaho Code, of this act~~ in subsection (7) of this section because of the age of such individual; however, the prohibition against age discrimination contained in this act shall not be construed to prohibit compulsory retirement if such retirement is permitted under the terms of 29 USC, section 631(c)(1) and (2), or

(c) for a religious educational institution or an educational organization to limit employment or give preference to members of

the same religion.

(d) for an employer, employment agency, or labor organization to discriminate against a person with a handicap which, under the circumstances, poses a serious threat to the health or safety of the handicapped person or others. The burden of proving this defense is upon the employer, labor organization, or employment agency.

(3) This act does not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages or accommodations of the establishment are made available to the customers or patrons of another establishment that is a place of public accommodation.

(4) Notwithstanding any other provisions of this act, it is not a discriminatory practice for;

(a) a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution (operated, supervised, or controlled by a religious institution) or organization to limit admission or give preference to applicants of the same religion, or

(b) an educational institution to accept and administer an inter vivos or testamentary gift upon the terms and conditions prescribed by the donor.

(5) The provisions of section 67-5909(7) do not apply;

(a) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the lessor or a member of his family resides in one (1) of the housing accommodations, or

(b) to the rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides therein.

(6) It is not a discriminatory practice for a religious institution or organization or a charitable or educational organization operated, supervised or controlled by a religious institution or organization to give preference to members of the same religion in a real property transaction.

(7) The prohibitions against discrimination based on age contained in this act shall be limited to individuals who are at least forty (40) years of age but less than seventy (70) years of age.

Approved March 29, 1988.

CHAPTER 226
(S.B. No. 1383, As Amended)

AN ACT

RELATING TO ADOPTION; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1512A, IDAHO CODE, TO PROVIDE CERTAIN PROHIBITED CONDUCT REGARDING ADOPTIONS, TO PROVIDE PENALTIES AND TO PROVIDE ALLOWABLE CONDUCT.

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 18-1512A, Idaho Code, and to read as follows:

18-1512A. ADVERTISING FOR ADOPTION -- PROHIBITED ACTS. (1) No person or entity, other than a duly authorized agent or employee of the department of health and welfare or an authorized children's agency or institution licensed by the department of health and welfare to care for and place children, shall cause to be published for circulation or broadcast on a radio or television station within the geographic borders of the state of Idaho an advertisement or notice of a child or children offered or wanted for adoption. No such person or entity through such advertisement or notice shall offer to place, locate, dispose or receive any child or children offered or wanted for adoption, or shall hold himself out through such advertisement or notice as being able to place, locate, dispose or receive a child or children for adoption.

(2) Any such person or entity who places or causes such advertisement or notice as prohibited in subsection (1) of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000).

(3) Nothing herein is intended to prohibit licensed attorneys, physicians and other health care providers from assisting or providing natural and adoptive parents with legal services or medical care necessary to initiate and complete adoptive placements.

Approved March 29, 1988.

CHAPTER 227
(S.B. No. 1503)

AN ACT

RELATING TO INSPECTION OF PUBLIC RECORDS; AMENDING SECTION 1 OF CHAPTER 224, LAWS OF 1987, TO DELETE THE SUNSET CLAUSE.

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

SECTION 1. That Section 1 of Chapter 224, Laws of 1987, be and the same is hereby amended to read as follows:

SECTION 1. That Section 2 of Chapter 210, Laws of 1986, be, and the same is hereby amended to read as follows:

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 shall be null, void and of~~

~~no force and effect on and after July 1, 1987~~8.

Approved March 29, 1988.

CHAPTER 228
(S.B. No. 1505)

AN ACT
RELATING TO COUNTY FAIR BOARDS; AMENDING SECTION 22-204, IDAHO CODE, TO PROVIDE TIME LIMITS FOR THE DURATION OF A CONCESSION OR SERVICE AUTHORIZED BY A FAIR BOARD.

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

SECTION 1. That Section 22-204, Idaho Code, be, and the same is hereby amended to read as follows:

22-204. DUTIES OF COUNTY FAIR BOARD -- BONDS OF MEMBERS -- MEETINGS -- FURTHER DUTIES. The county fair board shall be charged with the care and custody of all property belonging to the county and used for fair purposes, and shall be responsible for all moneys received by it, raised by tax levy or levies for fair purposes as well as all receipts from the operation of the fair and any other moneys received from other sources for fair purposes. Each member of the county fair board shall file with the board of county commissioners a bond in the sum of not less than one thousand dollars ($1,000) to be approved by the board of county commissioners. The county fair board shall conduct all of its business at the place designated by the board of county commissioners as the place for conducting the county fair, which shall be the place of business of the county fair board. It shall meet at its place of business on the first Monday of January each year, and thereafter bi-monthly on the first Monday of the month, except as herein otherwise provided; provided, that it shall meet on the first Monday after the creation of such board under the provisions hereof.

It shall safely keep or cause to be safely kept all moneys coming into its care, custody or possession in strict compliance with the provisions of the public depository law of this state. It shall formulate in writing and file in its office all plans adopted by it from time to time in connection with the conduct of the business of the county fair, and also file a copy of the same with the board of county commissioners of the county. It shall keep or cause to be kept proper records of its proceedings, business transactions, and true and proper accounts of all moneys received by it and expended or on hand; and it shall require proper vouchers evidencing all disbursements of money. The records of the board shall be open to inspection by any taxpayer or voter within the county during all regular office hours. The board shall publish in at least one (1) issue of the official newspaper of the county a detailed statement of all moneys received and expended in

connection with the operation of any fair or fairs, within ninety (90) days after the holding of any such fair within the county.

It shall take charge of and manage all such property as the county may have acquired or set aside for fair purposes pursuant to the provisions of section 31-822, Idaho Code. It may recommend to the board of county commissioners that such board purchase such real and personal property as may be needed for fair purposes. It shall have power to employ labor, award prizes, make exhibition contracts, fix and charge admission and entrance fees, let contracts for concessions or services to be conducted at the fair or under the direction of the county fair board, but if any concession or service is to extend for a period of less than ~~ten~~ twelve (~~10~~2) days in a calendar year, the concession or service may be awarded without bid, and do all other things necessary for holding ~~county fairs~~. It shall fix the salaries of the secretary and treasurer and prescribe the time and manner of payment. The county fair board shall not have the power to create any indebtedness in excess of the amount to be derived from the special levies for each year and the estimated income from annual fair receipts, nor shall it mortgage or otherwise pledge or encumber any of the real or personal property owned by the county and used for fair purposes.

Approved March 29, 1988.

CHAPTER 229
(H.B. No. 381)

AN ACT

RELATING TO THE POWERS AND DUTIES OF ADMINISTRATIVE DISTRICT JUDGES; AMENDING SECTION 1-907, IDAHO CODE, TO AUTHORIZE THE APPOINTMENT OF COURT ATTENDANTS TO PERFORM DUTIES RELATED TO THE SECURITY AND EFFICIENCY OF COURT FACILITIES; AMENDING SECTION 18-3302, IDAHO CODE, TO AUTHORIZE COURT APPOINTED ATTENDANTS TO CARRY CONCEALED WEAPONS; AND AMENDING SECTION 31-2215, IDAHO CODE, TO PROVIDE THAT THE SHERIFF MAY ACT AS COURT CRIER AT THE DIRECTION OF THE COURT.

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

SECTION 1. That Section 1-907, Idaho Code, be, and the same is hereby amended to read as follows:

1-907. ADMINISTRATIVE JUDGE -- ADMINISTRATIVE POWERS AND DUTIES. The administrative judge or acting administrative judge in each judicial district, subject to the rules of the Supreme Court, shall have administrative supervision and authority over the operation of the district courts and magistrates in the district. These powers and duties include, but are not limited to, the following:

(a) arranging schedules and assigning district judges for sessions of district courts;

(b) arranging or supervising the calendaring of matters for trial or hearing;

(c) supervising the clerks of the district courts in the discharge of the clerical functions of the district courts;

(d) assigning matters to magistrates, and prescribing times and places at which magistrates shall be available for the performance of their duties;

(e) making arrangements with proper authorities for the drawing of civil jury panels and determining which sessions of the district court shall be jury sessions;

(f) arranging for the reporting of civil cases by court reporters or other authorized means;

(g) arranging sessions, to the extent practicable, for the trial of specialized cases, including traffic, domestic relations, and other types of cases, and assigning district judges to preside over these sessions so as to permit maximum practicable specialization by individual judges;

(h) promulgating a schedule of offenses for which magistrates and clerks of court or other designated persons may accept written appearances, waivers of trial, and pleas of guilty, and establishing a schedule of fines and bails therefor;

(i) assigning magistrates to temporary duty outside the county of their residence, but within the district;

(j) acting as chairman of the district magistrates commission of the district; ~~and~~;

(k) assigning to other district judges in the district various powers and duties as in this act provided; and

(l) appointing personnel when needed to attend to the courts, and assigning duties to these court attendants for the purpose of maintaining the security and efficiency of court facilities.

SECTION 2. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302. CONCEALED AND DANGEROUS WEAPONS -- POSSESSION AND EXHIBITION -- SALE TO MINORS. If any person, excepting officials of a county, officials of the state of Idaho, officials of the United States, peace officers, guards of any jail, court appointed attendants, or any officer of any express company on duty, shall carry concealed upon or about his person, any dirk, dirk knife, bowie knife, dagger, sling shot, pistol, revolver, gun or any other deadly or dangerous weapon within the limits or confines of any city, town or village, or in any public assembly, or in any mining, lumbering, logging, railroad or other construction camp, public conveyances or on public highways within the state of Idaho, or shall, in the presence of one ~~(1)~~ or more persons, exhibit any deadly or dangerous weapon in a rude, angry or threatening manner, or shall have or carry such weapons upon or about his person when intoxicated or under the influence of intoxicating drinks, or shall, directly or indirectly, sell or deliver, loan or barter to any minor under the age of sixteen (16) years any such weapon without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by a fine of not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200~~.00~~), and by imprisonment in the county jail for a period of not less than

twenty (20) days nor more than ninety (90) days: provided, however, that any person shall be allowed to carry any of the above weapons in the places mentioned above on securing a permit from the sheriff of the county after satisfying the sheriff of the necessity therefor.

SECTION 3. That Section 31-2215, Idaho Code, be, and the same is hereby amended to read as follows:

31-2215. SHERIFF IS COURT CRIER. The sheriff in attendance upon court ~~must~~ may, at the direction of the court, act as the crier thereof, call the parties and witnesses, and all other persons bound to appear at the court, and make proclamation of the opening and adjournment of the court, and of any other matter under its direction.

Approved March 29, 1988.

CHAPTER 230
(H.B. No. 463)

AN ACT

RELATING TO LIMITATIONS OF LIABILITY OF LANDOWNERS OF LAND USED FOR RECREATIONAL PURPOSES; AMENDING SECTION 36-1604, IDAHO CODE, TO FURTHER DEFINE THE TERM LAND AND TO PROVIDE LIABILITY OF PERSONS RAFTING OR TUBING UPON THE PROPERTY OF ANOTHER FOR PROPERTY DAMAGE.

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

SECTION 1. That Section 36-1604, Idaho Code, be, and the same is hereby amended to read as follows:

36-1604. LIMITATION OF LIABILITY OF LANDOWNER. (a) Statement of Purpose. The purpose of this section is to encourage owners of land to make land and water areas available to the public without charge for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(b) Definitions. As used in this section:

1. "Land" means private or public land, roads, trails, water, watercourses, irrigation dams, water control structures, headgates, private or public ways and buildings, structures, and machinery or equipment when attached to or used on the realty.

2. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

3. "Recreational Purposes" includes, but is not limited to, any of the following or any combination thereof: Hunting, fishing, swimming, boating, rafting, tubing, camping, picnicking, hiking, pleasure driving, nature study, water skiing, animal riding, motorcycling, snowmobiling, recreational vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, or sci-

entific sites, when done without charge of the owner.

(c) Owner Exempt from Warning. An owner of land owes no duty of care to keep the premises safe for entry by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

(d) Owner Assumes No Liability. An owner of land or equipment who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

1. Extend any assurance that the premises are safe for any purpose.
2. Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.
3. Assume responsibility for or incur liability for any injury to person or property caused by an act of omission of such persons.

(e) Provisions Apply to Leased Public Land. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(f) Owner Not Required to Keep Land Safe. Nothing in this section shall be construed to:

1. Create a duty of care or ground of liability for injury to persons or property.
2. Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of such land and in his activities thereon, or from legal consequences or failure to employ such care.
3. Apply to any person or persons who for compensation permits the land to be used for recreational purposes.

(g) User Liable for Damages. Any person using the land of another for recreational purposes, with or without permission, shall be liable for any damage to property, livestock or crops which he may cause while on said property.

Approved March 29, 1988.

CHAPTER 231
(S.B. No. 1417, As Amended)

AN ACT

RELATING TO BONDING REQUIREMENTS FOR MOTOR FUELS DISTRIBUTORS OR SPECIAL FUEL DEALERS; AMENDING SECTION 63-2428, IDAHO CODE, TO PROVIDE CONDITIONS WHEN THE BONDING REQUIREMENTS SHALL BE WAIVED FOR DISTRIBUTORS.

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

SECTION 1. That Section 63-2428, Idaho Code, be, and the same is

hereby amended to read as follows:

63-2428. BONDING. (1) At the time an application for a distributor's license under section 63-2409, Idaho Code, or a special fuels dealer's license under section 63-2419, Idaho Code, is submitted to the commission, the applicant shall file a bond with the commission conditioned upon faithful performance of all of the requirements of this chapter. The total amount of the bond shall be fixed by the commission and shall be equivalent to at least twice the estimated average tax liability for the reporting period for which the applicant will be required to file either a distributor's report under section 63-2406, Idaho Code, or a special fuels dealer's return under section 63-2420, Idaho Code, or both. If a person is both a licensed distributor and a licensed special fuels dealer, the bonding requirements in regard to each may be consolidated into a single bond. The bond required by this section shall in no case be less than one thousand dollars ($1,000) nor more than two hundred thousand dollars ($200,000). Based on prior years' experience, the total amount required to be secured by the bond may be increased or reduced by the commission at any time. The bond will be waived if the commission is satisfied that the distributor has the financial responsibility to meet the required bond amount. Financial responsibility may be determined by the commission upon review of all relevant public documents including appropriate county records and records of tax payments to the state of Idaho. The distributor can be required to provide a commercial credit rating, balance sheet, or income statement to demonstrate present financial solvency, i.e. ownership of real and/or personal property, the unencumbered value of which exceeds the bond amount otherwise required. If such financial solvency is established, and if the distributor has been doing business in Idaho as a licensed distributor for five (5) or more consecutive years without a default in the payment of taxes imposed in this chapter, financial responsibility shall be presumed. Any bond given in conjunction with this chapter shall be a continuing instrument, and shall cover the period during which the license in connection with which the bond is given is in effect, unless the surety on the bond is released or discharged by the commission. Any surety on any bond furnished by a licensee shall be discharged and released from any and all liability to the state accruing on the bond after the expiration of thirty (30) days from the date upon which the surety shall have lodged with the commission a written request to be released and discharged. The request shall not operate to relieve, release or discharge the surety from any liability accrued, or which will accrue, before the expiration of the thirty (30) day period. The commission shall promptly, upon receipt of the notice of the request, notify the licensee and require him to furnish a new bond. Unless the licensee files a new bond with the commission in the amount provided in this section before the expiration of the thirty (30) day period, the commission shall immediately cancel the licensee's license.

(2) In the event that any taxes due under the provisions of this chapter are not paid by a licensed distributor or a licensed special fuels dealer, and the unpaid taxes are assessed by the commission, and

after all avenues for appeal of the assessment have been exhausted, the commission may apply the unpaid tax liability against the bond required by this section.

Approved March 29, 1988.

CHAPTER 232
(S.B. No. 1471)

AN ACT

RELATING TO A STATE LOTTERY; REPEALING CHAPTER 26, TITLE 63, IDAHO CODE; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 74, TITLE 67, IDAHO CODE, TO CREATE AN IDAHO LOTTERY AGENCY AND TO PROVIDE ITS FUNCTIONS, POWERS AND DUTIES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 26, Title 63, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 74, Title 67, Idaho Code, and to read as follows:

CHAPTER 74
IDAHO STATE LOTTERY

67-7401. PURPOSE. The purpose of this legislation is to establish a state lottery to generate revenue for the state with a director and a state lottery commission to oversee lottery operations. This chapter establishes a state lottery account for the deposit of receipts, for payment of prizes and expenses, and provides that revenues generated in the lottery account, after allowances for prizes and expenses, shall be distributed for the public benefit. This chapter provides for contracting with lottery retailers and authorizes the promulgation of administrative rules and regulations necessary for carrying out the intent of this chapter. The lottery commission and the director of the lottery shall be responsible for operating the lottery at the least public expense and the smallest staffing possible, commensurate with all other policies stated in this chapter. Additionally, all advertising by the lottery shall be conducted in a manner consonant with the dignity of the state and the sensibilities of its citizens.

67-7402. IDAHO LOTTERY AGENCY CREATED. There is hereby created in the department of self-governing agencies an agency to be known as the Idaho state lottery. The Idaho state lottery shall implement and administer the provisions of this chapter.

67-7403. INITIATION AND OPERATION OF THE LOTTERY. The lottery

shall be initiated at the earliest feasible and practical time. The lottery shall be operated to produce the maximum amount of net income to benefit the public purposes described in this chapter consonant with the public good. Other state government departments, boards, commissions, agencies and their officers shall cooperate with the lottery to aid the lottery in fulfilling these objectives.

67-7404. DEFINITIONS. As used in this chapter:

(1) "Administrative costs" mean advertising, promotional, marketing and personnel costs, capital outlay, and reasonable expenses incurred by other state agencies to effectuate the purposes of this chapter.

(2) "Commission" means the Idaho state lottery commission.

(3) "Director" means the director of the lottery.

(4) "Expenses" mean all costs of doing business including, but not limited to, prizes, commissions and other compensation paid to retailers, advertising and marketing costs, personnel costs, capital outlay, reasonable expenses incurred by other state agencies to effectuate the purposes of this chapter, depreciation of property and equipment, and other operating costs, all of which are to be recorded on the accrual basis of accounting in accordance with generally accepted accounting principles.

(5) "Lottery" or "state lottery" means the state lottery established and operated pursuant to this chapter.

(6) "Lottery contractor" means a person with whom the lottery has contracted for the purposes of providing goods and services for the state lottery.

(7) "Lottery game retailer" or "retailer" means a person with whom the lottery has contracted for the purpose of selling tickets or shares in lottery games to the public.

(8) "Lottery revenue" means revenue derived from the sale of lottery tickets and shares. Such revenues shall be recorded on the accrual basis of accounting in accordance with generally accepted accounting principles.

(9) "Lottery vendor" or "vendor" means any person who submits a bid, proposal or offer as part of a procurement for goods or services for the state lottery.

(10) "Major procurement" means any contract with a vendor supplying lottery tickets or shares, data processing systems utilized to track, sell, distribute or validate lottery tickets or shares, any goods or services involving the determination or generation of winners in any lottery game or any auditing services.

(11) "Net income" means lottery revenue and nonlottery revenue, less expenses, as defined in this chapter.

(12) "Person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include departments, commissions, agencies and instrumentalities of the state of Idaho, including counties and municipalities and agencies or instrumentali-

ties thereof.

(13) "Share" means any intangible evidence of participation in a game conducted by the state lottery.

(14) "Ticket" means any tangible evidence issued by the lottery to provide participation in a game conducted by the state lottery.

67-7405. COMMISSION -- APPOINTMENT -- CHAIRMAN. The commission shall consist of five (5) members appointed by the governor with the advice and consent of the senate. The term of a member is five (5) years. The terms of members appointed shall expire as designated by the governor at the time of appointment: One (1) at the end of one (1) year; one (1) at the end of two (2) years; one (1) at the end of three (3) years; one (1) at the end of four (4) years; and one (1) at the end of five (5) years. At the end of a term, a member continues to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. A vacancy of the commission shall be filled in the same manner as regular appointments are made, and the term shall be for the unexpired portion of the regular term. No member of the commission shall have a direct or indirect pecuniary interest in any contract or agreement entered into by the commission. The chairman of the commission shall be appointed by the governor from among the members of the commission. No more than three (3) members of the commission shall belong to the same political party. The members of the commission shall serve at the pleasure of the governor.

67-7406. QUORUM -- MEETINGS -- MINUTES -- COMPENSATION. A majority of the qualified membership of the commission is a quorum. The commission may not act unless at least three (3) members concur. The commission shall not meet less than four (4) times per year. Written notice of the time and place of each commission meeting shall be given to each member of the commission. The secretary of the commission shall promptly send the governor a certified copy of the minutes of each meeting of the commission. The minutes shall include a copy of each regulation of the lottery that is adopted. Members of the commission shall receive compensation as provided in section 59-509(g), Idaho Code. Members are entitled to reimbursement for reasonable travel expenses incurred in the performance of their duties as a member, as provided by law.

67-7407. DIRECTOR. With the advice and consent of the senate the governor shall appoint a director of the lottery, who is the chief executive officer of the lottery and secretary of the commission. The compensation of the director, including bonuses, if any, shall be established by the commission. The director shall serve at the pleasure of the governor.

67-7408. POWERS AND DUTIES OF THE COMMISSION. The commission shall be responsible for establishing the goals and objectives of the lottery and shall have the following duties, powers and responsibilities in addition to others herein granted:

(1) The commission shall adopt, upon recommendation of the director, such rules and regulations governing the establishment and operation of the lottery as it considers necessary under this chapter to ensure the integrity of the lottery and its games and to maximize the net income of the lottery for the benefit of the state. Such rules and regulations shall address, but not be limited to:

(a) The types of lottery games to be conducted;

(b) The prize structure of each lottery game;

(c) The method, odds and frequency of selecting winning tickets and shares and the manner of paying prizes to the owners of the winning tickets and shares;

(d) The terms and conditions of lottery game retailer contracts which may include retailer compensation, bonuses, incentives, fees for redeeming claims, payment and credit terms, retailer application and renewal fees, telecommunication costs, if any, to be paid or allocated to retailers and bonding requirements;

(e) The methods to be utilized in selling and distributing lottery tickets or shares, including the use of machines, terminals, telecommunications systems and data processing systems; and

(f) Other matters necessary or appropriate for the efficient operation and administration of the lottery, for the convenience of the public, and to carry out the provisions of this chapter. Every rule promulgated within the authority conferred by this chapter shall be of temporary effect and must be ratified by the legislature at the regular session first following their adoption. Rules not approved in the above manner shall be rejected, null, void and of no force and effect on July 1, following their submission to the legislature.

(2) The commission shall approve major procurements.

(3) The commission shall approve the transfer of net income in accordance with the provisions of this chapter.

(4) The commission shall have the authority to enter into written agreements or contracts, negotiated and prepared by the director, with any other state or states, the government of Canada, the provinces of Canada or an agency or contractor of any of those entities for the operation and promotion of a joint lottery or joint lottery games.

(5) The commission shall perform all other acts necessary to carry out the purposes and provisions of this chapter.

67-7409. POWERS AND DUTIES OF THE DIRECTOR. The director shall be responsible for the daily operations of the lottery, and shall have the following duties, powers and responsibilities in addition to others herein granted:

(1) The director shall:

(a) Operate and administer the lottery in accordance with the provisions of this act and the policies, rules and regulations of the lottery;

(b) Appoint deputy directors as may be required to carry out the functions and duties of his office; and

(c) Hire professional, technical and other employees as may be necessary to perform the duties of his office subject to the provisions of the state merit system.

(2) The director shall:

(a) Confer regularly with the commission on the operation and administration of the lottery;

(b) Make available for inspection by the commission, on request, all books, records, files, and other information and documents of the lottery; and

(c) Advise the commission and make such recommendations as the director considers necessary and advisable to improve the operation and administration of the lottery.

(3) The director may enter into contracts for marketing, advertising, promotion, research and studies for the lottery and for products and services for effectuating the purposes of this chapter, however, contracts for major procurements must be approved by the commission. The director may not enter into contracts for the administration of the lottery.

(4) The director shall:

(a) Submit quarterly financial statements to the commission, the governor, the state treasurer, and the legislature. Such financial statements shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. Such financial statements are to be provided within forty-five (45) days of the last day of each quarter;

(b) Submit annual financial statements to the commission, the governor, the state treasurer, and each member of the legislature. Such financial statements shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. Such financial statements shall have been examined by the state auditor or a firm of independent certified public accountants in accordance with generally accepted auditing standards and shall be provided within ninety (90) days of the last day of the lottery's fiscal year;

(c) Report to the governor and the legislature any matters which require immediate changes in the laws of this state in order to prevent abuses and evasions of this act or the rules and regulations of the lottery or to rectify undesirable conditions in connection with administration or operation of the lottery;

(d) Carry on a continuous study and investigation of the lottery to:

(i) Identify any defects in the provisions of this chapter or in the rules and regulations of the commission leading to an abuse in the administration or operation of the lottery or an evasion of this act or the rules and regulations of the lottery;

(ii) Make recommendations for changes in this chapter or the rules and regulations of the lottery to prevent abuses or evasions or to improve the efficiency of the lottery;

(iii) Ensure that the provisions of this chapter and the rules and regulations of the lottery are administered and formulated to serve the purposes of this chapter;

(iv) Prevent the use of the lottery, the provisions of this

chapter, or the rules and regulations of the lottery from fostering professional gambling or crime;

(e) Make a continuous study and investigation of:

(i) The operation and administration of similar laws and lotteries in other states and countries;

(ii) The available information on the subject of lotteries and related subjects;

(iii) Any federal laws which may affect the operation of the lottery; and

(iv) The reaction of citizens of this state to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this chapter.

(5) The director shall provide for secure lottery facilities and lottery systems, including data processing facilities and systems.

(6) The director shall perform all other acts necessary to carry out the purposes and provisions of this chapter.

67-7410. DIRECTOR OF LOTTERY SECURITY. The director shall hire a security director who shall manage the lottery's security division. The security division shall be responsible for the performance of background investigations of employees, lottery retailers, and major procurement contractors and for the enforcement of the criminal provisions of this chapter. In addition, the security division shall develop a security plan to be implemented by the lottery. The lottery's security division is herein designated as an Idaho law enforcement agency. The director of security has the authority to:

(1) Issue administrative subpoenas during the conduct of investigations in accordance with commission rules and regulations and this chapter;

(2) Require fingerprint and background checks of prospective employees and contractors; and

(3) Access criminal offender record information from the department of law enforcement for the purpose of background or other investigations performed in accordance with commission rules and regulations and this chapter.

Such information obtained and kept by the security director shall be confidential and shall not be subject to public disclosure except as provided specifically by law or lottery rule. Nothing herein shall prohibit the lottery from disclosing information obtained by it to law enforcement agencies or other lottery organizations for security or enforcement purposes.

67-7411. CONTRACTING WITH LOTTERY GAME RETAILERS. The commission shall promulgate rules and regulations specifying the terms and conditions for contracting with lottery game retailers to provide availability of tickets or shares to prospective buyers of each lottery game.

A lottery game retailer contract shall not be entered into if there is substantial evidence that the prospective lottery game retailer has had a license or contract to sell lottery tickets or shares suspended or revoked in another state or jurisdiction, or has

knowingly made a false statement of material fact to the lottery.

67-7412. SELECTION OF LOTTERY GAME RETAILERS. The director, pursuant to rule, shall select as lottery game retailers such persons as are deemed best to serve the public convenience and to promote the sale of tickets or shares. No natural person under the age of eighteen (18) shall be a lottery game retailer. In the selection of a lottery game retailer, the director shall consider factors such as financial responsibility, accessibility of the place of business or activity to the public, security of the premises, integrity, reputation, the sufficiency of existing lottery game retailers to serve the public convenience and the projected volume of sales for the lottery game involved.

Prior to the execution of any contract with a lottery game retailer, the director may require a prospective lottery game retailer to disclose to the lottery the lottery game retailer's name and address and the names and addresses of the following:

(1) If the prospective lottery game retailer is a corporation, the officers, directors, and each stockholder in such corporation; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own five percent (5%) or more of such securities need be disclosed;

(2) If the prospective lottery game retailer is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(3) If the prospective lottery game retailer is an association, the members, officers, and directors;

(4) If the prospective lottery game retailer is a subsidiary, the officers, directors and each stockholder of the parent corporation thereof; except that, in the case of stockholders of a publicly traded corporation, only the names and addresses of those known to the corporation to own five percent (5%) or more of such securities need be disclosed;

(5) If the prospective lottery game retailer is a partnership or joint venture, all of the general partners, limited partners, or joint venturers;

(6) If the parent company, general partner, limited partner, or joint venturer of any prospective lottery game retailer is itself a corporation, trust, association, subsidiary, partnership, or joint venture, then all of the information required herein shall be disclosed for such other entity as if it were itself a prospective lottery game retailer to the end that full disclosure of ultimate ownership be achieved;

(7) If any member of the immediate family of any prospective lottery game retailer is involved in the lottery game retailer's business in any capacity, then all of the information required herein shall be disclosed for such immediate family member as if such immediate family member were a prospective lottery game retailer;

(8) The details of any felony conviction of a criminal offense, state or federal, of the vendor or any person whose name and address are required by the disclosure requirements of this section; and

(9) The details of any disciplinary action of a judicial nature taken by any state against the supplier or any person whose name and address are required by this section regarding any matter related to the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment.

No person shall be a lottery game retailer who is engaged exclusively in the business of selling lottery tickets or shares. The director may contract with lottery game retailers on a permanent, seasonal or temporary basis. The lottery may require payment by each lottery game retailer to the lottery of an initial fee and an annual fee as a condition for a contract to be a lottery game retailer. The authority to act as a lottery game retailer shall not be assignable or transferable. A lottery game retailer shall report immediately to the lottery any changes in the information required in this section.

67-7413. TERMINATION OF THE LOTTERY GAME RETAILER. The director may terminate a contract with a lottery game retailer for such reasons of termination as shall be recited in such contract, which reasons shall include, but not be limited to, the knowing sale of tickets or shares to any person under the age of eighteen (18).

67-7414. COMPENSATION FOR LOTTERY GAME RETAILERS. The compensation paid to lottery game retailers shall be five percent (5%) of the retail price of the tickets or shares. The director may pay lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the director for each lottery game.

67-7415. SALES TO PERSONS UNDER THE AGE OF EIGHTEEN. No tickets or shares in the lottery games shall be sold by or to persons under the age of eighteen (18). In the case of lottery tickets or shares sold by lottery game retailers or their employees, such persons shall establish safeguards to help assure that such sales are not made to natural persons under the age of eighteen (18).

67-7416. DISPLAY OF CERTIFICATE OF AUTHORITY. No lottery tickets or shares shall be sold by a lottery game retailer unless the retailer has on public display on the premises a certificate of authority to sell lottery tickets or shares signed by the director.

67-7417. LOTTERY GAME RETAILER BONDING. The director may require an appropriate bond from any lottery game retailer or may purchase blanket bonds covering the activities of selected lottery game retailers.

67-7418. LOTTERY GAME RETAILER ACCOUNTING. The director shall establish procedures which shall be utilized by lottery game retailers to account for all tickets or shares that are sold to the public by each lottery game retailer and to account for all funds received from the public by each lottery game retailer for the tickets or shares.

67-7419. LOTTERY GAME RETAILER PAYMENTS. No payment by lottery

game retailers to the lottery for tickets or shares shall be in cash. All such payments shall be in the form of a check, bank draft, electronic fund transfer, or other recorded financial instrument as prescribed by lottery rule. The director may require lottery game retailers to deposit to the credit of the lottery, in financial institutions designated by the director, money received by lottery game retailers from sale of tickets and/or shares, less the amount of compensation, if any, authorized under section 67-7414, Idaho Code, and to file with the lottery reports of receipts and transactions in the sale of tickets in the form and containing the information the director requires.

67-7420. CONTRACTS FOR MAJOR PROCUREMENTS. Subject to the approval of the commission and the applicable laws relating to public contracts, the director may solicit bids and enter into major procurement contracts for the purchase or lease of lottery equipment, lottery game data processing systems, tickets, services or materials for use in the operation of lottery games or for auditing services. Any such contract shall be awarded to a technically competent bidder, taking into account the lowest bid, secondary cost benefits and the resulting projected net income which would accrue to the benefit of the state over the term of the contract.

In all awards of contracts, the lottery shall take particular account of the sensitive and responsible nature of the lottery and the paramount consideration of security and integrity.

67-7421. LOTTERY VENDOR DISCLOSURES FOR MAJOR PROCUREMENTS. This section is provided to allow the lottery to evaluate the competence, integrity, background, character and the nature of the true ownership and control of lottery vendors. The lottery may require any person, as a part of a major procurement, to disclose at the time of submitting such bid, proposal or offer to the lottery the following information:

(1) If the vendor is a partnership or joint venture, the names and addresses of all of the general and limited partners or joint venturers; if such general and limited partners or joint venturers are themselves a partnership, joint venture, trust, association, corporation, subsidiary, or intermediary corporation, the same information required by this section shall be supplied for such entities also;

(2) If the vendor is a trust, the names and addresses of the trustee and all persons entitled to receive income or benefit of the trust;

(3) If the vendor is an association, the names and addresses of the members, officers and directors;

(4) If the vendor is a corporation, the names and addresses of the officers, directors and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in such corporation; except that, in the case of owners or holders of publicly held securities of an intermediary company, holding company, or parent company that is a publicly traded corporation, only the names and addresses of those owning or holding five percent (5%) or more of such publicly held securities need be disclosed;

(5) If the supplier intends to or does subcontract to another

person or entity any integral or substantial portion of the work to be performed in supplying such materials, equipment or services, then the supplier shall supply the information required by subparagraphs in this section for all such persons or entities;

(6) If the vendor is a corporation, the names of all the states in which the vendor is incorporated to do business, and the nature of that business;

(7) The names of other jurisdictions in which the supplier has contracts to supply gaming materials, equipment or services and the types of gaming materials, equipment or services involved therewith;

(8) The details of any felony conviction of a criminal offense, state or federal, of the vendor or any person whose name and address are required by the disclosure requirements of this section;

(9) The details of any disciplinary action of a judicial nature taken by any state against the supplier or any person whose name and address are required by this section regarding any matter related to the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(10) Audited financial statements for the most recent five (5) years and a statement of the gross receipts realized in the preceding year from the sale, lease or distribution of gaming materials, equipment or services. This information shall be considered confidential and shall not be disclosed to the public;

(11) The name and address of any source of game materials, equipment or services for the vendor; and

(12) Such other information, accompanied by such documents, as the lottery, by rule, regulation or contract procurement documents, may require as being necessary or appropriate in the public interest to accomplish the purposes of this section.

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

67-7422. SEPARATION OF VENDORS AND RETAILERS. No person, firm, association or corporation contracting to supply lottery equipment or materials to the state for use in the operation of the lottery shall be directly or indirectly connected with any person, firm, association or corporation selected as retailers.

67-7423. ENFORCEABILITY OF CONTRACTS. No contract with any contractor, who has not complied with the disclosure requirements established by the lottery, shall be entered into or be enforceable.

67-7424. INFORMATION UNDER OATH. The information required by the lottery of prospective contractors shall be provided under oath.

67-7425. MISSTATEMENTS OR OMISSIONS. Any person wilfully making a material misstatement or material omission of any disclosure item required by the lottery shall be guilty of a felony.

67-7426. COMPLIANCE WITH APPLICABLE LAWS. Each lottery contractor shall perform its contract consistent with the applicable rules of the lottery, the laws of this state, federal laws, and the laws of the

state or jurisdiction in which the lottery contractor is performing or producing, in whole or in part, any of the goods or services contracted for hereunder. No contract with any lottery contractor who fails to comply with such laws or rules shall be entered into or be enforceable.

67-7427. VENDOR PERFORMANCE BONDS. Each vendor, at the time of executing a contract, shall post a performance bond in a manner and form as required by the lottery. The lottery 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.

67-7428. STATE LOTTERY ACCOUNT. There is hereby created in the dedicated fund of the state treasury, the state lottery account. The state lottery account is continuously appropriated to the state lottery for the purposes of operating the lottery and fulfilling its objectives.

67-7429. PROHIBITION ON USE OF STATE FUNDS. It is the intent of this chapter that the state lottery, established by this chapter, shall be a self-supporting, revenue raising agency of state government. No appropriations, loans, or other transfer of state funds shall be made to the state lottery, except for the temporary line of credit for initial start-up costs of the lottery, as provided in this chapter.

67-7430. TEMPORARY LINE OF CREDIT FOR START-UP COSTS. There is hereby established a temporary line of credit to be drawn from the state general account to the state lottery account in the amount of one million dollars ($1,000,000). This amount of money is continuously appropriated for carrying out the purposes of this chapter. This temporary line of credit may be drawn upon by the state lottery only during the first eighteen (18) months after the effective date of this chapter and only for the purpose of financing the initial start-up of the lottery. The lottery may draw upon all or part of this temporary line of credit, as shall be required. The money so advanced from the state general account shall be repaid with interest to the general account within one (1) year from the date the lottery first begins to sell lottery tickets or shares. The interest of ten percent (10%) per annum, shall be calculated upon the principal amount outstanding each month until repaid.

67-7431. CASH RECEIPTS. The following moneys shall be deposited in the state lottery account, as established under section 67-7428, Idaho Code:

(1) All moneys received from the sale of lottery tickets or shares;

(2) Funds drawn against the temporary line of credit, as established under section 67-7430, Idaho Code; and

(3) Any other moneys received by the lottery from whatever source.

67-7432. CASH DISBURSEMENTS. The director is authorized to make the following disbursements from the state lottery account:

(1) Payment of prizes directly to the holder of valid winning tickets or shares;

(2) Purchase of annuities or investments to be utilized to pay future installments of winning tickets or shares;

(3) Refunds, if any, due to lottery retailers or players;

(4) Expenses of the lottery;

(5) The payment of the lottery's obligations, including the funds advanced under the temporary line of credit, as provided for under section 67-7430, Idaho Code, and the purchase of property, buildings and equipment; and

(6) The payment of dividends, as provided for under section 67-7434, Idaho Code.

67-7433. PRIZE EXPENSE. Total prize expense, net of unclaimed prizes, as determined on a cumulative basis, shall be no less than forty-five percent (45%) of lottery revenues. In addition, low-tier claims, if any, that are to be paid by the selling lottery game retailer and are not claimed, shall be construed to be a prize expense and shall inure to the benefit of the selling lottery retailer.

67-7434. LOTTERY DIVIDENDS. At least annually, the lottery shall transfer one-half (1/2) of its net income to the permanent building account and one-half (1/2) of its net income to the school district building account, after reserving sufficient moneys to ensure the continuation of the lottery, as determined by the director and commission.

A one (1) time allotment of two hundred thousand dollars ($200,000) of the lottery's first year dividends shall be allocated and used by the permanent building fund advisory council for the construction of a Vietnam veterans memorial in the state.

67-7435. REIMBURSEMENTS FOR GOVERNMENT SERVICES. It is the intent that the lottery shall be a self-supporting agency of state government. The director shall reimburse at a reasonable rate all other governmental entities for any and all services necessary to effectuate the purposes of this chapter provided by such governmental entities to the lottery.

67-7436. AUDITS. The state auditor or a certified public accounting firm appointed by the state auditor shall conduct audits of all accounts and transactions of the lottery. The director, the state auditor and their agents conducting an audit under this chapter shall have access and authority to examine any and all lottery-related records of lottery contractors. Such records shall be treated as confidential records and shall not be subject to public disclosure. The lottery may contract with or employ an outside auditing firm to conduct special audits of any financial accounts of the lottery at the request of the director. An independent certified public accountant, retained by the lottery, shall witness all drawings of the lottery.

67-7437. PRIZES. Except as otherwise provided in this section, any prize won under this chapter is not assignable. If the prize winner dies before the prize is paid, the prize shall be paid to the estate of the prize winner. A prize is subject to garnishment and recovery for unpaid taxes, child support or public assistance benefits paid and recoverable by the state or any county, or by a person pursuant to a judgment and execution under an order of the court. The lottery shall not pay a prize claim until the lottery ticket or share has passed the validation tests established by the lottery.

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

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

67-7438. PRIZE CLAIMING PERIOD. Prizes may be claimed for a period of one hundred and eighty (180) days after the drawing in which the prize was won or from the last day tickets from that specific instant game were sold. Prizes won through an electronic terminal shall be payable in accordance with rules and regulations of the lottery. If a claim is not made for the prize within the applicable period, the prize money shall be added to future prize pools, to be used in addition to prize allotments already allocated, except as provided in section 67-7433, Idaho Code.

67-7439. TAXES. No state or local taxes of any kind whatsoever shall be imposed upon the proceeds from a prize awarded by the state lottery. No taxes of any kind whatsoever shall be imposed upon the sale, purchase, storage, use or other consumption of state lottery tickets or shares, or upon equipment, devices or systems directly used in the production, operation, sales, distribution, tracking, drawing, accounting, communication of or computation of lottery games.

The lottery shall pay to a city, county, the state or any political subdivision or municipality thereof in which the lottery occupies a premise owned by the state a grant not to exceed the amount that would be payable as taxes on the property in that year, if the property were not exempt from taxation.

67-7440. RESTRICTED PLAYERS. No lottery ticket or share may be purchased by, and no prize may be paid to, any of the following persons:

(1) Any member of the commission or employee of the lottery; or

(2) Any owner, or in the case of a corporation, an owner of five percent (5%) or more of the corporation stock, any officer or employee of a company that is currently under contract to provide a major pro-

curement; or

(3) Any other person doing business with the lottery as may be determined by the director; or

(4) Any person related by blood, adoption or marriage and who is a member in the same household in the principal place of abode of any such person.

Notwithstanding the above, any of the above may purchase a lottery ticket or share and attempt to claim the related prize provided the purpose of such purchase or claim is to test the lottery's systems or is related to an investigation and is approved in advance by the director of security. If a ticket or share is claimed in such a test or investigation, the warrant must be returned to the lottery without being cashed.

67-7441. RECORDS. All papers, records, correspondence, communications and proceedings of the Idaho state lottery and the commission shall be open to the public except as otherwise provided by statute; provided, however, that business records and information provided to the lottery pursuant to sections 67-7412 and 67-7420, Idaho Code, shall remain confidential and shall not be subject to public inspection.

Notwithstanding any other provision of law, the commission shall determine which documents and information obtained and held for the purposes of lottery security and investigative action shall be confidential by rule and regulation. Such confidential information shall be subject to disclosure only by subpoena or court order upon a showing that the public interest in disclosure substantially outweighs the private need for protection from public disclosure. Nothing herein shall prohibit the lottery from disclosing information obtained by it to law enforcement agencies or other lottery organizations.

No lottery employee shall divulge or make known to any person in any manner any information, whatsoever, obtained directly or indirectly by him in the discharge of his duties, or permit any copy thereof to be seen except under such rules and regulations which the lottery shall prescribe. Any employee violating provisions of this section shall be guilty of a misdemeanor.

67-7442. OPEN PUBLIC MEETINGS OF THE COMMISSION. All meetings of the commission shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by law; provided, however, that the commission may meet in executive session to:

(1) Evaluate the confidential proprietary information provided as part of a major procurement proposal of a vendor; or

(2) Hear security and investigative information and recommendations brought before it by the director and director of security.

No executive session shall be held for the purpose of taking any final action or making any final decision.

67-7443. CONFLICT OF INTEREST. Members of the commission, the director, and the employees of the lottery shall not directly or indirectly, individually, or as a member of a partnership, or as a share-

holder of a corporation, or as a participant in a joint venture or association with any other person, have an interest in dealing in a lottery or in the ownership or leasing of property used by or for a lottery. Any member of the commission or lottery employee who violates the provisions of this section shall be immediately removed from any position with the lottery.

67-7444. LIMITATION ON ACTIONS. The commission, the director and employees of the lottery shall not be personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of powers conferred under this chapter.

67-7445. CONDITIONS OF PURCHASE. By purchasing a ticket or share in a lottery game, a player agrees to abide by, and be bound by, the lottery's rules and regulations and by lottery game rules developed by the lottery to apply to any particular lottery game involved. In particular, and without limitation, the player acknowledges, that the determination of whether the player is a valid winner is subject to winner validation procedures and confidential validation and security tests established by the lottery for the particular lottery game.

67-7446. RESTRICTIONS. Notwithstanding the provisions of section 23-928, Idaho Code, nothing in that section shall be construed to authorize any form of games of chance or private lotteries, except as may be authorized expressly by this chapter in accordance with the Idaho Constitution.

67-7447. LAWFUL ACTIVITY. Chapters 38 and 49, Title 18, Idaho Code, or any other state or local law or regulation providing any penalty, disability, restriction, regulation or prohibition for the manufacture, transportation, storage, distribution, advertising, possession, or sale of any lottery tickets or shares or for the operation of any lottery game shall not apply to the tickets or shares of the state lottery established in this chapter.

67-7448. PROHIBITED ACTS -- PENALTIES. Any person may gift tickets or shares. With the consent of the commission, the lottery or a lottery retailer may gift tickets for promotional purposes which are approved by the commission. A ticket or share shall not be sold at a price greater than that fixed by the lottery, and a sale shall not be made other than by a lottery game retailer or by an employee of a lottery game retailer who is authorized by the license to sell tickets.

A person may not sell a lottery ticket or share to any person under the age of eighteen (18). A minor may not purchase lottery tickets or shares and may not redeem winning tickets or shares.

A person may not knowingly present a counterfeit or altered state lottery ticket or share for payment. A person may not knowingly transfer a counterfeit or altered state lottery ticket or share to another person for presentation for payment or, with intent to defraud, falsely make, alter, forge, pass or counterfeit a lottery ticket or share.

A lottery retailer may not wilfully withhold funds due and owing

to the lottery. A person may not impersonate a lottery representative.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction be fined up to five thousand dollars ($5,000) or imprisoned up to six (6) months or be both so fined and imprisoned.

67-7449. CAP ON ADMINISTRATIVE COSTS. During the first year of operation, administrative costs shall not exceed twenty percent (20%) of lottery revenue. Thereafter, administrative costs shall not exceed fifteen percent (15%) of lottery revenue during any fiscal year. Advertising and promotional costs shall not exceed three and one-half percent (3 1/2%) of lottery revenue during any fiscal year.

67-7450. MONEYS TO BE APPROPRIATED. All administrative costs to be paid, other than from the line of credit referred to in this chapter, shall be subject to appropriation for payment.

67-7451. LOTTERY EXEMPT FROM STATE PURCHASING LAWS. Notwithstanding any other provision of law to the contrary, the state lottery shall be exempt from the purchasing laws for state agencies provided in chapter 57, title 67, Idaho Code.

67-7452. SEVERABILITY. If any of the provisions of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 3. This act shall be in full force and effect on and after the date of adoption of House Joint Resolution No. 3, First Regular Session, Forty-ninth Idaho Legislature, by the electorate of the State of Idaho as required by law.

Approved March 29, 1988.

CHAPTER 233
(S.B. No. 1490)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-411, IDAHO CODE, TO PROVIDE THAT PERSONS REGISTERING TO VOTE MAY INCLUDE THEIR HOME TELEPHONE NUMBERS ON THE REGISTRATION FORM AND TO PROVIDE THAT IF A TELEPHONE NUMBER IS GIVEN IT WILL BE AVAILABLE TO THE PUBLIC.

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

SECTION 1. That Section 34-411, Idaho Code, be, and the same is hereby amended to read as follows:

34-411. APPLICATION FOR REGISTRATION -- CONTENTS. (1) Each elector who requests registration shall supply the following information under oath or affirmation:

(a) His full name and sex.

(b) His mailing address, his residence address or any other necessary information definitely locating his residence.

(c) The period of time preceding the date of registration during which he has resided in the state.

(d) Whether or not he is a citizen.

(e) That he is under no legal disqualifications to vote.

(f) The county and state where he was previously registered, if any.

(2) Any elector who shall supply any information under subsection (1) of this section, knowing it to be false, is guilty of perjury.

(3) Each elector who requests registration may, at the elector's option, supply the following information:

(a) ~~d~~Date of birth; ~~and~~

(b) ~~s~~Social security number; and

(c) Home telephone number. If the home telephone number is supplied by the elector, the home telephone number shall be available to the public.

Approved March 29, 1988.

CHAPTER 234
(S.B. No. 1387, As Amended)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO; AMENDING SECTION 59-1326, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN COMPENSATION PAID TO MEMBERS OF THE RETIREMENT BOARD.

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

SECTION 1. That Section 59-1326, Idaho Code, be, and the same is hereby amended to read as follows:

59-1326. RETIREMENT BOARD -- APPOINTMENT. (1) There is hereby created in the office of the governor a governing authority of the system to consist of a board of five (5) persons known as the retirement board. Each member of the board shall be appointed by the governor to serve a term of five (5) years. The governor shall designate one (1) member of the board to serve as chairman.

(2) Two (2) board members shall be appointed from among active members having at least ten (10) years of credited service.

(3) Three (3) board members shall be appointed from among Idaho citizens who are not members of the system except by reason of having served on the board.

(4) Members of the board shall be compensated as provided by section 59-509(~~g~~h), Idaho Code. These allowances shall be paid from the

administration account of the fund.

(5) A board member shall serve until his successor qualifies. Each board member shall be entitled to one (1) vote, and three (3) board members shall constitute a quorum. Three (3) votes shall be necessary for resolution or action by the board at any meeting except as otherwise provided in this act.

(6) The board shall hold regular meetings and shall hold special meetings at such times and at such places as it deems necessary. All meetings of the board shall be open to the public. The board shall keep a record of all its proceedings.

Approved March 29, 1988.

CHAPTER 235
(S.B. No. 1389, As Amended)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1311A, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF RETIREMENT BENEFITS BEGINNING AT AGE SEVENTY AND ONE-HALF IN ACCORDANCE WITH THE PROVISIONS OF THE TAX REFORM ACT OF 1986, TO PROVIDE AN EFFECTIVE DATE, AND TO PROVIDE THAT THE SECTION WILL NOT BE IN EFFECT IF NOT REQUIRED.

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

SECTION 1. 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 59-1311A, Idaho Code, and to read as follows:

59-1311A. MINIMUM DISTRIBUTIONS AT AGE 70 1/2. Notwithstanding the provisions of section 59-1311, Idaho Code, a service retirement allowance shall become payable to an employee on the first of the month following the month in which the employee becomes age seventy and one-half (70 1/2). The annual amount of initial service retirement allowance shall be calculated as if the person had ceased to be an employee on the previous day. The amount of service retirement allowance shall be redetermined annually thereafter. Upon the retirement of a person after age seventy and one-half (70 1/2), the amount of service retirement allowance shall be determined on the date the person ceases to be an employee by considering each year or portion thereof after the year the service retirement allowance initially becomes payable as a separate period of reemployment under section 59-1318, Idaho Code. A married employee receiving a retirement allowance under the provisions of this section shall elect the service retirement allowance or an optional retirement allowance provided in section 59-1317, Idaho Code, in the time and manner prescribed by 26 U.S.C., sections 401 and 417, which election shall be irrevocable

thereafter.

This section shall be in effect January 1, 1989, and thereafter only so long as such minimum distributions are required by section 401(a)(9)(c) of the internal revenue code for public employee retirement systems. If not required, this provision will cease to have any force or effect.

Approved March 29, 1988.

CHAPTER 236
(S.B. No. 1507)

AN ACT

RELATING TO THE SECRETARY OF STATE; AMENDING SECTION 67-910, IDAHO CODE, TO PROVIDE THAT THE SECRETARY OF STATE MAY ESTABLISH FEES FOR ACCESS TO DATA BASES AND OTHER DATA SERVICES BY ADMINISTRATIVE RULE, TO PROVIDE THE LEGISLATURE THE AUTHORITY TO REVIEW AND AMEND OR REJECT THE RULES BY STATUTE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-910, Idaho Code, be, and the same is hereby amended to read as follows:

67-910. FEES OF SECRETARY OF STATE. The secretary of state, for services performed in his office, shall charge and collect the following fees:

For a copy of any law, resolution, record or other document or paper on file in his office, twenty-five cents (25¢) per page.

For affixing certificate and seal of the state, two dollars ($2.00).

But no member of the legislature or state officer can be charged for any search relative to matters appertaining to the duties of their offices; nor must they be charged any fee for a certified copy of any law or resolution passed by the legislature relative to their official duties.

In his discretion, the secretary of state may grant to persons, without charge, access to files in his office for the purpose of making copies if a benefit to his office will thereby be obtained.

For filing and indexing any map or other paper where the fee for the same is not already fixed by law, four dollars ($4.00).

For searching legislative journals for records of enacted and reenacted laws, and certifying to the same, ten dollars ($10.00).

For certifying and attaching certificate to any state law, published in pamphlet form, which shall include comparing the same with the enrolled act, six dollars ($6.00).

For any other certificate required of the secretary of state, the fee for which is not hereinbefore prescribed, six dollars ($6.00).

For filing, recording and indexing any label or trademark, six dollars ($6.00).

For provision of electronic access to data bases and provision of other automated data services, such fees as the secretary of state may by administrative rule provide. Every rule promulgated within the authority conferred in this section shall be subject to review by the legislature at the regular session first following its adoption. The rules may be rejected or amended by the legislature by enactment of a statute. If the legislature rejects or amends a new rule by statute and if the new rule repealed or amended an already existing rule, the previous rule shall be reinstated or modified in accordance with the statute.

For all services not hereinbefore provided for, such fees therefor as may now be prescribed by law, or as may be prescribed by the state board of examiners.

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 29, 1988.

CHAPTER 237
(S.B. No. 1390)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO; AMENDING SECTION 59-1330, IDAHO CODE, TO ELIMINATE UNNECESSARY EMPLOYER AND EMPLOYEE CONTRIBUTION RATE CHANGES REQUIRED TO MEET THE STATUTORY AMORTIZATION PERIOD BY PROVIDING THAT THE CONTRIBUTION RATE NEED NOT BE CHANGED UNLESS THE AMORTIZATION PERIOD EXCEEDS THE THIRTY YEAR TARGET FOR TWO CONSECUTIVE YEARS.

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

SECTION 1. That Section 59-1330, Idaho Code, be, and the same is hereby amended to read as follows:

59-1330. EMPLOYER CONTRIBUTIONS -- AMOUNTS -- RATES. (1) Each employer shall contribute to the cost of the system. The amount of the employer contributions shall consist of the sum of a percentage of the salaries of members to be known as the "normal cost" and a percentage of such salaries to be known as the "amortization payment." The rates of such contributions shall be determined by the board on the basis of assets and liabilities as shown by actuarial valuation, and such rates shall become effective no later than January 1 of the second year following the year of the most recent actuarial valuation, and shall remain effective until next determined by the board.

(2) The normal cost rate shall be computed to be sufficient, when applied to the actuarial present value of the future salary of the average new member entering the system, to provide for the payment of all prospective benefits in respect to such member which are not pro-

vided by the member's own contribution.

(3) The amortization rate shall not be less than the minimum amortization rate computed pursuant to subsection (4) of this section, unless a one (1) year grace period has been made effective by the board. During a grace period, the amortization rate shall be no less than the rate in effect during the immediately preceding year. A grace period may not be made effective if more than one (1) other grace period has been effective in the immediately preceding four (4) year period.

(4) The minimum amortization payment rate shall ~~not~~ be ~~less--than~~ that percentage, calculated as of the date of the most recent actuarial valuation, of the then actuarial present value of the annual salaries of all members in the system after the rate will be effective pursuant to subsection (1) of this section for the next thirty (30) years starting July 1, 1988, and twenty-five (25) years starting July 1, 1993, which is equivalent to the excess of the then actuarial present value of all future benefits payable in respect of all members and contingent annuitants over the sum of (a), (b) and (c) as follows:

(a) the actuarial value of the assets then held by the funding agent for the payment of benefits under this act; and

(b) the actuarial present value of the future normal costs payable in respect of all then active members; and

(c) the actuarial present value of the future contributions payable either under sections 59-1303--59-1305, Idaho Code, by all then active members, or as amortization payment until the minimum amortization payment rate being computed becomes effective pursuant to subsection (1) of this section.

Approved March 29, 1988.

CHAPTER 238
(H.B. No. 608)

AN ACT

RELATING TO WORKMEN'S COMPENSATION; AMENDING SECTION 72-311, IDAHO CODE, TO REQUIRE NOTICE TO BE GIVEN IN THE EVENT OF NONRENEWAL OF A SURETY CONTRACT.

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

SECTION 1. That Section 72-311, Idaho Code, be, and the same is hereby amended to read as follows:

72-311. NOTICE OF SECURITY -- CANCELLATION OF SURETY CONTRACT. (1) The employer shall forthwith file with the commission in form prescribed by it, a notice of his security.

(2) No policy of insurance or guaranty contract or surety bond issued against liability arising under this act, where the policy,

contract or bond is intended to provide coverage of greater than one hundred and eighty (180) days, shall be cancelled ~~within the time limited in such contract for its expiration~~ or not renewed until at least sixty (60) days after notice of cancellation ~~of such contract on a date specified in such notice, shall have~~ has been filed with the industrial commission, and also served on the other contracting party either personally or by certified mail. If cancellation is due to failure to pay premiums, material misrepresentations by the insured, substantial and unforeseen changes in the risk assumed, substantial breaches of contractual duties, conditions of warranties, or the policy is being cancelled or not nrenewed at the request of the policyholder, then at least ten (10) days' notice of cancellation is required and the notice shall be filed as required in this section.

Approved March 29, 1988.

CHAPTER 239
(H.B. No. 609)

AN ACT

RELATING TO WORKMEN'S COMPENSATION; AMENDING SECTION 72-319, IDAHO CODE, TO PROVIDE CRITERIA FOR DETERMINING WHETHER FAILURE TO SECURE COMPENSATION WAS WILLFUL.

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

SECTION 1. That Section 72-319, Idaho Code, be, and the same is hereby amended to read as follows:

72-319. PENALTY FOR FAILURE TO SECURE COMPENSATION. (1) Any employer required to secure the payment of compensation under this law who fails to secure the payment thereof shall be guilty of a misdemeanor. In any case where the employer is a corporation, any officer or employee of the corporation who had authority to secure payment of compensation on behalf of the corporation and failed to do so shall individually be guilty of a misdemeanor.

(2) Such officer or employee shall be personally liable jointly and severally with such corporation for any compensation which may accrue under this law in respect to any injury or occupational disease suffered by any employee of such corporation while it shall so fail to secure the payment of compensation.

(3) Any employer who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes or destroys any property or records belonging to such employer, after one (1) of his employees has been afflicted by an injury or occupational disease, with intent to avoid the payment of compensation to such employee or his dependents, shall be guilty of a misdemeanor. In any case where such employer is a corporation, any officer or employee thereof, if knowingly participating or acquiescing in any such act, shall also be

individually guilty of a misdemeanor.

(4) Any employer required to secure the payment of compensation under this law, who wilfully failed to do so, shall be liable to a penalty for each day during which such failure continues of two dollars ($2.00) for each employee, and in cases where the employer is a corporation and is unable to pay the fine, any officer or employee of the corporation who had authority to secure payment of compensation on behalf of the corporation and wilfully failed to do so, shall be liable for a like penalty, to be recovered for the time during which such failure continued, but for not more than three (3) consecutive years, in an action brought by the commission in the name of the state of Idaho; any amount so collected shall be paid into the industrial administration fund; for this purpose the district court of any county in which the employer carries on any part of his trade or occupation shall have jurisdiction. In determining whether the employer willfully failed to secure the payment of compensation, or whether penalties should be assessed or collected for the employer's failure to secure the payment of compensation, the commission may consider the following factors:

(a) When the employer was notified that his workmen's compensation insurance coverage had been cancelled or that such insurance was required;

(b) The length of time that elapsed between when the employer was notified that workmen's compensation insurance coverage was required or that his coverage had been cancelled, and the date that such coverage was put into effect;

(c) Whether the employer is able to document attempts to secure workmen's compensation insurance coverage during the period of time that he was without such coverage;

(d) Whether there were prior instances in which the employer failed to keep workmen's compensation insurance in effect or such coverage was cancelled, and the reasons for such failure or cancellation;

(e) The reasons that the employer is unable to obtain or keep in effect workmen's compensation insurance coverage;

The above-enumerated factors are not to be taken as exclusive.

(5) If any employer required to secure the payment of compensation under this law shall be in default under section 72-301, Idaho Code, for a period of thirty (30) days, he may be enjoined by the district court of any county in which such employer carries on any part of his trade or occupation from carrying on his business while such default continues. All proceedings in the courts under this section are to be brought by the industrial commission in the name of the state of Idaho.

Approved March 29, 1988.

CHAPTER 240
(H.B. No. 610)

AN ACT

RELATING TO QUALIFIED INVESTMENTS FOR IDAHO REGULATED INSURERS; AMENDING SECTION 41-710, IDAHO CODE, TO ALLOW FOR INVESTMENT BY IDAHO REGULATED INSURERS IN THE AFRICAN DEVELOPMENT BANK.

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

SECTION 1. That Section 41-710, Idaho Code, be, and the same is hereby amended to read as follows:

41-710. INTERNATIONAL BANK. An insurer may invest in obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development <u>or the African Development Bank.</u>

Approved March 29, 1988.

CHAPTER 241
(H.B. No. 623)

AN ACT

RELATING TO THE SALE OF COUNTY SURPLUS REAL AND PERSONAL PROPERTY; AMENDING SECTION 31-808, IDAHO CODE, TO ALLOW THE SALE OF SURPLUS REAL AND PERSONAL PROPERTY AND TO PROVIDE THAT SECTION 31-808, IDAHO CODE, IS APPLICABLE TO HIGHWAY DISTRICTS.

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

SECTION 1. That Section 31-808, Idaho Code, be, and the same is hereby amended to read as follows:

31-808. SALE OF COUNTY PROPERTY -- PROCEDURE -- PROPERTY ACQUIRED THROUGH TAX DEED -- SALES TO UNITED STATES -- SALES TO SCHOOL DISTRICTS OR ~~JUNIOR~~ <u>COMMUNITY</u> COLLEGE DISTRICTS. To sell or offer for sale at public auction <u>at the</u> courthouse door, after thirty (30) days' previous notice given by publication in a newspaper of the county any property, real or personal, belonging to the county, not necessary for its use, except that such personal property not exceeding fifty dollars ($50.00) in value may be sold at private sale without advertisement and such sale of real property may be made by the board of county commissioners, either for cash or upon such terms as the board of county commissioners may determine, and the same must be sold to the highest bidder. The notice required to be published in a newspaper by the foregoing sentence shall, in the case of a sale of realty contain an accurate description of the realty by legal description and, if the realty be located within a city, description by street address, and if the realty be located outside the limits of a city then such notice

shall state the distance and direction of the location of such realty from the nearest city. The proceeds from such sales shall be paid into the county treasury for the use of the county, unless such property has been acquired by tax deed, in which event the proceeds from such sale, after deducting the advertising and selling costs which shall be reimbursed to the county, shall be prorated to the taxing districts in which the property is situated in proportion of each tax for the year of delinquency upon which the tax deed was issued to the county, except that any special assessment listed on the tax roll on that property shall be paid in full for the year of the tax deed and the subsequent two (2) years before the moneys are prorated. If such property is sold on terms the board of county commissioners may contract for the sale of the same for a period of years not exceeding ten (10) years, with an annual rate of interest on all deferred payments not to exceed eight per cent (8%) per annum. The title to all property sold on contract shall be retained in the name of the county until full payment has been made by the purchaser. Any property sold by the board of county commissioners under the provisions of this section, either for cash or on contract, shall be assessed by the county assessor in the same manner and upon the same basis of valuation as though the purchaser held the record title to the property so sold. The board of county commissioners shall have authority to cancel any contract of sale if the purchaser shall fail to comply with any of the terms of such contract, and retain all payments paid thereon. The board of county commissioners may by agreement with the purchaser modify or extend any of the terms of any contracts of sale, but the total period of years shall not exceed ten (10) years. Any such sale made by the board of county commissioners of property acquired through tax deed shall, subject to the provisions of this section, vest in the purchaser all of the right, title and interest of the county in the property so sold, including all delinquent taxes which have become a lien on the property since the date of the tax sale certificate upon which any tax deed has been issued, with the exception of any liens for special assessments which are unsatisfied as to present and future principal and interest payments, and any penalties which are due, and such board shall have discretionary authority to reject or accept any bid which may be made for a less amount than the total amount of all delinquent taxes, penalties, and interest which may have accrued against any property so offered for sale, including the amount specified in the tax deed to the county. It shall be the duty of the board of county commissioners in advertising any property for sale, under this act, which has been acquired by tax deed to insert either before or after each description of real estate offered for sale the name of the taxpayer as it appears in the delinquent tax certificate upon which the tax deed held by the county was issued. Whenever a sale or transfer of any real estate acquired by tax deed has been under the provisions of this section, the bidder for any such real estate, whether bidding for himself or for another, must include or add to such bid the additional sum of two dollars ($2.00) per page, or as currently provided in section 31-3205, Idaho Code, which sum shall be a fee for recording the deed conveying such real estate to the purchaser. No deed for any such real estate sold under the provisions of

this section shall be delivered to a purchaser or his representative until such deed has been recorded in the county making the sale.

Provided, that any title to real property heretofore and/or hereafter acquired by any county under a tax deed, which in the judgment of the board of county commissioners is suitable for the production of trees and/or as a watershed, may be granted and conveyed by deed, to the United States of America by the county tax collector upon the order of the board of county commissioners. The said board of county commissioners shall appraise and determine the value of such real property immediately prior to the execution of the deed conveying the same to the United States of America. And the board of county commissioners shall accept from the United States of America for and on behalf of the county, as full compensation for each tract and parcel of such real property conveyed, title to stumpage having an approximate value equal to the appraised value of the real property described in the deed or conveyance. All stumpage acquired by the county under the provisions of this paragraph shall be sold by the board of county commissioners for a price which shall not be less than its approximate value at the time it was received by the county from the United States of America, and the proceeds of such sale of such stumpage shall be deposited in the county treasury for the use of the county. The execution by the county tax collector of the deed of conveyance to the United States of America conveying any tract or parcel of such real property shall operate to discharge and cancel all levies and/or liens for taxes made or created for the benefit of the state, county, school district or any taxing unit or district, and to cancel all titles or claims of title, including claims for redemption, to such real property, asserted or existing at the time of such execution. No public notice of the intention to convey title to any of the real property defined by this paragraph shall be necessary.

Provided further, that the board of county commissioners may, in their discretion, whenever they shall determine it is desirable and for the general welfare and benefit of the people of the county, grant and convey by deed to the United States of America or any agency thereof title in fee simple, or any other interest in and to any real estate owned by the county, whether acquired by tax deed or otherwise, which may be required by the United States or such agency for electric transmission or distribution lines or facilities connected therewith. Before making any such conveyance, the board of county commissioners shall enter a resolution declaring the intention of such board to make a conveyance of real property under authority of this act, and shall cause notice thereof to be published in at least two (2) weekly issues of the official newspaper of said county before final action shall be taken, specifying the time and place where objections to such action may be filed and the time when such objections will be considered, provided, that if no newspaper is published in said county, such notice may be given by posting such notice in three (3) public places in the county, one (1) of which shall be at the county courthouse, in the place provided for posting similar notices, for a period of at least ten (10) days immediately preceding the time fixed for hearing of objections. If no objections are filed or objections are overruled, the board may then convey the real property proposed in said resolu-

tion to be conveyed, as herein authorized: such conveyance may be for such consideration as may be determined by said board.

Provided further that when any city desires to acquire lands, for the purpose of constructing and maintaining an aviation field, airport, hangars and other air navigation facilities thereon, as provided in chapter 4, title 21, Idaho Code, and the title to all or any portion of the lands so desired for such purpose not exceeding in area one thousand two hundred and eighty (1,280) acres, is vested in any county under tax deed, said land so owned by the county, may be sold and conveyed to any such city for such purposes by the county owning the same at a price to be fixed by resolution of the board of county commissioners. No public notice of the intention of the county to sell and convey title to any city for such purposes shall be necessary.

Provided further, that the board of county commissioners may, in their discretion, without previous notice by advertisement or otherwise, grant to the state of Idaho, with or without compensation, for state highway purposes; or may convey, with or without consideration, to any ~~junior~~ community college district, organized within the county under the provisions of sections 33-2101--33-2118, Idaho Code, or with or without consideration to any local historical society which is incorporated as an Idaho nonprofit corporation which operates primarily in the county or maintains a museum in the county, any real property owned by the county, not necessary for the use of the county, whether acquired by tax deed or otherwise.

Provided further, that the board of county commissioners may, in their discretion and without previous notice by advertisement or otherwise, grant, with or without compensation, to any school district located partially or wholly within the county and created, existing or established pursuant to chapter 3 of title 33, Idaho Code, any real property, or interest in real property, owned by the county but not necessary for the use of the county, whether acquired by tax deed or otherwise.

The execution and delivery by the county of the deed conveying such property, right-of-way, or other interest in such property to the United States of America or any agency thereof, the state, city, school district, or ~~junior~~ community college district or local historical society for such purposes, which shall be specified in the deed, shall operate to discharge and cancel all levies, liens and taxes made or created for the benefit of the state, county, school district and all other taxing units and to cancel all titles or claims of title including claims of redemption to such real property asserted or existing at the time of such conveyance, provided however, that notwithstanding the aforesaid, if any such conveyances are made and the property conveyed is subject to a lien for one or more unsatisfied special assessments the lien of any such unsatisfied special assessment shall continue until such special assessment shall have been paid in full. At no time shall a lien for a special assessment be extinguished prior to such special assessment having been paid in full.

Any real property conveyed to any local historical society by the county shall revert to the county when the property is no longer utilized for the purposes for which it was conveyed.

Except for property acquired by tax deed, should the county be

unable to sell at a public auction any real or personal property belonging to the county, not necessary for its use, at the fixed minimum price, it may then sell said real or personal property, without further notice, by public or private sale upon such terms and conditions as it deems necessary to sell said property at the fixed minimum price.

A highway district or single county-wide highway district shall follow the provisions of this section when selling real or personal property belonging to it, but not necessary for its use. The proceeds from such sale shall be paid to the highway district or single county-wide district for its use.

Approved March 29, 1988.

CHAPTER 242
(H.B. No. 644)

AN ACT

RELATING TO THE RESIDENT INSURANCE AGENT COUNTERSIGNATURE LAW; AMENDING SECTION 41-338, IDAHO CODE, TO PROVIDE THAT THE COUNTERSIGNATURE OF A RESIDENT INSURANCE AGENT IS NOT REQUIRED ON POLICIES OR CONTRACTS OF INSURANCE ISSUED BY LICENSED RESIDENT AGENTS OF STATES WHICH DO NOT REQUIRE RESIDENT AGENT COUNTERSIGNATURES ON POLICIES OR CONTRACTS OF INSURANCE ISSUED BY IDAHO INSURANCE AGENTS.

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

SECTION 1. That Section 41-338, Idaho Code, be, and the same is hereby amended to read as follows:

41-338. EXCEPTIONS TO RESIDENT AGENT, COUNTERSIGNATURE LAW. (1) Nothing in section 41-337, Idaho Code, shall be construed as preventing the free and unlimited right to negotiate wholly outside of this state contracts of insurance by licensed nonresident agents or brokers, provided the policies, endorsements or evidence of insurance covering properties or insurable interests in this state are countersigned by a resident agent of this state, in which event the countersigning agent shall receive a commission of not less than five per cent (5%) of the premium paid or one-third (1/3) of the commission paid to the licensed nonresident agent or broker, whichever is less; provided, however, the payment to the countersigning agent shall not exceed the sum of two hundred fifty dollars ($250) per policy, and when the countersigning commission to be paid is less than five dollars ($5.00), the countersigning agent may waive any commission due him.

(2) Section 41-337, Idaho Code, shall not apply to the following contracts:

(a) Life insurance and annuities;

(b) Disability insurance;

(c) Title insurance; countersignature of title insurance policies is as provided in section 41-2702, Idaho Code;
(d) Policies covering property in transit while in the possession or custody of any common carrier, or the rolling stock or other property of any common carrier used and employed by it as a common carrier of freight or passengers, or both;
(e) Reinsurance or retrocessions made by or for authorized insurers;
(f) Contracts issued by domestic reciprocal insurers writing workmen's compensation for employers commonly known as self-insurers; nor, with respect to countersignature, to policies issued by a reciprocal insurer not using agents compensated by commissions in the general solicitation of business;
(g) Bid bonds issued by a surety insurer in connection with any public or private contract; or
(h) Ocean marine insurance.

(3) Notwithstanding section 41-337, Idaho Code, and the provisions of subsection (1) of this section, if the law of another state does not require the countersignature of a licensed agent who resides in that state for policies and contracts of insurance or indemnity made, written or placed in that state by a licensed agent who resides in the state of Idaho, the countersignature of a licensed agent who resides in the state of Idaho is not required for policies and contracts of insurance or indemnity made, written or placed in the state of Idaho by a licensed agent who resides in that other state.

Approved March 29, 1988.

CHAPTER 243
(H.B. No. 646)

AN ACT

RELATING TO REAL ESTATE BROKERS; AMENDING SECTION 54-2029, IDAHO CODE, TO INCREASE THE FEE LIMITS THE REAL ESTATE COMMISSION MAY CHARGE FOR LICENSURE AND TO REMOVE SURPLUS LANGUAGE; AND AMENDING SECTION 54-2036, IDAHO CODE, TO INCREASE THE FEE LIMIT THE REAL ESTATE COMMISSION MAY CHARGE FOR LICENSE RENEWAL AND RENEWAL OF AN INACTIVE LICENSE.

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 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;
(5) If the application is for a real estate broker's license, the applicant must have been actively engaged as a licensed real estate salesman as provided for in subsection B(2) 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) thirty-five dollars ($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 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, 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~~ one hundred dollars ($~~50~~100.00) 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~~ two hundred dollars ($~~1~~200) ~~and may be increased in accordance with subsection D of this section~~.

F. 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~~ two hundred dollars ($~~1~~200) 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~~ two hundred dollars ($~~1~~200) 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~~ two hundred dollars ($~~1~~200), 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 change of address fee of ten dollars ($10.00) for each license requiring the change of address.

d. A fee of twenty dollars ($20.00) for the establishment of each branch office.

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 29, 1988.

CHAPTER 244
(H.B. No. 651)

AN ACT

RELATING TO INSECT INFESTATION THREATS ON FOREST LANDS; AMENDING SECTION 38-602, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF DEFICIENCY WARRANTS BY THE STATE BOARD OF LAND COMMISSIONERS FOR THE SUPPRESSION AND ERADICATION OF INSECTS, PESTS OR DISEASES.

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

SECTION 1. That Section 38-602, Idaho Code, be, and the same is hereby amended to read as follows:

38-602. DETERMINATION OF INFESTED AREAS -- POWER OF DIRECTOR OF THE DEPARTMENT OF LANDS -- COOPERATION WITH FEDERAL AND OTHER AGENCIES. Whenever the director of the department of lands determines that there exists the threat of an infestation of Tussock moth, pine beetle, or other destructive forest insects, pests or disease injurious to the timber or forest growth on forest lands and that said infestation is of such a character as to be a menace to the timber or forest growth of this state, the director of the department of lands ~~shall~~ may, with the approval of the state board of land commissioners, declare the existence of a zone of infestation, and ~~shall~~ may declare and fix the boundaries so as to definitely describe and identify the zone of infestation.

Thereupon, the director of the department of lands or his agent shall have the power to go upon the land within said zone of infestation and shall cause the insect, infestation or disease to be suppressed, eradicated and destroyed in the manner approved by the state board of land commissioners and in order to accomplish the purposes of

this chapter the director of the department of lands may enter into cooperative agreement with the federal government and other public or private agencies and with timber land owners using such funds as have been or may hereafter be made available for such purposes; provided, that whenever the cost of suppression and eradication of forest insects, pests or diseases on forest 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 two hundred fifty thousand dollars ($250,000) in any one (1) year for such suppression or eradication.

Approved March 29, 1988.

CHAPTER 245
(H.B. No. 689)

AN ACT

RELATING TO THE USE OF SEAT BELTS; AMENDING SECTION 49-764, IDAHO CODE, TO EXEMPT MAIL CARRIERS FROM THE MANDATED USE OF SEAT BELTS.

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

SECTION 1. That Section 49-764, Idaho Code, be, and the same is hereby amended to read as follows:

49-764. SAFETY RESTRAINT USE. (1) Except as provided in section 49-763, Idaho Code, and subsection (b) hereof, each occupant of the front seat of a motor vehicle which has a gross vehicle weight of not more than eight thousand (8,000) pounds, and which was manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, shall have a safety belt properly fastened about his or her body at all times when the vehicle is in motion.

(2) The provisions of this section shall not apply to:

(a) An occupant of a motor vehicle who possesses a written statement from a licensed physician that he or she is unable for medical reasons to wear a safety belt;

(b) Occupants of motorcycles, implements of husbandry and emergency vehicles;

(c) Occupants of the front seat of a motor vehicle in which all safety belts are then properly in use by other occupants of such vehicle;

(d) Mail carriers.

(3) If a person is convicted of a violation of any traffic law provided by Idaho Code, other than a violation of the provisions of sections 49-233, 49-234 or 49-235, Idaho Code, relating to proof of liability insurance, it shall be an additional infraction for any person to violate the provisions of this section, for which a fine of five dollars ($5.00) shall be imposed. A conviction under this sec-

tion shall not result in violation point counts as prescribed in section 49-330, Idaho Code. In addition, a conviction under this section shall not be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

(4) The Idaho transportation department shall initiate and conduct an educational program, to the extent sufficient private donations or federal funds for this specific purpose are available to the department, to encourage compliance with the provisions of this section and to publicize the effectiveness of use of safety belts and other restraint devices in reducing risk of harm to occupants of motor vehicles.

(5) The Idaho transportation department shall evaluate the effectiveness of the provisions of this section and shall include a report of its findings in its annual evaluation report on the Idaho Highway Safety Plan which it submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

Approved March 29, 1988.

CHAPTER 246
(H.B. No. 692)

AN ACT

RELATING TO FRAUD UNDER PUBLIC ASSISTANCE PROGRAMS; AMENDING SECTION 56-227, IDAHO CODE, TO REQUIRE THE DEPARTMENT OF HEALTH AND WELFARE TO ESTABLISH AND OPERATE A FRAUD CONTROL PROGRAM.

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

SECTION 1. That Section 56-227, Idaho Code, be, and the same is hereby amended to read as follows:

56-227. FRAUDULENT ACTS -- PENALTY. (a) Whoever knowingly obtains, or attempts to obtain, or aids or abets any person in obtaining, by means of a wilfully false statement or representation, or other fraudulent devices, public assistance, relief or federal-aid assistance to which he is not entitled, or in an amount greater than that to which he is justly entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or attempted to be so obtained.

(b) Whoever sells, conveys, mortgages or otherwise disposes of his property, real or personal or conceals his income or resources, for the purpose of rendering him eligible for any form of assistance, theretofore or thereafter applied for, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the assistance so obtained or so attempted to be obtained.

(c) Every person who knowingly aids or abets any person in sell-

ing, conveying, mortgaging or otherwise disposing of his property, real or personal, or in concealing his income or resources for the purpose of rendering him eligible for any form of public assistance or relief, theretofore or thereafter applied for and received, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance or relief so obtained or attempted to be obtained.

(d) For the purpose of this section federal-aid assistance shall include the specific categories of assistance for which provision is made in any federal law existing or hereafter enacted by the congress of the United States by which payments are made from the federal government to the state in aid or in respect to payment by the state for welfare purposes to any category of needy person and any other program of assistance for which provision for federal funds for aid may from time to time be made.

(e) The state department of health and welfare shall establish and operate a fraud control program as permitted by section 416 of the social security act as now or hereafter amended.

Approved March 29, 1988.

CHAPTER 247
(H.B. No. 748)

AN ACT
APPROPRIATING MONEYS FOR THE FOREST UTILIZATION RESEARCH PROGRAM FOR FISCAL YEAR 1989.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho the following amount to be expended for the Forest Utilization Research Program, according to the designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$107,500
Operating Expenses	11,500
TOTAL	$119,000
FROM:	
General Account	$119,000

Approved March 29, 1988.

CHAPTER 248
(H.B. No. 753)

AN ACT

APPROPRIATING MONEYS FOR THE WAMI MEDICAL EDUCATION PROGRAM FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the WAMI Medical Education Program the following amount, to be expended according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Account	$294,800	$46,800	$1,499,200	$1,840,800
Interagency Billing and Receipts Account	39,500	3,100	124,500	167,100
TOTAL	$334,300	$49,900	$1,623,700	$2,007,900

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the WAMI Medical Education Program any unexpended and unencumbered balance of the moneys appropriated by Section 1, Chapter 271, Laws of 1987, to be used for nonrecurring expenditures only for the period of July 1, 1988, through June 30, 1989.

Approved March 29, 1988.

CHAPTER 249
(H.B. No. 754)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS FOR THE WOI-REGIONAL PROGRAM IN VETERINARY MEDICINE FOR FISCAL YEAR 1989.

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

SECTION 1. It is legislative intent that the expenditures for the WOI-Regional Program in Veterinary Medicine not exceed the following amount from the listed accounts for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$ 941,900
Interagency Billing and Receipts Account	538,900
TOTAL	$1,480,800

SECTION 2. There is hereby appropriated to the Board of Regents of the University of Idaho for the WOI-Regional Program in Veterinary Medicine the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. INSTRUCTION:				
FROM:				
General Account	$ 770,300	$ 48,000		$ 818,300
Interagency Billing and Receipts Account	287,200	198,300	$15,200	500,700
TOTAL	$1,057,500	$246,300	$15,200	$1,319,000
II. RESEARCH:				
FROM:				
General Account	$ 90,100	$ 33,500		$ 123,600
Interagency Billing and Receipts Account	36,200	2,000		38,200
TOTAL	$ 126,300	$ 35,500		$ 161,800
GRAND TOTAL	$1,183,800	$281,800	$15,200	$1,480,800

Approved March 29, 1988.

CHAPTER 250
(H.B. No. 443)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION; AMENDING SECTION 49-116, IDAHO CODE, TO PROVIDE AN INFRACTION PENALTY FOR FAILURE TO RENEW A MOTOR VEHICLE REGISTRATION; AND AMENDING SECTION 49-147, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 49-116, Idaho Code, be, and the same is hereby amended to read as follows:

49-116. REGISTRATION TO BE RENEWED. Such registration, and registration of dealers and manufacturers hereinafter specified, shall be renewed annually or by registration period in the same manner as the original registration and upon the payment of the required fee, except as regard to "D.V." plates as set forth in section 49-109, Idaho Code, and such renewal to be effective as of January first of each year, or by registration period, provided that the director may extend this date as to individuals, counties or the state for not to exceed forty-five (45) days for good cause shown. A violation of the provisions of this section shall be an infraction.

SECTION 2. 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 or an infraction.

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 section 49-101gg., Idaho Code, and registered under the provisions of section 49-126(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 sections 49-107b.(1) and 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).

Approved March 29, 1988.

CHAPTER 251
(H.B. No. 467)

AN ACT

RELATING TO THE SCHOOL DISTRICT BUILDING ACCOUNT; AMENDING SECTION 33-905, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 33-905, Idaho Code, be, and the same is hereby amended to read as follows:

33-905. SCHOOL DISTRICT BUILDING ACCOUNT -- PAYMENTS TO ACCOUNT -- MONEYS APPROPRIATED TO STATE BOARD -- APPLICATION FOR MONEYS -- PAYMENTS TO DISTRICTS -- REPORTS ON APPLICATIONS -- USES OF MONEYS. 1. The state of Idaho, recognizing its responsibility to establish and maintain a general, uniform and thorough system of public, free common schools, in an effort to partially fulfill this responsibility, hereby creates and establishes the school district building account in the agency asset fund. The school district building account shall have paid into it such appropriations or revenues as may be provided by law.

2. Moneys in the school district building account are hereby appropriated to and may be expended by the state board of education at any time for the purposes provided in this section, any provision of chapter 35, title 67, Idaho Code, or chapter 36, title 67, Idaho Code,

notwithstanding.

3. (a) The board of trustees of any school district which has bonded indebtedness of seventy-five percent (75%) or more of the amount allowed by section 33-1103, Idaho Code, and has a school plant facilities levy of ~~fifteen--(15)--or-more-mills~~ at least three-tenths of one percent (.3%) as authorized by section 33-804, Idaho Code, may apply to the state board of education to receive a payment or payments from the school district building account; provided, a district need not comply with the school plant facilities levy, if such district demonstrates to the state board of education that it has expended the equivalent of ~~fifteen--(15) mills-from-the-capital-outlay-category~~ three-tenths of one percent (.3%) of market value for assessment purposes for capital outlay projects of the district's maintenance and operation budget. Payments from the ~~school dist~~rict building account may not exceed one-half (1/2) the aggregate costs of the project proposed by the school district, as approved by the state board of education unless the district has bonded indebtedness of ninety-six percent (96%) or more of the amount allowed by section 33-1103, Idaho Code, and levies a school plant facilities reserve fund levy of ~~eighteen-(18)-or-more-mills~~ thirty-six hundredths of one percent (.36%) or more.

(b) When an application for moneys from the account is approved by the state board of education, the state board shall inform the school district that the application has been approved, citing the amount approved for payment and an estimate of the time when the payment can actually be made to the school district.

4. All payments from the school district building account shall be paid out directly to the school district in warrants drawn by the state auditor upon presentation of proper vouchers from the state board of education. Pending payments out of the school district building account, the moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be returned to the school district building account.

5. No school district is automatically entitled to any payments from the school district building account, but must demonstrate to the state board actual need for such payment as well as complying with the requirements set forth in subsection 3(a) hereof. The state board of education shall establish the criteria upon which actual need is to be determined.

6. Payments from the school district building account received by a school district may be used by the school district for the purposes authorized in section 33-1102, Idaho Code.

7. Any unencumbered balance in the school district building account in excess of five million dollars ($5,000,000) as of June 30 shall be transferred to the public school income fund established by section 33-903, Idaho Code, as of July 1.

Approved March 29, 1988.

CHAPTER 252
(H.B. No. 490)

AN ACT

RELATING TO MOTOR VEHICLE OPERATORS' LICENSES; AMENDING SECTION 49-301, IDAHO CODE, TO CLARIFY THE RESIDENT DEFINITION TO PROVIDE FOR THE ISSUANCE OF AN OPERATOR'S LICENSE TO A PERSON WHO QUALIFIES BUT HAS NOT RESIDED IN THE STATE FOR NINETY DAYS.

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

SECTION 1. That Section 49-301, Idaho Code, be, and the same is hereby amended to read as follows:

49-301. DEFINITIONS. For the purposes of this chapter:

(1) "Board" means the Idaho transportation board of this state.

(2) "Chauffeur" means a person who is employed by another for the principal purpose of driving a motor vehicle, or a person who drives a motor vehicle while in use as a public contract or common carrier of persons or property. Persons driving vehicles licensed for a maximum gross weight of less than sixty thousand (60,000) pounds which are engaged in pick-up and/or delivery service, in utility and repair services, in farming operations, or in route sales, are not required to be licensed as a chauffeur.

(3) "Department" means the Idaho transportation department of this state acting directly or through its duly authorized officers and agents.

(4) "Director" means the director of the Idaho transportation department of this state.

(5) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(6) "Motor vehicle" means a motor vehicle as defined by section 49-101, Idaho Code.

(7) "Nonresident" means a person who is not a resident of this state.

(8) "Operator" means a person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

(9) "Owner" means a person who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.

(10) "Person" means a natural person, firm, copartnership, association or corporation.

(11) "Resident" means a 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 or a full-time student in the state of Idaho, notwithstanding that the period of residency is less than ninety (90) days.

(12) "School bus" means a motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(13) "Street or highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

(14) "Vehicle" means a 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 horsedrawn or used exclusively upon stationary rails or tracks.

Approved March 29, 1988.

CHAPTER 253
(H.B. No. 492)

AN ACT

RELATING TO THE DISTRIBUTION OF REVENUES; AMENDING SECTION 63-2412, IDAHO CODE, TO INCREASE THE PROPORTION OF MOTOR FUELS TAX DISTRIBUTED TO THE WATERWAYS IMPROVEMENT AND OFF-ROAD MOTOR VEHICLE ACCOUNTS, AND TO FURTHER PROVIDE FOR PROPORTIONAL DISTRIBUTIONS TO THE PARK AND RECREATION CAPITAL IMPROVEMENT AND SEARCH AND RESCUE ACCOUNTS; AMENDING SECTION 57-1801, IDAHO CODE, TO DELETE REFERENCE TO DISTRIBUTION OF MONEYS INTO THE PARK AND RECREATION CAPITAL IMPROVEMENT ACCOUNT; AMENDING SECTION 57-1901, IDAHO CODE, TO DELETE REFERENCE TO DISTRIBUTION OF MONEYS INTO THE OFF-ROAD MOTOR VEHICLE ACCOUNT, TO PROVIDE AN ADDITIONAL USE FOR MONEYS IN THE ACCOUNT, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-2805, IDAHO CODE, TO ALTER THE DISTRIBUTION OF RECREATIONAL VEHICLE LICENSE FEES; AND AMENDING SECTION 67-4223, IDAHO CODE, TO PROVIDE COMPENSATION FOR AND REIMBURSEMENT OF EXPENSES TO MEMBERS OF THE RECREATIONAL VEHICLE ADVISORY COMMITTEE.

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 distributed periodically as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission, as determined by it shall be retained by the commis-

sion. The amount 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.

(b) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(c) As soon as possible after the beginning of each fiscal year, the sum of fifty thousand dollars ($50,000) shall be 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) As soon as possible after the beginning of each fiscal year, the sum of fifty thousand dollars ($50,000) shall be distributed to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-703, Idaho Code.

(e) As soon as possible after the beginning of the fiscal year 1987, the sum of fifty thousand dollars ($50,000) shall be distributed to the local highway needs assessment account in the dedicated fund to pay amounts from the account pursuant to the provisions of section 40-716, Idaho Code. As soon as possible after the beginning of each subsequent fiscal year, only the sum necessary to bring the balance of the local highway needs assessment account to fifty thousand dollars ($50,000) shall be distributed to that account.

(f) From the balance remaining with the commission after distributing the amounts in paragraphs (a) through (e) of subsection (1) of this section:

1. One and one-half per cent (1.50%) shall be 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~~ as follows: sixty-six per cent (66%) of the one and one-half per cent (1.50%) shall be distributed to the waterways improvement account, as created in chapter 15, title 57, Idaho Code. Up to twenty per cent (20%) of the moneys distributed to the waterways improvement account under the provisions of this paragraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the waterways improvement account. Thirty-three per cent (33%) of the one and one-half per cent (1.50%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One per cent (1%) of the one and one-half per cent (1.50%) shall be distributed to the search and rescue account created in

section 67-2903, Idaho Code;

2. One and one-half per cent (1.50%) shall be 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~~ as follows: sixty-six per cent (66%) of the one and one-half per cent (1.50%) shall be distributed to the off-road motor vehicle account, as created in section 57-1901, Idaho Code. Up to twenty per cent (20%) of the moneys distributed to the off-road motor vehicle account by this subpart may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the off-road motor vehicle account. Thirty-three per cent (33%) of the one and one-half per cent (1.50%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One per cent (1%) of the one and one-half per cent (1.50%) shall be distributed to the search and rescue account created in section 67-2903, Idaho Code; and

3. Ninety-~~eight~~seven per cent (98~~7~~%) shall be distributed to the highway distribution account, created in section 40-701, 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 distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account, and those moneys are hereby continuously appropriated.

(b) The balance remaining of all the taxes collected shall be distributed to the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 2. That Section 57-1801, Idaho Code, be, and the same is hereby amended to read as follows:

57-1801. CREATION OF PARK AND RECREATION CAPITAL IMPROVEMENT ACCOUNT -- PURPOSE. ~~(1)~~ There is hereby created and established in the state treasury an account to be known as the "park and recreation capital improvement account" to which shall be credited or deposited all moneys accruing for the purposes of the account. The purposes for which moneys in the account may be used shall be to acquire, purchase, maintain, improve, repair, furnish, and equip parks and recreation facilities and sites in the state of Idaho. The park and recreation board is charged with the administration of the account for the purposes specified herein. The provisions of section 67-4228, Idaho Code, are made applicable for the provisions of this section. All claims against the account shall be examined, audited and allowed in the same manner now or hereafter provided by law for claims against the state.

~~(2)--During--each-fiscal-year,-the-balance-of-moneys-exceeding-the sum-of-three-hundred-thousand-dollars-($300,000)--transferred--to--the waterways---improvement---account--under--the--provisions--of--section 63-2412(1)(e)1,-Idaho-Code,-shall-be-paid-into-the-park-and-recreation capital-improvement-account.~~

SECTION 3. That Section 57-1901, Idaho Code, be, and the same is hereby amended to read as follows:

57-1901. CREATION OF OFF-ROAD MOTOR VEHICLE ~~FUND~~ ACCOUNT -- PURPOSE. ~~(1)~~ There is hereby created and established in the state treasury an ~~fund~~ account to be known as the "off-road motor vehicle ~~fund~~ account" to which shall be credited or deposited all moneys accruing for the purposes of the ~~fund~~ account. The purposes for which moneys in the ~~fund~~ account may be used shall be to acquire, purchase, improve, repair, maintain, furnish, and equip off-road motor vehicle facilities and sites or areas used by off-road vehicles on public or private land, and to assist with the enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho. The park and recreation board is charged with the administration of the ~~fund~~ account for the purposes specified herein. The provisions of section 67-4228, Idaho Code, are made applicable for the provisions of this section. All claims against the ~~fund~~ account shall be examined, audited and allowed in the same manner now or hereafter provided by law for claims against the state, except that the board is hereby empowered to enter into agreements with legal governmental agencies in Idaho, for the disbursement of funds to them on a project by project basis.

~~(2)--During-each-fiscal-year,-all-amounts-over-the--sum--of--three hundred--thousand--dollars-($300,000)-received-into-the-off-road-motor vehicle-fund-shall-be-transferred-to-the-park-and--recreation--capital improvement-fund.~~

SECTION 4. 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 40-709, 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 40-701~~ distributed as follows: ninety-nine per cent (99%) of the one-half (1/2) shall be distributed to the state recreational vehicle account and one per cent (1%) of the one-half (1/2) shall be distributed to the search and rescue account created in section 67-2903, Idaho Code.

SECTION 5. 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:

(a) Adopt, amend or rescind rules and regulations as may be necessary for the proper administration of 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 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~~ who shall ~~serve without compensation or reimbursement of expenses~~ be compensated as provided in section 59-509(f), Idaho Code, and act in an advisory capacity to the board on matters relating to the development 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 sections 67-4218, et. seq., Idaho Code.

(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 shall be credited to the park and recreation fund created in section 67-4225, Idaho Code, and are hereby specifically appropriated to defray the cost of 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 the excess was derived.

(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.

(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 reports and information as may be reasonably necessary to enable officials and agencies to perform their duties under such programs. In connection with obtaining the benefits of any 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.

(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 the federal official, department or agency or contrary to the provisions of federal enactment or applicable federal regulations.

(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 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 legislative intent that, to 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 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 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 the subdivision or subdivisions for public outdoor recreational use.

(1) 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 29, 1988.

CHAPTER 254
(H.B. No. 502)

AN ACT

RELATING TO SEVERANCE ALLOWANCE AT RETIREMENT; AMENDING SECTION 33-1228, IDAHO CODE, TO PROVIDE CLARIFYING NOMENCLATURE FOR PROVISIONS FOR GROUP HEALTH, ACCIDENT, DENTAL AND LIFE INSURANCE COVERAGE MAINTAINED BY THE SCHOOL DISTRICTS FOR ACTIVE EMPLOYEES AND RETIREES OF THE DISTRICTS.

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

SECTION 1. That Section 33-1228, Idaho Code, be, and the same is hereby amended to read as follows:

33-1228. SEVERANCE ALLOWANCE AT RETIREMENT. (1) Upon separation from public school employment by retirement in accordance with chapter 13, title 59, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, as provided by section 33-1218, Idaho Code, and shall be reported by the employer to the public employee retirement system. A sum equal to one-half (1/2) of the monetary value of such unused sick leave, calculated at the rate of pay for such employee at the time of retirement, shall be transferred from the sick leave account provided

by subsection (2) of this section and shall be credited to such employee's retirement account. Such sums shall be used by the Idaho public employees' retirement board to continue to pay:

(a) Ppremiums at the rate for the active employee's group health, accident and ~~life~~ dental insurance programs as ~~may be~~ maintained by the school district~~,~~ for the active employees until the retiree becomes eligible for medicare at which time the district shall make available a supplemental program to medicare. The medicare supplement program will provide the same premium and benefits for all retirees of all the districts served by the same insurance carrier.

(b) Premiums at the time of retirement for the retiree for the life insurance program maintained by the district which may be reduced to a minimum of five thousand dollars ($5,000) of coverage.

(2) The retiree may continue to pay the premiums for the health, accident, dental and life insurance to the extent of the funds credited to the employee's account pursuant to this section and when these funds are expended the premiums may be deducted from the retiree's allowance. Upon ~~an employee's~~ a retiree's death, any unexpended sums remaining in the account shall revert to the sick leave account.

(~~2~~3) Each employing school district shall contribute to a sick leave account maintained by the public employee retirement system exclusively for the purpose of the provisions of this section. The rate of such contribution each pay period shall consist of a percentage of employees' salaries as determined by the board, and such rate shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. All moneys payable to the sick leave account are hereby perpetually appropriated to the board, and shall not be included in its departmental budget.

Approved March 29, 1988.

CHAPTER 255
(H.B. No. 509)

AN ACT

RELATING TO THE EMPLOYER'S PORTION OF SOCIAL SECURITY TAX FOR SCHOOL PERSONNEL; AMENDING SECTION 59-1115, IDAHO CODE, TO PROVIDE THAT PAYMENT SHALL BE AS REQUIRED BY FEDERAL LAW, AND TO PROVIDE FOR REIMBURSEMENT TO SCHOOL DISTRICTS.

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

SECTION 1. That Section 59-1115, Idaho Code, be, and the same is hereby amended to read as follows:

59-1115. EMPLOYER'S PORTION OF SOCIAL SECURITY TAX FOR SCHOOL DISTRICT PERSONNEL. The state board of education shall include in the budget request for general account appropriations an amount necessary to fund the employer's share of social security tax for school district personnel. The board of trustees of each class of school district, ~~at such times as prescribed by the state auditor,~~ shall compute ~~and certify the amount of money required for the payment of~~ pay the employer's social security tax for its personnel ~~to the state auditor, who shall promptly transfer such amount from the appropriation made for that purpose to the social security trust account~~, as required by federal law.

The board of trustees of each class of school district, at such times as prescribed by the department of education, shall certify to the department of education the amount of money paid by the school district for the employer's share of social security tax for its personnel. The department of education shall reimburse the school districts from the appropriation made for that purpose. Any deficiency in the amount appropriated for that purpose shall become the obligation of the state of Idaho. Any appropriated amount in excess of the total needed for that purpose shall be paid into the public school income fund.

Approved March 29, 1988.

CHAPTER 256
(H.B. No. 544)

AN ACT

RELATING TO INVESTMENT BOARD POWERS; AMENDING SECTION 57-722, IDAHO CODE, TO EXPAND INVESTMENT AUTHORITY TO INCLUDE CERTAIN COMMERCIAL PAPER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 57-722, Idaho Code, be, and the same is hereby amended to read as follows:

57-722. INVESTMENT POWERS OF INVESTMENT MANAGER(S) -- LIMITATIONS. The board or its investment manager(s) may, and they are hereby authorized to, invest the permanent endowment funds of the state of Idaho in the following manner and in the following investments or securities and none others:

(1) For a period of two (2) years following the effective date of this act, March 25, 1969, not more than fifty per cent (50%) of the endowment funds as now invested can be reinvested otherwise than in United States treasury bills, United States treasury notes, or other United States governmental debt instruments.

(2) United States, state, county, city, or school district bonds or state warrants.

(3) (a) Bonds, notes, or other obligations of the United States

or any agency or instrumentality thereof.

(b) Money market mutual funds whose assets are limited to obligations of the United States or any agency or instrumentality thereof.

(4) Bonds, notes, or other obligations of the state of Idaho and its political subdivisions, or bonds, notes, and other obligations of other states and their political subdivisions, provided such bonds, notes or other obligations or the issuing agency for other than the state of Idaho and its political subdivisions have, at the time of their purchase, an AAA rating or higher by a commonly known rating service.

(5) Bonds, debentures or notes of any corporation organized, controlled and operating within the United States which have, at the time of their purchase, an A rating or higher by a commonly known rating service. Nothing in this subsection shall apply to the provisions of subsection (6) immediately following.

(6) Corporate obligations designated as corporate convertible debt securities which have, at the time of their purchase, a BBB rating or higher by a commonly known rating service, so long as the right of conversion is not exercised.

(7) Obligations secured by mortgages constituting a first lien upon real property in the state of Idaho which are fully insured or guaranteed as to the payment of the principal by the government of the United States or any agency thereof.

(8) Time certificates of deposit and savings accounts.

(9) Commercial paper, which at the time of purchase, is rated Prime 1 by Moody's Investors Service Incorporated or is rated A-1 or higher by Standard and Poor's Corporation.

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 29, 1988.

CHAPTER 257
(H.B. No. 567)

AN ACT

RELATING TO THE PRACTICE OF ARCHITECTURE; AMENDING SECTION 54-304, IDAHO CODE, TO PROVIDE FOR MAXIMUM FEES AND TO PROVIDE THAT FEES SHALL BE ADOPTED BY BOARD RULE.

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

SECTION 1. That Section 54-304, Idaho Code, be, and the same is hereby amended to read as follows:

54-304. FEES -- ISSUANCE OF LICENSES. Every person applying for

examination for a license under this chapter shall pay a fee of not to exceed ~~three~~ five hundred dollars ($~~3~~500)~~,--as-established-by-board rules,~~ to the bureau of occupational licenses. In case the applicant fails to qualify, said fee shall be retained by the bureau to cover the necessary expenses of said examination. If the result of the examination of any applicant shall be satisfactory to the board, under its rules, it shall issue to such applicant a certificate setting forth the fact that he is a licensed architect and authorized to practice his profession in this state. The fee for reexamination shall not exceed ~~two~~ five hundred ~~fifty~~ dollars ($~~2~~500)~~,--as-established-by-board rules~~. The fee for obtaining a license under the provisions of subsection 1 of section 54-302A, Idaho Code, shall be ~~one~~ an amount not to exceed two hundred dollars ($~~1~~200). The fee for permission under subsection 2 of section 54-302A, Idaho Code, shall be an amount not to exceed ~~one~~ two hundred dollars ($~~1~~200)~~,--as-adopted-by-board-rule~~. The annual fee for renewal of a license shall be ~~forty-dollars-($40.00)~~ an amount not to exceed one hundred dollars ($100), which shall be paid to the bureau. The fee for reinstatement of any license shall be as provided in section 67-2614, Idaho Code. The board shall adopt all fees by rule.

Approved March 29, 1988.

CHAPTER 258
(H.B. No. 584)

AN ACT

RELATING TO ADMINISTRATIVE APPEALS PROCEDURES; AMENDING SECTION 41-242, IDAHO CODE, TO PROVIDE THAT ADMINISTRATIVE APPEALS FROM THE DIRECTOR OF THE DEPARTMENT OF INSURANCE SHALL BE CONSISTENT WITH THE ADMINISTRATIVE PROCEDURES ACT; AND REPEALING SECTIONS 41-241, 41-243, 41-244 AND 41-245, IDAHO CODE.

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

SECTION 1. That Section 41-242, Idaho Code, be, and the same is hereby repealed.

41-242. ~~HOW~~ METHOD OF APPEAL ~~TAKEN~~. ~~The-appeal-shall-be-taken-to the--district--court--of--the-third-judicial-district-of-Idaho-for-Ada County,-by-filing-with-the-clerk-of-the-court-a-petition-for-a--review of--the-director's-order-or-action,-containing-a-copy-of-the-order,-if any,-and-a-statement-of-the-particulars-in-which-it--is--claimed--that the--order--or--the-director,-in-absence-of-such-an-order,-is-in-error and-a-statement-of-the-relief-prayed-for,--and--by--serving--upon--the director--a--copy-of-the-petition,-certified-by-the-clerk-of-the-court to-be-a-true-copy.~~ All appeals from the director shall be brought in accordance with the procedures set forth in section 67-5215, Idaho Code.

SECTION 2. That Sections 41-241, 41-243, 41-244 and 41-245, Idaho Code, be, and the same are hereby repealed.

Approved March 29, 1988.

CHAPTER 259
(H.B. No. 593)

AN ACT

RELATING TO HAZARDOUS WASTE; AMENDING SECTION 39-4404, IDAHO CODE, TO AUTHORIZE THE BOARD OF HEALTH AND WELFARE TO ADOPT RULES AND REGULATIONS CONSISTENT WITH, BUT NO MORE STRINGENT THAN THE RESOURCE CONSERVATION AND RECOVERY ACT; AMENDING SECTION 39-4409, IDAHO CODE, TO AUTHORIZE THE BOARD OF HEALTH AND WELFARE TO ADOPT RULES AND REGULATIONS REGARDING EXISTING INTERIM STATUS SURFACE IMPOUNDMENTS; AND AMENDING SECTION 39-4413, IDAHO CODE, TO REVISE THE GROUNDS FOR REVOCATION OR TEMPORARY SUSPENSION OF HAZARDOUS WASTE FACILITY PERMITS.

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

SECTION 1. That Section 39-4404, Idaho Code, be, and the same is hereby amended to read as follows:

39-4404. CONSISTENCY WITH FEDERAL LAW. The legislature intends that the state of Idaho enact and carry out a hazardous waste program that will enable the state to assume primacy over hazardous waste control from the federal government.

The legislature finds that the RCRA, as amended, 42 U.S.C., Ssection 6901 et seq., and regulations adopted pursuant thereto, establish complex and detailed provisions for regulation of those who generate, transport, treat, store, and dispose of hazardous wastes. The legislature cannot conveniently or advantageously set forth in this chapter all the requirements of all of the regulations which have been or will be established under RCRA. However, by the provisions of this chapter, the legislature desires to avoid the existence of duplicative, overlapping or conflicting state and federal regulatory systems.

Therefore, the board is directed to promulgate rules and regulations which are in substance consistent with RCRA and the federal regulations adopted by the administrator of the United States environmental protection agency to implement RCRA. The board may not promulgate rules or regulations governing activities affected by such federal regulations until at least six (6) months after the promulgation of such regulations by the environmental protection agency. The six (6) months' delay shall apply, but not be limited, to rules and regulations concerning mining waste, mineral processing waste, and all other materials under study by the administrator of the environmental protection agency as required by 42 U.S.C. sections 6982(f) and 6982(p). Until such time as the board has promulgated rules and regulations

concerning mining and mineral wastes and materials under study by the administrator, those wastes and materials shall not be considered or defined as hazardous wastes under this chapter; provided, however, that spent potliners from primary aluminum reduction, or environmental protection agency hazardous waste number K088, shall be defined as hazardous waste. Farmers and ranchers who treat, store, or dispose of waste pesticides from their operations on lands owned or controlled by them shall not be required by board rules or regulations to do anything more than follow the instructions on the pesticide label and triple rinse empty containers in accordance with the RCRA regulations of the environmental protection agency. The board may not promulgate any rule or regulation that would impose conditions or requirements more stringent or broader in scope than RCRA and the RCRA regulations of the environmental protection agency. The board may, however, promulgate procedural rules and regulations and rules and regulations specifically authorized by this chapter or other state statutes without showing that those rules and regulations are required by RCRA or the regulations of the environmental protection agency; provided that those rules and regulations shall not conflict with this section, other sections of this chapter, RCRA, or the rules and regulations of the environmental protection agency. Any rule or regulation promulgated by the board shall be valid until it is repealed or modified through the administrative process of section 67-5201, Idaho Code, et seq.

SECTION 2. That Section 39-4409, Idaho Code, be, and the same is hereby amended to read as follows:

39-4409. PERMIT REQUIREMENTS FOR HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES. (1) No person shall construct, operate, or modify a hazardous waste treatment, storage, or disposal facility or site without a permit from the department. The owner or operator of the facility or site rather than the builder shall be responsible for obtaining the permit. Permits may contain such conditions necessary to protect human health and environment. The board may exempt classes or categories of hazardous waste treatment, storage, or disposal facilities from the permit requirement if the exemption is in the public interest and consistent with RCRA requirements. The fact that a class or category of such facilities is not required to obtain a federal permit shall be persuasive evidence that an exemption is in the public interest.

(2) Interim status granted by RCRA or a permit issued by the United States environmental protection agency prior to the date that the state program is authorized by the administrator of that agency shall be adopted by the department as a state granted interim status or as a state granted permit until the department issues a new state permit. The board may adopt such rules and regulations as necessary to:

(a) Allow other facilities to qualify for interim status;

(b) Require existing interim status surface impoundments, new units, replacement of existing units and lateral expansions of existing interim status facilities to comply with all regulations

which apply to new facilities; and

(c) Provide for the termination of interim status.

(3) The board shall promulgate rules and regulations establishing the terms and conditions for issuing permits to the described facilities and sites. The rules and regulations shall provide for, but not be limited to:

(a) Standards and procedures for the safe operation and maintenance of the facilities and sites;

(b) Education and training qualifications of personnel at the facilities and sites;

(c) Contractual commitment or consent to each facility or site from all holders of interests in the real property committed to that facility or site;

(d) Monetary assurances in such form and amount as are necessary for effective management, maintenance, and monitoring of the facilities and sites during and after operation;

(e) Evidence of financial responsibility for corrective action on-site and off-site;

(f) Liability insurance in such form and amount as is necessary to compensate for potential damages caused by the facilities and sites; provided, that liability insurance shall not be required in the event that liability insurance is not required by the federal regulations adopted pursuant to the RCRA;

(g) Emergency equipment and emergency response plans appropriate to the facilities and sites;

(h) Public participation in the permitting process consistent with 42 U.S.C. section 6974(b).

(4) Permits shall be issued for a period not to exceed ten (10) years or the maximum period allowed under RCRA, whichever is greater. However, permits may be reviewed at least every five (5) years and modified as necessary to take into account changes in this chapter or regulations promulgated pursuant to it and improvements in technology. Permits issued to hazardous waste facilities and sites by the department prior to the effective date of this chapter shall be reissued to conform with the provisions of this chapter and the rules and regulations promulgated under this chapter.

(5) Any permit issued after the effective date of this provision shall require corrective action to be taken on-site and off-site for all releases of hazardous waste or constituents, from any solid waste management unit at the treatment, storage, or disposal facility seeking the permit, regardless of the time when the waste was placed in such unit. Permits issued from November 8, 1985, until the effective date of this provision shall be reissued to conform with this provision.

(6) Any permit issued under this section may be revoked by the director, pursuant to the provisions of section 39-4413, Idaho Code, if the permitted party fails to comply with the terms and conditions of the permit, this chapter, or the rules and regulations promulgated under this chapter.

(7) The department may issue a variance from the requirements of the rules and regulations promulgated under this section, if, in the judgment of the director, application of the requirements would cause

unreasonable hardship and the granting of a variance would not be harmful to the public interest or inconsistent with RCRA requirements. A variance shall not exceed one (1) year in duration and may be renewed or extended only after the department provides public notice and an opportunity for public comment.

(8) (a) The director of the department may issue a research, development and demonstration permit for any hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits shall:

1. Provide for the construction of such facilities, as necessary, and for operation of the facility for not longer than one (1) year (unless renewed as provided below); and

2. Provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the director deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

3. Include such requirements as the director deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, insurance or bonding, financial responsibility, closure, and remedial action); and

4. Include such requirements as the director deems necessary regarding testing and providing of information to the director with respect to the operation of the facility.

(b) The director may apply the criteria set forth in paragraph (a) of this subsection in establishing the conditions of each permit without separate establishment of regulations implementing such criteria.

(c) For the purpose of expediting review and issuance of permits under this subsection, the director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements established in the general permit regulations except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of applicable public participation procedures.

SECTION 3. That Section 39-4413, Idaho Code, be, and the same is hereby amended to read as follows:

39-4413. ENFORCEMENT PROCEDURES. (A) Whenever the director determines that any person is in violation of any provision of this chapter or any permit, standard, regulation, condition, requirement, compliance agreement or order issued or promulgated pursuant to this chapter, one or more of the following actions may be taken:

(1) ADMINISTRATIVE ENFORCEMENT ACTIONS.

(a) Notice. The director may commence an administrative enforcement action by issuing a written notice of violation. The notice

of violation shall identify the alleged violation with specificity, shall specify each provision of the act, rule, regulation, permit or order which has been violated, and shall state the amount of civil penalty claimed for each violation. The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director's designee in a compliance conference concerning the alleged violation. A written response may be required within fifteen (15) days of receipt of the notice of violation by the person to whom it is directed.

(b) Scheduling Compliance Conference. If a recipient of a notice of violation contacts the department within fifteen (15) days of the receipt of notice, the recipient shall be entitled to a compliance conference. The conference shall be held within twenty (20) days of the date of receipt of notice, unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in subsection (3) of this section.

(c) Compliance Conference. The compliance conference shall provide an opportunity for the recipient of a notice of violation to explain the circumstances of the alleged violation and, where appropriate, to present a proposal for remedying damage caused by the alleged violation and for assuring future compliance. If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision for payment of any agreed civil penalty.

(d) Effect of Consent Order. A consent order shall be effective immediately upon signing by both parties and shall preclude any civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek and obtain in any appropriate district court specific performance of the consent order and such other relief as authorized in this chapter.

(e) Failure to Reach Agreement on Consent Order. If the parties cannot reach agreement on a consent order within sixty (60) days after the receipt of the notice of violation, or if the recipient does not request a compliance conference pursuant to subsection (A)(1)(b) of this section, the director may commence and prosecute a civil enforcement action in district court, in accordance with subsection (A)(3) of this section.

(2) PERMIT SUSPENSION OR REVOCATION PROCEEDINGS.

(a) Grounds. The director may revoke or temporarily suspend the permit of any hazardous waste facility or site ~~if--the--permitted party--fails-to-meet-the-requirements-of-a-consent-order-or-if-the permitted-party-commits-a-violation-of-the-law-or-a-permit--which:~~ pursuant to the grounds provided in subsection (6) of section 39-4409, Idaho Code

~~(i)--Creates-or-has-created-a-substantial-threat-to-the--public-health-or-to-the-environment;-or~~

~~(ii)--Is--repetitious-of-prior-violations-of-the-same-or-dif-~~

~~ferent-provisions-of-the-law;-or~~

~~(iii)--is-allowed-to-continue--or--is--not--corrected--within thirty-(30)-days-of-a-notice-of-violation.~~

A violation that is shown to have occurred as the result of an unforeseeable act of God despite a permitted party's reasonable efforts to comply with all applicable legal requirements shall not be grounds for a suspension or revocation.

(b) Notice of Hearing. The director may commence a permit suspension or revocation action by giving a permitted party a written notice of intent to suspend or revoke. The notice shall inform the permitted party of facts or conduct which warrant suspension or revocation of the permit. The notice, hearing, and record requirements for contested cases contained in the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, and subsection(A)(2)(c) of this section shall apply to proceedings initiated under this subsection. Revocation or suspension of a permit shall become final fifteen (15) days after delivery of the notice of intent to revoke or suspend unless the permitted party requests a hearing.

(c) Administrative Hearing Provisions.

(i) Upon a timely request by a permit holder for a hearing to review the director's action under subsection(A)(2)(b) of this section, the director shall promptly conduct a hearing open to the public. The contested case provisions of the Idaho administrative procedure act shall apply to all hearings conducted under this subsection.

(ii) The director shall have the authority to request from the district court in and for Ada county or any other appropriate district court the issuance of an order in the nature of a subpoena compelling the attendance and testimony of witnesses and the production before the director of papers, books, drawings, documents, test results, and other evidence relevant to a permit suspension or revocation investigation or adjudication.

(iii) After the hearing, the director shall issue a written opinion setting forth findings of fact, conclusions of law and an order. An aggrieved person subject to the director's order may seek its review as a final order in a district court as provided by the Idaho administrative procedure act. District court review of the director's decision shall be limited to the record developed before the director.

(3) CIVIL ENFORCEMENT ACTION. The attorney general may commence and prosecute in district court a civil enforcement action. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person who is alleged to have violated any provision of this chapter or any rule, regulation, permit, condition, requirement, consent order, or order which has become effective pursuant to this chapter. Such action may be brought to compel compliance with any provision of this chapter or with any rule, regulation, permit or order promulgated hereunder, and for any relief or remedies authorized in this chap-

ter. The director shall not be required to initiate or prosecute an administrative action before the attorney general may commence and prosecute a civil enforcement action. In addition, the attorney general may delegate this authority regarding civil enforcement actions to the prosecuting attorney of the county where a civil enforcement action may arise.

(B) ACTIONS AGAINST GUARANTORS. If the owner or operator is in bankruptcy, reorganization or other arrangement pursuant to the federal bankruptcy code, or where jurisdiction cannot be obtained over an owner or operator likely to be solvent at the time of judgment, an action may be brought directly against a guarantor of financial responsibility by the state or any injured party for any claim arising from conduct for which guarantees of financial responsibility have been made. The guarantor may invoke all rights and defenses which would have been available to the owner or operator and all rights and defenses normally available to the guarantor.

(C) LIMITATION OF ACTION FOR ADMINISTRATIVE AND CIVIL COURT PROCEEDINGS BROUGHT UNDER THE PROVISIONS OF THIS CHAPTER. No civil or administrative proceeding may be brought to recover for a violation of this chapter or any permit, standard, regulation, condition, requirement or order issued or promulgated pursuant to this chapter more than two (2) years after the director had knowledge or ought reasonably to have had knowledge of the violation.

Approved March 29, 1988.

CHAPTER 260
(H.B. No. 595)

AN ACT

RELATING TO DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME; AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE FOR THE IMPLEMENTATION OF A COMPREHENSIVE ANIMAL HEALTH PROGRAM FOR CERTAIN GAME ANIMALS IMPORTED INTO THE STATE ON A COOPERATIVE BASIS WITH THE DEPARTMENT OF AGRICULTURE, AND TO PROVIDE FOR THE EMPLOYMENT OF OR CONTRACTING WITH, A VETERINARIAN WHOSE COMPENSATION SHALL BE DIVIDED EQUALLY BETWEEN THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF FISH AND GAME.

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

SECTION 1. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director Created. The commission shall appoint a director of the department of fish and game, hereinafter referred to as the director, who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation, restoration, and management of the wildlife resources of the state. The director shall not

hold any other public office, nor any office in any political party organization, and shall devote his entire time to the service of the state in the discharge of his official duties, under the direction of the commission.

(b) Secretary to Commission. The director shall serve as secretary to the commission.

(c) Compensation and Expenses. The director shall receive such compensation as the commission, with the concurrence and approval of the governor, may determine and shall be reimbursed at the rate provided by law for state employees for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties.

(d) Oath and Bond. Before entering upon the duties of his office, the director shall take and subscribe to the official oath of office, as provided by section 59-401, Idaho Code, and shall, in addition thereto, swear and affirm that he holds no other public office, nor any position under any political committee or party. Such oath, or affirmation, shall be signed in the office of the secretary of state.

The director shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code.

(e) Duties and Powers of Director.

1. The director shall have general supervision and control of all activities, functions, and employees of the department of fish and game, under the supervision and direction of the commission, and shall enforce all the provisions of the laws of the state, and rules and regulations of the commission relating to wild animals, birds, and fish and, further, shall perform all the duties prescribed by section 67-2405, Idaho Code, and other laws of the state not inconsistent with this act, and shall exercise all necessary powers incident thereto not specifically conferred on the commission.

2. The director is hereby authorized to appoint as many classified employees as the commission may deem necessary to perform administrative duties, to enforce the laws and to properly implement management, propagation, and protection programs established for carrying out the purposes of the Idaho fish and game code.

3. The appointment of such employees shall be made by the director in accordance with the Idaho personnel commission act and rules promulgated pursuant to chapter 53, title 67, Idaho Code, and they shall be compensated as provided therein. Said employees shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

4. The director is hereby authorized to establish and maintain fish hatcheries for the purpose of hatching, propagating, and distributing all kinds of fish.

5. (A) The director, or any person appointed by him in writing to do so, may take wildlife of any kind, dead or alive, or import the same, subject to such conditions, restrictions and regulations as he may provide, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes deemed by him to be of interest to the fish and game resource of the state.

(B) The director shall have supervision over all of the matters pertaining to the inspection, cultivation, propagation and distribution of the wildlife propagated under the provisions of title 36, Idaho Code. He shall also have the power and authority to obtain, by purchase or otherwise, wildlife of any kind or variety which he may deem most suitable for distribution in the state and may have the same properly cared for and distributed throughout the state of Idaho as he may deem necessary.

6. (A) The director shall have the power, at any time when it is desired to introduce any new species, or if at any time any species of wildlife of the state of Idaho shall be threatened with excessive shooting, trapping, or angling or otherwise, to close any open season for such time as he may designate; in the event an emergency is declared to exist such closure shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(B) In order to protect property from damage by wildlife, the fish and game commission may delegate to the director the authority to declare an open season upon that particular species of wildlife to reduce its population. The director shall make an order embodying his findings in respect to when, under what circumstances, in which localities, by what means, and in what amounts, numbers and sex the wildlife subject to the hunt may be taken. In the event an emergency is declared to exist such open season shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(C) Any order issued under authority hereof shall be published in at least one (1) newspaper of general circulation in the area affected by the order for at least once a week for two (2) consecutive weeks, and such order shall be posted in public places in each county as the director may direct.

(D) During the closure of any open season or the opening of any special depredation season by the director all provisions of laws relating to the closed season or the special depredation season on such wildlife shall be in force and whoever violates any of the provisions shall be subject to the penalties prescribed therefore.

7. The director shall make an annual report to the governor, the legislature, and the secretary of state, of the doings and conditions of his office, which report shall be made in accordance with section 67-2509, Idaho Code.

8. The director may sell or cause to be sold publications and materials in accordance with section 59-1012, Idaho Code.

9. Any deer, elk, moose, bighorn sheep or bison imported or transported by the department of fish and game shall be tested for the presence of certain communicable diseases that can be transmitted to domestic livestock. Those communicable diseases to be tested for shall be arrived at by mutual agreement between the

department of fish and game and the department of agriculture.

In addition, a comprehensive animal health program for any deer, elk, moose, bighorn sheep, or bison imported into, or transported within, the state of Idaho shall be implemented after said program is mutually agreed upon by the department of fish and game and the department of agriculture.

In order to enhance and protect the health of wildlife within the state, as well as safeguard the health of livestock resources, the director shall employ or contract with at least one (1) veterinarian licensed in Idaho. The employing or contracting of said veterinarian shall be by mutual agreement of the director of the department of fish and game and of the director of the department of agriculture. The salary or compensation to be paid said veterinarian or veterinarians shall be divided equally between the department of fish and game and the department of agriculture. The veterinarian shall be employed or contracted with on and after July 1, 1989.

Approved March 29, 1988.

CHAPTER 261
(H.B. No. 701)

AN ACT

RELATING TO THE DEFINITION OF PUBLIC UTILITY FOR AD VALOREM TAX PURPOSES; AMENDING SECTION 63-114A, IDAHO CODE, TO STRIKE CABLE TELEVISION COMPANIES FROM THE DEFINITION OF PUBLIC UTILITY, AND TO EXCLUDE CERTAIN MOBILE TELEPHONE SERVICE AND COMPANIES AND PAGER SERVICE AND COMPANIES FROM THE DEFINITION OF PUBLIC UTILITY FOR AD VALOREM TAX PURPOSES; DECLARING AN EMERGENCY, AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-114A, Idaho Code, be, and the same is hereby amended to read as follows:

63-114A. PUBLIC UTILITY DEFINED. (1) That the term "public utility," when used in chapters 1 through 22, title 63, Idaho Code, includes electrical companies, telephone companies, telegraph companies, ~~cable television companies,~~ pipeline companies, natural gas distribution companies, cogenerators or small power producers within the meaning of section 210 of the public utility regulator policy act of 1980, telecommunication companies providing intercounty or interstate service or charging their users a separately stated fee for the use of its services, and water transportation companies. It also includes water companies, which are under the jurisdiction of the Idaho public utilities commission.

(2) The term "company" as used in this section, includes a corporation, a company, an association and a joint stock association.

(3) The term "public utility" does not include mobile telephone

service or companies, nor does it include pager service or companies, except when such services are an integral part of services provided by a certificated utility company.

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, 1987.

Approved March 29, 1988.

CHAPTER 262
(H.B. No. 514, As Amended)

AN ACT

RELATING TO PROVISIONS OF THE NATURAL DEATH ACT; AMENDING SECTION 39-4502, IDAHO CODE, TO CLARIFY THE STATEMENT OF POLICY CONCERNING THE RIGHT TO WITHDRAW ARTIFICIAL LIFE SUSTAINING PROCEDURES; AMENDING SECTION 39-4503, IDAHO CODE, TO DEFINE TERMS; REPEALING SECTION 39-4504, IDAHO CODE, RELATING TO THE DIRECTIVE TO THE PHYSICIAN; AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4504, IDAHO CODE, TO PROVIDE A FORM WHICH MAY BE USED FOR A LIVING WILL; AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4505, IDAHO CODE, TO PROVIDE A FORM WHICH MAY BE USED FOR A DURABLE POWER OF ATTORNEY FOR HEALTH CARE; AMENDING SECTION 39-4505, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO AMEND REFERENCES TO QUALIFIED PATIENT; AMENDING SECTION 39-4506, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO AMEND REFERENCES TO QUALIFIED PATIENT; AMENDING SECTION 39-4507, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE AN ALTERNATIVE FOR A PHYSICIAN TO WITHDRAW FROM PROVIDING SERVICES, AND TO PROVIDE IMMUNITY FOR THE EXERCISE OF A DURABLE POWER OF ATTORNEY FOR HEALTH CARE; AND AMENDING SECTION 39-4508, IDAHO CODE, TO REDESIGNATE THE SECTION, TO ADD CITATIONS AND AMEND REFERENCES TO QUALIFIED PATIENT.

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

SECTION 1. That Section 39-4502, Idaho Code, be, and the same is hereby amended to read as follows:

39-4502. STATEMENT OF POLICY. The legislature finds that adult persons have the fundamental right to control the decisions relating to the rendering of their medical care, including the decision to have life sustaining procedures withheld or withdrawn.

The legislature further finds that modern medical technology has made possible the artificial prolongation of human life beyond natural limits.

The legislature further finds that patients are sometimes unable to express their desire to withhold or withdraw such artificial life

prolongation procedures which provide nothing medically necessary or beneficial to the patient because of the ~~progress-of-the-disease-process-which-renders-the-patient-comatose-or-unable~~ patient's inability to communicate with the physician.

In recognition of the dignity and privacy which patients have a right to expect, the legislature hereby declares that the laws of this state shall ~~recognize-the-right-of-an-adult-person-to-make--a--written directive--in--the-form-of-a-durable-power-of-attorney-instructing-his physician-to-withhold-or-withdraw-life-sustaining-procedures-when-such person-is-suffering-from-a-condition-and-is--unable--to--instruct--his physician-regarding-such-procedures-because-of-the-condition~~ recognize the right of a competent person to have his wishes for medical treatment and for the withdrawal of artificial life sustaining procedures carried out even though that person is no longer able to communicate with the physician.

It is the intent of the legislature to establish an effective means for such communication. It is not the intent of the legislature that the procedures described herein are the only effective means of such communication.

SECTION 2. That Section 39-4503, Idaho Code, be, and the same is hereby amended to read as follows:

39-4503. DEFINITIONS. The following definitions shall govern the construction of this chapter:

(1) "Attending physician" means the physician licensed by the state board of medicine, selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

(2) ~~"Qualified-patient"-means-a-person-of--sound--mind--at--least eighteen--(18)--years--of-age~~ "Competent person" means any emancipated minor or any person eighteen (18) or more years of age who is of sound mind.

(3) "Artificial life-sustaining procedure" means any medical procedure or intervention which utilizes mechanical means to sustain or supplant a vital function which when applied to a qualified patient, would serve only to artificially prolong the moment of death and where, in the judgment of the attending physician, death is imminent whether or not such procedures are utilized, or the patient is diagnosed as being in a persistent vegetative state. Artificial life-sustaining procedures shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain~~,--or--the--administration--of--nutrition--and hydration-that-is-necessary-to-sustain-the-life-of-the-patient~~.

(4) "Durable power of attorney for health care" means a durable power of attorney to the extent that it authorizes an attorney in fact to make health care decisions for the principal.

SECTION 3. That Section 39-4504, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 45, 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 39-4504, Idaho Code, and to read as follows:

39-4504. LIVING WILL. Any competent person may execute a document known as a "living will." Such document shall be in the following form or in another form that contains the elements set forth in this section.

A LIVING WILL
A Directive to Withhold or to Provide Treatment

To my family, my relatives, my friends, my physicians, my employers, and all others whom it may concern:
Directive made this ____ day of _____ 19__ I, _____(name), being of sound mind, willfully, and voluntarily make known my desire that my life shall not be prolonged artificially under the circumstances set forth below, do hereby declare:

1. If at any time I should have an incurable injury, disease, illness or condition certified to be terminal by two medical doctors who have examined me, and where the application of life-sustaining procedures of any kind would serve only to prolong artificially the moment of my death, and where a medical doctor determines that my death is imminent, whether or not life-sustaining procedures are utilized, or I have been diagnosed as being in a persistent vegetative state, I direct that the following marked expression of my intent be followed and that I be permitted to die naturally, and that I receive any medical treatment or care that may be required to keep me free of pain or distress.

"Check One Box"

☐ If at any time I should become unable to communicate my instructions, then I direct that all medical treatment, care, and nutrition and hydration necessary to restore my health, sustain my life, and to abolish or alleviate pain or distress be provided to me. Nutrition and hydration shall not be withheld or withdrawn from me if I would die from malnutrition or dehydration rather than from my injury, disease, illness or condition.

☐ If at any time I should become unable to communicate my instructions and where the application of artificial life-sustaining procedures shall serve only to prolong artificially the moment of my death, I direct such procedures be withheld or withdrawn except for the administration of nutrition and hydration.

☐ If at any time I should become unable to communicate my instructions and where the application of artificial life-sustaining procedures shall serve only to prolong artificially the moment of death, I direct such procedures be withheld or withdrawn including withdrawal of the administration of nutrition and hydration.

2. In the absence of my ability to give directions regarding the use of life-sustaining procedures, I hereby appoint _____ (name) currently residing at _____, as my attorney-in-fact/proxy for the making of decisions relating to my health care in my place; and it is my intention that this appointment shall be honored by him/her, by my family, relatives, friends, physicians and law-

yer as the final expression of my legal right to refuse medical or surgical treatment; and I accept the consequences of such a decision. I have duly executed a Durable Power of Attorney for health care decisions on this date.

3. In the absence of my ability to give further directions regarding my treatment, including life-sustaining procedures, it is my intention that this directive shall be honored by my family and physicians as the final expression of my legal right to refuse or accept medical and surgical treatment, and I accept the consequences of such refusal.

4. If I have been diagnosed as pregnant and that diagnosis is known to any interested person, this directive shall have no force during the course of my pregnancy.

5. I understand the full importance of this directive and am emotionally and mentally competent to make this directive. No participant in the making of this directive or in its being carried into effect, whether it be a medical doctor, my spouse, a relative, friend or any other person shall be held responsible in any way, legally, professionally or socially, for complying with my directions.

Signed _____

City, county and state of residence _____

The declarant has been known to me personally and I believe him/her to be of sound mind.

Witness _____ Witness _____
Address _____ Address _____

SECTION 5. That Chapter 45, 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 39-4505, Idaho Code, and to read as follows:

39-4505. DURABLE POWER OF ATTORNEY FOR HEALTH CARE. In order to implement the general desires of a person as expressed in the "living will," a competent person may appoint any adult person to exercise a durable power of attorney for health care. The power shall be effective only when the competent person is unable to communicate rationally. The person granted the durable power of attorney for health care may make health decisions for the person to the same extent that the principal could make such decisions given the capacity to do so.

The durable power of attorney for health care may list alternative holders of the power in the event that the first person named is unable or unwilling to exercise the power.

A durable power of attorney for health care may be in the following form, or in any other form which contains the elements set forth in the following form.

A DURABLE POWER OF ATTORNEY FOR HEALTH CARE

1. DESIGNATION OF HEALTH CARE AGENT.

I,_____

(Insert your name and address)

do hereby designate and appoint _____

(Insert name, address, and telephone number of one individual only as your agent to make health care decisions for you. None of the following may be designated as your agent: (1) your treating health care provider, (2) a nonrelative employee of your treating health care provider, (3) an operator of a community care facility, or (4) a nonrelative employee of an operator of a community care facility).

as my attorney in fact (agent) to make health care decisions for me as authorized in this document. For the purposes of this document, "health care decision" means consent, refusal of consent, or withdrawal of consent to any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical condition.

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE. By this document I intend to create a durable power of attorney for health care. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED. Subject to any limitations in this document, I hereby grant to my agent full power and authority to make health care decisions for me to the same extent that I could make such decisions for myself if I had the capacity to do so. In exercising this authority, my agent shall make health care decisions that are consistent with my desires as stated in this document or otherwise made known to my agent, including, but not limited to, my desires concerning obtaining or refusing or withdrawing life-prolonging care, treatment, services, and procedures. (If you want to limit the authority of your agent to make health care decisions for you, you can state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") below. You can indicate your desires by including a statement of your desires in the same paragraph.)

4. STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS. (Your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, state your desires in the space provided below. You should consider whether you want to include a statement of your desires concerning life-prolonging care, treatment, services, and procedures. You can also include a statement of your desires concerning other matters relating to your health care. You can also make your desires known to your agent by discussing your desires with your agent or by some other means. If there are any types of treatment that you do not want to be used, you should state them in the space below. If you want to limit in any other way the authority given your agent by this document, you should state the limits in the space below. If you do not state any limits, your agent will have broad powers to make health care decisions for you, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney

for health care, my agent shall act consistently with my desires as stated below and is subject to the special provisions and limitations stated in the living will. Additional statement of desires, special provisions, and limitations:

_____

(You may attach additional pages if you need more space to complete your statement. If you attach additional pages, you must date and sign each of the additional pages at the same time you date and sign this document.)

5. INSPECTION AND DISCLOSURE OF INFORMATION RELATING TO MY PHYSICAL OR MENTAL HEALTH. Subject to any limitations in this document, my agent has the power and authority to do all of the following:

(a) Request, review, and receive any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records.

(b) Execute on my behalf any releases or other documents that may be required in order to obtain this information.

(c) Consent to the disclosure of this information.

(d) Consent to the donation of any of my organs for medical purposes.

(If you want to limit the authority of your agent to receive and disclose information relating to your health, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") above.)

6. SIGNING DOCUMENTS, WAIVERS, AND RELEASES. Where necessary to implement the health care decisions that my agent is authorized by this document to make, my agent has the power and authority to execute on my behalf all of the following:

(a) Documents titled or purporting to be a "Refusal to Permit Treatment" and "Leaving Hospital Against Medical Advice."

(b) Any necessary waiver or release from liability required by a hospital or physician.

7. DESIGNATION OF ALTERNATE AGENTS.

(You are not required to designate any alternate agents but you may do so. Any alternate agent you designate will be able to make the same health care decisions as the agent you designated in paragraph 1, above, in the event that agent is unable or ineligible to act as your agent. If the agent you designated is your spouse, he or she becomes ineligible to act as your agent if your marriage is dissolved.)

If the person designated as my agent in paragraph 1 is not available or becomes ineligible to act as my agent to make a health care decision for me or loses the mental capacity to make health care decisions for me, or if I revoke that person's appointment or authority to act as my agent to make health care decisions for me, then I designate and appoint the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternate Agent _____

(Insert name, address, and telephone number of first alternate agent)

B. Second Alternate Agent _____
(Insert name, address, and telephone number of second alternate agent)

8. PRIOR DESIGNATIONS REVOKED. I revoke any prior durable power of attorney for health care.

DATE AND SIGNATURE OF PRINCIPAL
(You Must Date and Sign This Power of Attorney)

I sign my name to this Statutory Form Durable Power of Attorney for Health Care on _____ at _____, _____
(Date) (City) (State)

_____
(You sign here)

(This Power of Attorney will not be valid unless it is signed by two qualified witnesses who are present when you sign or acknowledge your signature. If you have attached any additional pages to this form, you must date and sign each of the additional pages at the same time you date and sign this Power of Attorney.)

STATEMENT OF WITNESSES

(This document must be witnessed by two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as your agent or alternate agent, (2) a health care provider, (3) an employee of a health care provider, (4) the operator of a community care facility, (5) an employee of an operator of a community care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury under the laws of Idaho that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as attorney in fact by this document, and that I am not a health care provider, an employee of a health care provider, the operator of a community care facility, nor an employee of an operator of a community care facility.

Signature: _____
Print name: _____
Date: _____ Residence address: _____

Signature: _____
Print name: _____
Date: _____ Residence address: _____

(At least one of the above witnesses must also sign)

I further declare under penalty of perjury under the laws of Idaho that I am not related to the principal by blood, marriage, or adoption, and, to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: _____
Signature: _____

NOTARY

(Signer of instrument may either have it witnessed as above or have his/her signature notarized as below, to legalize this instrument.)
State of Idaho
County of _____ ss.
On this ___ day of _____ 19 ___
before me personally appeared _____
(full name of signer of instrument)
to me known (or proved to me on basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he/she executed it. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

_____
(Signature of Notary)

SECTION 6. That Section 39-4505, Idaho Code, be, and the same is hereby amended to read as follows:

39-45056. REVOCATION. (1) A directive may be revoked at any time by the ~~qualified patient~~ maker thereof, without regard to his mental state or competence, by any of the following methods:

(a) By being cancelled, defaced, obliterated or burned, torn or otherwise destroyed by the ~~qualified patient~~ maker thereof or by some person in his presence and by his direction.

(b) By a written, signed, revocation of the ~~qualified--patient~~ maker thereof expressing his intent to revoke~~, signed by the qualified patient~~.

(c) By a verbal expression by the ~~qualified patient~~ maker thereof of his intent to revoke the directive.

(2) There shall be no criminal or civil liability on the part of any person for failure to act upon a revocation of a directive made pursuant to this section unless that person has actual knowledge of the revocation.

SECTION 7. That Section 39-4506, Idaho Code, be, and the same is hereby amended to read as follows:

39-45067. EXECUTION OF DIRECTIVE. A directive shall be effective from the date of execution unless otherwise revoked. Nothing in this chapter shall be construed to prevent a ~~qualified patient~~ competent person from reexecuting a directive at any time. If the ~~qualified patient~~ competent person becomes comatose or is rendered incapable of communicating with the attending physician, the directive shall remain in effect for the duration of the comatose condition or until such time as the ~~qualified~~ patient's condition renders him able to communicate with the attending physician.

SECTION 8. That Section 39-4507, Idaho Code, be, and the same is

hereby amended to read as follows:

39-4507~~8~~. IMMUNITY. No physician or health facility, which, acting in accordance with ~~a directive meeting the requirements of this chapter~~ the wishes of a patient as expressed by the procedures set forth in this chapter, causes the withholding or withdrawal of artificial life-sustaining procedures from ~~a qualified~~ that patient, shall be subject to civil liability or criminal liability therefrom.

Any physician or other health care provider who for ethical or professional reasons is incapable or unwilling to conform to the desires of the patient as expressed by the procedures set forth in this chapter may withdraw without incurring any civil or criminal liability provided the physician or other health care provider makes a good faith effort to assist the patient in obtaining the services of another physician or other health care provider before withdrawal. No person who exercises the responsibilities of a durable power of attorney for health care in good faith shall be subject to civil or criminal liability as a result.

SECTION 8. That Section 39-4508, Idaho Code, be, and the same is hereby amended to read as follows:

39-4508~~9~~. GENERAL PROVISIONS. (1) This chapter shall have no effect or be in any manner construed to apply to persons not executing a directive pursuant to this chapter nor shall it in any manner affect the rights of any such persons or of others acting for or on behalf of such persons to give or refuse to give consent or withhold consent for any medical care, neither shall this chapter be construed to affect chapter 43, title 39, nor chapter 3, title 66, Idaho Code, in any manner.

(2) The making of a directive pursuant to this chapter shall not restrict, inhibit or impair in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of artificial life-sustaining procedures from an insured ~~qualified~~ patient, notwithstanding any term of the policy to the contrary.

(3) No physician, health facility or other health provider and no health care service plan, insurer issuing disability insurance, self-insured employee, welfare benefit plan, or nonprofit hospital service plan, shall require any person to execute a directive as a condition for being insured for, or receiving, health care services.

Approved March 30, 1988.

CHAPTER 263
(S.B. No. 1267, As Amended, As Amended)

AN ACT

RELATING TO THE OFFICE ON AGING; AMENDING CHAPTER 50, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5009, IDAHO CODE, TO CREATE THE OFFICE OF OMBUDSMAN FOR THE ELDERLY WITHIN THE OFFICE ON AGING.

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

SECTION 1. That Chapter 50, 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 67-5009, Idaho Code, and to read as follows:

67-5009. OFFICE OF OMBUDSMAN FOR THE ELDERLY. The office of ombudsman for the elderly is hereby created within the Idaho office on aging. The ombudsman shall be responsible for receiving, investigating and resolving or closing complaints made by or in behalf of residents of long term care facilities or persons aged sixty (60) or older living in the community. No representative of the office shall be liable for the good faith performance of official duties, and willful interference with representatives of the office is unlawful. Long term care facilities are prohibited from reprisals or retaliation against a resident or employee filing a complaint with, or furnishing information to, the office.

For the purposes of implementing the provisions of this section, the Idaho office on aging is hereby authorized as follows:

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

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

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

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

When the ombudsman investigates a complaint, he shall notify the complainant, if any, of the investigation and shall also notify the long term care facility or the state or county department or agency affected by the investigation of his intent to investigate. However, if no investigation takes place, he shall inform the complainant of the reasons therefor.

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

(a) Make the necessary inquiries and obtain such information he deems necessary.

(b) Hold private hearings.

(c) Enter during regular business hours, a long term care facility or state or county department or agency's premises.

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

Following an investigation, the ombudsman shall consult with the particular parties before issuing any opinion or recommendation that is critical to such parties.

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

The ombudsman, on December 30 of each year, shall submit to the governor, the director of the Idaho office on aging, the state advisory council on aging, the speaker of the house, president of the senate, the department of health and welfare bureau of licensing and certification, the president of the Idaho hospital association and the president of the Idaho health care association a report of the activities of the ombudsman for the elderly during the prior calendar year. This report shall include, but not be limited to, the number and general patterns of complaints received by the ombudsman, the action taken on such complaints, the results of such action, and any opinions or recommendations which further the state's capability in providing for statutory resolution of complaints.

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

Approved March 30, 1988.

CHAPTER 264
(S.B. No. 1240)

AN ACT

RELATING TO MANUFACTURED HOMES; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 21, TITLE 44, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR ADMINISTRATION, TO PROVIDE FOR FEES, TO PROVIDE FOR A MANUFACTURED HOME ADVISORY BOARD, TO PROVIDE FOR HEARINGS AND SUBPOENA POWERS, AND TO PROVIDE FOR PENALTIES; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 22, TITLE 44, IDAHO CODE, TO PROVIDE FOR MANUFACTURED HOMES INSTALLATION, TO PROVIDE FOR INSTALLATION PERMITS, TO PROVIDE FOR MANUFACTURER'S INSTRUCTIONS FOR STABILIZING SYSTEMS, TO PROVIDE REQUIREMENTS FOR INSTALLING STABILIZING SYSTEMS, AND TO PROVIDE REQUIREMENTS FOR PERMANENT FOUNDATIONS; AMENDING SECTIONS 39-4002, 39-4003, 39-4004, 39-4005, 39-4006, 39-4007, 39-4008, 39-4009, 39-4010 AND 39-4011, IDAHO CODE, TO STRIKE REFERENCE TO MOBILE HOMES AND TO PROVIDE NAME CHANGES; AMENDING SECTION 39-4103, IDAHO CODE, TO PROVIDE NAME CHANGES; AMENDING SECTIONS 39-4106, 39-4109, 39-4111, 39-4113, 39-4116, 39-4121, 39-4125, 39-4126, 39-4128 AND 44-103, IDAHO CODE, TO PROVIDE NAME CHANGES; AMENDING SECTIONS 49-2402, 49-2404, 49-2407, 49-2408, 49-2409 AND 49-2414, IDAHO CODE, TO STRIKE REFERENCE TO MOBILE HOMES AND MOBILE HOME DEALERS; AND PROVIDING AN EFFECTIVE DATE.

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 21, Title 44, Idaho Code, and to read as follows:

CHAPTER 21
MANUFACTURED HOME DEALER AND BROKER LICENSING

44-2101. DEFINITIONS. As used in this chapter:

(1) "Department" means the department of labor and industrial services of the state of Idaho.

(2) "Director" means the director of the department of labor and industrial services of the state of Idaho.

(3) "Manufactured home" means a structure as defined in section 39-4105(14), Idaho Code.

(4) "Manufactured home broker" means any person engaged in the business of selling or exchanging used units only, or who buys or sells or exchanges three (3) or more used units in any one (1) calendar year.

(5) "Manufactured home dealer" means any person engaged in the business of selling or exchanging new and used units, or who buys or sells or exchanges three (3) or more new and used units in any one (1) calendar year.

(6) "Manufactured home salesman" means any person who, for a salary, commission or compensation of any kind, is employed either

directly or indirectly, or regularly or occasionally by any manufactured home dealer to sell, purchase or exchange or to negotiate for the sale, purchase or exchange of units.

(7) "Manufactured home service company" means any person other than a manufactured home dealer primarily engaged in the service and setup of manufactured homes.

(8) "Mobile home" means a structure similar to a manufactured home, but built to a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(9) "Person" means a natural person, corporation, partnership, trust, society, club, association, or other organization.

(10) "Unit" means a manufactured home.

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The director is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules and regulations, not inconsistent with the provisions of this chapter and the laws of the state of Idaho, as he shall consider necessary, to provide for the licensing and bonding of manufactured home dealers and brokers, manufacturers and service firms, the licensing of manufactured home salesmen, and the establishment of a mandatory statewide manufactured home "set up" code. The director shall also define and prohibit any practice which is found to be deceptive.

(2) The director shall provide necessary rules and regulations providing that used units which have been determined to be or declared by the owner to be real property under the provisions of section 63-307B, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed broker, but not a manufactured home dealer or manufactured home salesman. A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed manufactured home dealer, broker, or manufactured home salesman, but not a real estate broker or a real estate salesman.

44-2103. FEES -- DEPOSIT OF FEES. (1) Fees for licensing of dealers, manufacturers, salesmen and service companies shall not exceed:

(a) Manufactured home dealer or broker's license $250.00
(b) Manufacturer license $250.00
(c) Manufactured home service company $125.00
(d) Manufactured home salesman's license ..... $ 25.00

(2) Fees for setup and service inspections shall not exceed fifty dollars ($50.00) plus appropriate travel expenses.

(3) All fees collected by the department under the provisions of this chapter shall be paid into the manufactured housing account, which is hereby created in the dedicated fund. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the account.

(4) The following performance bonding requirements shall be met before the issuance of these licenses:

(a) Manufacturer ..... $20,000 bond
(b) Manufactured home dealer ..... $20,000 bond
(c) Manufactured home broker ..... $20,000 bond
(d) Manufactured home service company ..... $ 5,000 bond.

44-2104. MANUFACTURED HOME ADVISORY BOARD. (1) A manufactured home advisory board is established in the department as a complaint and appeals board and to advise the director in the administration and enforcement of the provisions of this chapter. The board shall consist of five (5) members, appointed by the governor from licensed manufactured home dealers. The board shall serve the following terms commencing January 1, 1989: two (2) members shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of three (3) years. Thereafter board members shall be appointed for a term of three (3) years. Not more than three (3) members shall at any time belong to the same political party. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term. The members of the board shall be compensated as provided in section 59-509(f), Idaho Code, for each day spent in attendance at meetings of the board. A majority of members shall constitute a quorum, and a quorum at any meeting called by the director 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 director, or which by reason of any provision of this chapter, it has the power to determine.

(2) The board shall, on the first day of each January or as soon thereafter as practicable, elect a chairman, vice-chairman and secretary 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.

44-2105. HEARINGS -- SUBPOENA POWERS. In the preparation and conduct of hearings relating to the licensing of manufactured home dealers, brokers or salesmen, the director 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 for them and administer oaths, examine witnesses, and take evidence he considers pertinent to the determination of the matter, and any witnesses subpoenaed shall be entitled to the same fees and mileage as prescribed by law in judicial proceedings in the district courts of this state in civil actions. The party against whom the matter may be pending shall have the right to obtain from the director a subpoena for any witnesses

which he may desire at his hearing and depositions may be taken as in civil cases in the district court. The payment of fees and mileage shall be paid out of the manufactured homes board account, but departmental liability for such expenses shall be limited to the amount of fees paid by the manufactured home broker, dealer, or salesman, as the case may be, and all other expenses shall be borne by the party against whom the hearing judgment is rendered. Any information obtained from the books and records of the person complained against may not be used against him as the basis for a criminal prosecution under the laws of this state.

44-2106. PENALTY PROVISIONS. Whoever shall violate any provisions of this chapter, or any laws, rules or regulations promulgated pursuant to this chapter, shall be guilty of a misdemeanor and, upon conviction, be fined not more than five hundred dollars ($500) or imprisoned for not more than ninety (90) days, or both, for each offense.

SECTION 2. 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 22, Title 44, Idaho Code, and to read as follows:

CHAPTER 22
MANUFACTURED HOME SETUP CODE

44-2201. MANUFACTURED HOMES INSTALLATION. All mobile/manufactured homes and commercial coaches must be installed either in accordance with the manufacturer's instructions or in accordance with the provisions of this chapter. If the home is installed in accordance with the manufacturer's specifications, a copy of those specifications shall be in the home at the time of setup and inspection. If the home is installed in accordance with the provisions of this chapter, then a copy of the state setup requirements shall be included with the home. All dimensions required by this chapter are considered to be nominal.

The homeowner or park owner must ensure that the ground on which a mobile/manufactured home is to be installed has been improved as necessary to provide a proper base for the unit and that the area beneath it has adequate drainage.

44-2202. INSTALLATION PERMITS REQUIRED. The owner or the installer/inspector of a mobile/manufactured home must obtain an installation permit from the department of labor and industrial services before installing a mobile/manufactured home that will be used as a residence on a building site or in a park. The applicant shall include with the application for the permit such permit fee as may be set by the department by rule and regulation for such permit. No installer/inspector may submit an application for permit for installation of a mobile/manufactured home who has not previously furnished the department proof of coverage by a surety bond in the amount set in section 44-2103, Idaho Code, and is properly licensed by the department. The surety bond must be in effect at the time of the application for the installation permit. If the owner installs his own home, then upon completion, he shall contact the department of labor and indus-

trial services for an inspection. Fees for such inspection shall be established by rule.

44-2203. MANUFACTURER'S INSTRUCTIONS ON STABILIZING SYSTEM MAY BE USED. (1) Installation instructions supplied by the manufacturer of the mobile/manufactured home or commercial coach specifying the location and capacity of stabilizing devices may be used. If the use of perimeter stabilizing systems is required in the manufacturer's instructions, such systems must be used.

(2) If a mobile/manufactured home or commercial coach is installed pursuant to the manufacturer's installation instructions, a copy of such instructions must be delivered to the mobile/manufactured home owner or commercial coach owner by the dealer or installer.

44-2204. REQUIREMENTS FOR INSTALLING STABILIZING SYSTEMS. Mobile/manufactured homes or commercial coaches not installed pursuant to the manufacturer's installation instructions must be installed according to this section.

(1) Footings must be constructed of:

(a) Precast or poured-in-place concrete, not less than 16 inches x 16 inches x 4 inches, or

(b) Two concrete pads, 4 inches x 8 inches x 16 inches, installed side by side, or

(c) Other materials and sizes approved by the division which provide equivalent load-bearing capacity and resistance to decay or when justified by soil compaction analysis.

(2) Supports must be one (1) of the following:

(a) Steel piers sufficient to carry the weight of the mobile/manufactured home or commercial coach must be installed under the supporting frame, spaced at a distance not exceeding 6 feet on center, with the end piers not further than 2 feet from the end of the mobile/manufactured home or commercial coach. No steel pier may be used unless it has been approved by the department and has a minimum 3,000 pounds of compressive strength.

(b) Concrete, cinder or pumice block piers, minimum of 3,000 pounds compressive strength, must be installed under the supporting frame, spaced at a distance not exceeding 6 feet on center, with the piers not further than 2 feet from each end of the mobile/manufactured home. Concrete, cinder or pumice block piers must be constructed of blocks 8 inches x 8 inches x 16 inches. The cells of the blocks must be vertical and placed perpendicular (crosswise) to the main frame. All block piers must be topped with a solid concrete, cinder or pumice or wood cap measuring 8 inches x 16 inches x 2 inches, minimum size; no more than 2 wooden wedges or shims; or with other material approved by the department. No other material will be approved unless it provides equivalent load-bearing capacity. All materials having ground contact must be resistant to decay.

(c) Block piers more than 40 inches but not more than 80 inches in height must be constructed by using double tiers with interlocking concrete, cinder or pumice blocks. Block piers more than 60 inches in height must be constructed of concrete, cinder or

pumice blocks with 1/2 inch reinforcing steel bars inserted vertically and the cells of the blocks poured solid with concrete.

(3) A mobile/manufactured home of more than one section must have centerline blocking at end walls and at any other point of connection of the sections of the mobile/manufactured home that are at a ridge beam bearing support.

(4) The house will be set so that 75% of the area under the home has at least 12 inches of clearance between the bottom of the I-beam and the ground level.

(5) Whatever type of facia or skirting is installed on any mobile/manufactured home shall be properly vented, with no less than eight minimum 96 square inch vents (net size of screen) spaced no more than 25 feet apart, with one vent no more than 3 feet from each corner in both directions.

44-2205. REQUIREMENTS FOR PERMANENT FOUNDATIONS. The following requirements shall apply to the construction of a permanent foundation. Either system A or B shall be acceptable.

(1) System A:

(a) I-beam ribbon footings: Ribbon footings shall be poured concrete continuous footings at least 20 inches wide and 8 inches deep; placed on firm, undisturbed soil below the prevailing frost line. Slabs shall be level and parallel to, and centered on, the main frame beams and extending to the end of the frames. Slabs shall contain three number 4 reinforcing rods evenly spaced.

(b) Piers: Blocking shall have a maximum spacing of 6 feet.

(c) Center-line support: The minimum center-line support base block shall be 16 inches x 16 inches x 4 inches. However, when manufacturer's set-up instructions require larger supports, then those requirements shall be met.

(d) Anchoring: Weather-resistant anchor ties shall be embedded in the outside ribbon footing within 3 feet of each end and a maximum of 12 feet between centers and shall be tied to the I-beam with cable or zinc-coated strapping. Anchor ties shall be designed for a 3,150-pound working load and withstand a 50% overload (4,750 lbs.).

(e) Crawl-space enclosure: The crawl space beneath the home shall have a perimeter facia enclosure adequately secured to the perimeter of the home and designed and supported to resist all forces to which it may be subject, without transmitting those forces to the building superstructure. The bottom of the enclosure shall be below the prevailing frost level. Minimum venting of the perimeter facia enclosure shall be one minimum 96 square inch vent (net size of screen) every 25 feet, and to include one 3 feet from each corner in both directions. No facia shall have less than 8 vents.

(2) System B:

(a) Perimeter support foundation: The foundation shall be erected with or without a basement on site with a minimum of 6 inch x 16 inch poured concrete perimeter footing below prevailing frost level. The foundation shall have a minimum 24 inch high, adequately vented, perimeter stemwall of 6 inch poured concrete, or 8 inch thick mortared concrete block with number 3 reinforcing

rebar every 48 inches, or all-weather wood with minimum 1/2 inch plywood facia secured with galvanized 8d nails to 2 inch x 4 inch plates and studs on 16 inch centers. The concrete or masonry wall shall have a minimum 2 inch x 4 inch construction redwood or pressure-treated sill plate secured 6 feet on center with 1/2 inch anchor bolts. The home shall be supported by the perimeter foundation.

(b) Piers: Blocking shall be a maximum of 12 feet on center with a minimum 16 inch x 16 inch x 4 inch concrete pads on undisturbed soil.

(c) Anchoring: Weather-resistant anchoring devices shall be embedded in the sidewall footing 36 inches from each end and a maximum of 12 feet between centers and shall be tied to the I-frame with cable or zinc-coated strapping designed for a 4,750 pound work load.

(d) Center-line support: The center line of the home shall be supported with minimum 24 inch x 24 inch x 8 inch poured concrete footing located at each structural load bearing support beam. Each pad shall have four number 4 rebar reinforcing and shall be placed on undisturbed soil.

(3) General considerations for both Systems A and B:

(a) Center-line blocking: A mobile/manufactured home of more than one section must have center-line blocking at end walls and at any other point of connection of the sections of the mobile/manufactured home that are at a ridge beam bearing support.

(b) Vapor barrier: The ground in the crawl space shall be covered by a minimum 4 mil visqueen vapor barrier, if required by the manufacturer.

(c) Access: A crawl space between the bottom floor structure of the mobile/manufactured home and the footing pad must be at least 24 inches in height. Access to the crawl space must be by an opening which is 18 inches x 24 inches or larger. The opening shall have a tight fitting cover provided. Pipes, ducts and other obstructions other than structural materials must not interfere with access to or within the space below the floor. Crawl spaces and other spaces below floors must be ventilated by an approved mechanical means or by no less than eight minimum 96 square inch vents (net size of screen) to be spaced no more than 25 feet apart, with one vent no more than 3 feet from each corner in both directions.

(d) Site grading: Exterior grade shall be a minimum of 8 inches below the bottom of the unit. The ground shall slope at least 6 inches for 10 feet around the home.

SECTION 3. That Section 39-4002, Idaho Code, be, and the same is hereby amended to read as follows:

39-4002. COMPLIANCE WITH LAW REQUIRED. It is unlawful for any person, firm, partnership, association or corporation to sell or offer for sale within this state any ~~mobile~~ manufactured home or recreational vehicle that is not manufactured in compliance with this act after ~~its effective date~~ March 8, 1971.

SECTION 4. That Section 39-4003, Idaho Code, be, and the same is hereby amended to read as follows:

39-4003. DIRECTOR OF DEPARTMENT -- DUTIES. (1) The director shall by rule:

(~~A~~a) Define the terms "~~mobile~~ manufactured homes" and "recreational vehicles" to be consistent with national standards and the use of such terms in industry, and

(~~B~~b) Adopt minimum health and safety standards for plumbing, heat producing and electrical systems installed in ~~mobile--homes--and~~ recreational vehicles while being manufactured ~~together-with-standards--for--body-and-frame-design-and-construction-requirements-of mobile-homes. Such-h~~Health and safety standards shall be reasonably consistent with nationally recognized standards to protect the health and safety of occupants and users of ~~mobile--homes--and~~ recreational vehicles.

(2) Such rules shall be enforced by the director who may delegate to the Idaho electrical board and the Idaho plumbing board the administration and enforcement of such health and safety standards as involve plumbing, heat producing and electrical systems.

SECTION 5. That Section 39-4004, Idaho Code, be, and the same is hereby amended to read as follows:

39-4004. INSPECTION AND ENFORCEMENT FEES -- SCHEDULE AUTHORIZED. The director is authorized to establish a schedule of fees to pay the cost of inspection and enforcement of this chapter without recourse to tax subsidies. Such fee schedule shall be consistent with the actual cost of maintaining the program.

(1) The director shall be authorized to participate in the fee distribution system of the U.S. department of housing and urban development set out in 24 CFR Part 3282. The director shall establish a monitoring inspection fee in an amount established by the secretary of the U.S. department of housing and urban development. This monitoring inspection fee shall be an amount paid by each ~~mobile~~ manufactured home manufacturer in the state for each ~~mobile~~ manufactured home produced by the manufacturer in the state. This fee shall be in addition to any in-plant inspection agency (IPIA) fees assessed by the director, which shall be consistent with the actual cost of providing such inspections.

(2) The monitoring inspection fee shall be paid by the manufacturer to the secretary of the U.S. department of housing and urban development who shall distribute the fees collected from all ~~mobile~~ manufactured home manufacturers among the approved and conditionally-approved states based on the number of new ~~mobile~~ manufactured homes whose first location after leaving the manufacturing plant is on the premises of a distributor, dealer, or purchaser in that state.

SECTION 6. That Section 39-4005, Idaho Code, be, and the same is hereby amended to read as follows:

39-4005. ISSUANCE OF INSIGNIA -- COST. The director shall issue insignia for ~~mobile--homes--and~~ recreational vehicles which meet the requirements of the rules and regulations promulgated by the director. The cost of the insignia, if issued, shall be included as a part of the fee schedule.

SECTION 7. That Section 39-4006, Idaho Code, be, and the same is hereby amended to read as follows:

39-4006. CONVERSION OF SYSTEM FOLLOWING ISSUANCE OF INSIGNIA PROHIBITED. It is unlawful for any person to alter or convert, or cause to be converted, the plumbing, heat producing or electrical system of a ~~mobile~~ manufactured home or recreational vehicle which bears an insignia of approval, when such ~~mobile~~ manufactured home or recreational vehicle is used, occupied, sold or offered for sale within this state, and was manufactured subsequent to ~~the effective date~~ March 8, 1971 ~~of this act~~, unless ~~such~~ the alteration or conversion is in compliance with rules adopted by the director. The director shall adopt rules providing requirements for such alterations and conversions.

SECTION 8. That Section 39-4007, Idaho Code, be, and the same is hereby amended to read as follows:

39-4007. RECIPROCITY OF STANDARDS WITH OTHER STATES. If the director determines that standards for ~~mobile--homes--or~~ recreational vehicles which have been adopted by the statutes or regulations of another state are at least equal to the standards adopted by the director, he may so provide by regulation. Any ~~mobile home or~~ recreational vehicle which such other state has approved as meeting its standards, shall be deemed to meet the standards adopted by the director.

If the director determines that standards for ~~mobile homes and~~ recreational vehicles have not been adopted by another state, and ~~mobile homes and~~ recreational vehicles from that state are transported into this state to be offered for sale, then the director may certify personnel to inspect the plumbing, heat producing and electrical systems of such ~~mobile homes and~~ recreational vehicles. If the director shall determine that ~~said~~ those units meet the standards of this state, then the product shall be acceptable and the director may issue insignia for ~~said mobile homes or~~ those recreational vehicles.

SECTION 9. That Section 39-4008, Idaho Code, be, and the same is hereby amended to read as follows:

39-4008. EXEMPTION FROM LOCAL ORDINANCES OR REGULATIONS. No ~~mobile~~ manufactured home or recreational vehicle which meets the standards prescribed by this ~~act~~ chapter and the rules adopted pursuant thereto shall be required to comply with any local ordinances or regulations adopting standards relating to plumbing, heat producing and electrical systems in ~~mobile~~ manufactured homes and recreational vehi-

cles.

SECTION 10. That Section 39-4009, Idaho Code, be, and the same is hereby amended to read as follows:

39-4009. CERTIFICATION OF PLANT SUPERVISOR -- BASIS OF EXAMINATION -- ISSUANCE OF CERTIFICATE OF COMPETENCY -- FEES -- NUMBER OF SUPERVISORS REQUIRED -- AUTOMATIC CERTIFICATION. The director is ~~hereby~~ authorized to certify personnel in plants operating within the state of Idaho to supervise the installation of the plumbing, heat producing and electrical systems in the manufacturing of ~~mobile~~ manufactured homes and recreational vehicles. The director shall conduct examinations and pass upon the qualifications of applicants and shall issue certificates of competency to such applicants as are found to be qualified to supervise the installation of plumbing, heat producing and electrical systems in manufacturing ~~mobile~~ manufactured homes and recreational vehicles. The director shall base the examination upon the standards promulgated by this ~~act~~ chapter. Upon certification of examination results, the director shall issue certificates of competency to the successful applicants. The director shall determine the time and place for examinations, the examination fee and the fee for certificates of competency. No other form of certification or licensing shall be required for employees of manufacturers of ~~mobile~~ manufactured homes or recreational vehicles in the installation of the plumbing, heat producing or electrical systems in the manufacturing of ~~mobile~~ manufactured homes or recreational vehicles, provided, however, that each manufacturer of ~~mobile~~ manufactured homes or recreational vehicles shall be required to have only (a) one (1) certified supervisor for plumbing systems, and (b) one (1) certified supervisor for heat producing systems, and (c) one (1) certified supervisor for electrical systems. Certified supervisors shall be on duty in the plant at all times that a ~~mobile~~ manufactured home or recreational vehicle plant is manufacturing plumbing, heat producing or electrical systems. Journeymen plumbers shall be automatically certified as supervisors for plumbing and heat producing systems. Journeymen electricians shall be automatically certified as supervisors for electrical systems. Certified supervisors shall not be required to be journeymen plumbers or journeymen electricians.

SECTION 11. That Section 39-4010, Idaho Code, be, and the same is hereby amended to read as follows:

39-4010. WARRANTY BY MANUFACTURERS. Any person, firm, partnership, association or corporation constructing, in whole or in part, a ~~mobile~~ manufactured home or recreational vehicle in this state, or constructing outside of this state but selling at retail in this state, shall issue a warranty in writing to the buyer containing the following terms:

(1) That the ~~mobile~~ manufactured home or recreational vehicle is free from any substantial defects in materials or workmanship in the structure, plumbing, heating and electrical systems and all appliances and other equipment installed or included therein or thereon by the

manufacturer.

(2) That the manufacturer shall take appropriate corrective action at the site of the ~~mobile~~ manufactured home in instances of substantial defects in materials or workmanship which become evident within one (1) year from the date of delivery of the ~~mobile~~ manufactured home to the buyer, provided the buyer gives written notice of such defects to the manufacturer or dealer at their business address not later than one (1) year and ten (10) days after date of delivery.

The warranty provided herein shall be in addition to and not in derogation of any other right or privilege which the buyer may have as otherwise provided by law or instrument. The manufacturer shall not require the buyer to waive his rights under this section and any waiver shall be deemed contrary to public policy and shall be void and unenforceable. Any action instituted by a buyer for failure of the manufacturer to comply with the provisions of this act shall be considered as an action within the provisions of section 12-120, Idaho Code, providing for recovery of attorney fees.

SECTION 12. That Section 39-4011, Idaho Code, be, and the same is hereby amended to read as follows:

39-4011. VIOLATIONS. (1) Any person who violates any of the following provisions relating to ~~mobile~~ manufactured homes, or any regulation promulgated by the Idaho department of labor and industrial services to administer the provisions of this chapter shall be liable for a civil penalty of not to exceed one thousand dollars ($1,000) for each such violation. Each such violation shall constitute a separate violation with respect to each ~~mobile~~ manufactured home, except that the maximum penalty shall not exceed one million dollars ($1,000,000) for any related series of violations occurring within one (1) year from the date of the first violation. Violations include:

(a) Manufacturing for sale, leasing, selling, offering for sale, or introducing or delivering or importing, in the state of Idaho, any ~~mobile~~ manufactured home which is manufactured on or after the effective date of any applicable federal ~~mobile~~ manufactured home construction and safety standard which does not comply with such standard;

(b) Failure or refusal to permit entry or inspection as required by section 39-4003A, Idaho Code;

(c) Failure of manufacturer to give notification of any defects in any ~~mobile~~ manufactured home, in the manner required by 42 USC 5414;

(d) Failure to furnish to distributor or dealer at the time of delivery of each ~~mobile~~ manufactured home produced by such manufacturer, certification that said ~~mobile~~ manufactured home conforms to all applicable federal construction and safety standards or issuance of a certification to the effect that a ~~mobile~~ manufactured home conforms to all applicable federal ~~mobile~~ manufactured home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(e) Failure of any manufacturer, distributor or dealer of ~~mobile~~ manufactured homes to establish and maintain such records, make such reports, and provide such information as the director of the Idaho department of labor and industrial services may reasonably require to enable him to determine whether such manufacturer, distributor or dealer has acted or is acting in compliance with this chapter and with federal ~~mobile~~ manufactured home construction and safety standards; or failure to permit, upon request of a person duly designated by the director, inspection of appropriate books, papers, records and documents relative to determining whether such manufacturer, distributor or dealer has acted or is acting in compliance with federal ~~mobile~~ manufactured home construction or safety standards.

(2) Any person or officer, director or agent of a corporation who wilfully or knowingly violates the provisions enumerated in subsection 1(a) through (e) of this section, in any manner which threatens the health or safety of any purchaser shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(3) Violations of this chapter shall be tried in any court of competent jurisdiction within the state of Idaho.

SECTION 13. That Section 39-4103, Idaho Code, be, and the same is hereby amended to read as follows:

39-4103. SCOPE -- EXEMPTIONS. (1) The provisions of this ~~act~~ chapter shall apply to all buildings and construction within the state of Idaho, except as otherwise ~~herein~~ provided in this chapter.

(2) Structures used primarily for industrial chemical process purposes and for mineral extraction and mineral processing purposes shall be exempt from this ~~act~~ chapter except for erection and fabrication of new structures, and equipment as required ~~therein~~ to condition the building for personnel comfort and safety. Equipment in this regard shall mean and shall be limited to facilities or installations for heating, ventilating, air conditioning, refrigerating facilities associated with air conditioning, elevators, dumbwaiters, escalators, and boilers and pressure vessels associated with building heating systems.

(3) Temporary facilities, as defined in section 39-4105(16), Idaho Code, shall be exempt from ~~this act~~ the provisions of this chapter, except for ~~such~~ temporary facilities which are classified as a ~~manufactured~~ modular building under the provisions of section 39-4121, Idaho Code, and/or a commercial coach under the provisions of section 39-4122, Idaho Code.

(4) Farms, as defined in section 39-4105(19), Idaho Code, shall be exempt from ~~this act~~ the provisions of this chapter except for any structure which is classified as a ~~manufactured~~ modular building under the provisions of section 39-4121, Idaho Code, and/or a commercial coach under the provisions of section 39-4122, Idaho Code, or a ~~mobile~~ manufactured home under the provisions of chapter 40, title 39, Idaho Code.

SECTION 14. That Section 39-4106, Idaho Code, be, and the same is hereby amended to read as follows:

39-4106. IDAHO BUILDING CODE ADVISORY BOARD CREATED -- MEMBERSHIP -- APPOINTMENT -- TERMS -- QUORUM -- COMPENSATION -- MEETINGS. (1) The Idaho building code advisory board is ~~hereby--created~~ established within the department ~~of-labor-and-industrial-services~~ as an appeals ~~board~~, code adoption and variance ~~board~~, and advisory board, to be appointed by the governor, and shall consist of seven (7) members: two (2) members of the general public, one (1) of which can be a fire official; one (1) registered engineer or licensed architect; one (1) local building inspector; one (1) homebuilder or general contractor; one (1) representative of the ~~manufactured~~ modular building industry; and one (1) representative of the ~~mobile~~ manufactured home or recreational vehicle industry. Board members shall be appointed for a term of four (4) years. Three (3) consecutive failures by a member to attend meetings of the board without reasonable cause shall constitute cause for removal of the members from the board by the governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(2) The members of the board shall, at their first regular meeting following the effective date of this ~~act~~ chapter and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. A majority of the members of the board shall constitute a quorum provided that said majority shall include at least one (1) public member.

(3) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(g), Idaho Code, for each day spent in attendance at meetings of the board.

(4) The board shall meet for regular business sessions at the call of the director, chairman, or at the request of three (3) members of the board, provided that the board shall meet at least biannually.

SECTION 15. That Section 39-4109, Idaho Code, be, and the same is hereby amended to read as follows:

39-4109. ADOPTION OF CODES. The following codes are hereby adopted for the state of Idaho:

(1) (a) The 1982 Uniform Building Code Standards, published by the International Conference of Building Officials.

(b) The 1982 Uniform Building Code, published by the International Conference of Building Officials, and appendices thereto, excepting appendices chapter 1 as it relates to existing buildings, chapter 11 as it relates to agricultural buildings and structures, chapter 12 as it relates to group R division 3 occupancies, chapter 35 as it relates to sound transmission control, and chapter 70 as it relates to excavation and grading;

(2) The Uniform Mechanical Code, 1973, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials;

(3) American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped,

ANSI A117.1-1961 (R-1971), published by the American National Standards Institute;

(4) Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1-1971, and ANSI A17.1b-1973, published by the American National Standards Institute;

(5) The Life Safety Code, National Fire Protection Association Code number 101-1973, published by the National Fire Protection Association;

(6) National Fire Protection Association Code numbers 501B-1974 (ANSI A119.1), and 501C-1974 (ANSI A119.2), and the accepted engineering practice standards therein, for compliance by the ~~mobile~~ manufactured home and recreational vehicle industry, published by the National Fire Protection Association; and

(7) National Fire Protection Association Code numbers 501A-1974, and 501D-1974, published by the National Fire Protection Association.

SECTION 16. That Section 39-4111, Idaho Code, be, and the same is hereby amended to read as follows:

39-4111. PERMITS REQUIRED. It shall be unlawful for any person~~, firm, copartnership, association or corporation~~ to do, or cause or permit to be done, ~~after the adoption of this act,~~ whether acting as principal, agent or employee, any construction, improvement, extension or alteration of any building, residence or structure, coming under the purview of this ~~act~~ chapter, in the state of Idaho without first procuring a permit from the appropriate agency authorizing such work to be done.

For the purposes of permit requirements for recreational vehicles, commercial coaches and ~~manufactured~~ modular buildings, a single permit covering all aspects of construction shall be issued by the director.

SECTION 17. That Section 39-4113, Idaho Code, be, and the same is hereby amended to read as follows:

39-4113. PLAN CHECKING -- MAXIMUM FEES. (1) Notwithstanding the provisions of section 302(b)4, Uniform Building Code, 1982, the director shall establish a program for total plan checking and permit issue entirely within the safety inspection division of the department.

(2) Plan review fees shall be as required by section 304(b), Uniform Building Code, 1982.

(3) Each manufacturer of recreational vehicles, commercial coaches and ~~manufactured~~ modular buildings shall submit the building plans for every model of such structure to the director for the purpose of review. The manufacturer must certify that each such building plan meets the appropriate construction and safety standards in force at that time before the model involved is produced.

SECTION 18. That Section 39-4116, Idaho Code, be, and the same is hereby amended to read as follows:

39-4116. ENFORCEMENT -- ASSISTANCE. (1) Local governments may, effective July 1 of any year, by affirmative action by resolution or

ordinance taken by the governing board of a local government, prior to December 31 of the previous year, comply with the codes enumerated in this ~~act~~ chapter, and ~~such~~ codes, rules and regulations promulgated pursuant to this ~~act~~ chapter, and ~~such~~ inspection and enforcement may be provided by the local government, or may be provided by the department if such local government opts to comply with the provisions of this ~~act~~ chapter but not to provide ~~such~~ inspection and enforcement, except that the department shall retain jurisdiction of inspection and enforcement of construction standards ~~enumerated---in--section 39-4109(10),-Idaho-Code,~~ and set-up codes for ~~mobile~~ manufactured homes and construction standards for recreational vehicles, and for inspection and enforcement of construction standards for ~~manufactured~~ modular buildings and commercial coaches, whether or not a local government opts to comply with the other provisions of this ~~act~~ chapter. Any decision to comply with the provisions of this ~~act~~ chapter must be communicated to the director in writing, and compliance must be for an entire year commencing July 1. The minimum codes a local government must adopt in order to opt into this ~~act~~ chapter are the latest editions of the Uniform Building Code and the Uniform Mechanical Code. The remaining codes enumerated in the act are optional as to whether or not the local government wishes to adopt them.

(2) All building code inspectors, including those of local governments which have opted to comply with the provisions of this ~~act~~ chapter, shall be certified as provided by section 39-4108, Idaho Code.

(3) The department may contract to assist a local government in such matters as technical assistance, code interpretation, education, training, personnel, and information and dissemination of information and statistics.

(4) The department may conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose, it may cooperate and contract with educational institutions, local, state, regional or national building officials' organizations, and any other appropriate organization.

(5) Local governments who do not ~~want-to-opt-into-the-act~~ exercise their option may at any time of the year contract with the department ~~of-labor-and-industrial-services~~ to administer the building code enforcement program for them. The terms of such a contract shall be negotiated between the local unit of government and the director.

SECTION 19. That Section 39-4121, Idaho Code, be, and the same is hereby amended to read as follows:

39-4121. ~~MANUFACTURED~~ MODULAR BUILDINGS -- INSIGNIA OF APPROVAL -- INSTALLATION -- MODIFICATION. (1) No ~~manufactured~~ modular building shall be installed on a building site in this state on or after July 1, 1975, unless it is approved and bears the insignia of approval of the department.

(2) Any ~~manufactured~~ modular building bearing an insignia of approval of the department shall be deemed to comply with codes, laws, or regulations enacted by the state of Idaho which govern the manufac-

turing and construction of such building.

(3) No ~~manufactured~~ modular building which has been approved by the department shall be in any way modified prior to or during installation by a ~~manufacutrer~~ manufacturer or installer unless approval of ~~such~~ that modification is first made by the department.

SECTION 20. That Section 39-4125, Idaho Code, be, and the same is hereby amended to read as follows:

39-4125. INJUNCTION -- AFFIDAVIT SETTING OUT NONCONFORMITY. The department may obtain from a district court having jurisdiction, a temporary injunction enjoining the construction of a building(s) or installation of ~~manufactured~~ modular buildings on any building site upon affidavit of the department that such building does not conform to the requirements of this ~~act~~ chapter or to the rules and regulations adopted pursuant to this ~~act~~ chapter or any other ~~act~~ chapter of the state of Idaho relating to building construction. The affidavit must set forth such violations in detail. The injunction may be made permanent, in the discretion of the court.

SECTION 21. That Section 39-4126, Idaho Code, be, and the same is hereby amended to read as follows:

39-4126. VIOLATIONS MISDEMEANORS. (1) Any person who wilfully violates any provision of this ~~act~~ chapter or who wilfully violates any provision of the codes enumerated ~~herein~~ this chapter or promulgated by the director pursuant to this ~~act~~ chapter, is guilty of a misdemeanor, and upon conviction, shall be fined not more than three hundred dollars ($300), or imprisoned for not more than ninety (90) days or by both ~~such~~ fine and imprisonment. Violations of this ~~act~~ chapter shall be tried in any court of competent jurisdiction within the state of Idaho.

(2) A separate violation is deemed to have occurred with respect to each building not in compliance with this ~~act~~ chapter. Each day such violation continues constitutes a separate offense.

(3) The misdemeanor provisions of subsections (1) and (2) of this section shall not apply to ~~mobile~~ manufactured homes. Violations of ~~mobile~~ manufactured home construction and safety standards shall be tried in any court of competent jurisdiction.

SECTION 22. That Section 39-4128, Idaho Code, be, and the same is hereby amended to read as follows:

39-4128. RECIPROCITY OF STANDARDS WITH OTHER STATES. (1) If the director determines that standards for ~~manufactured~~ modular buildings and commercial coaches which have been adopted by the statutes or regulations of another state are at least equal to the standards adopted by the director, the director may so provide by regulation.

(2) If the director determines that standards for ~~manufactured~~ modular buildings and commercial coaches have not been adopted by another state, and ~~manufactured~~ modular buildings and commercial coaches from that state are transported into this state to be offered

for sale, the director may certify personnel to inspect such ~~manufactured~~ modular buildings or commercial coaches. If the director shall then determine that said units meet the standards of this state, the product shall be acceptable and the director may issue insignia for said ~~manufactured~~ modular building or commercial coach.

SECTION 23. That Section 44-103, Idaho Code, be, and the same is hereby amended to read as follows:

44-103. DUTIES OF THE DIRECTOR. The director shall have and exercise the following powers:

(a) To acquire and disseminate among the people of the state information on subjects connected with labor, relations between employees, employers and the public, hours of labor, wages and working conditions, including safety and sanitary standards and practices, the best means of minimizing the economic effect of disputes between workers and employers, and of promoting the welfare of all working people.

(b) To represent the state of Idaho in dealings with the Federal Mediation and Conciliation Service of the United States.

(c) To represent the state of Idaho in dealings with the department of labor of the United States with respect to apprentice training programs.

(d) To represent the state of Idaho in dealings with the Veterans' Administration of the United States with respect to job training programs.

(e) To file at the close of each fiscal year a report in writing to the governor, and the legislature, concerning the condition of the affairs of his office, together with recommendations for ~~such~~ legislation as may appear to him to be needful.

(f) To cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721, and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report ~~thereof~~ to the commission. The director shall make ~~such~~ recommendations to the commission as will aid the commission in its administration of sections 72-720, 72-721, and 72-723, Idaho Code, provided, however, that nothing herein ~~contained~~ shall be construed as transferring to the director any of the authority or powers now vested in the industrial commission.

(g) To administer the inspection and certification procedures in chapter 22, title 39, Idaho Code, relating to liquefied petroleum gases; ~~in chapter 23, title 39, Idaho Code, relating to safety appliances on steam vessels carrying passengers for hire;~~ in chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; in chapter 40, title 39, Idaho Code, relating to ~~mobile~~ manufactured homes and recreational vehicles; in chapter 41, title 39, Idaho Code, relating to ~~factory-built housing~~ modular buildings; and in chapter 10, title 54, relating to electrical contractors and journeymen.

(h) To represent the state of Idaho in dealings with the mine enforcement and safety administration of the Department of Interior of the United States.

SECTION 24. 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) "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) "Vehicle dealer" shall mean any person engaged in the business of selling or exchanging vehicles, or who buys and sells, or exchanges three (3) or more 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.

No insurance company, finance company, public utility company, or other person coming into possession of any 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 vehicle dealer or used vehicle dealer under the terms and provisions of this 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.

(7) "Vehicle salesperson" 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 vehicle dealer to sell, purchase or exchange or to negotiate for the sale, purchase or exchange of vehicles.

(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.

(8) "Director" shall mean the director of the Idaho transportation department.

(9) "Department" shall mean the Idaho transportation department acting directly or through its duly authorized officers and agents.

(10) "Principal place of business" shall mean 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.

(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 vehicles, of a type subject to registration under the motor vehicle act, at an established place of business. ~~Provided, however, the term "manufacturer" shall not include mobile home manufacturer.~~

(13) "Distributor" shall mean any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this area, and who in whole or in part sells or distributes new vehicles to 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 vehicles for the sale of vehicles to distributors, or for the sale of vehicles to 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 vehicles or by a factory branch for the purpose of making or promoting a sale of his, its, or their 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 vehicles for the purpose of making or promoting the sale of his, its, or their 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 vehicle dealer and a manufacturer of new 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 section 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 ~~c~~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 25. 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 ~~eight~~ seven (~~8~~7) members; five (5) members to be appointed from licensed dealers selling new vehicles~~,--with~~ and 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 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. The governor shall appoint the two (2) 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 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 26. 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) New vehicle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new and used 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 vehicle salespersons.

(2) Used vehicle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging used 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 vehicle salespersons.

(3) Vehicle salesperson's license. This license shall permit the licensee to engage in the activities of a vehicle salesperson as defined in section 49-2402, Idaho Code. Salesperson's licenses shall be nonexpiring, providing employment remains with the sponsoring dealership license issued under this chapter.

(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 vehicle salespersons.

(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 vehi-

cle salespersons.

(6) ~~Mobile-home-or-t~~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 vehicle salespersons.

(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.

(9) Vehicle manufacturer's license. This license shall permit the licensee to engage in the business of constructing or assembling vehicles, of the type subject to registration under the vehicle act of the state of Idaho at an established place of business.

(10) Distributor, factory branch, distributor branch. This license shall permit the licensee to engage in the business of selling and distributing vehicles, parts, and accessories to their franchised dealers.

(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 vehicles, parts, and accessories.

(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.

(13) The department may issue a probationary vehicle salesperson'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 27. 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) Vehicle dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

(b) Used vehicle dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

(c) Vehicle salesperson's license, five dollars ($5.00).

(d) New motorcycle or motor scooter dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

(e) Used motorcycle or motor scooter dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

(f) ~~Mobile-home-or--t~~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) Vehicle manufacturer's license, one hundred dollars ($100).

(i) Distributor-factory branch-distributor branch license, one hundred dollars ($100).

(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.

(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.

(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.

(5) When an applicant or licensee is conducting more than one (1) category of business as defined in section 49-2402(3), Idaho Code, 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 ($125) for initial application and a fee of one hundred dollars ($100) for a renewal application.

SECTION 28. That Section 49-2409, Idaho Code, be, and the same is hereby amended to read as follows:

49-2409. LICENSE BOND. Before any vehicle 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 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-t~~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. The bond required in this section may be continuous in form and the total aggregate liability on the bond shall be limited to the payment of the amounts set forth in this section.

SECTION 29. 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:

(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.

(b) To violate any of the terms and provisions of this act or any of the rules and regulations promulgated by the department under the authority herein conferred upon him.

(c) To knowingly purchase, sell or otherwise acquire or dispose of a stolen vehicle.

(d) To violate any law of the state respecting commerce in vehicles or any lawful rule or regulation respecting commerce in vehicles promulgated by any licensing or regulating authority now existing or hereafter created by the laws of the state.

(e) 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.

(f) To engage in a type of business respecting the selling or exchanging of new or new and used 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.

(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 prices 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 30. This act shall be in full force and effect on and after January 1, 1989.

Approved March 31, 1988.

CHAPTER 265
(S.B. No. 1245)

AN ACT

RELATING TO RECODIFICATION OF THE MOTOR VEHICLE LAWS; REPEALING SECTIONS 49-101, 49-126A, 49-127C, 49-147, 49-150 THROUGH 49-154, 49-156, 49-201, 49-203, 49-206 THROUGH 49-212, 49-224, 49-227, 49-232, 49-243, 49-301, 49-328, 49-342 THROUGH 49-345, 49-350, 49-351, 49-353, 49-356 THROUGH 49-358, 49-401, 49-423, 49-427 THROUGH 49-430, 49-433, 49-501 THROUGH 49-579, 49-602, 49-627, 49-701, 49-707, 49-801, 49-801B, 49-808, 49-845 , 49-904, 49-910, 49-917, 49-1119, 49-1125, 49-1126, 49-1501, 49-1504 THROUGH 49-1511, 49-1536, 49-1538 THROUGH 49-1540, 49-1703, 49-1801, 49-1808, 49-1913, 49-1914, 49-2102, 49-2104, 49-2201, 49-2208, 49-2301, 49-2329, 49-2330, 49-2402, 49-2422, 49-2432, 49-2501, 49-2503, 49-2515, 49-2601, 49-2602, 49-2614, 49-2701, 49-2702, 49-2806, 49-3101, 49-3102, 49-3103, 49-3109, 49-3201 AND 49-3202, AS ENACTED IN SECTION 1, CHAPTER 371, LAWS OF 1980, 49-3401, 49-3410, 49-3412, 49-3501, 49-3601, 49-3607 AND 49-3622, IDAHO CODE; AMENDING TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 1, TITLE 49, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-403, IDAHO CODE, TO PROVIDE FOR DISABLED VETERAN LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-411, IDAHO CODE, TO PROVIDE FOR DEALER AND MANUFACTURER LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-412, IDAHO CODE, TO PROVIDE FOR VEHICLE DEALER LOANER LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-414, IDAHO CODE, TO PROVIDE FOR LEGISLATIVE LICENSE PLATES; AMENDING CHAPTER 6, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-624, IDAHO CODE, TO PROVIDE FOR EMERGENCY AND WARNING VEHICLE LIGHTING; AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1617, IDAHO CODE, TO PROVIDE FOR PROCEDURES AFTER APPEAL ON TERMINATION OF DEALER OR SALESMAN LICENSE; AMENDING SECTION 49-601, IDAHO CODE, TO CLARIFY APPLICATION OF RULES OF THE ROAD; AMENDING SECTIONS 49-102 THROUGH 49-117, 49-120 THROUGH 49-126, 49-127, 49-127B, 49-128 THROUGH 49-134A, 49-143 THROUGH 49-146, 49-149, 49-155, 49-157 THROUGH 49-159, 49-202, 49-204, 49-213 THROUGH 49-219, 49-225, 49-226, 49-228 THROUGH 49-231A, 49-233 THROUGH 49-236, 49-244 THROUGH 49-246, 49-307 THROUGH 49-327, 49-329 THROUGH 49-336, 49-338 THROUGH 49-341, 49-346, 49-348, 49-402 THROUGH 49-422, 49-426, 49-431, 49-432, 49-434, 49-581 THROUGH 49-591, 49-593 THROUGH 49-595, 49-604

THROUGH 49-606, 49-611 THROUGH 49-615, 49-617, 49-621 THROUGH 49-626, 49-628 THROUGH 49-630, 49-633, 49-634, 49-641 THROUGH 49-646, 49-661 THROUGH 49-666, 49-671 THROUGH 49-675, 49-681 THROUGH 49-686, 49-691 THROUGH 49-698, 49-701A THROUGH 49-706, 49-708 THROUGH 49-713, 49-721 THROUGH 49-731, 49-733, 49-739 THROUGH 49-750, 49-761, 49-761A, 49-763, 49-764, 49-801A, 49-801C, 49-802 THROUGH 49-807, 49-809 THROUGH 49-842, 49-844, 49-846, 49-847, 49-849, 49-901 THROUGH 49-903, 49-905 THROUGH 49-909, 49-911 THROUGH 49-913, 49-916, 49-918, 49-1002 THROUGH 49-1007, 49-1009, 49-1011 THROUGH 49-1017, 49-1102 THROUGH 49-1104, 49-1106 THROUGH 49-1116, 49-1118, 49-1120, 49-1121, 49-1123, 49-1124, 49-1127 THROUGH 49-1136, 49-1301, 49-1401 THROUGH 49-1404, 49-1502, 49-1503, 49-1512 THROUGH 49-1535, 49-1537, 49-1601 THROUGH 49-1604, 49-1701, 49-1701A, 49-1802 THROUGH 49-1805, 49-1807, 49-1901 THROUGH 49-1912, 49-2101, 49-2103, 49-2105, 49-2202 THROUGH 49-2207, 49-2302 THROUGH 49-2328, 49-2331, 49-2401, 49-2403 THROUGH 49-2421, 49-2423 THROUGH 49-2431, 49-2433 THROUGH 49-2439, 49-2502, 49-2504 THROUGH 49-2514, 49-2603 THROUGH 49-2613, 49-2615, 49-2616, 49-2703 THROUGH 49-2710, 49-2801 THROUGH 49-2805, AS ENACTED IN SECTION 4, CHAPTER 148, LAWS OF 1975, 49-2801 THROUGH 49-2804, AS ENACTED IN SECTION 1, CHAPTER 51, LAWS OF 1975, 49-3001 THROUGH 49-3005, 49-3104 THROUGH 49-3108, 49-3203 THROUGH 49-3211, AS ENACTED IN SECTION 1, CHAPTER 371, LAWS OF 1980, 49-3402, 49-3403, 49-3406 THROUGH 49-3408, 49-3411, 49-3502 THROUGH 49-3511, 49-3602 THROUGH 49-3604, 49-3606, AND 49-3608 THROUGH 49-3621, IDAHO CODE, TO REDESIGNATE THE SECTIONS AND TO EFFECT RECODIFICATION; AMENDING SECTIONS 1-2208, 8-506A, 18-7011, 18-7803, 18-8005, 28-9-302, 36-1301, 39-4410, 39-4426, 40-701, 40-1416, 41-2502, 41-3921, 61-801A, 61-811, 61-811A, 63-105P, 63-2401, 63-2440, 63-2441, 63-3621, 67-2927, 67-2929, AND 67-4223, IDAHO CODE, TO CORRECT CODE CITATIONS; AMENDING SECTION 18-8001, IDAHO CODE, TO DELETE A REPETITIOUS SUBSECTION; AMENDING SECTION 18-8007, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Sections 49-101, 49-126A, 49-127C, 49-147, 49-150 through 49-154 and 49-156, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 1, Title 49, Idaho Code, and to read as follows:

CHAPTER 1
DEFINITIONS

49-101. DEFINITIONS. Words and phrases used in this title are defined in sections 49-102 through 49-127, Idaho Code. Words used in the masculine gender include the feminine gender, and the singular number includes the plural, as well as the plural the singular.

49-102. DEFINITIONS -- A.

(1) "Abandon" means to leave a vehicle on private property without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for the purposes of vehicular traffic or parking, or upon or within the right-of-way of any highway, for twenty-four (24) hours or longer.

(2) "Abandoned vehicle" means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another without the consent of the property owner for a period of twenty-four (24) hours or longer, except that a vehicle shall not be considered abandoned if its owner-operator is unable to remove it from the place where it is located and has notified a law enforcement agency and requested assistance.

(3) "Accident" means any event that results in an unintended injury or property damage attributable directly or indirectly to the motion of a motor vehicle or its load, a snowmobile or special mobile equipment.

(4) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or the vehicle moving.

(5) "Age of a motor vehicle" means the age determined by subtracting the manufacturer's year designation of the vehicle from the year in which the designated registration fee 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 vehicle shall be deemed to be one (1) year old.

(6) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(7) "Alley" means a public way of limited use intended only to provide access to the rear or side of lots or buildings in urban districts.

(8) "Amateur radio operator." (See "Radio operator, amateur", section 49-119, Idaho Code)

(9) "Ambulance" means 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.

(10) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title.

(11) "Approved testing agency" means a person, firm, association, partnership or corporation approved by the director of the department of law enforcement which is:

(a) In the business of testing equipment and systems;

(b) Recognized by the director as being qualified and equipped to do experimental testing; and

(c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry.

(12) "Armed forces" means the army, navy, marine corps, coast

guard and the air force of the United States.

(13) "Authorized emergency vehicle." (See "Vehicle", section 49-123, Idaho Code)

(14) "Authorized officer" means any member of the Idaho state police, or any regularly employed and salaried deputy sheriff, or other county employee designated to perform the function of removing abandoned vehicles or junk vehicles by the board of county commissioners of the county in which a vehicle is located, or any regularly employed and salaried city peace officer or other city employee designated to perform the function of removing abandoned vehicles or junk vehicles by the city council, or a qualified person deputized or appointed by the proper authority as reserve deputy sheriff or city policeman, authorized within the jurisdiction in which the abandoned vehicle or junk vehicle is located.

(15) "Auto transporter" means a vehicle combination constructed for the purpose of transporting motor vehicles.

49-103. DEFINITIONS -- B.

(1) "Bicycle" means every vehicle propelled exclusively by human power upon which any person may ride, having two (2) tandem wheels, and except scooters and similar devices.

(2) "Board" means the Idaho transportation board.

(3) "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, agent or employee of a dealer;

(b) A representative or an agent or employee of a representative;

(c) A distributor, agent or employee of a distributor; or

(d) At any point in the transaction, the owner of the vehicle involved in the transaction.

(4) "Bus" means 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. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "bus" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(5) "Business district." (See "District", section 49-105, Idaho Code)

(6) "Buy." (See "Sell", "sold", and "purchase", section 49-120, Idaho Code)

49-104. DEFINITIONS -- C.

(1) "Cancellation of operator's or chauffeur's license" means the annulment or termination by formal action of the department of a person's operator's or chauffeur's license because of some error or defect in the license or because the licensee is no longer entitled to the license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after cancellation.

(2) "Caravaning" means the transportation of any motor vehicle

into, out of, or within the state operating on its own wheels or in tow for the purpose of sale or offer of sale by any agent, dealer, manufacturer's representative, purchaser, or prospective purchaser, regardless of residence unless the motor vehicle is licensed by the state of Idaho, or is owned by an automobile dealer, duly licensed as a dealer by this state. It shall also be considered as the transportation of property for hire by a motor vehicle upon the highways of this state.

(3) "Certificate of liability insurance" means a certificate of liability insurance issued by an insurance company authorized to do business in this state or a certificate of liability insurance issued by the department of insurance which demonstrates current insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle described in the certificate in an amount not less than that required by section 49-1212, Idaho Code, and also demonstrates the current existence of any other coverage required by title 41, Idaho Code, or a certificate of self-insurance issued pursuant to law for each motor vehicle to be registered. A certificate of liability insurance shall contain the information required by the department of insurance, including the name and address of the owner of the motor vehicle and a description of the motor vehicle including identification number if there is one, or a statement that all vehicles owned by a person or entity are covered by insurance, the inception date of coverage, and the name of the insurer. "Certificate of liability insurance" may also include the original contract of liability insurance or a true copy, demonstrating the current existence of the liability insurance described above.

(4) "Chauffeur" means every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public contract or common carrier of persons or property. Persons driving vehicles licensed for a maximum gross weight of less than sixty thousand (60,000) pounds who are engaged in pick-up and/or delivery service, in utility and repair services, in farming operations or in routes sales, are not required to be licensed as a chauffeur.

(5) "Commercial coach." (See section 39-4105, Idaho Code)

(6) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.

(7) "Commercial vehicle." (See "Vehicle", section 49-123, Idaho Code)

(8) "Conviction" means the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(9) "Crosswalk" means:

(a) That part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of

curbs, from the edges of the traversable highway; and in the absence of a sidewalk on one side of the highway, that part of a highway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline.

(b) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

49-105. DEFINITIONS -- D.

(1) "Dealer" means every person in the business of buying, selling or exchanging three (3) or more new or used vehicles, new or used motorcycles or motorscooters, manufactured homes, travel trailers or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. This definition shall not apply to a real estate broker, holding a current broker's license from Idaho, or to a real estate salesman, holding a current salesman's license from Idaho, associated with and licensed under a licensed real estate broker and when representing that 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 manufactured home in connection with the sale or lease of real property. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer.

(2) "Dealer's selling agreement." (See "Franchise", section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho department of law enforcement, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same 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 dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho department of law enforcement.

(6) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(7) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(8) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(9) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than one hundred (100) feet for a distance of a quarter of a mile or more.

(10) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(11) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(12) "Driver" means every person who drives or is in actual physical control of a vehicle.

(13) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(14) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

49-106. DEFINITIONS -- E.

(1) "Emergency vehicle." (See "Vehicle", section 49-123, Idaho Code)

(2) "Encumbrance." (See "Lien", section 49-113, Idaho Code)

(3) "EPA" means the environmental protection agency of the United States.

(4) "Essential parts" mean all integral and body parts of a vehicle of a type required to be registered, the removal, alteration or substitution of which would tend to conceal the identity of the vehi-

cle or substantially alter its appearance, model, type or mode of operation.

(5) "Established place of business" means a place occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business is transacted.

(6) "Excessive" or "unusual noise" means any sound made by a passenger motor vehicle or a motorcycle at any time under any condition of grade, speed, acceleration or deceleration, which exceeds ninety-two (92) decibels, or any lower decibel level that is fixed by law or rules and regulations adopted by the board of health and welfare, on the "A" scale of a general radio company No. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of a vehicle or motorcycle as the vehicle or motorcycle passes the soundmeter or is stationed not less than twenty (20) feet from a stationary motor or engine.

(7) "Executive head," as used in chapter 20, means the governor of the state of Idaho.

(8) "Explosives" mean any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases with which the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(9) "Extraordinary circumstances" mean any situation where an emergency exists or public safety is endangered, or any situation in which a vehicle:

(a) Is blocking or impeding traffic; or

(b) Is causing a hazard; or

(c) Has the potential of impeding any emergency vehicle; or

(d) Is impeding any snow removal or other road maintenance operation.

49-107. DEFINITIONS -- F.

(1) "Factory branch" means a branch office maintained by a person who manufactures or assembles vehicles for sale to distributors or to dealers, or for directing or supervising, in whole or in part, its representatives.

(2) "Factory representative" means any person and each officer and employee engaged as a representative of a manufacturer of vehicles or by a factory branch for the purpose of making or promoting a sale of their vehicles, or for supervising or contacting their dealers or prospective dealers.

(3) "Farm tractor" means 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 that power unit.

(4) "Farm vehicle." (See "Vehicle", section 49-123, Idaho Code)

(5) "Fifth wheel trailer." (See "Trailer", section 49-121, Idaho

Code)

(6) "Financial institution" means any bank that is authorized to do business in the state of Idaho and any other financial institution that is registered with the department of finance.

(7) "Flammable liquid" means any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

(8) "Fleet" means one (1) or more apportionable vehicles.

(9) "Fold down camping trailer." (See "Trailer", section 49-121, Idaho Code)

(10) "Foreign vehicle." (See "Vehicle", section 49-123, Idaho Code)

(11) "Franchise" means a contract or agreement between a dealer and a manufacturer of new 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 vehicles.

(12) "Full-time salesman" means any person employed as a vehicle salesman on behalf of a dealer for thirty (30) or more hours per week.

49-108. DEFINITIONS -- G.

(1) "Good cause" means the failure of a dealer to comply with reasonable performance criteria established by a manufacturer, if the dealer was apprised by the manufacturer, in writing, of that failure; and

(a) The notification stated that notice was provided of failure of performance;

(b) The dealer was afforded a reasonable opportunity, for a period of not less than six (6) months, to comply with the criteria; and

(c) The dealer did not demonstrate substantial progress toward compliance with the performance criteria of the manufacturer during the period.

(2) "Gross weight" means the weight of a vehicle without load plus the weight of any load on that vehicle.

(3) "Group of vehicles" is one motor vehicle operated under its own motive power with one (1) motor vehicle in tow, or one or more motor vehicles in tow in saddlemount fashion, providing that saddlemounting meets the requirements prescribed by the United States department of transportation.

49-109. DEFINITIONS -- H.

(1) "Habitual violator" means any person who has a driving record which shows a violation point count of eighteen (18) or more points in any consecutive twenty-four (24) month period; or twenty-four (24) or more points in any consecutive thirty-six (36) month period.

(2) "Handicapped" 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 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) "Hazardous material" means a substance or material which has been determined by the United States secretary of transportation to be capable of posing an unreasonable risk to health, safety and property when transported in commerce, and which has been so designated by properly adopted rule and regulation.

(4) "Hazardous waste" means a material that is subject to the hazardous waste manifest requirements of the EPA due to the type and quantity of the material, or which would be subject to these requirements absent an interim authorization to a state under title 40, code of federal regulations or which includes in whole or in part polychlorinated biphenyls which are regulated by title 40, code of federal regulations, part 761.

(5) "Hearing aid dog." (See "Hearing Impaired," section 56-701A, Idaho Code)

(6) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part is open to the use of the public for vehicular travel, with jurisdiction extending to the adjacent property line, including sidewalks, shoulders, berms and rights-of-way not intended for motorized traffic. The term "street" is interchangeable with highway.

(a) Arterial. Any highway designated by the local authority as part of a major arterial system of highways within its jurisdiction.

(b) Controlled-access. Any highway or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway except at such points only or in such manner as may be determined by the public authority having jurisdiction over the highway.

(c) Through. Any highway or portion of it on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on the through highway in obedience to a stop sign, yield sign, or other traffic-control device.

49-110. DEFINITIONS -- I.

(1) "Identifying number" means:

(a) Motor number. That identifying number stamped on the engine

of a vehicle.

(b) Vehicle identification number. The numbers and letters, if any, placed on a vehicle by the manufacturer for the purpose of identifying the vehicle.

(2) "Implements of husbandry" mean every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, cargo tanks, 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" do not include semitrailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations.

(3) "Incidentally operated" means the transport of the implement of husbandry from one (1) farm operation to another.

(4) "Infraction" means a civil public offense, not constituting a crime, which is not punishable by incarceration and for which there is no right to a trial by jury or right to court-appointed counsel, and which is punishable by only a penalty not exceeding one hundred dollars ($100) and no imprisonment.

(5) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for such a school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of, persons learning to operate or drive motor vehicles.

(6) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. In the event an intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of the highways shall be regarded as a separate intersection.

(c) The junction of an alley with a street or highway shall not constitute an intersection.

49-111. DEFINITIONS -- J.

(1) "Judgment" means a decree which shall have become final by expiration without appeal by the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or

use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement or settlement for damages.

(2) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country and a state or province of a foreign country.

49-112. DEFINITIONS -- K. [RESERVED.]

49-113. DEFINITIONS -- L.

(1) "Laned highway" means a highway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(2) "Lane of travel." (See "Traffic lane", section 49-121, Idaho Code)

(3) "Legal owner" means any person notated as "lien holder" of a vehicle, the notation appearing on the title records of the department and on the respective certificate of title.

(4) "License" or "license to operate a motor vehicle" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license;

(c) Any nonresident's operating privilege;

(d) Any special permit issued by the department.

(5) "Licensing authority" as used in chapter 20 of this title with reference to Idaho, means the department.

(6) "Lien" or "encumbrance" means every security interest in any vehicle other than security interests in vehicles held in inventory for sale.

(7) "Lien holder" means a person holding a security interest in a vehicle.

(8) "Light weight" or "unladen weight" means the scale weight of a vehicle equipped for operation, but without any cargo on it.

(9) "Local authorities" mean every county, highway district, municipal and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state.

49-114. DEFINITIONS -- M.

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

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

(3) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term shall not include manufactured home manufacturer, but for purposes of

sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall also include a distributor and other factory representatives.

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

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

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

(7) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

(8) "Motor driven cycle" means every motorcycle, motor scooter, or motorized bicycle having an engine with less than one hundred fifty (150) cubic centimeters displacement or with five (5) brake horsepower or less.

(9) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the American National Standards Institute (ANSI) A119.7 Standard for Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, a portable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

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

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

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

(13) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210 or 49-1211, Idaho Code, as proof of financial responsibility, and issued, except as otherwise provided in section 49-1211, Idaho Code, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

49-115. DEFINITIONS -- N.

(1) "Noncommercial vehicle." (See "Vehicle", section 49-123, Idaho Code)

(2) "Nonresident" means every person who is not a resident of this state.

(3) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the

operation by that person of a motor vehicle, or the use of a vehicle owned by that person, in this state.

49-116. DEFINITIONS -- O.

(1) "Operator" means every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway or private property open to public use.

(2) "Operator's license" means any license, except a chauffeur's license, to operate a motor vehicle issued under the laws of this state.

(3) "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. "Owner" for the purposes of chapter 12 means the person legally responsible for the operation of a vehicle upon the highways of the state of Idaho, whether as owner, lessee or otherwise.

49-117. DEFINITIONS -- P.

(1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(2) "Park trailer." (See "Trailer", section 49-121, Idaho Code)

(3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.

(4) "Peace officer." (See section 19-5101(d), Idaho Code)

(5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair.

(6) "Pedestrian path" means any path, sidewalk or way set aside and used exclusively by pedestrians.

(7) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality, and for the purposes of chapter 22 of this title shall include a private, common or contract carrier operating a vehicle on any highway of this state.

(8) "Pneumatic tire." (See "Tires", section 49-121, Idaho Code)

(9) "Pole trailer." (See "Trailer", section 49-121, Idaho Code)

(10) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(11) "Possessory lien holder" means any person claiming a lien, that lien claimed to have accrued on a basis of services rendered to the vehicle which is the subject of the lien.

(12) "Preceding year" means, for the purposes of section 49-435, Idaho Code, a period of twelve (12) consecutive months fixed by the department, which period shall be within the eighteen (18) months immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and

requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(13) "Principal place of business" means an enclosed commercial structure located within the state, 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 the building, and at which the business of a 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 building the public may contact the dealer or his salesmen 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. 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 title unless the entire ground floor of that hotel, apartment house, or rooming house building or 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. 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 title.

(14) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(15) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(16) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars ($25,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to the limit for one (1) person, in the amount of fifty thousand dollars ($50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars ($15,000) because of injury to or destruction of property of others in any one (1) accident.

(17) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

49-118. DEFINITIONS — Q. [RESERVED.]

49-119. DEFINITIONS — R.

(1) "Racing" means the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle, or to test the physical stamina or endurance of drivers over long-distance driving routes.

(2) "Radio operator, amateur" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation and holding a conditional class license or higher.

(3) "Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

(4) "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

(5) "Railroad sign" or "signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(6) "Recreational vehicle" means a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. It does not include pick-up hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles.

(7) "Registered owner" means any person required to register a vehicle, whether or not a lien holder appears on the title in the records of the department.

(8) "Registration" means the registration certificate or certificates and license plate or plates issued under the laws of this state pertaining to the registration of vehicles.

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

(10) "Rescission of sale." (See section 28-2-608, Idaho Code).

(11) "Resident" means a person who has resided within Idaho continuously for a period of at least ninety (90) days or any person residing in Idaho and gainfully employed in Idaho, notwithstanding that the period of residing therein is less than ninety (90) days.

(12) "Residential district." (See "District", section 49-105, Idaho Code)

(13) "Revocation of operator's or chauffeur's license" means the termination by formal action of the department or as otherwise provided in this title of a person's license or privilege to operate a motor vehicle on the highways, which terminated license or privilege shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the department after the expiration of the applicable period of time prescribed in this title.

(14) "Ridesharing arrangement" means the nonprofit transportation in a passenger motor vehicle with a seating capacity not exceeding fifteen (15) people including the driver, which is not otherwise used for commercial purposes or as a public conveyance, whereby a fixed group, not exceeding fifteen (15) people including passengers and

driver, is transported between their residences or nearby termini, and their places of employment or educational or other institutions or termini near those places, in a single daily round trip where the driver is also on the way to or from his place of employment or education or other institution.

(15) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other. The term shall not be interpreted to mean that a highway user is relieved from the duty to exercise reasonable care at all times and from doing everything to prevent an accident. Failure to yield right-of-way shall not be construed as negligence per se or as prima facie evidence of negligence.

(16) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms and rights-of-way.

49-120. DEFINITIONS -- S.

(1) "Safety glazing materials" means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(2) "Safety zone" means the area or space officially set apart within a highway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(3) "School bus" means every motor vehicle that complies with the color and identification requirements set forth in the most recent edition of "Minimum Standards for School Buses" 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 which meet the standards as outlined above and who are engaged in the transportation of school children to and from school or in connection with school approved activities.

(4) "Security agreement." (See section 28-9-105, Idaho Code)

(5) "Security interest." (See section 28-1-201, Idaho Code)

(6) "Sell," "sold," "buy," and "purchase," mean and include, as used in sections 49-2401 through 49-2406, Idaho Code, exchange, barter, gift, and offer or contract to sell or buy.

(7) "Semitrailer." (See "Trailer", section 49-121, Idaho Code)

(8) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for use by pedestrians.

(9) "Signal." (See "Railroad sign", section 49-119, Idaho Code)

(10) "Slow moving vehicle" means any vehicle not normally operated upon the highways.

(11) "Snow tire." (See "Tires", section 49-121, Idaho Code)

(12) "Sold." (See "Sell", "buy", and "purchase", this section)

(13) "Solid rubber tire." (See "Tires", section 49-121, Idaho

Code)

(14) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including: ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes, log loaders, log jammers and earth moving equipment. The term does not include travel trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(15) "Specially constructed vehicle." (See "Vehicle", section 49-123, Idaho Code)

(16) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

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

(18) "Stop" means the act of or complete cessation from movement.

(19) "Stopping" means the act of any halting even momentarily of a vehicle.

(20) "Street." (See "Highways", section 49-109, Idaho Code)

(21) "Studded tire." (See "Tires", section 49-121, Idaho Code)

(22) "Substandard width lane" means a lane that is too narrow for a bicycle and a motor vehicle to travel safely side by side within the lane.

(23) "Supplemental lot" means a physically separate location owned and maintained by a licensed dealer or manufacturer within the same or adjacent county as the principal place of business which meets all the requirements for a principal place of business.

(24) "Suspension of operator's or chauffeur's license" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the department.

49-121. DEFINITIONS -- T.

(1) "Temporary supplemental lot" means 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. Temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted. The requirements for a principal place of business shall not be applicable to temporary supplemental lot locations.

(2) "Tires" mean:

(a) Metal. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(b) Pneumatic. Every tire in which compressed air is designed to support the load.

(c) Snow tire. Every rubber tire with tread design or material embedded in the tire to improve winter traction except studded tires.

(d) Solid rubber. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(e) Studded tire. Every tire with built-in lugs of tungsten carbide or other suitable material designed to contact the road surface for improved winter traction.

(3) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(4) "Traffic lane" or "lane of travel" means that portion of the roadway for movement of a single line of vehicles.

(5) "Traffic-control device" means any device, whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(6) "Trailer" means:

(a) General. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(b) Fifth-wheel trailer. A vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(c) Fold down camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(d) Park trailer. A trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural

members capable, generally, of sustaining themselves as beams between the supporting connections.

(f) Semitrailer. Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(g) Travel trailer. A vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(h) Utility trailer. (See "Utility Trailer", section 49-122, Idaho Code)

(7) "Transportation", for the purposes of chapter 22 of this title, means the movement of any regulated quantity of hazardous material or hazardous waste within, through, or to any destination in this state upon the highways of this state.

(8) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer, except in chapter 22, where it means any person who transports a hazardous material or hazardous waste within, through, or to any destination upon the highways of this state.

(9) "Truck" means:

(a) General. Every motor vehicle exceeding eight thousand (8,000) pounds gross weight designed, used or maintained primarily for the transportation of property.

(b) Pickup truck. Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property.

(c) Truck camper. A portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

(d) Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles.

(10) "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance.

49-122. DEFINITIONS -- U.

(1) "Unauthorized vehicle" means any vehicle parked or otherwise left on private property without the consent of the person owning or controlling that property.

(2) "Unladen weight." (See "Light weight", section 49-113, Idaho Code)

(3) "Unregistered vehicle" means a vehicle without current registration on file with the department or with the appropriate agency of another state, unless exempt from registration.

(4) "Unusual noise." (See "Excessive", section 49-106, Idaho Code)

(5) "Urban district." (See "District", section 49-105, Idaho

Code)

(6) "Use fee" means the fee as imposed in section 49-434, Idaho Code, for vehicles exceeding sixty thousand (60,000) pounds gross weight, and calculated based upon the number of miles traveled in Idaho times the use fee rate per mile of travel as established by law for the applicable maximum gross weight of the vehicle or combination of vehicles as registered.

(7) "Utility trailer" means a trailer or semitrailer where laden or maximum gross weight is eight thousand (8,000) pounds or less designed primarily to be drawn behind a passenger car or pickup truck for domestic and utility purposes. Utility or domestic use shall include a farm trailer while being used to haul agricultural products or livestock from farm to storage, market or processing plant, or returning therefrom.

49-123. DEFINITIONS -- V.

(1) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, or an ambulance.

(c) Commercial vehicle. A vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to section 49-402, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire,

and shall not include vehicles of husbandry or vehicles registered pursuant to section 49-402, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.

(g) Noncommercial vehicle. Noncommercial vehicle shall not include those vehicles required to be registered under section 49-402, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(h) Reconstructed vehicle. Every vehicle of a type required to be registered which is altered from its original construction by the removal, addition or substitution of essential parts, new or used.

(i) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

(2) "Vehicle identification number." (See "Identifying number", section 49-110, Idaho Code)

(3) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles.

(4) "Veteran." (See section 65-509, Idaho Code)

(5) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

49-124. DEFINITIONS -- W.

(1) "Wheelchair, motorized." (See "Motorized Wheelchair," section 49-114, Idaho Code)

(2) "Wholesaler" means a dealer who sells used vehicles to Idaho dealers.

(3) "Wrecker" means a motor vehicle designed and used primarily for towing other vehicles that may be disabled.

49-125. DEFINITIONS -- X. [RESERVED.]

49-126. DEFINITIONS -- Y. [RESERVED.]

49-127. DEFINITIONS -- Z. [RESERVED.]

CHAPTER 2
GENERAL

SECTION 3. That Sections 49-201, 49-203, 49-206 through 49-212, 49-224, 49-227, 49-232 and 49-243, Idaho Code, be, and the same are hereby repealed.

SECTION 4. That Sections 49-102, 49-130, 49-584 and 49-682, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~102~~201. DUTIES OF ~~DEPARTMENT AND~~ BOARD. ~~a.--It--shall--be--the duty--of-the-department-and-all-officers-thereof-to-enforce-the-provisions-of-this-chapter.~~ (1) With the exception of requirements for sections 49-217 and 49-218 and chapters 6 and 9, title 49, Idaho Code, which shall be the responsibility of the director of the department of law enforcement, the

~~b.--The board is-hereby-authorized-to~~ shall adopt and enforce ~~such~~ administrative rules and regulations and ~~to~~ designate ~~such~~ agencies as may be necessary to carry out the provisions of this ~~chapter~~ title. It shall also provide suitable forms for applications, registration cards, ~~registration--number--plates,--use--fee--number-plates,--"D.V."~~ ~~plates~~ vehicle licenses, and all other forms requisite for the purpose of ~~this-chapter~~ the provisions of this title, and shall prepay all transportation charges ~~thereon~~.

(2) The board may enter into agreements, compacts or arrangements with other jurisdictions on behalf of Idaho for the purpose of conforming procedures for proportional registration of commercial vehicles and other types of reciprocal agreements. Copies of agreements, compacts or arrangements shall be placed on file in the department and the board shall, as to all filings and adoption, conform with the provisions of chapter 52, title 67, Idaho Code.

~~49-584.-BOARD-OF-TRANSPORTATION-TO-ADOPT-SIGN-MANUAL.~~

(3) The ~~Idaho-transportation~~ board shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this title for use upon highways within the state. ~~Such~~ The uniform system shall correlate with, and so far as possible, conform to the system set forth in the most recent edition of the manual on uniform traffic control devices for streets and highways and other standards issued or endorsed by the federal highway administrator.

~~49-682.-ESTABLISHMENT-OF-STATE-SPEED-ZONES.~~

(4) Whenever the ~~Idaho-transportation~~ board shall determine upon the basis of an engineering and traffic investigation that any maximum speed ~~hereinbefore-set-forth~~ is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway or interstate highway system, the board may determine and declare a reasonable and safe maximum

limit ~~thereat,-not-exceeding-a-maximum-limit~~ of sixty-five (65) miles per hour, which shall be effective when appropriate signs giving notice ~~thereof~~ are erected. ~~Such-a~~ The speed limit may be declared to be effective at all times or at ~~such~~ the times as ~~are~~ indicated upon ~~said~~ the signs~~;-and-differing~~. Differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

~~49-130.-SPECIALLY-CONSTRUCTED-VEHICLES.~~

(5) The board ~~is-hereby-authorized-to~~ shall adopt and enforce ~~such~~ rules as may be consistent with and necessary to determine the classification of and the basis on which operating fees shall be computed on specially constructed or reconstructed vehicles not otherwise provided for in this ~~chapter~~ title, as nearly as possible to conform to the fees provided for ~~herein-on~~ similar vehicles.

SECTION 5. That Sections 49-104, 49-105, 49-110, 49-123, 49-124, 49-407, 49-585, 49-633 and 49-672, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~104~~202. ~~RECORDS~~ DUTIES OF DEPARTMENT ~~---FEES-FOR--SERVICES--BY BOARD------PORTION--OF--FEES--TO--COUNTY.~~ ~~a.~~(1) All registration and license records in the office of the department shall be public records and open to inspection by the public during normal business hours.

~~b.~~(2) In addition to other fees required by law ~~to~~ be collected by the ~~board~~ department, the ~~board~~ department shall collect ~~for services~~ the following ~~fees~~:

~~1.~~(a) For certifying a copy of any record pertaining to any motor vehicle license, any certificate of title, or any operator's or chauffeur's license $3.00

~~2.~~(b) For recording the transfer of any interest upon a certificate of title $3.00

~~3.~~(c) For issuance of every certificate of title on a new motor vehicle sold by a registered dealer to a purchaser $3.00

~~4.~~(d) For issuance or transfer of every certificate of title on a new or used motor vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section $15.00

~~5.~~(e) For furnishing a duplicate copy of any certificate of title or receipt of registration $3.00

~~6.~~(f) For issuing an Idaho certificate of title, or an interstate letter in lieu of the Idaho certificate of title on any motor vehicle that has previously been licensed in another state . $3.00

~~7.~~(g) For answering inquiries as to registration or ownership of motor vehicles or ~~driver's~~ operator's license records, per vehicle registration, title or per ~~driver's~~ operator's license record $2.00

~~8.~~(h) For services in furnishing copies of files of motor vehicle or other registrations, motor vehicle titles, ~~driver's~~ operator's licenses or chauffeur's licenses, per hour $10.00

~~9.~~(i) Placing "stop" cards in motor vehicle registration or title

files, each $2.00

~~10.~~(j) For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

~~11.~~(k) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer ~~as defined in section 19-5101(d), Idaho Code,~~ or any other peace officer or designated agent of the ~~department~~ state of Idaho, per inspection $3.00

~~12.~~(l) For all duplicate registration stickers, each .... $.50

~~13.~~(m) For issuing letters of temporary ~~operating authority~~ vehicle clearance to Idaho based motor carriers $5.00

~~c.~~(3) The fees required ~~by~~ in this section shall not apply when the service is furnished to any federal, state, county or city peace officer ~~as defined in section 19-5101(d), Idaho Code,~~ when such service is required in the performance of their duties as peace officers.

~~d.~~(4) The ~~board~~ department shall pay one dollar ($1.00) of the fee collected by a county assessor or other agent of the department ~~under--subsections--b-1,2,3,4,5-and-6~~ as provided in subsection (2)(a) through (f) of this section, to the county assessor of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund~~;--the.~~ The remainder of the fees collected ~~under this section~~ as provided in that subsection shall be paid by the ~~board~~ department to the state treasurer and placed in the state highway account. The fee collected under subsection ~~b.-11.~~ (2)(k), of this section for a VIN inspection shall be placed in the city general fund if ~~collected~~ conducted by a city peace officer, in the county current expense fund if ~~collected~~ conducted by a county peace officer, or paid to the state treasurer and placed to the credit of the department of law enforcement if conducted by the Idaho state police or in the state highway account if ~~collected~~ conducted by the ~~board~~ department.

~~49-105. PUBLICATION OR POSTING OF RECORDS.~~

(5) The department as often as practicable may ~~publish--a~~ provide to law enforcement agencies the record of stolen and recovered motor vehicles and ~~of~~ suspensions and revocations of operators' and chauffeurs' licenses ~~and shall furnish copies of such records to the police departments and sheriffs' offices throughout the state, and shall forward copies of stolen and recovered motor vehicle records to the vehicle--commissioner of each state~~ via the Idaho law enforcement telecommunications system (ILETS).

~~49-407. FILING CERTIFICATES OF TITLE----SYSTEM.~~

(6) The department shall provide the forms prescribed ~~by this~~ in chapter 5 of this title, shall receive and file in its office in Boise, Idaho, all instruments required ~~by this~~ in chapter 5 of this title to be filed with the department, shall prescribe a uniform method of numbering certificates of title, and maintain in the department ~~indices~~ for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner, and the department shall maintain two (2) separate files on each vehicle, ~~that is~~ one, a motor or identification number file, and the other a file by the name of the owner. ~~The county assessors--of--this--state shall--likewise--receive and file in their respective offices, indices~~

~~for certificates of title issued by the department which shall be kept alphabetically by the name of the owner.~~

~~49-110. REGISTER OF APPLICANTS TO BE KEPT BY THE DEPARTMENT.~~

(7) The department shall file each registration application received, and when satisfied as to the genuineness and regularity ~~thereof~~ the application, and that the applicant is entitled ~~thereto~~ the registration, shall register the vehicle therein described and the owner thereof in suitable ~~books--or--on index cards as follows: 1.~~ records u~~U~~nder a distinctive registration number assigned to the vehicle and to the owner thereof, ~~hereinafter referred to as the registration number; 2.--A~~alphabetically under the name of the owner~~; 3.~~, and n~~N~~umerically and alphabetically under the engine or identification number and name of the vehicle.

~~49-123. REFUSAL OF REGISTRATION.~~

(8) The department shall not grant an application for the registration of a vehicle ~~in any of the following events~~ when:

(a~~.~~) ~~When---t~~The applicant ~~therefor~~ is not entitled ~~thereto~~ registration under the provisions of this ~~chapter.~~ title; or

(b~~.~~) ~~When t~~The applicant has neglected or refused to furnish the department with the information required in the appropriate ~~official~~ form or reasonable additional information required by the department, or has failed to comply with the provisions of section ~~49-128~~436, Idaho Code, in past registration periods~~.~~; or

(c~~.~~) ~~When t~~The fees required by law ~~therefor~~ have not been paid, or where fees for past registration periods are due, owing and unpaid.

(d) The department has the authority to request any person, based upon evidence, to submit to medical, highway, or written examinations, to protect the safety of the public upon the highways.

~~49-124. REGISSION OF REGISTRATION.~~

~~a.~~(9) The department shall rescind and cancel the registration of any vehicle:

(a) ~~W~~which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law~~.~~;

(b~~.~~) ~~The department shall rescind and cancel the registration of a vehicle w~~Whenever the person to whom the registration card or registration number plates~~--therefor--have~~ has been issued shall make or permit to be made any unlawful use of the same or permit their use ~~thereof~~ by a person not entitled thereto~~.~~;

(c~~.~~) ~~The--department--may--rescind and cancel the registration of any vehicle f~~For any violation of ~~the--Uniform--Motor--V~~vehicle ~~R~~registration ~~Act~~ requirements by the owner or operator ~~thereof~~ in the current or past registration periods~~.~~;

(d~~.~~) ~~On--and--after January 1, 1964, the department shall rescind and cancel the registration of a vehicle w~~Whenever a motor carrier as defined ~~by~~ in section 61-801, Idaho Code, has his ~~or its~~ permit revoked for any cause except at the request of the permit holder, as provided ~~by~~ in section 61-808, Idaho Code, or whenever an interstate carrier has his ~~or its~~ registration revoked by reason of a revocation of his ~~or its~~ interstate commerce commission operating authority.

(e) For nonpayment by the owner or operator of the vehicle of use

fees computed under sections 49-434 and 49-435, Idaho Code;

(f) For failure of the owner or operator to file the reports required or nonpayment of fees assessed against the owner by the department pursuant to audit under the provisions of section 49-436, Idaho Code.

(10) The department shall not reregister or permit a vehicle to operate on a special trip permit until all use fees, penalties and interest have been paid.

(11) The department shall institute educational programs, demonstrations, exhibits and displays;

(12) The department shall examine persons and vehicles by written, oral and physical tests without compulsion except as provided by law;

(13) The department shall employ expert and special help as needed in the department;

(14) The department shall compile accident statistics and disseminate information relating to those statistics;

(15) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

~~49-585.--IDAHO--TRANSPORTATION--DEPARTMENT--TO--PLACE-SIGNS-ON-ALL STATE-HIGHWAYS.~~

(16) The ~~Idaho-transportation~~ department shall place and maintain ~~such~~ traffic-control devices, conforming to ~~its~~ the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. ~~(2)~~ No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the ~~Idaho-transportation~~ department except by the latter's permission.

(17) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(18) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.

~~49-633.-RESTRICTIONS-ON-USE-OF-CONTROLLED-ACCESS-ROADWAY.~~

(19) The ~~Idaho-transportation~~ department ~~by-resolution-or-oder-of its--board-entered-in-its-minutes,-and-local-authorities-by-ordinance,~~ ~~may~~ shall regulate or prohibit the use of any controlled-access ~~roadway--or~~ highway ~~within-their-respective-jurisdictions~~ by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(20) The ~~Idaho--transportation~~ department ~~or-the-local-authority adopting-any-such-prohibition~~ shall erect and maintain ~~official~~ traffic-control devices on ~~the~~ controlled-access highways on which ~~such~~ any prohibitions are applicable ~~and-when-in-place-no-person-shall-disobey-the-restrictions-stated-on-such-devices;-provided,-however,--that any--offense--created--hereunder-shall-constitute-an-infraction-as-the same-is-defined-in-section-49-3401(3),-Idaho-Code.~~

~~49-672.--ALL--VEHICLES--MUST--STOP--AT--CERTAIN--GRADE--CROSSINGS.~~

(21)Wherever a ~~street-or~~ highway crosses ~~or-shall-hereafter-cross~~ one or more railroads at grade, the ~~Idaho--transportation~~ department ~~as-to-streets-or-highways-under-its-jurisdiction-and~~ or local authorities ~~as--to--streets--and--highways-under-the~~ within their respective jurisdictions ~~of-such-local-authorities~~ shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of ~~such~~ these stop signs shall be mandatory except when in the determination of the ~~Idaho transportation~~ department or local ~~authorities as-to-the-streets or-highways-under-its-or-their-respective-jurisdiction~~ the existence of stop signs at a given crossing would constitute a greater hazard than their absence~~;--mandatory-placement-shall-be-deemed waived.-When-such-stop-signs-are-erected,-the-driver-of-any--vehicle--shall--stop--within-fifty-(50)-feet-but-not-less-than-fifteen (15)-feet-from-the-nearest-rail-of-such-railroad-and-shall-proceed only-upon-exercising-due-care.~~

~~Provided,-however,-that-n~~Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law ~~provided. Provided,-further-that-l~~Liability on the part of ~~the~~ governmental authorities on account of ~~the~~ absence of any stop sign at a crossing shall be determined as provided by law.

(22) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(23) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

49-203 — 49-204. [RESERVED.]

SECTION 6. That Section 49-103, Idaho Code, be, and the same is

hereby amended to read as follows:

49-~~103~~205. DUTIES OF LOCAL OFFICERS. ~~a.~~(1) The assessors of the various counties of the state shall be agents of the department and shall perform ~~such~~ duties ~~as~~ are prescribed by in this ~~chapter~~ title.

(2) The county assessors shall receive and file in their respective offices all instruments required by chapter 5 of this title to be filed with the county assessors, and shall maintain in their respective offices indices for certificates of title issued by the department which shall be kept alphabetically by the name of the owner.

~~b.~~(3) It shall be the duty of ~~sheriffs, deputy sheriffs, constables, policemen, game wardens and deputy game wardens~~ peace officers within the state of Idaho to enforce ~~the provisions of this chapter~~ and make arrests for the violation of the provisions of this ~~chapter~~ title without the necessity of procuring a warrant. It shall be the duty of authorized employees of the department to enforce compliance with the laws in accordance with section 67-2927, Idaho Code.

SECTION 7. That Section 49-581, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~501~~206. PROVISIONS UNIFORM THROUGHOUT STATE. The provisions of this title shall be applicable and uniform throughout this state ~~and~~ in all political subdivisions and municipalities ~~therein~~ and no local authority shall enact or enforce any ordinance on a matter covered by the provisions of this title unless expressly authorized.

SECTION 8. That Sections 49-202 and 49-683, Idaho Code, be, and the same is hereby amended to read as follows:

49-20~~2~~7. MUNICIPAL REGISTRATION PROHIBITED -- POWER TO ENACT REGULATORY ORDINANCES NOT ABOLISHED. (1) ~~The local~~ Authorities of counties, and cities ~~and incorporated villages in this state~~ shall have no power to pass, enforce or maintain any ordinance, ~~rule or regulation~~ requiring from any owner of a motor vehicle or any dealer or ~~manufacturer~~ to which this ~~chapter~~ title shall be applicable, any tax, license or permit for the free use of the public highways ~~or streets or alleys~~ of such a county, or city ~~or incorporated village~~, or prohibiting or excluding any ~~such~~ owner, ~~manufacturer~~ or dealer from the free use of such highways, ~~streets and alleys~~ or excluding or prohibiting any motor vehicle registered in compliance with the provisions of this ~~chapter~~ title from the free use of the highways, ~~streets and alleys; provided, that the powers~~. Powers given by general statutes to local authorities in cities ~~and villages~~ to enact general ordinances applicable equally and generally to all vehicles and the uses of ~~streets~~ highways to bring about the orderly passage of vehicles upon certain ~~streets~~ highways in such cities ~~and villages~~ where the traffic is heavy and continuous, and the powers given to cities ~~and villages~~ to regulate vehicles offered to the public for hire, or processions, assemblages or parades ~~in~~ on the ~~streets~~ highways or in public places, shall remain in full force and effect, and all ordinances, ~~rules and regulations~~ which may have been or which may be enacted in pursuance

of those powers shall remain in full force and effect~~;-nor~~. These provisions of law shall ~~this-chapter~~ not be construed ~~so-as~~ to prevent cities ~~and-incorporated-villages--of--this--state~~ from enacting and enforcing general ordinances prescribing additional ~~rules--and regulations~~ requirements as to ~~the~~ speed ~~or~~, manner of driving, or operating ~~motor~~ vehicles on any of the ~~streets~~ highways of such cities ~~or---villages~~, and prescribing other ~~and--additional--rules--and regulations~~ requirements pertaining to signals to be given by drivers or operators of motor vehicles, the carrying of lights on ~~such~~ motor vehicles, the turning of motor vehicles ~~in-streets~~ on highways, and ~~rules--and--regulations--of~~ requirements for motor vehicles in passing other vehicles and pedestrians.

~~49-603.-WHEN-LOCAL-AUTHORITIES-MAY-AND-SHALL-ALTER--SPEED--LIMITS.~~

~~(1~~2) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the speed limit permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit ~~thereon~~ which:

(a) Decreases the limit within an urban district; or

(b) Increases the limit within an urban district but not to more than fifty-five (55) miles per hour; or

(c) Decreases the limit outside an urban district, but not to less than thirty-five (35) miles per hour.

(~~2~~3) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed not exceeding a maximum limit of fifty-five (55) miles per hour for all arterial highways and shall declare a reasonable and safe maximum limit ~~thereon~~ which may be greater or less than the limit permitted under this title for an urban district.

(~~3~~4) Any altered limit established ~~as--hereinabove--authorized~~ shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice ~~thereof~~ are erected upon ~~such-street~~ the highway. ~~(4)~~ Any alteration of maximum limits on state highways or extensions ~~thereof~~ in a municipality by local authorities shall not be effective until the alteration has been approved by the ~~Idaho-transportation~~ department.

~~(5)--Provided,--however,--that-any-offense-created-hereunder-shall constitute-an-infraction-as-the-same-is-defined-in-section-49-3401(3), Idaho-Code.~~

SECTION 9. That Sections 49-582 and 49-583, Idaho Code, be, and the same are hereby amended to read as follows:

49-58~~2~~208. POWERS OF LOCAL AUTHORITIES. (1) The provisions of this title shall not be deemed to prevent local authorities with respect to ~~streets--and~~ highways under their jurisdiction and within the reasonable exercise of the police power from:

(a) Regulating or prohibiting stopping, standing or parking;

(b) Regulating traffic by means of ~~police~~ peace officers or ~~official~~ traffic-control devices;

(c) Regulating or prohibiting processions or assemblages on the

highways;

(d) Designating particular highways ~~or roadways~~ for use by traffic moving in one direction ~~as authorized in section 49-628, Idaho Code~~;

(e) Establishing speed limits for vehicles in public parks ~~notwithstanding the provisions of subsection (1)(c) of section 49-683, Idaho Code~~;

(f) Designating any highway as a through highway or designating any intersection or junction of ~~road~~highways as a stop or yield intersection or junction;

(g) Restricting the use of ~~streets or~~ highways as authorized in chapter 910, title 49, Idaho Code;

(h) Regulating or prohibiting the turning of vehicles or specified types of vehicles;

(i) Altering or establishing speed limits ~~as authorized in section 49-683, Idaho Code~~;

(~~k~~j) Designating no-passing zones ~~as authorized in section 49-627, Idaho Code~~;

(~~l~~k) Prohibiting or regulating the use of controlled-access ~~road~~highways by any class or kind of traffic ~~as authorized in section 49-633, Idaho Code~~;

(~~m~~l) Prohibiting or regulating the use of heavily traveled ~~streets~~ highways by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;

(~~n~~m) Establishing minimum speed limits ~~as authorized in section 49-684, Idaho Code~~;

~~(o) Designating and regulating traffic on play streets;~~

(~~p~~n) Prohibiting pedestrians from crossing a ~~road~~highway in a business district or any designated highway except in a crosswalk ~~as authorized in section 59-587, Idaho Code~~;

(~~q~~o) Restricting pedestrian crossings at unmarked crosswalks ~~as authorized in section 49-588, Idaho Code~~;

(~~j~~p) Requiring written accident reports ~~as authorized in section 49-1015, Idaho Code~~;

(~~r~~q) Regulating persons propelling pushcarts;

(~~s~~r) Regulating persons upon skates, coasters, sleds and other toy vehicles;

(~~t~~s) Adopting and enforcing ~~such~~ temporary or experimental regulations as may be necessary to cover emergencies or special conditions;

(~~u~~t) Prohibiting drivers of ambulances from exceeding maximum speed limits;

(~~v~~u) Adopting such other traffic regulations as are specifically authorized by this title.

(~~3~~2) No ordinance or regulation enacted under ~~subdivisions~~ paragraphs (d)~~, (e), (f), (g), (h), (i), (k), (l), (m), (n),~~ through (o)~~, (p), or (q)~~ of subsection (1) of this section shall be effective until traffic-control devices giving notice of ~~such~~ local traffic regulations are erected upon or at the entrances to the highway or part ~~thereof~~ affected as may be most appropriate.

(~~2~~3) No local authority shall erect or maintain any traffic-control device at any location so as to require traffic on any state

highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the ~~Idaho transportation~~ department.

~~(4)--No-local-authority-may,-by-ordinance,-regulation-or-otherwise make--any--act--a-misdemeanor-which,-but-for-such-ordinance-or-regulation,-would-constitute-an-infraction-under-any-provision-of-the--Idaho traffic-infractions-act-and-all-such-acts-made-criminal-or-for-which-a criminal--penalty-has-been-established-by-any-local-authority-pursuant to-this-section-through-ordinance,-regulation-or-otherwise-are--hereby declared--to--be--infractions--as-defined-in-section-49-3401(3),-Idaho Code,-and-shall-be-treated-as-such-in-the-courts-of-this-state.~~

~~49-503.-ADOPTION-BY-REFERENCE.~~

(4) Local authorities by ordinance may adopt by reference all or any part of ~~the-Idaho-motor-vehicle-laws,-rules-of-the-road,-chapters 5,-6-and-7,~~ title 49, Idaho Code, without publishing or posting in full the provisions thereof, provided that not less than ~~three-(3) copies-are~~ one (1) copy is available for public use and examination in the office of the clerk.

(5) Local authorities may adopt an ordinance establishing procedures for the abatement and removal of abandoned, junk, dismantled or inoperative vehicles or their parts from private or public property, including highways, provided the ordinance is not in conflict with the provisions of this title.

SECTION 10. That Section 49-586, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~586~~209. LOCAL TRAFFIC-CONTROL DEVICES. Local authorities in their respective jurisdictions shall place and maintain traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this title, or local traffic ordinances, or to regulate, warn or guide traffic. All traffic-control devices erected shall conform to the state manual and specifications referred to in section 49-~~584~~201, Idaho Code; provided, however, that any offense created hereunder shall constitute an infraction as the same is defined in section 49-3401(3), Idaho Code.

SECTION 11. That Section 49-587, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~587~~210. AUTHORITY TO RESTRICT PEDESTRIAN CROSSINGS. Local authorities by ordinance and the ~~Idaho--transportation~~ department by erecting appropriate ~~official~~ traffic-control devices, are hereby empowered within their respective jurisdictions to prohibit pedestrians from crossing any ~~road~~highway ~~in-a-business-district-or-any designated-highways~~ except in a crosswalk~~;-provided,-however,-that-any offense-created-hereunder-shall-constitute-an-infraction-as--the--same is-defined-in-section-49-3401(3),-Idaho-Code~~.

SECTION 12. That Section 49-588, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~588~~211. AUTHORITY TO CLOSE UNMARKED CROSSWALKS. The ~~Idaho~~ transportation department and local authorities in their respective jurisdictions may, after an engineering and traffic investigation, designate unmarked crosswalk locations where pedestrian crossing is prohibited or when pedestrians must yield the right-of-way to vehicles. ~~Such--r~~Restrictions shall be effective only when ~~official~~ traffic-control devices indicating the restrictions are in place~~;--provided,-however,-that-any-offense-created-hereunder-shall-constitute-an infraction--as--the-same-is-defined-in-section-49-3401(3),-Idaho-Code~~.

SECTION 13. That Section 49-589, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~589~~212. AUTHORITY FOR STOP SIGNS AND YIELD SIGNS. The ~~Idaho~~ transportation department ~~with-reference-to-state-highways,~~ and local authorities with reference to ~~other-road~~highways under their jurisdiction may erect and maintain stop signs, yield signs, or other ~~official~~ traffic-control devices to designate through highways, or to designate intersections or other ~~roadway~~ junctions at which vehicular traffic on one or more of the ~~road~~highways should yield, or stop and yield, before entering the intersection or junction~~;-provided,-however,--that any--offense--created--hereunder-shall-constitute-an-infraction-as-the same-is-defined-in-section-49-3401(3),-Idaho-Code~~.

SECTION 14. That Section 49-698, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~698~~213. PARKING SPACES FOR THE HANDICAPPED -- MARKING AND SIGNING -- ENFORCEMENT. (1) Local governments and owners of private property open to public use may designate parking zones and spaces to be used exclusively by vehicles displaying a special license plate for the handicapped, ~~"D.V."-license-plates,~~ or a special card ~~for--the handicapped~~ as prescribed in sections 49-~~695~~410 ~~or-49-697~~, Idaho Code~~, or--a--special--temporary-card-as-prescribed-by-section-49-696,-Idaho Code~~. Any parking zones and spaces so designated shall conform to the following requirements:

(a) Parking lots shall be provided with spaces that are reserved, signed, accessible and approximate to the entrance of the facility ~~reserved--and-signed~~ for use by the handicapped ~~as-defined-by-section-49-695,-Idaho-Code~~. Spaces shall be provided on the basis of one (1) space for each thirty-five (35) spaces or fraction thereof, and shall be twelve (12) feet wide, open on one (1) side to allow room for individuals in wheelchairs or requiring the aid of a mechanical device to egress and ingress from a motor vehicle on a level paved surface.

(b) One (1) parking space shall be provided in each downtown city block, to be parallel with the sidewalk where parallel parking is required, or angle to the sidewalk where angle parking is required, and shall be near curb cuts and ramps for wheelchair and other mechanical device usage.

(c) For each designated parking space or area there shall be posted immediately adjacent to, and visible from each stall or

space, a sign, which is at least thirty-six (36) inches above the ground, consisting of the international handicapped symbol as shown in section 49-695~~4~~10, Idaho Code. The parking space shall be conspicuously painted indicated by blue paint.

(2) Parking a vehicle or the standing of a vehicle in a space reserved for the handicapped, except for a vehicle that is momentarily in the space for the purpose of allowing a handicapped person to enter or leave the vehicle, is prohibited, unless the vehicle is displaying a special license plates for the handicapped, a special card for the handicapped ~~as prescribed in sections 49-695 or 49-697, Idaho Code~~, or a special temporary card, or both, as prescribed ~~by~~ in section 49-696~~4~~10, Idaho Code. The registered owner of a vehicle parked in violation of the provisions of this subsection is guilty of an infraction, which is punishable by a fine not exceeding twenty-five dollars ($25.00) ~~and no imprisonment~~.

(3) Law enforcement officials are empowered to enter upon private property open to public use to enforce the provisions of this section.

49-214 -- 49-216. [RESERVED.]

SECTION 15. That Section 49-590, Idaho Code, be, and the same is hereby amended to read as follows:

49-590~~2~~17. REGULATIONS RELATIVE TO SCHOOL BUSES. ~~(1) The director in cooperation with the state board of education shall adopt and enforce regulations not inconsistent with this title to govern the design and operation of all school buses when owned and operated by any school district or privately owned and operated under contract with any school district in this state; and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to said regulations.~~

~~(2)~~ Any officer or employee of any school or school district operating a school bus who violates any ~~of said~~ regulations promulgated in conformance with the provisions of section 49-201, Idaho Code, may be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school or school district who fails to comply with any regulations may be guilty of breach of contract and such contract may be cancelled after notice of hearing by the responsible officers of ~~such~~ the school or school district.

SECTION 16. That Section 49-591, Idaho Code, be, and the same is hereby amended to read as follows:

49-59~~1~~218. DESIGNATION OF AUTHORIZED EMERGENCY VEHICLES. The director of the department of law enforcement shall designate any particular vehicle as an authorized emergency vehicle upon a finding that designation of that vehicle is necessary to the preservation of life or property, or to the execution of emergency governmental functions.

Any person who operates a motor vehicle in a manner which would

lead one to reasonably believe it was an emergency vehicle without prior approval of the director of law enforcement, shall be guilty of a misdemeanor and shall be subject to a fine of not less than three hundred dollars ($300) and may be incarcerated for not more than thirty (30) days in jail for each occurrence.

49-219 -- 49-220. [RESERVED.]

SECTION 17. That Section 49-593, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~593~~221. REMOVAL OF TRAFFIC HAZARDS. (1) It shall be the responsibility of the owner of real property to remove from ~~such~~ his property any hedge, shrubbery, fence, wall or other sight obstructions of any nature except buildings and trees where these sight obstructions constitute a traffic hazard. The above sight obstructions shall not extend more than three (3) feet in height above the existing center line ~~road~~highway elevation within the vision triangle of vehicle operators. ~~The boundaries~~ of the vision triangle ~~being~~ are defined by measuring from the intersection of the edges of two (2) adjacent ~~road~~highways forty (40) feet along each ~~road~~highway and connecting the two (2) points with a straight line. The sight distance obstruction is also applicable to railroad-highway grade crossings with vision triangle defined by measuring forty (40) feet along the railroad property line.

(2) When the ~~Idaho transportation~~ department or any local authority determines upon the basis of an engineering and traffic investigation that ~~such~~ a traffic hazard exists, it shall notify the owner and order that the hazard be removed within fifteen (15) days.

(3) The failure of the owner to remove ~~such~~ the traffic hazard within fifteen (15) days shall constitute ~~an infraction~~ a misdemeanor and every day ~~said~~ the owner shall fail to remove ~~said~~ the obstruction shall be a separate and distinct offense.

SECTION 18. That Section 49-594, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~594~~222. RIGHTS OF OWNERS OF REAL PROPERTY. Nothing in this title shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner, and not as a matter of right, from prohibiting such use, or from requiring other or different or additional conditions than those specified in this title, or otherwise regulating such use as may seem best to ~~such~~ the owner, except as provided in section 49-213, Idaho Code.

SECTION 19. That Section 49-595, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~595~~223. SALE OF NONCONFORMING TRAFFIC-CONTROL DEVICES. A person shall not sell nor offer for sale any sign, signal, marking or other device intended to regulate, warn or guide traffic unless it

conforms with the adopted state manual and specifications ~~adopted under section 49-584, Idaho Code~~.

49-224 -- 49-225. [RESERVED.]

SECTION 20. That Section 49-122A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~122A~~226. FILING FALSE AFFIDAVIT OF THEFT OR EMBEZZLEMENT OF A ~~MOTOR~~ VEHICLE~~, TRAILER OR SEMI-TRAILER~~. It shall be unlawful and a felony for the owner of any ~~motor~~ vehicle~~, trailer or semi-trailer~~ to file an affidavit as required in section 49-~~122~~449, Idaho Code, knowing the same to be false or misleading~~, and the commission of said act shall constitute a misdeameanor~~.

SECTION 21. That Section 49-143, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~143~~227. DRIVING VEHICLE WITHOUT OWNER'S CONSENT. Any person who shall drive a vehicle, not his own, without the consent of the owner ~~thereof~~, and with intent temporarily to deprive ~~said~~ the owner of his possession of such vehicle, without intent to steal the ~~same~~ vehicle, shall be guilty of a misdemeanor. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of ~~such~~ the vehicle by the same or a different person. Any person who assists in, or is a party or accessory to or an accomplice in any ~~such~~ unauthorized taking or driving shall also be guilty of a misdemeanor.

SECTION 22. That Section 49-144, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~144~~228. RECEIVING OR TRANSFERRING STOLEN VEHICLES. Any person who, with intent to procure or pass title to a ~~motor~~ vehicle which he knows or has reason to believe has been stolen, shall receive or transfer possession of the ~~same~~ vehicle from or to another, or who shall have in his possession any ~~motor~~ vehicle which he knows or has reason to believe has been stolen, and who is not an officer of the law engaged at the time in the performance of his duty as ~~such~~ an officer of the law, shall be guilty of a felony and upon conviction shall be punished as provided in section ~~49-148~~ 18-112, Idaho Code.

SECTION 23. That Section 49-145, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~145~~229. INJURING VEHICLE. Any person who shall individually, or in association with one or more others, wilfully break, injure, tamper with or remove any part or parts of any vehicle for the purpose of injuring, defacing or destroying ~~such~~ the vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of ~~such~~ the vehi-

cle, or who shall in any other manner wilfully or maliciously interfere with or prevent the running or operation of ~~such~~ the vehicle shall be guilty of a misdemeanor.

SECTION 24. That Section 49-146, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~146~~230. TAMPERING WITH VEHICLE. Any person who shall without the consent of the owner or person in charge of a vehicle climb into or upon such vehicle with the intent to commit any crime, malicious mischief, or injury ~~thereto~~, or who while a vehicle is at rest and unattended shall attempt to manipulate any of the levers, starting crank or other starting device, brakes or other mechanism ~~thereof~~, or to set ~~said~~ the vehicle in motion, shall be guilty of a misdemeanor, except that the foregoing provisions shall not apply when ~~any such~~ the act is done in an emergency in furtherance of public safety or convenience or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

SECTION 25. That Section 49-225, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~225~~231. FARM IMPLEMENTS -- PURCHASING OR SELLING WHEN IDENTIFYING NUMBER ALTERED OR DEFACED A ~~MISDEMEANOR~~ FELONY. Any person who knowingly buys, receives, disposes of, sells, offers for sale or has in his possession any tractor, trailer, or other farm implement or engine removed from a tractor or farm implement from which the manufacturer's serial or engine number or other distinguishing number or identification mark or number ~~placed thereon~~, has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the tractor, trailer or farm implement or engine, is guilty of a ~~misdeameanor~~ felony.

SECTION 26. That Section 49-226, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~226~~232. FRAUDULENT REMOVAL OR ALTERATION OF NUMBERS PROHIBITED. No person shall with fraudulent intent deface, destroy or alter the manufacturer's serial or engine number or other distinguishing number or identification mark of a vehicle or a tractor, ~~trailer,~~ or other farm implement; nor shall any person place or stamp any fictitious or unauthorized serial, engine or other number of distinguishing mark with the intention that the same pass for a number or mark placed thereon by the manufacturer of ~~such~~ the vehicle or tractor~~, trailer~~ or farm implement. This section shall not prohibit the restoration by an owner or repair man of an original serial, engine or other number or distinguishing mark, but is designed to prohibit and prevent the fraudulent removal or alteration of marks or numbers placed on ~~such~~ the vehicles or tractors~~, trailers~~ and other farm implements by the manufacturer ~~thereof~~.

49-233 -- 49-234. [RESERVED.]

SECTION 27. That Section 49-846, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~0~~46235. ENFORCEMENT BY ~~POLICE~~ PEACE OFFICERS. (~~a~~1) The director ~~and such~~ of the department of law enforcement, his officers and employees ~~of--the-department,~~ and ~~such~~ other ~~police~~ peace officers as the director of the department of law enforcement may authorize in writing may, upon reasonable cause, require the driver of a vehicle to stop and submit ~~such~~ the vehicle and its equipment to an inspection and ~~such~~ a test ~~with-reference-thereto~~ as may be appropriate.

(~~b~~2) In the event ~~such~~ a vehicle is found to be in an unsafe condition, or the required equipment is not present, or is not in proper repair and adjustment, the officer shall give a written notice to the driver and send a copy ~~thereof~~ to the department of law enforcement. ~~Said~~ The notice shall require that ~~such~~ the vehicle be placed in safe condition and its equipment in proper repair and adjustment, and a ~~certificate~~ of inspection and approval for the vehicle be obtained within five (5) days. Every owner or driver upon receiving ~~any~~ such a notice shall comply ~~therewith~~ the notice and shall within ~~said~~ the five (5) days secure an indorsement upon ~~such~~ the notice by the person making ~~such~~ the repair or adjustment that ~~such~~ the vehicle is in safe condition and its equipment in proper repair and adjustment, and shall ~~then~~ forward ~~said~~ the notice to the department of law enforcement.

(~~c~~3) No person shall operate any vehicle after receiving a notice ~~with-reference-thereto~~ as ~~above~~ provided ~~except-as-may-be-necessary-to return--such--vehicle-to-the-residence-or-the-place-of-business-of-the owner-or-driver-if-within-a-distance-of-twenty-(20)--miles,--or--to--a garage~~ in this section, until ~~said~~ the vehicle and its equipment ~~has~~ have been placed in proper repair and adjustment and otherwise made to conform to the requirements of this ~~act~~ title.

~~As-a-practical-means-of-determining-whether-head-lamps--or--auxiliary--driving--or--fog-lamps-glare-the-following-test-shall-apply:-Any such-lamp-shall-be-deemed-to-be-glaring-if-any-part-of-the-main-bright portion-of-the-beam-strikes-the-body-of-a-person,-vehicle,--screen--or other--object--higher--than--the-lamp-centers-twenty-five-(25)-feet-or more-ahead-of-the-vehicle-and-in-no-event-shall-the-main--bright--portion-of-the-beam-be-higher-than-forty-two-(42)-inches-at-a-distance-of seventy-five-(75)-feet-ahead-of-the-vehicle.~~

SECTION 28. That Sections 49-1104 and 49-1108, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~11~~04236. ~~PENALTY---~~ PENALTIES ~~FOR-VIOLATIONS-OF--STATUTES--AND ORDINANCES.~~ (1) It is a misdemeanor for any person to violate any of the provisions of this title ~~49,-Idaho-Code,~~ except the provisions of chapters ~~5,~~ 6~~,-7-and-8-thereof~~ through 9, unless ~~such-violation-is-by title-49,-Idaho-Code,-or-other-law-of-this--state--declared--to--be--a felony~~ otherwise specifically provided.

(2) It is an infraction for any person to violate any of the provisions of chapters ~~5,~~ 6~~,-7-or-8-of-title-49,-Idaho-Code,-and-such infraction-is-punishable-only-by-a-penalty-not-exceeding--one--hundred~~

~~dollars--($100)--and--no--imprisonment~~ through 9 of this title unless otherwise specifically provided.

~~(3) It is an infraction for any person to violate any county, city or other local ordinance which has been adopted as provided in section 49-502, Idaho Code, or any other provisions of title 49, Idaho Code, which is an infraction under section 49-3406, Idaho Code, and is punishable only by a penalty not exceeding one hundred dollars--($100) and--no--imprisonment.~~ Any offense punishable by imprisonment in the state penitentiary is a felony.

(4) Punishments shall be as provided in sections 18-111, 18-112, 18-113 and 18-113A, Idaho Code, unless otherwise specifically provided.

~~49-1100. PROCEDURE UPON ARREST FOR FELONY.~~

(5) Whenever a person is arrested for any violation of the provisions of this ~~act~~ title declared ~~herein~~ to be a felony, he shall be dealt with in like manner as upon arrest for the commission of any other felony. ~~For the purposes of this section any offense which may be punishable by imprisonment in a state penitentiary is a felony.~~

SECTION 29. That Section 49-204, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~204~~237. RECORD OF CONVICTIONS TO BE SENT TO DEPARTMENT. Upon the conviction of any person for the violation of any of the provisions of this ~~chapter~~ title, the ~~justice or other~~ judicial officer before whom the proceedings are had shall immediately certify the facts of the case to the department, including the name and address of the offender, the character of the punishment, and the amount of any fine imposed and paid~~, to the~~. The department~~, which~~ shall enter the same facts either in the ~~book or index~~ records of registered motor vehicles, or in the ~~book or index~~ records of registered manufacturers or dealers, as the case may be, opposite the name of the person so convicted, and in the case of any other person, in a ~~book or index~~ record of offenders, to be kept for ~~such~~ that purpose ~~in alphabetical order~~. If ~~any such~~ the conviction ~~shall~~ be reversed on appeal ~~therefrom~~, the person whose conviction has been ~~so~~ reversed may serve on the ~~said~~ department a certified copy of the order of reversal, ~~whereupon,~~ and the department shall enter the same reversal in the proper ~~book or index in connection with the record of such conviction~~ records.

SECTION 30. That Section 49-686, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~686~~238. CHARGING VIOLATIONS AND RULE IN CIVIL ACTIONS. (1) In every charge of violation of any speed regulation in this title, the complaint or citation shall specify the speed at which the defendant is alleged to have been driving~~; also~~ and the speed limit applicable within the district or at the location.

(2) The provision of this title declaring maximum speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the

defendant as the proximate cause of an accident.

(3) Upon the trial of any person charged with a violation of speed limitations, proof of determination of the maximum speed by the local jurisdictions and the existence of appropriate signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to a bridge or structure.

SECTION 31. That Section 49-149, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~149~~239. DISPOSITION OF FINES, PENALTIES, FORFEITURES AND FEES. All fines, penalties, and forfeitures collected for violations of any of the provisions of ~~this~~ chapter 4 of this title, shall be remitted to the state treasurer and placed in the highway distribution account.

(2) All other fines, penalties and forfeitures collected by any court or judge, for violation of motor vehicle laws, for violation of state driving privilege laws or for any other provisions of this title, shall be distributed as provided in section 19-4705, Idaho Code.

(3) All fees collected shall be remitted to the state treasurer and placed in the highway distribution account unless otherwise provided in this title.

SECTION 32. That Section 49-1121, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1121~~240. CERTAIN CIRCUMSTANCES FOR FORFEITURE OF BOND FOR TRAFFIC OFFENSES. (1) Whenever a person has received a written uniform misdemeanor traffic citation, summons or complaint containing a notice to appear before a magistrate, and if the attorney prosecuting the case and the defendant concur that it is in the best interest of justice that the defendant may post and forfeit an amount of the bond agreed upon by the parties, the court shall dismiss the charge. When bond is forfeited under the provisions of this subsection, no violation points, as prescribed in section 49-~~330~~326, Idaho Code, shall accrue. A forfeiture of bond under the provisions of this subsection shall not be recorded as a conviction.

(2) The provisions of subsection (1) of this section shall not be available when citations, summons or complaints are written for a violation of sections 18-8001, 18-8004, 18-8006 or 49-~~1103~~1401, Idaho Code.

49-241 -- 49-242. [RESERVED.]

SECTION 33. That Section 49-2438, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2438~~243. SEVERABILITY. ~~If--any--provision--of-this-act-is~~ The provisions of this title are declared ~~unconstitutional,-or-the--applicability--thereof~~ to be severable, and if any provision of this title or the application of that provision to any person or circumstance is ~~held~~ declared invalid~~,-the-constitutionality-of-the-reaminder-of-this~~

~~amendatory--act--and--the--applicability--thereof---to---persons---and circumstances~~ for any reason, that declaration shall not ~~be affected thereby~~ affect the validity of remaining portions of this title.

CHAPTER 3
OPERATOR AND CHAUFFEUR LICENSES

SECTION 34. That Sections 49-301, 49-328, 49-342 through 49-345, and 49-350, 49-351, 49-353, 49-356, 49-357 and 49-358, Idaho Code, be, and the same are hereby repealed.

SECTION 35. That Section 49-307, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~307~~301. OPERATORS AND CHAUFFEURS ~~MUST~~ TO BE LICENSED. (~~a~~1) No person, except those ~~hereinafter~~ expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway ~~in--this state~~ unless ~~such~~ the person has a valid license as an operator or chauffeur ~~under-the-provisions-of-this-act~~. No person shall receive an operator's or chauffeur's license unless and until he surrenders to the department all valid operator's~~'~~ and chauffeur's~~'~~ licenses in his possession issued to him by Idaho or any other jurisdiction. No person shall be permitted to have more than one (1) operator's or chauffeur's license at any time. No person shall operate a motor vehicle as a chauffeur unless he holds a valid chauffeur's license. No person shall receive a chauffeur's license unless and until he surrenders to the department any operator's license issued to him or an affidavit that he does not possess an operator's license.

(~~b~~2) Any person holding a valid chauffeur's license ~~hereunder~~ in accordance with the provisions of this chapter need not procure an operator's license.

SECTION 36. That Section 49-308, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~308~~302. WHAT PERSONS ARE EXEMPT FROM LICENSE. The following persons are exempt from ~~license-hereunder~~ licensure if driving privileges are not suspended, cancelled or revoked:

(1~~.~~) Any person while operating a motor vehicle ~~in-the-service-of the-Army,-Navy,-Air-Force,-or-Marine-Corps~~ of the armed forces of the United States while serving on active duty in the armed forces;

(2~~.~~) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway;

(3~~.~~) A nonresident who is at least sixteen (16) years of age and who has in his immediate possession a valid operator's license issued to him in his home state or country may operate a motor vehicle in ~~this-state~~ Idaho only as an operator;

(4~~.~~) A nonresident who is at least eighteen (18) years of age and who has in ~~his immediate~~ possession a valid chauffeur's license issued to him in his home state or country may operate a motor vehicle in ~~this-state~~ Idaho either as an operator or chauffeur except ~~any--such~~ that person must be licensed as a chauffeur ~~hereunder~~ in Idaho before

accepting employment as a chauffeur from a resident of this state~~.~~;

(5~~.~~) ~~A~~any nonresident who is at least eighteen (18) years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than ninety (90) days in any calendar year, if the motor vehicle ~~so-operated is duly~~ currently registered in the home state or country of ~~such~~ the nonresident.

SECTION 37. That Section 49-309, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~309~~303. WHAT PERSONS SHALL NOT BE LICENSED. The department shall not issue any license ~~hereunder~~; and if issued, may revoke or cancel the license of ~~such~~ a person who:

(1~~.~~) ~~To-any-person,-a~~As an operator, who is under the age of sixteen (16) years, except that the department may issue a restricted license ~~as-hereinafter-provided~~ to any person who is at least fourteen (14) years of age upon meeting the requirements of section 49-~~311~~305, Idaho Code~~;~~.

(2~~.~~) ~~To--any--person,--a~~As a chauffeur~~,-who~~ is under the age of eighteen (18) years~~;~~.

(3~~.~~) ~~To-any-person,-a~~As an operator~~,~~ or chauffeur~~,~~ ~~whose~~ has had his license ~~has--been~~ suspended ~~during-such~~ for the duration of the suspension, nor to any person whose license has been revoked, until the expiration of one (1) year after ~~such~~ the license was revoked~~;~~.

(4~~.~~) ~~To--any--person,--as--an--operator--or-chauffeur,-who-i~~Is an habitual drunkard, or is addicted to the use of narcotic drugs~~;~~.

(5~~.~~) ~~To-any-person,-as-an-operator-or-chauffeur,-who-h~~Has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law~~;~~.

(6~~.~~) ~~To-any-person,-as-an-operator-or-chauffeur,-who-i~~Is required by the provisions of this ~~act~~ chapter to take an examination, unless ~~such~~ that person shall have successfully passed such examination~~;~~.

(7~~.~~) ~~To-any-person-who-m~~May be required under any law of this state~~,--now--existing-or-hereafter-adopted,~~ to deposit proof of financial responsibility and who has not deposited ~~such~~ that proof~~;~~.

(8~~.~~) ~~To-any-person-when-t~~The department has good cause to believe that the operation of a motor vehicle on the highways by ~~such~~ that person would be ~~inimical~~ harmful to public safety or welfare.

SECTION 38. That Section 49-310, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~310~~304. SPECIAL RESTRICTIONS ON DRIVERS OF SCHOOL BUSES AND PUBLIC OR COMMON AND CONTRACT CARRIER MOTOR VEHICLES. (~~a~~1) No person ~~who-is~~ under the age of eighteen (18) years shall drive any motor vehicle while in use as a school bus for the transportation of pupils to or from school, or any motor vehicle while in use as a public contract or common carrier of persons or property, nor in either event until he has been licensed as a chauffeur ~~and--received--a--special chauffeur's-license~~.

(~~b~~2) No person shall be granted a ~~special~~ chauffeur's license unless he has had one (1) year of driving experience prior to the issuance ~~thereof~~, nor until he files with the department a certificate showing his employment as ~~such~~ a chauffeur and one or more certificates signed by a total of at least ~~three (3)~~ two (2) responsible people to whom he is well known certifying as to his good character and habits.

(~~c~~3) No ~~such~~ chauffeur's license shall be ~~granted~~ issued until the department is fully satisfied as to the applicant's competency and fitness to be so employed.

~~(d)--The department may, in its discretion, impose such rules--and regulations--for--the exercise of such special chauffeurs' licenses as it may deem necessary for the safety and welfare of the traveling public.~~

SECTION 39. That Section 49-311, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~311~~305. INSTRUCTION PERMITS AND TEMPORARY LICENSES. (~~a~~1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain an operator's license ~~under this act~~, may apply for a temporary instruction permit~~, and the~~. The department shall issue ~~such~~ a permit entitling the applicant, while having ~~such~~ the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of one hundred twenty (120) days~~,~~ but, except when operating a motorcycle, ~~such~~ that person must be accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver.

(~~b~~2) The department may, in its discretion, issue a temporary driver's permit to an applicant for an operator's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive an operator's license. ~~Such~~ The permit must be in ~~his~~ the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

(~~c~~3) ~~On and after July 1, 1962, n~~No person under the age of sixteen (16) years shall be issued a ~~restricted~~ license unless that person has successfully completed an approved driver training course.

SECTION 40. That Section 49-312, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~312~~306. APPLICATION FOR LICENSE OR INSTRUCTION PERMIT ~~---FEES~~. (~~a~~1) Every application for an instruction permit~~,~~ or for an operator's ~~license,~~ or ~~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~~,--or before officers~~. Officers and employees of the department~~,--or--before~~ and sheriffs and their deputies are authorized to administer the oaths

without charge. ~~(b)~~ Every application for a permit~~,--extension, duplicate~~ or license shall be accompanied by the ~~required~~ following fee, none of which is refundable:

(~~1~~a) ~~The fee for an i~~Instruction permit ~~is four dollars~~ ..... ~~($~~ .....4.00~~)~~;

(~~2~~b) ~~The fee for an o~~Operator's license ~~is thirteen--dollars--and fifty cents~~ ..... ~~($13.50)~~;

(~~3~~c) ~~The--fee--for--a c~~Chauffeur's license ~~is fifteen dollars and fifty cents~~ ..... ~~($15.50)~~;

(~~5~~d) ~~The fee for a d~~Duplicate license or permit ~~permitted~~ issued under section 49-~~32~~1318, Idaho Code~~, is three dollars~~ ... ~~($ 3.00)~~

(~~4~~e) ~~The--fee--for--a l~~License extension ~~permitted~~ issued under section ~~49-322319, Idaho Code, is three dollars~~ ..... ~~($ 3.00)~~;.

(~~c~~2) Every ~~said~~ application shall state the full name, date of birth, sex, Idaho residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has ~~theretofore~~ previously 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~~ the suspension, revocation, or refusal~~, and the~~. The applicant may be required to submit proof of date of birth ~~sufficient~~ as set forth in a certified copy of his birth certificate or other satisfactory evidence of birth date to satisfy the issuing officer.

(~~d~~3) 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 the other jurisdiction. When received, the operator's record from the previous jurisdiction 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.

(~~e~~4) Whenever the department receives a request for an operator's record from another licensing jurisdiction, the record shall be forwarded without charge.

(~~f~~5) 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~~a) 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~~b) 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~~c) Remit the remainder to the state treasurer.

(~~g~~6) 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~~7) 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~~a) One dollar and fifty cents ($1.50) of each fee for an operator's or chauffeur's license shall be deposited in the emer-

gency medical services account II created in section 39-146A, Idaho Code; and

~~(a)~~1. Forty percent (40%) shall be deposited in the driver training account; and

~~(b)~~2. Sixty percent (60%) shall be deposited ~~to~~ in the highway distribution account.

SECTION 41. That Section 49-312A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~312A~~307. ADDITIONAL FEE FOR DRIVER TRAINING. (~~a~~1) 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~~ other fees required ~~in section 49-312, Idaho Code~~ by law, pay an additional fee of twenty-five dollars ($25.00).

(~~b~~2) Each application for a driver training course permit shall provide the type of information required ~~in section 49-312, Idaho Code,~~ for an operator's license or instruction permit.

(~~c~~3) All moneys received from the fee imposed in this section shall be deposited in the driver training account.

SECTION 42. That Section 49-346, Idaho Code, be, and the same is hereby amended to read as follows:

49-346308. DRIVER TRAINING ACCOUNT ESTABLISHED. 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. All disbursements for driver training purposes made under certificate of the state board of education shall be made from the driver training account.

SECTION 43. That Section 49-348, Idaho Code, be, and the same is hereby amended to read as follows:

49-348309. CHAUFFEUR'S LICENSE -- APPLICATION ~~--- SUSPENSION UPON CONVICTION FOR DRIVING WHILE INTOXICATED~~. No person shall be permitted, as a chauffeur to operate any motor vehicle on the public highway for profit without first having obtained a license ~~therefor~~. Application for ~~such~~ a license shall be made to and upon blanks furnished by the department, through the sheriff. The applicant ~~must state therein~~ shall provide proof of date of birth as set forth in a certified copy of his birth certificate or other satisfactory evidence of birth date, that he is eighteen (18) years of age or over, the trade name and motor power of vehicle or vehicles he is capable of operating, and ~~such~~ any other pertinent information as may be demanded by the department. The application shall be signed and verified by the applicant, shall show his post-office address, and the names and addresses of at least two (2) responsible persons as references to the applicant's character and his ability to operate a motor vehicle.

~~Provided, however, that in case of the conviction of any person holding a chauffeur's license, issued under the provisions of this act~~

upon-the-charge-of-driving-a-motor-vehicle-upon-any-public-highway--or street;--while--intoxicated;--the-court;-judge;-or-justice-before-whom the-conviction-is-had-shall-in-addition-to-imposing-any--penalty--provided--by--law;--require--the--defendant--to-surrender-his-chauffeur's license-for-a-period-of-not-less-than-six-(6)-months;--nor--more--than one--(1)--year;--such--judge-shall-immediately-transmit-such-suspended license-to-the-department.-Such-department-shall-hold--such--suspended license--during-the-period-of-suspension;-and-not-issue-to-such-chauffeur-any-further;-or-other;-chauffeur's-license--during--such--period; and--said--department;-after-the-period-of-said-suspension-may-deliver the-said-license;-or-one-in-its-stead;--to--the--said--chauffeur--upon application-by-the-chauffeur-therefor.

SECTION 44. That Section 49-313, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~313~~310. APPLICATIONS OF ~~MINORS~~ PERSONS UNDER THE AGE OF EIGHTEEN YEARS. (~~a~~1) The application of any person under the age of eighteen (18) years for an instruction permit, restricted license or operator's license shall be signed and verified before a person authorized to administer oaths by either the father or mother of the applicant, if both are living and have custody of him; or if either be dead, then by the surviving parent who has custody of him; or in the event neither parent is living, or if living and does not have the custody of ~~said-minor~~ the applicant, then by the person or guardian having such custody or by an employer of ~~such-minor;-or-in-the~~ applicant. In the event there is no guardian or employer then some other responsible person ~~who--is~~ willing to assume the obligation ~~imposed under-this-act-upon-a-person-signing~~ for the applicant may sign the application ~~of--a--minor~~. The person willing to assume responsibility for the applicant must be at least eighteen (18) years of age.

(~~b~~2) Any negligence or wilful misconduct of a ~~minor~~ person under the age of eighteen (18) years when ~~driving~~ operating a motor vehicle upon a highway shall be imputed to the person who signed the application of ~~such-minor~~ that person for a permit or license, ~~which~~ and that person shall be jointly and severally liable with ~~such-minor~~ the permit or license holder for any damages caused by ~~such~~ negligence or wilful misconduct, ~~(~~except as otherwise provided ~~in-the-next-succeeding-paragraph)~~ by law.

(~~c~~3) In the event a ~~minor~~ permit or license holder under the age of eighteen (18) years deposits, or there is deposited upon his behalf, proof of financial responsibility in respect to the operation of any motor vehicle ~~owned--by-him;-or-if-not-the-owner-of-a-motor vehicle;-then-with-respect-to-the-operation-of-any-motor--vehicle~~, in form and in amounts as required under the motor vehicle financial responsibility laws of this state, or by the director if the form and amount be is not fixed by law, then the department may accept the application ~~of-such-minor~~ when signed by one (1) parent or guardian of ~~such-minor~~ the applicant, and while ~~such~~ that proof is maintained ~~such~~ the parent or guardian shall not be subject to the liability imposed under ~~the-preceding-paragraph~~ subsection (2) of this section.

(~~d~~4) Any person who has signed the application of a minor for a

permit or license shall be liable civilly for the payment of any court penalty imposed because the minor has been found to have committed an infraction violation~~;--provided,--that--the~~. The provisions of this section shall not apply or create any civil liability for the person signing the application in connection with any pedestrian or bicycle infraction, and provided this subsection ~~(d)~~ shall not apply to any civil action where the plantiff is other than the state of Idaho.

SECTION 45. That Section 49-314, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~31~~4311. RELEASE FROM LIABILITY. Any person who has signed the application ~~of--a--minor~~ for a license of a person under the age of eighteen (18) years may ~~thereafter~~ file with the department a verified written request that the license ~~of-said--minor~~ so granted be cancelled~~.--Thereupon~~ and the department shall cancel the license ~~of-said minor-and-the~~. The person who signed the application ~~of--such--minor~~ shall be relieved from the liability imposed ~~under-this-act~~ by reason of having signed ~~such~~ the application ~~on-account~~, of any subsequent negligence or willful misconduct of ~~such-minor~~ the person signed for in operating a motor vehicle.

SECTION 46. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~31~~5312. ~~REVOCATION--OF--LICENSE--UPON~~ DEATH OF PERSON SIGNING ~~MINOR'S~~ APPLICATION FOR PERSON UNDER EIGHTEEN YEARS OF AGE. The department, upon receipt of satisfactory evidence of the death of the person(s) who signed the application of a ~~minor~~ person under the age of eighteen (18) years for a license, shall cancel ~~such~~ the license and shall not issue a new license until ~~such-time-as~~ a new application, duly signed and verified, is made ~~as-required-by-this-act~~. This provision shall not apply in the event the ~~minor~~ licensee has attained the age of eighteen (18) years.

SECTION 47. That Section 49-316, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~31~~6313. EXAMINATION OF APPLICANTS. ~~(a)~~ The sheriff or deputy shall examine every applicant for an operator's or chauffeur's license, except as otherwise provided ~~in-this-section,-or-in-this-act~~ by law. ~~Such~~ The examination shall be held in any county most convenient to the applicant. It shall include a test of the applicant's eyesight and hearing, his ability to read and understand highway signs regulating, warning, and directing traffic, and shall include, at the discretion of the examiner, an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. In addition, the applicant's knowledge of traffic laws shall be tested by a written examination, except as provided in section 49-~~322~~319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

SECTION 48. That Section 49-317, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~317~~314. ~~DEPARTMENT--MUST--APPOINT~~ LOCAL EXAMINERS APPOINTED BY DEPARTMENT. The department ~~must~~ shall appoint ~~as-examinees~~ the sheriff in each county and may appoint any deputy sheriff, chief of police, or other officials or private citizens whom ~~it~~ the department deems qualified as examiners, who shall be agents of the department and shall perform duties prescribed in this title. The department ~~must~~ shall appoint at least one (1) employee in the department who shall be skilled and highly qualified in the method of giving operator's and chauffeur's license examinations, who shall have authority, and it shall be ~~his~~ this person's duty~~,~~ to instruct the ~~sheriffs,-their-deputies,--chiefs--of--police--or-other-persons~~ examiners appointed by the department in the method of giving operator's and chauffeur's license examinations and acquaint them with the use of ~~such~~ equipment and forms ~~as-may-be~~ needed in examining applicants for licensure. ~~Any-person-conducting-examinations-for--operator's--or--chauffeur's--licenses shall--make-such-written-report-of-findings-and-recommendations-to-the department-as-it-may-require.~~

SECTION 49. That Section 49-318, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~318~~315. LICENSES ISSUED TO OPERATORS AND CHAUFFEURS. (~~a~~1) The department shall issue to every qualifying applicant ~~qualifying therefor~~ an operator's or chauffeur's license as applied for, which ~~license~~ shall bear ~~thereon~~ a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address and a brief description of the licensee, and a space upon which the licensee shall ~~write-his-or-her-usual-signature~~ sign the license with pen and ink immediately upon receipt of the license~~.-No~~, and no license shall be valid until it has been ~~so~~ signed by the licensee.

(~~b~~2) Every operator's and chauffeur's license shall bear ~~thereon~~ a color photograph of the licensee, which shall be taken by the examiner at the time the ~~original~~ application is made ~~for--an--Idaho operator's--or-chauffeur's-license. Such~~ The photograph shall ~~likewise~~ be taken ~~upon-each-subsequent-renewal-of-the-operator's-or-chauffeur's license-and-in-all-cases-shall-be-taken~~ without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant.

~~(c)--Operators'-and-chauffeurs'-licenses-shall-bear-thereon,-in--a manner--and--form--to-be-prescribed-by-the-department,-a-place-for-the licensee-to-indicate-his--or-her-desire-to-donate-any-or-all-of-his-or her-organs-in-the-event-of-death,-pursuant-to-the-provisions-for-donation-of-anatomical-gifts-as-set-forth-in-chapter-34,-title--39,--Idaho Code.~~ A license may contain a statement or indication of the medical condition of the licensee.

~~(d)--No-public-entity-or-employee-shall-be-liable--for--any--loss, detriment,--or--injury-resulting-directly-or-indirectly-from-any-typographical-error,-false-or--inaccurate--information--contained--in--any application--forms--or-any-other-forms-furnished,-put-out,-or-provided~~

~~for-by-the-department-pursuant-to-chapter-3,-title-49,-Idaho-Code.--If an--error--is-made-by-a-public-entity-or-employee,-a-corrected-copy-of the-document-involved-shall-be-made-available-without--charge--to--any person-affected.~~

SECTION 50. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~319~~316. LICENSE TO BE CARRIED AND EXHIBITED ON DEMAND. Every licensee shall have his operator's or chauffeur's license in his immediate possession at all times when operating a motor vehicle and shall ~~display-the-same~~, upon demand ~~of-a-justice-of-the-peace~~, surrender the license into the hands of a peace officer~~,-or-a-field-deputy-or inspector-of-the-department~~ for his inspection. However, no person charged with ~~violating~~ a violation of the provisions of this section shall be convicted if ~~he--produces--in--court~~ an operator's or chauffeur's license ~~theretofore~~ issued to ~~him~~ the person and valid at the time of his arrest is produced in court.

~~For-the-purposes-of-this-section,-"display"-means-the-manual--surrender--of--his--license--certificate--into-the-hands-of-the-demanding officer-for-his-inspection-thereof.~~

SECTION 51. That Section 49-320, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~320~~317. RESTRICTED LICENSES. (~~a~~1) The department~~(s)~~, upon issuing an operator's or chauffeur's license, shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate, or ~~such~~ other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(~~b~~2) The department may either issue a special restricted license or may set forth ~~such~~ restrictions upon the usual license form.

(~~c~~3) The department may, upon receiving satisfactory evidence of any violation of the restrictions of ~~such~~ a license, suspend or revoke the ~~same~~ license for a period of thirty (30) days but the licensee shall be entitled to a hearing ~~as--upon--a--suspension--or--revocation under-this-act.~~

~~(d)--It-is-a-misdemeanor-for-any-person-to-operate-a-motor-vehicle in-any-manner-in-violation-of-the-restrictions-imposed-in-a-restricted license-issued-to-him.~~

SECTION 52. That Section 49-321, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~321~~318. DUPLICATE CERTIFICATES. In the event that an instruction permit or operator's or chauffeur's license ~~issued-under-the-provisions--of-this-chapter~~ is lost or destroyed, or a name of a licensee is changed by marriage or otherwise legally changed, the person to whom the ~~same~~ permit or license was issued may, upon payment of the

fee fixed in section 49-~~312~~306, Idaho Code, ~~obtain--a--suplicate,--or substitute--thereof,~~ and upon furnishing ~~proof~~ satisfactory proof to the department that ~~such~~ the permit or license has been lost or destroyed, or the name has been changed, obtain a duplicate or substitute permit or license. The applicant shall provide proof of date of birth as set forth in a certified copy of his birth certificate or other satisfactory evidence of birth date. In the case of a name change, the applicant shall provide legal documentation to verify the change.

SECTION 53. That Section 49-322, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~322~~319. EXPIRATION AND RENEWAL OF OPERATOR'S AND CHAUFFEUR'S LICENSE ~~--~~ AUTOMATIC EXTENSION FOR ACTIVE MILITARY DUTY. (~~a~~1) 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~~ the 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~~2) 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 application 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~~ the license.

(~~c~~3) 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-the-fee--fixed--in--section--49-312, Idaho-Code,~~ an extension of the license~~,--but-the~~. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and 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~~ shall 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~~4) 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, or a member of the immediate family accompanying such a person, 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.

~~(e)--Provided,-no-license-which-has-been-suspended--under--section 49-3408,-Idaho-Code,-for-failure-to-pay-an-infraction-penalty-shall-be renewed--until-the-licensee-provides-proof-that-the-infraction-penalty has-been-paid-to-the-court.~~

SECTION 54. That Section 49-323, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~323~~320. NOTICE OF CHANGE OF ADDRESS ~~OR-NAME~~. Whenever any person after applying for or receiving an operator's or chauffeur's license shall move from the address ~~named-in-such~~ shown in the application or in the license issued ~~to-him-or-when-the-name-of-a-licensee is-changed-by-marriage-or-otherwise-such,~~ that person shall, within ten (10) days ~~thereafter,~~ notify the department in writing of ~~his~~ the old and new addresses ~~or-of-such-former-and-new-names-and-of-the--number-of-any-license-then-held-by-him.~~

SECTION 55. That Section 49-324, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~324~~321. RECORDS TO BE KEPT BY THE DEPARTMENT. (~~a~~1) The department shall file every application for a license received by it and shall maintain suitable indices containing~~,-in-alphabetical-order:~~

~~1.~~(a) All applications denied and on each ~~thereof~~ note the reason for ~~such~~ denial;

~~2.~~(b) All applications granted; and

~~3.~~(c) The name of every licensee whose license has been suspended or revoked by the department and after each ~~such~~ name note the reasons for ~~such~~ the action.

(b2) The department shall also file all accident reports and abstracts of court records of convictions received by it under the ~~laws-of-this-state-and-in-connection-therwith~~ and maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions ~~of--such--licensee~~ and the traffic accidents in which ~~he~~ the licensee has been involved shall be readily ascertainable and available for ~~the~~ consideration of the department upon any application for renewal of license and at other suitable times.

~~(c)--The-department-shall-have-power-and-it-shall-be-its-duty:--To institute-educational-programs,-demonstrations,-exhibits-and-displays; to--examine--persons--and-vehicles-by-written,-oral-and-physical-tests without-compulsion-except-as-provided-in-this-act;--to--employ--expert and-special-help-in-the-department;-to-compile-accident-statistics-and disseminate--information--thereon;-to-cooperate-with-the-United-States and-the-department-of-public-works-in-the-elimination-of-road--hazards whether--of--a-physical,-visual-or-mental-character;-and-in-general-to do-all-things-which-may-tend-to-the-execution-of-the-ultimate--purpose of--this-act,-to-wit:-the-elimination-so-far-as-reasonably-possible-of~~

~~all-highway-accidents-and-hazards.~~

(~~d~~3) The department of health and welfare, on or about the 25th day of each month ~~is-authorized~~ shall, upon the request of the department ~~to~~, furnish the department a listing showing the name, age, county of residence, and residence address of each Idaho resident who has died during the preceding month. ~~Such~~ The listing shall be used only for purposes of updating the operator's and chauffeur's license files of the department and shall remain confidential. The listing shall not be duplicated by the department and shall be returned to the department of health and welfare no later than five (5) working days following the date of its receipt by the department.

SECTION 56. That Section 49-325, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~325~~322. AUTHORITY OF DEPARTMENT TO CANCEL LICENSE. (~~a~~1) The department ~~is--hereby--authorized--to~~ shall cancel any operator's or chauffeur's license upon determining that ~~said~~ the licensee was not entitled to the issuance ~~thereof-hereunder~~ of the license, or that the licensee failed to give the required or correct information in his application, or committed fraud in making ~~such~~ the application.

(~~b~~2) Upon ~~such~~ a cancellation, the licensee ~~must~~ shall surrender the cancelled license ~~so--canceled-and-any-chauffeur's-badge~~ to the department.

SECTION 57. That Section 49-326, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~326~~323. SUSPENDING PRIVILEGES OF NONRESIDENTS AND REPORTING CONVICTIONS. (~~a~~1) The privilege of driving a motor vehicle on the highways ~~of-this-state~~ given to a nonresident ~~hereunder~~ shall be subject to suspension or revocation by the department in a like manner and for a like cause as an operator's or chauffeur's license issued ~~hereunder~~ to a resident may be suspended or revoked.

(~~b~~2) ~~The--department--is--further--authorized;--u~~Upon ~~receiving~~ receipt of a record of the conviction in this state of a nonresident driver ~~of-a-motor-vehicle-of~~ for any offense under the motor vehicle laws ~~of-this-state;-to~~, the department shall forward a certified copy of ~~such~~ the record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

SECTION 58. That Section 49-327, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~327~~324. SUSPENDING RESIDENT'S LICENSE UPON CONVICTION IN ANOTHER STATE. The department ~~is-authorized-to~~ shall suspend or revoke the license of any resident of this state or the privilege of a nonresident to ~~drive~~ operate a motor vehicle in this state upon receiving notice of the conviction of that person in another state of an offense ~~therein~~ which, if committed in this state, would be grounds for the suspension or revocation of the license of an operator or chauffeur.

SECTION 59. That Section 49-329, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~329~~325. MANDATORY REVOCATION BY DEPARTMENT -- TEMPORARY RESTRICTED PERMIT. (1) The department shall ~~forthwith~~ revoke the ~~driving~~ operating privilege of any ~~driver~~ operator or chauffeur upon receiving a record of ~~such~~ the person's or chauffeur's conviction of any of the following offenses, when ~~such~~ the conviction has become final, if the court has not ordered the suspension or revocation of ~~such~~ the privilege:

~~1.~~(a) Vehicular manslaughter;

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

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

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

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

(e) Conviction of a violation of the provisions of section 49-1301, Idaho Code. Revocation in this event shall be for a period of not less than one (1) year.

(2) Whenever any license, permit or ~~driving~~ operating privilege has been revoked by the department on the basis of subsections ~~2.~~(b) through ~~5.~~(e) above, the department may issue a temporary restricted permit, except when restricted ~~driving~~ operating privileges are specifically prohibited by other provisions of law.

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

SECTION 60. That Sections 49-330 and 49-331, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~330~~326. AUTHORITY OF DEPARTMENT TO SUSPEND OR REVOKE LICENSE. (~~a~~1) If the court has not ordered the suspension of a license, ~~permit or privilege, or made a determination with respect thereto,~~ the department is ~~hereby~~ authorized to suspend or revoke the license of a driver or chauffeur without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

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

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

~~3.~~(c) Is incompetent to drive a motor vehicle;

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

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

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

~~4.~~(d) Has permitted an unlawful or fraudulent use of ~~such~~ a license;

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

~~6.~~(f) Has been convicted of the offense of reckless driving ~~as provided in section 49-1103, Idaho Code~~, or fleeing or attempting to elude a ~~police~~ peace officer ~~as provided in section 49-1102, Idaho Code~~, and providing that the ~~driving~~ operating privilege shall be suspended for a period of thirty (30) days upon conviction and providing further, that if a second conviction occurs within a two (2) year period of time from the time of the first conviction, the suspension shall be for ninety (90) days, and if a third conviction shall occur within a three (3) year period of time from the time of the first conviction, the period of suspension shall be for one (1) year;

(g) Has failed to satisfy a judgment as set forth in chapter 12, title 49, Idaho Code;

(h) Has failed to maintain proof of financial responsibility as set forth in chapter 12, title 49, Idaho Code;

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

~~8.~~(j) Is an habitual violator of the traffic laws of the state of

Idaho.

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

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

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

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

(~~c~~3) The department is hereby authorized and directed to establish a violation point count system for various moving traffic violations and infractions occurring either within or without the state of Idaho, affecting all holders of operators' or chauffeurs' driving licenses issued by the department.

(~~d~~4) Upon suspending the license of any person ~~as-hereinbefore-in this-section-authorized,~~ the department shall immediately notify the licensee in writing, and upon his request shall afford him an opportunity for a hearing before the director ~~as-early-as-practical.~~ The hearing shall be held within ~~not-to--exceed~~ twenty (20) days after receipt of ~~such~~ the request, and be held in the county wherein the licensee resides unless the department and the licensee agree that ~~such~~ the hearing may be held in some other county. The nNotice and hearing ~~as-provided-herein~~ shall be required prior to the imposition of additional suspension periods beyond the periods as set forth in this section. Upon ~~such~~ a bearing the director or his duly authorized agent may administer oaths~~,-and~~ may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. Upon ~~such~~ the hearing the department shall either rescind its order of suspension or, good cause ~~appearing--therefor,~~ may extend the suspension of ~~such~~ the license or revoke ~~such~~ the license.

~~(e)--A--court--of--competent--jurisdiction--shall--have--exclusive authority--to--suspend--or--revoke--driving-privileges-upon-failure-or refusal-of-an-individual-to-submit-to-an-evidentiary-test-for-alcohol, drugs-or-any-other-intoxicating--substances--as--provided--by--section 18-8002,-Idaho-Code.~~

~~(f)~~ Whenever a license, permit or driving privilege has been suspended or revoked by the department as provided in this section, other than as set forth in subsections ~~(a)3-and-(a)4~~ (1)(c), (d), (g) or (h), the department may issue a temporary restricted permit restrict-

ing the time, area and purpose of use. The aApplication, eligibility requirements and form of the temporary restricted permit shall be provided by administrative rule ~~of the department~~.

~~49-331.--PERIOD OF SUSPENSION OR REVOCATION.~~

(5) The department shall not suspend a license for a period of more than one (1) year and upon revoking a license shall not in any event grant application for a new license until the expiration of one (1) year after ~~such~~ the revocation. The provisions of t~~This subsection, however,~~ shall not be applicable with respect to the issuance of temporary restricted permits as provided in section 49-3295, Idaho Code.

SECTION 61. That Section 49-332, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~332~~327. SURRENDER AND RETURN OF LICENSE ~~AND BADGE~~. ~~The department--~~Upon suspending or revoking a license, the department shall require that ~~such~~ the license ~~and the badge--of--any--chauffeur--whose license--is--suspended--or--revoked~~ shall be surrendered to and be retained by the department ~~except that at~~. At the end of the period of suspension ~~such~~, the license ~~and any chauffeur's badge~~ so surrendered shall be returned to the licensee.

SECTION 62. That Section 49-331A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~331A~~328. REINSTATEMENT OF REVOKED OR SUSPENDED LICENSE -- FEE -- WHEN REINSTATEMENT PROHIBITED. (1) When the period of revocation or suspension of a license has expired, or the reason for the revocation or suspension no longer exists, the department shall reinstate ~~such~~ the license on application of the driver. The application shall be in the form prescribed by the department and accompanied by a reinstatement fee of fifteen dollars ($15.00)~~; provided, no~~.

(2) A license which has been suspended under section 49-~~3408~~1505, Idaho Code, for failure to pay an infraction penalty shall not be reinstated until the licensee provides proof that the infraction penalty has been paid to the court.

SECTION 63. That Section 49-333, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~333~~329. NO OPERATION UNDER FOREIGN LICENSE DURING SUSPENSION OR REVOCATION IN ~~THIS STATE~~ IDAHO. ~~Any~~ No resident or nonresident whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in ~~this state~~ Idaho has been suspended or revoked ~~as provided in this act~~ shall ~~not~~ operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during ~~such~~ the suspension or after ~~such~~ revocation until a new license is obtained when and as permitted under this ~~act~~ chapter.

SECTION 64. That Section 49-334, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~334~~330. RIGHT OF APPEAL TO COURT. Any person denied a license or whose license has been cancelled, suspended, or revoked by the department, except where ~~such~~ cancellation, suspension, or revocation is court ordered~~,~~ shall have the right to file a petition within thirty (30) days ~~thereafter~~ of notification of action, for a hearing in the matter in the district court in the county where~~in such~~ the person ~~shall~~ resides and ~~such~~ the court shall set the matter for hearing upon thirty (30) days' written notice to the department~~;--and thereupon--to.~~ The court shall take testimony ~~and~~, examine ~~into~~ the facts of the case, and ~~to~~ determine whether the petitioner is entitled to a license or is subject to suspension, cancellation, or revocation of the license ~~under the provisions of this title~~.

SECTION 65. That Section 49-335, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~335~~331. UNLAWFUL USE OF LICENSE. It is a misdemeanor for any person:

(1~~.~~) To display or cause or permit to be displayed or have in his possession any mutilated or illegible, cancelled, revoked, suspended, fictitious or fraudulently altered operator's or chauffeur's license;

(2~~.~~) To lend his operator's or chauffeur's license to any other person or knowingly permit the use ~~thereof~~ of his license by another;

(3~~.~~) To display or represent as one's own any operator's or chauffeur's license not issued to him;

(4~~.~~) To fail or refuse to surrender to the department, upon its lawful demand, any operator's or chauffeur's license which has been suspended, revoked or cancelled;

(5~~.~~) To use a false or fictitious name in any application for an operator's or chauffeur's license, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in any ~~such~~ application;

(6~~.~~) To permit any unlawful use of an operator's or chauffeur's license issued to him; or

(7~~.~~) To do any act forbidden or fail to perform any act ~~required by~~ specified in this ~~act~~ chapter.

SECTION 66. That Section 49-336, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~336~~332. MAKING FALSE AFFIDAVIT PERJURY. Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter or thing required by the ~~terms~~ provisions of this ~~act~~ chapter to be sworn to or affirmed, is guilty of perjury and upon conviction shall be ~~punishable by fine or imprisonment as other persons committing perjury are punishable~~ punished as provided by law.

SECTION 67. That Sections 49-338, 49-339 and 49-340, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~338~~333. ~~PERMITTING--UNAUTHORIZED--MINOR TO DRIVE~~ PROHIBITIONS.

No person shall:

(1) Cause or knowingly permit his child or ward under the age of eighteen (18) years to drive operate a motor vehicle upon any highway when such minor the child or ward is not authorized hereunder or is in violation of any of the provisions of this act chapter.

49-339.--PERMITTING--UNAUTHORIZED PERSON TO DRIVE.--No person shall authorize

(2) Authorize or knowingly permit a motor vehicle owned by him or under his control to be operated upon any highway by any person who is not authorized hereunder or is in violation of any of the provisions of this act chapter.

49-340.--EMPLOYING UNLICENSED CHAUFFEUR.--No person shall employ

(3) Employ as a chauffeur of a motor vehicle any person not then licensed as provided in this act chapter.

SECTION 68. That Section 49-341, Idaho Code, be, and the same is hereby amended to read as follows:

49-341334. RENTING MOTOR VEHICLE TO ANOTHER. (a1) No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed hereunder or, in the case of a nonresident, then duly licensed under the laws of the state or country of his residence, except a nonresident whose home state or country does not require that any operator be licensed.

(b2) No person shall rent a motor vehicle to another until he has inspected the operator's or chauffeur's license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of the person written in his presence.

(c3) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said the latter person and the date and place when and where said the license was issued. Such This record shall be open to inspection by any peace officer or officer or employee of the department.

CHAPTER 4
MOTOR VEHICLE REGISTRATION

SECTION 69. That Sections 49-401, 49-423, 49-427 through 49-430 and 49-433, Idaho Code, be, and the same are hereby repealed.

SECTION 70. That Section 49-133, Idaho Code, be, and the same is hereby amended to read as follows:

49-133401. OPERATING FEE IN LIEU OF PROPERTY TAX. The operating fees imposed by for vehicles under the provisions of this chapter upon motor vehicles shall be in lieu of all taxes thereon on vehicles, general or local, and any such motor vehicles properly registered and for which the required fee for any part of the previous year has been paid, shall be exempt from ad valorem taxation.

SECTION 71. That Section 49-126, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~126~~402. 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 $36.48
Vehicles three (3) and four (4) years old 33.48
Vehicles five (5) and six (6) years old 26.28
Vehicles seven (7) and eight (8) years old 22.68
Vehicles over eight (8) years old 16.08

~~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 twelve (12) registration periods, starting in January for holders of validation registration stickers ending in 1, and proceeding consecutively through December for holders of validation registration stickers ending in 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. Registration periods shall expire midnight on the last day of the registration period in the year designated by the ~~registration~~ validation registration sticker. The numeral digit on the 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 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 and forty-eight cents ($12.48).

(3) For all hearses, ambulances and wreckers the annual fee shall be twenty-nine dollars and forty cents ($29.40), 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 and forty-eight cents ($6.48).

(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 in 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.

(7) A motor vehicle may be registered by the department under the provisions of subsection (1), (2), (3), (4), or (5) of this section for a period of up to five (5) years. The length of the registration period shall be determined by the time remaining until the next general reissue of license plates required in section 49-113, Idaho Code. The extended registration fee shall be calculated by adding together the fees for each of the registration years according to the age of the vehicle from the fee schedule in subsection (1) of this section or from the fees required in subsections (2), (3) and (4) of this section. Registration fees shall not be subject to refund. Upon change of address the registrant shall report such change to the county assessor and obtain a revised registration certificate within ten (10) days.

(~~7~~8) A financial institution repossessing motor vehicles under the terms of a security agreement shall move the motor vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 1, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

SECTION 72. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 49-403, Idaho Code, and to read as follows:

49-403. DISABLED VETERAN -- LICENSE PLATES. No fee shall be charged for the registration or reregistration of a motor vehicle owned by a veteran who has established his rights to benefits under the provisions of Public Law 662, 79th Congress, as amended, and Pub-

lic Law 187, 82nd Congress, as amended. No fee shall be charged for the registration or reregistration of a motor vehicle owned by a veteran, who is at the time of the registration or reregistration receiving compensation from the veterans administration or in lieu thereof, from any of the armed forces of the United States, for one hundred per cent (100%) service-connected disability or for any of the following specific disabilities: Loss or permanent loss of use of one or both feet; loss or permanent loss of use of one or both hands; loss of sight in both eyes or permanent impairment of vision in both eyes to the degree as to constitute virtual blindness. These provisions shall be considered applicable not only as to the vehicle originally purchased under this authorization, but also as to any vehicle subsequently purchased and owned by the same veteran, so long as the privilege shall not extend to more than one (1) vehicle at a time. Special license plates shall be issued for such a vehicle, identified by the inscription "D.V.", and a separate number series shall be used to further identify the license plates so issued. These license plates shall not be issued by the counties but shall be issued by the department through and at the request of the appropriate county assessor. The plates shall be displayed in accordance with the procedure applicable to license plates set forth in section 49-428, Idaho Code. A vehicle displaying plates issued in accordance with the provisions of this section shall be afforded the same privileges specified in section 49-410(5), Idaho Code.

SECTION 73. That Sections 49-228, 49-229 and 49-230, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~228~~404. NATIONAL GUARD MEMBERS -- SPECIAL PLATES. (1) Any active member of the Idaho national guard residing in the state of Idaho may, upon application to the department, register not more than two (2) passenger motor vehicles and receive for each ~~such~~ vehicle special ~~number~~ license plates in lieu of regular ~~number~~ license plates. The special ~~number~~ license plates shall be designed, subject to the approval of the department, by the adjutant general. Proof of being an active member in the Idaho national guard must be furnished to the department before plates will be issued. These special license plates shall be issued for one (1) year periods, commencing on January 1.

The Idaho national guard ~~may~~ shall, prior to an individual's discharge from active duty in the national guard, require that the special national guard license plates either be turned in to the department or exchanged for other proper license plates as a condition of discharge.

~~49-229. TIME FOR APPLICATION FOR SPECIAL PLATES.~~

(2) Active members of the Idaho national guard will notify the department at a time to be set by the department, of their intention to procure special ~~number~~ license plates under the terms of specified in this ~~act~~ section. Failure to do so will result in the member being required to accept regular ~~number~~ license plates should the department be unable to procure special plates ~~provided herein~~. Special plates may still be procured when available but members of the Idaho national

guard will be subject to the usual transfer fee.

~~49-230.--TRANSFER-OF-VEHICLE----SPECIAL-PLATE-REGISTRATION-EXPIRES---REISSUANCE.~~

(3) Whenever a member of the Idaho national guard transfers or assigns his title or interest to a vehicle especially registered under the provisions of this ~~act~~ section, the registration shall expire but the member may hold his special ~~number~~ license plates which he may have reissued to him upon the payment of the required transfer fees. He may only display ~~such~~ the plates after receipt of new registration from the department.

SECTION 74. That Sections 49-213, 49-214, 49-215 and 49-216, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~213~~405. RADIO AMATEURS -- SPECIAL ~~NUMBER~~ LICENSE PLATES. (1) Any ~~bona-fide~~ radio amateur ~~as-defined-in-section-49-212,-Idaho-Code,~~ ~~and~~ residing in the state of Idaho, may, upon application to the department, register one (1) motor vehicle per radio license issued by the federal government and receive for ~~such~~ that vehicle special ~~number~~ license plates in lieu of regular ~~number~~ license plates. The number ~~thereon--will~~ on the plates shall be the same combination of figures and letters that ~~will~~ make up the radio call sign of the amateur radio operator.

(2) Proof of holding an amateur license from the federal communications commission must be furnished to the department before the plates will be issued. Should the amateur's radio license expire during any given year and not be renewed, the special ~~number~~ license plates must be surrendered to the department and regular ~~number~~ license plates obtained.

~~49-214.--AMATEURS--TO--NOTIFY--DEPARTMENT--OF--INTENTION-TO-OBTAIN PLATES.~~

(3) Radio a~~A~~mateurs will notify the department~~,~~ at a time to be set by the department of their intention to procure special ~~number~~ license plates under the terms ~~of~~ specified in this ~~act~~ section. Failure to do so will result in ~~such~~ the amateur being required to accept regular ~~number~~ license plates should the department be unable to procure the special plates ~~provided-herein~~. Special plates may still be procured when available but amateurs will be subject to the usual transfer fee.

~~49-215.-TRANSFER-OR-ASSIGNMENT-OF-MOTOR-VEHICLE-WITH-SPECIAL--NUMBER-PLATES.~~

(4) Whenever an amateur transfers or assigns his title or interest to a vehicle especially registered ~~under-this-act~~ the registration shall expire, but the amateur may hold his special ~~number~~ license plates which he may have reissued to him upon the payment of the required transfer fees. He may only display the plates after receipt of new registration from the department.

~~49-216.-SPECIAL-FEES-REQUIRED.~~

(5) To defray the costs of making the special ~~number~~ license plates the applicant shall pay an initial fee of five dollars ($5.00) ~~per--set--of-special-number-plates~~ over and above the regular fee prescribed in section 49-402, Idaho Code, for the same class of vehicle,

regardless of the time of issue. ~~A-fee-of-three-dollars-($3.00)-per set-of-special-number-plates,-over-and above-the-regular-fee--for--the same--class-of-vehicle,-will-be-charge,-each-year-thereafter.-This-fee must-accompany-the-application-for-license,-and-is-not-refundable.~~

SECTION 75. That Section 49-134A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~134A~~406. ~~EXEMPTIONS-FROM-OPERATING-FEES~~ IDAHO OLD TIMER -- IDAHO CLASSIC. (1) ~~The--provisions-hereof-with-respect-to-operating fees-shall-not-apply-to-a~~ Any motor vehicle ~~which-is-over-thirty--(30) years-of-age,-and-which-does-not-qualify-as-an-"Idaho-Old-Timer"-under the--provisions--of--section--49-134,-Idaho-Code~~ manufactured prior to January 1, 1943, and which is primarily a collectors' item and used for participation in club activities, exhibitions, tours, parades and ~~similar~~ uses~~,-but-is-not-for-general~~ other than regular transportation ~~and-which~~ shall, for the purposes of this section, be known as an "Idaho ~~Classic.~~ Old Timer"; and a motor vehicle which is over thirty (30) years of age and which does not qualify as an "Idaho Old Timer", and which is primarily a collectors' item and used for participation in club activities, exhibitions, tours, parades and similar uses, but is not for general transportation and which shall, for the purposes of this section, be known as an "Idaho Classic."

(2) In lieu of the annual ~~registration~~ operating fees levied in ~~sections-49-126-and-49-127,-Idaho-Code~~ this chapter, the ~~registration~~ operating fee for any "Idaho Old Timer" or "Idaho Classic" shall be ten dollars ($10.00), ~~but~~ and no annual operating renewal ~~of registration~~ shall be required.

(3) The owner of a vehicle applying for registration under ~~this act~~ the provisions of this section shall execute an affidavit that the vehicle for which registration is requested is owned and operated solely for the purpose enumerated in subsection (1) of this section, and also setting forth in ~~said~~ the affidavit that the vehicle is an authentic restoration without major modifications from factory specifications. In any instance where the official inspecting the vehicle for registration as an "Idaho Old Timer" or "Idaho Classic" has doubts concerning authenticity of restoration to qualify under the provisions of this ~~act~~ section, he may, at no cost to the state of Idaho, call upon the services of a member of any antique or classic car club in the state to render an expert opinion, in writing, as to the authenticity of restoration.

(4) The registration certificate need not specify the weight of the ~~antique~~ classic vehicle~~,~~ and the plates issued shall bear no date, but shall bear the inscription "Idaho Old Timer" or "Idaho Classic~~,~~" as appropriate, and the registration number ~~which--shall--be--shown thereon, and they~~ the plates shall be valid without renewal as long as the vehicle is in existence. The plates are issued for the applicant's use only for ~~such~~ that vehicle and in the event of a transfer of the title the transferor must surrender the plates for the transfer. Upon written request, and approval by the ~~division--of--motor--vehicle registration~~ department, the applicant may retain the "Idaho Old Timer" or "Idaho Classic" plates after sale of the vehicle and upon

payment of fees ~~covered~~ specified in subsection (2) of this section may reuse ~~said~~ the plates on another "Idaho Old Timer" or "Idaho Classic."

(5) The department has the power to revoke ~~such~~ registrations ~~as issued under this act,~~ for cause shown for failure of the applicant to comply with the provisions of this section.

SECTION 76. That Section 49-219, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~219~~407. VEHICLES THIRTY YEARS OR OLDER -- PLATES. Pursuant to rules and regulations of the department, any person who is the owner of a motor vehicle thirty (30) years or older which is registered under section 49-~~126(1)~~402, Idaho Code, may apply to display as the correct plates for that vehicle a pair of Idaho plates designated for use in the year of the manufacturing of the vehicle and bearing the date thereon.

Upon approval of the plates to be used and upon surrender of the current issue of plates, the owner shall pay a one-time fee of ten dollars ($10.00) in addition to the annual registration and other fees.

SECTION 77. That Section 49-217, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~217~~408. STREET ROD ~~PLATES~~. (1) Any modernized motor vehicle manufactured prior to the year 1949, or designed and manufactured to resemble such a vehicle and which has been certified as a street rod by an inspector of the United Street Rods of Idaho, may be registered as a street rod under the provisions of this section.

(2) Any street rod shall have all equipment in operating condition which was specifically required by law as a condition for its first sale after manufacture. No law requiring any particular equipment or specifying any standards to be met by motor vehicles shall apply to street rods unless it so specifically states.

(3) Upon receipt of an application on a form prescribed by the department for special street rod automobile plates, accompanied by other documentation required ~~by~~ in this section, the department shall issue to the applicant special street rod automobile plates. The registration certificate need not specify the weight of the street rod, and the plates issued shall bear no date but shall bear the inscription "Street Rod," "Idaho," a picture of a 1929 highboy roadster, and the registration number issued for the street rod, and the plates shall be valid upon yearly renewal as long as the vehicle is in existence. The plates will be issued for the applicant's use only for the particular vehicle, and in the event of a transfer of title, the transferor must surrender the plates for the transfer.

(4) In addition to the annual ~~registration~~ operating fees ~~levied~~ prescribed in ~~sections 49-126 and 49-127, Idaho Code~~ this chapter, a one (1) time fee for the plates shall be ten dollars ($10.00).

(5) Applicants shall, along with the application for annual registration, provide satisfactory proof that the street rod and its

owner are registered in the United Street Rods of Idaho, and satisfactory proof of passage of a safety inspection for the vehicle and possession of a valid national street rod association safety inspection sticker to be applied in the lower right-hand corner of the windshield of the vehicle upon which the special plates are to be displayed. The inspection may be accomplished in accordance with a safety inspection form supplied by the national street rod association, by designated national street rod association inspectors.

(6) The department has the power to revoke any registration issued under this section for cause shown for failure of the applicant to comply with the provisions of this section. ~~A violation of the registration provisions of this section shall be a misdemeanor and punishable as provided in section 18-113, Idaho Code.~~

SECTION 78. That Section 49-231, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~231~~409. PERSONALIZED LICENSE PLATES. (1) Any person who is the registered owner of a motor vehicle may apply to the department for personalized license plates in lieu of regular numbered plates. In addition to the regular ~~registration~~ operating fee, the applicant shall be charged a fee of twenty-five dollars ($25.00) for the initial issuance of ~~such~~ the plates, and twenty-five dollars ($25.00) upon each succeeding annual registration ~~of the vehicle~~. The personalized license plates shall be of the same color and design as other license plates, and shall consist of numbers or letters, or any combination thereof, not exceeding ~~six (6)~~ seven (7) positions. No more than one (1) particular combination of letters and numbers shall be in existence at any one (1) time. The form for application of ~~personalized~~ the plates will be as prescribed by the ~~department,~~ director and ~~the~~ department, in his discretion, may refuse to issue ~~such~~ the plates ~~in its discretion~~.

(2) When personalized license plates are issued for a motor vehicle, the regular ~~numbered~~ license plates ~~on the~~ for that vehicle must be surrendered to the department unless the regular license plates are transferred to another vehicle owned by the personalized plate applicant. Personalized ~~license~~ plates must also be surrendered upon failure to pay the annual ~~fee for~~ personalized license plates.

SECTION 79. That Sections 49-695, 49-696 and 49-697, Idaho Code, be, and the same are hereby amended to read as follows:

49-695410. SPECIAL LICENSE PLATES AND CARDS FOR HANDICAPPED -- SPECIAL PARKING PRIVILEGES -- CARDS FOR CERTAIN TEMPORARILY DISABLED PERSONS. (1) Notwithstanding its gross weight, any motor vehicle which is owned by or used primarily to transport a handicapped person ~~or persons~~ shall be eligible for the use of special license plates in lieu of any other license plates for noncommercial vehicles, or for the use of a special card bearing distinguishing marks, letters or numerals indicating that the vehicle is being used to transport a handicapped person.

~~(2) A "handicapped person" means a person:~~

~~(a)--Who-has-lost,-or-has-lost-the-use-of,-one-(1)-or--both--lower extremities--or--both--hands,-or-who-has-significant-limitation-in the-use-of-lower-extremities,-or-who-has-a--diagnosed--disease--or disorder--which-substantially-impairs-or-interferes-with-mobility, or-who-is-so-severely-disabled-as-to-be-unable-to-move-without-the aid-of-an-assistant-device.~~

~~(b)--Who-is-blind-to-such-an--extent--that--the--person's--central visual--acuity-does-not-exceed-20/200-in-the-better-eye,-with-corrective-lenses,-as-measured-by-the-Snellen-test,-or-visual--acuity that-is-greater-than-20/200,-but-with-a-limitation-in-the-field-of vision--such-that-the-widest-diameter-of-the-visual-field-subtends an-angle-not-greater-than-twenty-(20)-degrees.~~

~~(c)--Who-suffers-from-lung-disease-to-the-extent-that--his--forced (respiratory)--expiratory--volume-for-one-(1)-second-when-measured by-spirometry-is-less-than-one-(1)-liter-or--his--arterial--oxygen tension-(pO--)-is-less-than-60mm/Hg-on-room-air-at-rest.~~

~~(d)--Who--is-impaired-by-cardiovascular-disease-to-the-extent-that his-functional-limitations-are-classified-in-severity-as-class-III or-class-IV-according-to-standards-accepted-by-the-American--Heart Association.~~

(~~3~~2) 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~~3) Fees for special license plates for the handicapped shall be as provided in section 49-~~126~~402, Idaho Code, for vehicles not in excess of eight thousand (8,000) pounds gross weight, and as provided in section 49-~~127(b)~~434, Idaho Code, for vehicles in excess of eight thousand (8,000) pounds ~~or more~~ gross weight. Nothing in this section shall be construed as abrogating provisions of section 49-~~2002~~449, 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~~4) 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--vehicle~~. The plates shall be numbered in a manner prescribed by the department, but ~~all such~~ the plates shall display the international handicapped symbol ~~as shown herein~~.

International Handicapped Symbol

(~~6~~5) Any motor vehicle displaying special license plates for the handicapped, without regard to the state of residence or displaying the special card ~~as~~ provided ~~by~~ in 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.~~

~~49-696. CARDS FOR CERTAIN TEMPORARILY DISABLED PERSONS ---- QUALIFICATIONS ---- RULES AND PENALTY.~~

(6) Any person who shall submit satisfactory proof to the department that he is so temporarily disabled as to be unable to move without the aid of crutches or a wheelchair, shall be entitled to receive for one (1) motor vehicle only, a special card to be affixed to a motor vehicle in a conspicuous place designated by the department, bearing distinguishing marks, letters or numerals indicating that the vehicle is utilized by such a temporarily disabled person~~, such~~. When the card is affixed, special parking privileges are granted temporarily as provided ~~by~~ in subsection (5) of this section 49-695~~(6), Idaho Code. The board shall promulgate such rules and regulations as he deems necessary to carry into effect this section. Any unauthorized use of such distinguishing card shall constitute an infraction.~~

~~49-697. CARDS FOR HANDICAPPED PERSONS ---- QUALIFICATIONS ---- RULES AND PENALTY.~~

(7) Any person who shall submit satisfactory proof to the department that he is a permanently handicapped person as provided in ~~subsection (2) of~~ section 49-695109, Idaho Code, shall be entitled to receive a special card to be affixed to a motor vehicle in a conspicuous place designated by the department, bearing distinguishing marks, letters or numerals indicating that the vehicle is utilized by such a permanently handicapped person~~, such~~. When the card granting is affixed, special parking privileges are granted as provided ~~by~~ in subsection (5) of this section 49-695~~, Idaho Code. The board shall promulgate such rules and regulations as it seems necessary to carry into effect the provisions of this section. Any unauthorized use of such distinguishing card shall constitute a misdemeanor.~~

SECTION 80. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION to be known and designated as Section 49-411, Idaho Code, and to read as follows:

49-411. DEALER AND MANUFACTURER PLATE -- FEES. (1) Any person conducting the business of manufacturing, buying, selling or dealing in vehicles, and licensed as a manufacturer of or a dealer in vehicles, and owning and operating any such vehicle upon any highway may, in lieu of registering each vehicle obtain from the department upon application on the proper form and payment of the required fee, and attach to each vehicle, one (1) number plate as required for different classes of vehicles in section 49-434, Idaho Code. The special number plate shall bear a distinctive number assigned to the manufacturer or

dealer, the name of this state, which may be abbreviated, and the year for which the plate is issued, together with words which may be abbreviated or a distinguishing symbol indicating that the plate is issued to a manufacturer or dealer.

(2) The fee for a dealer or manufacturer number plate or registration sticker shall be five dollars ($5.00) for each plate or sticker.

SECTION 81. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION to be known and designated as Section 49-412, Idaho Code, and to read as follows:

49-412. VEHICLE DEALER LOANER PLATE. (1) A dealer, owning a vehicle may obtain, upon application to the department upon a proper form and payment of the fee required, and display on a vehicle loaned to a customer, a loaner vehicle number plate. The plate shall be the same design and numbering system as the plate issued for passenger vehicles or motorcycles.

(2) The fee for each loaner plate or registration sticker shall be as provided in section 49-402(1), Idaho Code, for new vehicles.

49-413. [RESERVED.]

SECTION 82. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION to be known and designated as Section 49-414, Idaho Code, and to read as follows:

49-414. LEGISLATIVE LICENSE PLATES -- FEES. (1) Special legislative license plates shall be issued by the department upon application and payment of the required fees. Each legislator is eligible for special license plates. The registration period shall be for one (1) year, from January 1 through December 31, and may be renewed, as long as the legislator holds office. The plates shall bear either the inscription "House" or "Senate", shall contain a consecutive numbering from one (1) through the maximum number of members in each body with the numbers to be assigned by the speaker of the house of representatives and the president pro tempore of the senate, and shall otherwise comply with the provisions of section 49-443, Idaho Code.

(2) In addition to the other registration fees provided in section 49-402(1), Idaho Code, applicants shall pay the plate fee as provided in section 49-450, Idaho Code.

SECTION 83. That Section 49-231A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~231A~~415. SPECIAL PLATES -- POW. (1) Any veteran, who was a prisoner of war (POW) of an armed enemy of the United States during active service in the armed forces of the United States, that service occurring during any portion of a recognized war period enumerated in this section, and who has been released or discharged from the armed

forces under other than dishonorable conditions, may upon application to the department, register and receive for not more than one (1) motor vehicle, special POW number plates in lieu of regular number plates.

(2) In addition to the regular annual registration fee, the applicant shall be charged an initial one-time fee of ten dollars ($10.00) for the issuance of such plates. Whenever a qualifying former POW transfers or assigns his title or interest to a vehicle especially registered under this section the registration shall expire, but the former POW may hold his special plates which he may have reissued to him upon the payment of the required transfer fees. He may only display those plates after receipt of new registration from the department.

(3) POW plates shall bear the letters "POW" followed by three (3) numerals, and shall in all other respects be as provided ~~in subsection b. of section 49-113, Idaho Code~~ by law.

(4) Recognized war periods for the purpose of this section shall be:

World War I ..... April 6, 1917 to November 11, 1918
World War II ..... December 7, 1941 to December 31, 1946
Korean War ..... June 27, 1950 to July 27, 1954
Vietnam War ..... August 5, 1964 to August 14, 1974

~~(5) For the purpose of this section the term "armed forces" includes the Army, Navy, Marine Corps, Coast Guard, and the Air Force of the United States.~~

SECTION 84. That Section 49-218, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~218~~416. STATEHOOD CENTENNIAL LICENSE PLATES. (1) Statehood centennial license plates are available to owners of motor vehicles required to be registered under section 49-~~126~~402(1) or section 49-~~126~~402(3), Idaho Code, upon application at a county assessor's office. Availability of statehood centennial plates for other classes of vehicle registrations shall be as authorized by rules and regulations of the department. In addition to the regular registration and other fees, the applicant shall be charged a special fee of twenty-five dollars ($25.00) at the time of the initial issuance of such plates, and ten dollars ($10.00) upon each succeeding annual registration of the vehicle, so long as the plates are in use. Revenues from the special fee shall be deposited in the Idaho statehood centennial commission account and shall be treated as a contribution for the funding of statehood centennial activities, and shall not be considered a motor vehicle registration fee as described under article 7, section 17, of the Idaho constitution. All other fees shall be deposited as ~~appropriate~~ provided by law.

(2) The statehood centennial license plates shall be of a color and design approved by the Idaho statehood centennial commission, utilizing a numbering system approved by the board. The statehood centennial license plates must be surrendered upon failure to pay the annual special fee and renewal fees.

(3) Any person who applies for statehood centennial license

plates, may also apply for personalized numbers and/or letters on those plates, as provided for in section 49-~~231~~409, Idaho Code.

(4) The fee for replacement plates shall be the fees required in section 49-~~113(e)~~425, Idaho Code, for each pair of centennial plates issued, together with any other fees imposed in this section, with the special centennial plate fee deposited in the Idaho statehood centennial account and other fees deposited as ~~appropriate~~ provided by law.

(5) The statehood centennial license plates shall not be issued for any vehicle following December 31, 1990. The statehood centennial plates may be renewed following December 31, 1990, until the next reissue of license plates as required by section 49-~~111~~443, Idaho Code. The special fee in subsection ~~49-218~~(1)~~, Idaho Code~~ of this section, shall not apply after December 31, 1990. Regular registration and other fees shall apply.

(6) ~~The department shall have the authority to adopt such regulations as may be necessary to carry out the provisions of this act.~~

~~(7)~~ Moneys deposited into the Idaho statehood centennial commission account are hereby appropriated to the Idaho statehood centennial commission for the period from the effective date of this act through June 30, 1991.

49-417. -- 49-418. [RESERVED.]

SECTION 85. That Section 49-111, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~111~~419. REGISTRATION CARDS. ~~a. The department--upon~~ (1) Upon the registratingon of a vehicle, the registering agency shall issue to the owner a registration card which shall contain ~~upon the face thereon~~ the date issued, the registration number assigned ~~to~~ the owner and to the vehicle, the name and address of the owner, ~~also~~ a description of the registered vehicle, including the engine or identification number ~~thereof, and with reference to every new vehicle hereafter sold in this state, the date of sale by the manufacturer or dealer--to--the person--first operating such vehicle and such other statement of facts as may be determined by the department.~~

~~b.--The registration card shall contain on the reverse side a form for indorsement of notice to the department upon transfer of the vehicle.~~

~~c.~~(2) The owner, upon receiving the registration card, shall sign ~~the usual signature or name of such owner with--pen--and--ink~~ in the space provided upon ~~the face of such~~ the card.

49-420 -- 49-421. [RESERVED.]

SECTION 86. That Section 49-155, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~155~~422. REGISTRATION FEES -- ~~TRAILER HOUSES----TRAILER--HOUSES DEFINED----GENERAL PROPERTY TAX PREREQUISITE TO LICENSING~~ MANUFACTURED HOMES, COMMERCIAL COACHES AND TOWED RECREATIONAL VEHICLES. The fees for licensing trailers as provided in this chapter shall not be appli-

cable to ~~trailer-houses-herein-defined-as-mobile-houses,~~ manufactured homes, commercial coaches, or towed recreational vehicles ~~or-habitable vehicles,~~ and the fee for licensing ~~trailer-houses-in-lieu-of-those otherwise-set-forth~~ manufactured homes, commercial coaches, or towed recreational vehicles shall be four dollars ($4.00). In addition to the four dollars ($4.00) license fee, and as a prerequisite to licensing, there shall be an assessment levied on each ~~trailer-house,-except recreational-vehicles,~~ manufactured home and commercial coach for ad valorem tax as provided ~~under~~ in sections 63-102 and ~~section~~ 63-1203, Idaho Code. An applicant for a ~~trailer-house~~ manufactured home or commercial coach license, but not an applicant for a recreational vehicle license, shall be required to exhibit the general property tax receipt for the year of registration~~,~~ before a license may be issued. It shall be ~~illegal~~ unlawful for any ~~trailer-house~~ manufactured home, commercial coach or towed recreational vehicle to be moved on any highway ~~in Idaho~~ without first being licensed~~,-and-any-person-moving-an-unlicensed-trailer-house-shall-be-guilty-of-a--misdemeanor~~. The license fees collected ~~under~~ as specified in this section shall be paid to the ~~county~~ assessor of the county wherein the license is purchased. Fifty per cent (50%) of the license fees shall be placed in the county current expense fund and the balance of the fees shall be paid to the state treasurer who shall place ~~all~~ the fees in the highway distribution account.

49-423 -- 49-424. [RESERVED.]

SECTION 87. That Section 49-121, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~121~~425. LOST CERTIFICATE OR ~~NUMBER~~ LICENSE PLATES -- DUPLICATES. In the event that any ~~number~~ license plate or registration card issued ~~hereunder~~ pursuant to the provisions of this chapter shall be lost, mutilated, or ~~shall-have~~ become illegible, the person ~~who--is entitled--thereto~~ to whom the plate or registration card is issued shall make immediate application for and obtain a duplicate or substitute ~~therefor~~ upon furnishing information of ~~such~~ fact satisfactory to the department and upon payment of the required fees. 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.

SECTION 88. That Sections 49-108 and 49-134, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~134~~426. EXEMPTIONS FROM OPERATING FEES. The provisions ~~hereof~~ this chapter with respect to operating fees shall not apply to:

~~a.~~(1) Motor vehicles owned or leased by the United States, ~~or-by~~ the state, or a city, or a county, ~~or~~ any department thereof, ~~or--to~~ any political subdivision or municipal corporation of the state, ~~or-to~~ any taxing district ~~thereof~~ the state, or to any organization, whether incorporated or unincorporated, ~~heretofore~~ organized ~~or-which-shall hereafter-be-organized,~~ for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the pur-

pose of furnishing water to its members or shareholders, but in other respects shall be applicable.

~~49-108. EXEMPTIONS FROM REGISTRATION.~~

(2) Farm tractors, implements of husbandry, log loaders, log jammers, road rollers and road machinery temporarily operated or moved upon the highways need not be registered under the provisions of this chapter. In addition, self-propelled wheelchairs, invalids' tricycles, and wheelchair conveyances operated by persons who by reason of physical disability are otherwise unable to move about as pedestrians shall be exempt from registration requirements under the provisions of this chapter. Motorcycles and all-terrain vehicles, as defined in section ~~49-2603(12)~~ 67-7101, Idaho Code, need not be registered under the provisions of this chapter while being used exclusively in connection with agricultural, horicultural, dairy and livestock growing and feeding operations. Travel upon the public highways shall be limited to travel between farm or ranch locations. Motorcycles and all-terrain vehicles used for this purpose shall meet the requirements of section 49-801A619, Idaho Code.

~~b. Any motor vehicle manufactured prior to January 1, 1943, and which is primarily a collectors' item and used for participation in club activities, exhibitions, tours, parades and uses other than regular transportation shall, for the purposes of this section, be known as an "Idaho Old Timer."~~

~~1. In lieu of the annual registration fees levied in sections 49-126 and 49-127, Idaho Code, the registration fees for any "Idaho Old Timer" shall be ten dollars ($10.00) but no annual renewal of registration shall be required.~~

~~2. The owner of a vehicle applying for registration under this act shall execute an affidavit that the vehicle for which registration is requested is owned and operated solely for the purpose enumerated in division b. above of this section, and also setting forth in said affidavit that said vehicle is an authentic restoration without major modifications from factory specifications. In any instance where the official inspecting said vehicle for registration as an "Idaho Old Timer" has doubts concerning authenticity of restoration to qualify under the provisions of this act, he may, at no cost to the state of Idaho, call upon the services of a member of any antique car club in the state to render an expert opinion, in writing, as to the authenticity of restoration.~~

~~3. The registration certificate need not specify the weight of such antique vehicle, and the plates issued shall bear no date but shall bear the inscription "Idaho Old Timer," and the registration number which shall be shown thereon, and they shall be valid without renewal as long as the vehicle is in existence. The plates are issued for the applicant's use only for such vehicle, and in the event of a transfer of the title the transferor must surrender the plates for said transfer. Upon written request, and approval by the division of motor vehicle registration, the applicant may retain the "Idaho Old Timer" plates after sale of the vehicle and upon payment of fees covered in subsection 1. of this section may reuse said plates on another "Idaho Old Timer."~~

~~4. The department has the power to revoke such registrations as~~

~~issued-under-this-act,-for-cause-shown-for-failure-of--the--applicant-to-comply-with-this-section.~~

SECTION 89. That Section 49-112, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~112~~427. REGISTRATION CARD TO BE CARRIED. The registration card issued for a vehicle required to be registered ~~hereunder~~ by the provisions of this chapter shall ~~at-all-times,~~ while the vehicle is being operated upon a highway ~~within-this-state,~~ be in the possession of the operator or chauffeur ~~thereof~~ or carried in the vehicle and be subject to inspection by any peace officer.

SECTION 90. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~114~~428. DISPLAY OF PLATES AND TAGS. ~~a.--Number~~ (1) License plates assigned to a motor vehicle, other than a motorcycle, trailer, or semitrailer, and other than the ~~number~~ license plate assigned to a motor vehicle operated by a manufacturer or dealer, shall be attached ~~thereto~~, one in the front and the other in the rear. The ~~number~~ license plate assigned to a motorcycle or semitrailer and the ~~number~~ license plate assigned to a motor vehicle operated by a manufacturer or dealer shall be attached to the rear ~~thereof. Use-fee-plates-issued to--vehicles-under-this-chapter-shall-be-displayed-on-the-front-of-the power-unit-and-on-the-rear-of-the-trailing-unit.-Number~~ License plates shall be ~~so~~ displayed during the current registration year. The annual registration sticker for the current registration year shall be displayed on each ~~number~~ license plate in those years for which ~~such~~ stickers are furnished in lieu of ~~number~~ license plates~~,--pursuant--to section--49-113~~. For the purposes of this ~~chapter~~ title, the ~~number~~ license plates together with ~~such~~ the registration stickers shall be considered as ~~number~~ license plates for the year designated on the registration stickers.

~~b.~~(2) Every ~~number~~ license plate shall at all times be securely fastened to the vehicle to which it is assigned ~~so-as~~ to prevent the plate from swinging ~~and~~, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of ~~such~~ the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the ~~number~~ license plates.

SECTION 91. That Section 49-115, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~115~~429. DISPLAY OF COPY OF APPLICATION PENDING RECEIPT OF ~~NUMBER~~ LICENSE PLATES. Upon the payment of required fees by the owner of a vehicle the assessor or department shall issue to ~~said~~ the applicant a copy of the application ~~blank,-which.~~ The copy must be displayed in a suitable place upon the windshield of a motor vehicle, or if for a trailer or semitrailer, then transported in the motor vehicle

drawing such trailer or semitrailer ~~which.~~ The copy shall constitute compliance with the provisions of this chapter until such time as the ~~registration and use fee~~ license plates are received from the department~~:--provided, that the.~~ The copy of the application ~~blank hereinbefore mentioned~~ shall not have any value as compliance with the provisions of this chapter from and after the receipt of the ~~registration and use fee~~ license plates from the department.

SECTION 92. That Section 49-116, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~116~~430. REGISTRATION TO BE RENEWED. ~~Such~~ Reregistration~~, and registration of dealers and manufacturers hereinafter specified,~~ of vehicles shall be ~~renewed~~ accomplished annually or by registration period in the same manner as the original registration and upon the payment of the required fee~~, except as regard to "D.V." plates as set forth in section 49-109, Idaho Code, and such renewal to be effective as of January first of each year, or by registration period, provided that the.~~ The director may extend this date as to individuals, counties or the state for not to exceed forty-five (45) days for good cause shown.

SECTION 93. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~117~~431. ASSIGNMENT OR TRANSFER OF INTEREST -- PROCEDURE. ~~a.~~ (1) Whenever the owner of a ~~motor~~ vehicle registered under the provisions of section 49-~~126~~402, Idaho Code, transfers or assigns his title or interest thereto, the registration card and ~~registration~~ license plates shall remain with and in the possession of the transferor, and before the ~~registration~~ license 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~~441, Idaho Code. License plates remaining inactive in the registration file for more than twelve (12) consecutive months shall be deemed cancelled, and new license plates with the identical number may be reissued to another applicant. For that registration, all vehicles registered under the provisions of section 49-~~126~~402(1), Idaho Code, the transferor shall pay the ~~registration~~ operating fee ~~required by~~ as specified in that subsection ~~49-126(1), Idaho Code,~~ less the ~~registration~~ operating fee already paid, plus a transfer fee of two dollars ($2.00)~~,--or--if.~~ 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~~402, Idaho Code, the ~~registration~~ operating fee shall be the fee ~~provided by subsection (b) of~~ specified in section 49-~~129~~437, Idaho Code, plus a transfer fee of two dollars ($2.00). The transfer fees ~~of two dollars ($2.00)~~ collected under the provisions of 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.~~(2) ~~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-u~~Upon a change of registered ownership of any motor vehicle upon which the ~~registration-and use-fee~~ license plates have been computed ~~according-to~~ as specified in section ~~49-127~~434, Idaho Code, the ~~registration-and--use--fee~~ license plates shall be returned to the department. No part of the registration or license fees shall be subject to refund.

~~c.~~(3) 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~~ as specified in sections ~~49-126~~402, 49-434 and ~~49-127~~435, 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~~. The vehicle shall not be operated upon the highways ~~of-the-state-of-Idaho~~ until and unless the person entitled thereto ~~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~~441, Idaho Code~~,--except-that~~. However, an administrator, executor, trustee or other representative of the owner, or a sheriff or other officer, or legal representative of any such person may operate or cause to be operated any motor vehicle upon the highway from the place of removal or place where formerly kept by the owner to a ~~garage,--warehouse-or-other~~ place of keeping or storage, provided the place of removal and place of destination are both located within the state of Idaho, ~~upon~~ and after 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~~ the placard to be 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 94. That Section 49-120, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~120~~432. REGISTRATION BY NONRESIDENTS -- ~~PERMITS--IN--LIEU--OF LICENSE----~~ FEES. (1) All motor vehicles, or combination of vehicles owned by nonresidents and operated in ~~this-state~~ Idaho shall be subject to the same fees as are required with respect to like vehicles operated by residents of this state.

~~(a)--The~~ Vehicles of nonresidents ~~operator-of-any-such-vehicle-may in-lieu-of-full-licensing-and-registration--under--the--laws--of--this state--obtain--a-temporary-trip-permit-from-the-department-authorizing~~

~~operation-of-the-vehicle-in-the-state--for--a--period--not--to--exceed ninety-six-(96)-hours,-providing-that-the-nonresident-vehicle-state-of residence-grants-temporary-trip-permit-privilege-in-that-state-to-like vehicles--from--the-state-of-Idaho~~ may be operated without the payment of any license, use or registration fees to the extent that an exemption is provided in agreements or regulations for reciprocal privileges issued under and pursuant to the provisions of section 49-201, Idaho Code. If the nonresident's state of residence grants temporary trip permit privilege in that state for vehicles from the state of Idaho, the nonresident operator of a vehicle or for ~~(b)-M~~motor vehicles or combinations of vehicles owned by Idaho residents and operated in this state, may in lieu of full licensing and registration under the laws of ~~the~~ this state, obtain a temporary trip permit, from the department authorizing operation of ~~such~~ any vehicle or combination of vehicles in the state for a period not to exceed ninety-six (96) hours.

~~(c)--Fees.~~ There shall be a base issuance fee of twelve dollars ($12.00) per trip permit on any vehicle or combination of vehicles over eight thousand (8,000) pounds gross weight in addition to the following fees which shall be paid on the maximum gross weight of the vehicle or combination of vehicles:

Maximum Gross Weight of Vehicle or Combination of Vehicles	Fee Schedule Mills Per Mile
16,001-26,000	24.75
26,001-40,000	35.80
40,001-50,000	44.20
50,001-60,000	54.25
60,001-80,000	78.95
over 80,00~~1~~0	116.65

(2) A temporary trip permit shall ~~contain-such-information,-and~~ be in a form, and ~~shall-be~~ issued under rules and regulations ~~as--may be--prescribed~~ adopted by the ~~department~~ board, and shall be displayed at all times while the vehicle is being operated on the highways ~~of this--state~~ by posting ~~it~~ the permit upon the windshield of each vehicle or in another prominent place, where it may be readily legible.

~~(d)--A-vehicle-or-combination-of-vehicles-requiring-a-trip--permit as--authorized--by--this--act--shall--purchase-the-permit-at-the-first available-location-where-a-trip-permit-is-available.-To-proceed-beyond such-location-and-fail-to-purchase-the-trip-permit-shall-constitute--a violation-of-the-uniform-registration-act.~~

~~(e)--Trip-permit-vendors.~~

~~(1)--Department-fixed-ports-of-entry-are-locations-where-trip-permits-are-available.~~

(~~2~~3) The department may select vendors to serve as agents on state highways for the purpose of selling trip permits where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of two dollars ($2.00) per permit sold, and he shall collect the fees ~~provided-by~~ specified in this section, and pay the fees to the department. The vendor shall guarantee payment by giving a bond to the state ~~of-Idaho~~

in a sum as shall be fixed by the board, the premium on the bond to be paid by the department.

SECTION 95. That Section 49-125A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~125A~~433. SINGLE TRIP PERMITS -- FEE. When any vehicle subject to license or registration is to be moved upon the public highways ~~of the--state--of--Idaho,--from--one-point-to-another~~, the department may issue a ~~special~~ single trip permit, in lieu of license or registration upon the payment of a fee of twelve dollars ($12.00). The permit shall be for the unladen single trip movement or transit of the vehicle only between the points of origin and destination as set forth on the permit.

SECTION 96. That Section 49-127, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~127~~434. OPERATING FEES. ~~(a)-For-the-purpose-of--this--section, the-following-definitions-shall-be-applicable:~~

~~1.--A--commercial--vehicle-means-a-vehicle-or-combination-of-vehicles-of-a-type-used-or-maintained-for-the-transportation--of--persons--for--hire,--compensation-or-profit,-or-the-transportation-of property-for-the-owner-of-the-vehicle,-or-for-hire,--compensation, or--profit,--and--shall--include--fixed-load-specially-constructed vehicles-exceeding-the-limits-imposed--by--chapter--9,--title--49, Idaho--Code,-and-shall-include-drilling-rigs,-construction,-drilling-and-wrecker-cranes,-and-similar-vehicles--which--are--normally operated-in-an-overweight-or-oversize-condition-or-both,-but-shall not--include-those-vehicles-registered-pursuant-to-section-49-126, Idaho-Code,-or-exempted-by-section-49-100,-Idaho-Code.~~

~~2.--A-farm-vehicle-means-a--vehicle--or--combination--of--vehicles owned-by-a-farmer-or-rancher,-which-are-operated-over-public-highways,--and-used-exclusively-to-transport-unprocessed-agricultural, dairy-or-livestock-products-raised,-owned-and-grown-by--the--owner of--that--vehicle-to-market-or-place-of-storage;-and-shall-include the-transportation-by-the-farmer-or-rancher-of-any-equipment,-supplies-or-products-purchased-by-that-farmer-or-rancher-for-his--own use,--and--used--in-the-farming-or-ranching-operation-or-used-by-a farmer-partly-in-transporting-agricultural-products--or--livestock from--the--farm--of--another--farmer-that-were-originally-grown-or raised-on-the-farm,-or-when-used-partly-in--transporting--agricultural--supplies,--equipment,-materials-or-livestock-to-the-farm-of another-farmer-for-use-or-consumption-on-the-farm-but--not--transported--for--hire,--and-shall-not-include-vehicles-of-husbandry-or vehicles-registered-pursuant-to-section-49-126,-Idaho-Code.~~

~~3.--A-noncommercial--vehicle--shall--not--include--those--vehicles required--to--be--registered-under-section-49-126,-Idaho-Code,-and means-all-other-vehicles-or-combinations-of-vehicles-which-are-not commercial-vehicles-or-farm-vehicles-as-defined-in--this--section. A-noncommercial-vehicle-shall-include-those-vehicles-having-a-combined-gross-weight-not-in-excess-of-sixty-thousand-(60,000)-pounds~~

~~and--not--held--out-for-hire,-used-for-purposes-related-to-private use-and-not-used-in-the-furtherance-of-a--business--or--occupation for--compensation--or--profit--or-for-transporting-goods-for-other than-the-owner.~~

~~4.--When-a-vehicle-against-which-the-registration-or--use--fee--is assessed--is--a--combination--of--vehicles,-the-term-maximum-gross weight-means-the-combined-maximum-gross-weights-of-all-vehicles-in the-combination.~~

(b1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule. Upon payment of the registration fee, the department shall issue an identification plate, to be attached to individual self-propelled motor vehicles, and to the self-propelled motor vehicle in any combination of vehicles.

Maximum Gross Weight (Pounds)	Annual Registration Fee Noncommercial and Farm Vehicles	Commercial Vehicles
8,001-16,000 inc.	$ 31.08	$ 30.60
16,001-26,000 inc.	61.08	143.40
26,001-30,000 inc.	91.68	223.80
30,001-40,000 inc.	130.08	291.90
40,001-50,000 inc.	188.28	360.00
50,001-60,000 inc.	311.68	515.40

(c2) There shall be paid on all commercial vehicles, irrespective of body type, and on all noncommercial vehicles, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount of one hundred twenty dollars ($120). Upon payment of the registration fee, the department shall issue an identification plate, to be attached to the individual self-propelled motor vehicles, and to the self-propelled motor vehicle in any combination of vehicles.

~~1.~~ In addition, an annual license fee shall be required for each trailer or semitrailer in a combination of vehicles in the amount of fifteen dollars ($15.00)~~.--Upon--payment--of--the--license-fees,-the department-shall-issue-license-plates-for--the--appropriate--year;~~ or ~~2.--P~~for a fee of seventy-five dollars ($75.00) the department may issue a trailer or semitrailer license plate that shall remain valid for a period of fifteen (15) years. The license plate shall become void if the owner's interest in the trailer or semitrailer changes during the fifteen (15) year period. If the owner fails to enter the licensed trailer or semitrailer on the annual renewal application during the fifteen (15) year period, the registration record shall be carried forward for one (1) year and then the record shall be purged.

(d3) In addition to the registration and license fees provided by subsections (b1) and (c2), there shall be paid on all commercial vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee in accordance with the following schedule. The use fees shall be based on mills per mile of operation, subject to the provisions of subsection (g6) of this section.

Maximum Gross Weight of Vehicle	Mills per Mile

(Pounds)	
60,001-62,000	30.05
62,001-64,000	31.35
64,001-66,000	32.60
66,001-68,000	33.90
68,001-70,000	35.15
70,001-72,000	36.40
72,001-74,000	38.55
74,001-76,000	40.65
76,001-78,000	42.75
78,001-80,000	44.90

(~~e~~4) In addition to the registration and license fees of this section, there shall be paid on all ~~ncommercial vehicles,~~ farm vehicles, and any commercial vehicle exclusively engaged in the transportation of logs, pulp wood, stull, poles, piling, rough lumber, ores, ore concentrates, sand and gravel aggregates in bulk, livestock and vehicles domiciled in Idaho used for the sole purpose of transporting milk from the farm to processing plant, having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee of 22.45 mills per mile.

(~~f~~5) If any motor vehicle, trailer or semitrailer, or combinations thereof, is authorized under the provisions of section 49-~~91~~61011, Idaho Code, to move on the highways of the state, and the vehicle exceeds the maximum gross weight of eighty thousand (80,000) pounds, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the permitted excess weight.

(~~g~~6) An applicant for registration of a commercial vehicle, a noncommercial vehicle or a farm vehicle shall set forth the maximum gross weight of the vehicle or combination of vehicles and the applicant shall pay any annual registration fees and any annual license fees on trailers and semitrailers required at the time he makes application for registration subject to the provisions of subsections (~~b~~1) and (~~c~~2). No part of the registration or license fees shall be subject to refund. The use fee payment required shall be computed according to the schedule in either subsection (~~d~~3) or (~~e~~4) on the mileage operated over the highways of the state of Idaho and the owner of any vehicle against which a use fee is assessed, shall at the time of making his next quarterly report pay the use fee, if any, for the three (3) calendar months immediately prior. In determining the mileage subject to the use fee, there shall be deducted the miles traveled on roadways maintained with private funds by agreement with the public agency or agencies having jurisdiction over them. In no event shall the total money credited to the owner for the mileage exceed the actual cost of maintenance expended by him.

(~~h~~7) The license, registration and use fees of this section shall not be applicable to trailers registered pursuant to section 49-~~12~~6402, Idaho Code.

SECTION 97. That Section 49-127B, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~127B~~435. PROPORTIONAL REGISTRATION OF COMMERCIAL VEHICLES. ~~(a) As used in this section: "Commercial vehicle" means any vehicle which is operated in more than one state and used for the transportation of persons for hire, compensation or benefit, or designed or used primarily for the transportation of property;~~

~~"Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country and a state or province of a foreign country;~~

~~"Fleet" means three (3) or more commercial vehicles at least two (2) of which are motor vehicles;~~

~~"Preceding year" means a period of twelve (12) consecutive months fixed by the department which period shall be within the eighteen (18) months immediately preceding the commencement of the registration or license year for which proportional registration is sought; and the department in fixing such period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.~~

(~~b~~1) Any owner engaged in operating one or more fleets may, in lieu of the registration fees imposed by section 49-~~127~~434, Idaho Code, register each fleet for operation in this state by filing an application with the department which shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(~~1~~a) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the motor vehicles in a fleet during the year.

(~~2~~b) In-state miles. This shall be the total number of miles operated in this state during the preceding year by motor vehicles in the fleets during the year.

(~~3~~c) A description and identification of each vehicle of the fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested, and, as determined by the department, the vehicle unit number of each fleet vehicle as assigned by the owner.

(~~c~~2) The application for each fleet shall, at the time and in the manner required by the department, be supported by a fee payment computed as follows:

(~~1~~a) Divide in-state miles by total fleet miles.

(~~2~~b) Determine the total amount necessary to register each and every vehicle in the fleet for which registration is required based on the regular annual fees prescribed by section 49-~~127~~434, Idaho Code.

(~~3~~c) Multiply the sum obtained under subsection ~~49-127B(c)(2)(b), Idaho Code~~ of this section, by the quotient obtained under subsection ~~49-127B(c)(1), Idaho Code~~ (2)(a) of this section.

(~~d~~3) The applicant for proportional registration of any fleet, the motor vehicles of which are operated by him in jurisdictions in addition to those in which the applicant's fleet motor vehicles are operated, may state those motor vehicles separately in his application and compute and pay the fees in accordance with the separate state-

ment, as to which "total miles" shall be the total miles of highway operation determined from miles of power units, whether prorated or not, operated in combination with prorated trailers in all jurisdictions during the preceding year.

(~~e~~4) The department shall register the vehicle so described and identified and may issue a license ~~plate--or~~ plates or distinctive sticker or other suitable identification device for each vehicle listed in the application upon payment of the fees required under subsection (~~c~~2) and an additional identification charge of two dollars ($2.00) per vehicle. A registration card shall be issued for each proportionally registered vehicle appropriately identifying it which shall be carried in or upon the vehicle identified at all times but which, in the case of vehicle combinations, may be carried in the vehicle supplying the motive power.

(5) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, no ~~such~~ vehicle shall be operated in intrastate commerce in this state unless the owner has been granted intrastate authority or rights by the public utilities commission and unless the vehicle is being operated in conformity with such authority or rights.

(~~f~~6) The right to the privilege and benefits of proportional registration of fleet vehicles extended by this section, or by any contract, agreement, arrangement or declaration made under the authority ~~of this~~ provided in section 49-201, Idaho Code, shall be subject to the condition that each fleet vehicle proportionally registered ~~under the authority of this section also~~ shall also be proportionally or otherwise properly registered in at least one other jurisdiction during the period for which it is proportionally registered in this state.

(~~g~~7) Vehicles acquired by the owner after the commencement of the registration year and subsequently added to a proportionally registered fleet shall be proportionally registered by applying the mileage percentage used in the original application for the fleet for that registration period to the annual registration fees due with respect to those vehicles for the remainder of the registration year.

(~~h~~8) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered ~~under--the--provisions--of--this--section~~, the owner of the fleet shall so notify the department on appropriate forms to be prescribed by the department. The department may require the owner to surrender proportional registration cards and other identification devices which have been issued with respect to the vehicle as the department may deem advisable.

(~~i~~9) The initial application for proportional registration of a fleet shall state the mileage data with respect to the fleet for the preceding year in this and other jurisdictions. If no operations were conducted with the fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in this state and other jurisdictions. The department shall determine the in-state and total fleet miles to be used in computing the fee payment for the fleet. The department may

evaluate and adjust the estimate in the application if it is not satisfied as to the correctness ~~thereof~~ submitted.

(~~j~~10) The department may refuse to accept proportional registration applications for the registration of vehicles based in another jurisdiction if it shall find that the other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state.

(~~k~~11) Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four (4) years following the year ~~or--period upon--which--the~~ of application ~~is-based. Upon-request-of-the-department,-t~~The owner shall agrees to make his records accessible to the department for audit as to accuracy of computations ~~and~~, payments and assessments of deficiencies or allowances for credit. The department ~~may~~ shall make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any ~~such~~ owner or exchange of audit information. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any sums found to be due and owing upon audit shall bear interest of six per cent (6%) from the date when they should have been paid until the date of actual payment. If the audit discloses a deliberate and willful intent to evade the requirements of appropriate payment under subsection ~~(c)~~(2)(b) of this section, an additional penalty of ten per cent (10%) shall also be assessed.

(~~l~~12) ~~Nothing-contained-in~~ provision of this section relating to proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged including~~,--but-not-by-way-of-limitation,~~ regular registration or temporary trip permit.

~~(m)--The-department-may-enter-into-agreements-with-other-states-on behalf-of-the-state-of-Idaho-for-proportional-registration-of--commercial--vehicles-in-the-manner-provided-for-in-this-section-for-the-purpose-of-facilitating--administration.--In--addition--it--may--conclude arrangement-or-agreements-with-other-states-for-the-exchange-of-information-for-audit-and-enforcement-activities-in-connection-with-proportional--registration.---The--department-may-adopt-and-promulgate-rules and-regulations-as-it-shall-deem-necessary-to-effectuate-and--administer-the-provisions-of-this-section-and-the-registration-of-fleet-vehicles-under-this-section-shall-be-subject-to-the-rights,-terms-and-conditions--granted--or-contained-in-any-applicable-agreement-made-by-the department-under-the-authority-of-this-section.~~

~~(n)--This-section-shall-be,-and-construed-as,-a-part-of--and--supplemental-to-the-motor-vehicle-registration-law-of-this-state.~~

~~(o)--If--any--part--of--this-section-shall-be-declared-unconstitutional-or-invalid-by-any-court-of-competent-jurisdiction,-it-shall--be conclusively--presumed--that--the--legislature-would-have-enacted-this section-without-the-phrase,-clause,-or-subsection-so-held--unconstitutional--or--invalid--and--the--remainder--of--the-section-shall-not-be affected-as-a-result--of--the--part--being--held--unconstitutional--or invalid.~~

(13) Proportionally registered vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds shall pay a use fee in accordance with section 49-434(3) or (4), Idaho Code, as applicable.

SECTION 98. That Section 49-128, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~128~~436. QUARTERLY REPORTS -- MAINTAINING RECORDS -- PENALTIES --DEPOSIT ~~OR~~ BOND TO SECURE PAYMENT OF FEES -- APPEAL. (~~a~~1) 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~~ or farm vehicle~~, trailer or semitrailer~~ having a maximum combined gross weight in excess of sixty thousand (60,000) pounds must, shall 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~~2) Every owner whose use fees are computed ~~under~~ as specified in section 49-~~127~~434, 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 ~~t~~The 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 those 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~~434 and 49-~~127B~~435, 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~~3) An owner failing to file a report or pay any fee due within the time required ~~pursuant to~~ as specified in this ~~chapter~~ section, 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 if satisfied that the delay was excusable.

(~~d~~4) ~~1.~~(a) If the department finds it necessary in order to ensure the collection of any fees or penalties imposed upon an owner of a commercial ~~motor~~ or farm 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 the schedule in section 49-~~127(d)~~434, 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.~~(b) 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~~.The amount may be increased or reduced at any time.

~~3.~~(c) If an owner ceases to be registered under the provisions of 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.~~(d) 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 the 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~~ department. 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 99. That Section 49-129, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~129~~437. INCREASE IN MAXIMUM GROSS WEIGHT -- FEES FOR REMAINING PORTION OF YEAR ---~~REFUND~~. (a1) When a motor vehicle, trailer or semi-trailer has once been registered under the provisions of this chapter and during the year of that registration engages in operations increasing the maximum gross weight for which ~~said~~ that vehicle was licensed and requiring additional fees, the owner of the vehicle shall be credited with the amount ~~theretofore~~ already paid toward the account of the higher fee or fees. When the initial registration is made before August 1st and the increase in gross weight is also made before August 1st, the applicant shall pay the full amount of ~~such~~ the additional fees computed as of the original registration date; if the increase is made between August 1st and November 1st, one-half (1/2) of ~~such~~ the additional fees shall be paid; and if ~~such~~ the increase is made after November 1st, one-fourth (1/4) of such additional fees shall be paid. When the initial registration is made between August

1st and November 1st, and the increase in gross weight is made before November 1st, the applicant shall pay the full amount of such additional fees computed as of the initial registration date; if the increase is made after November 1st, one-half (1/2) of such additional fees shall be paid. When the initial registration is made after November 1st the applicant shall pay the full amount of such additional fees computed as of the initial registration date.

(b2) If a motor vehicle, trailer or semitrailer is not operated on any highway during the first month~~,--or~~ months~~,~~ of a calendar year, ~~the-same~~ they may at any time thereafter be licensed for the remainder of the year on payment of all fees as provided in this chapter, less one-twelfth (1/12) of such fees and mileage for each full calendar month which has expired prior to ~~such~~ that licensing, but in no event shall the minimum fee be less than five dollars ($5.00).

SECTION 100. That Section 49-132, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~132~~438. PENALTIES FOR EXCEEDING MAXIMUM GROSS WEIGHT. Any person who shall operate or cause, permit, or suffer to be operated upon any highway of this state a vehicle with a maximum gross weight in excess of the maximum gross weight for which the ~~same~~ vehicle has been registered ~~under--the--provisions--of-this-chapter~~ shall be deemed to have set a new maximum gross weight and shall, in addition to any penalties ~~otherwise-provided~~ specified in this ~~section~~ title, be required to pay the additional fees ~~as--to--such~~ for the new maximum gross weight~~;--provided,-however,-that-if~~. If the combined gross weight of a combination of vehicles shall not exceed the maximum gross weight for which the combination of vehicles was registered ~~under-the-provisions of-this-act~~ then it shall be lawful for the maximum gross weight on any one (1) unit of the combination of units to exceed the maximum gross weight for which the ~~same~~ vehicle was registered by ten percent (10%) of ~~such~~ the registered maximum gross weight. Any person who shall operate, cause, permit, or suffer to be operated upon any highway ~~of-this-state~~ any vehicle or combination of vehicles with a maximum gross weight in excess of the maximum gross weight ~~permitted--by~~ specified in this ~~chapter~~ title, without having paid the additional registration and use fees required, shall be guilty of a misdemeanor ~~and--upon~~. Upon first conviction ~~shall-be-required-to-pay-a-~~ the fine ~~of~~ shall be not less than ten dollars ($10.00) nor more than twenty-five dollars ($25.00)~~;--upon~~. Upon a second conviction ~~to-pay-a~~ the fine ~~of~~ shall be not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00); and upon a third conviction ~~to-pay-a~~ the fine ~~of~~ shall be not less than fifty dollars ($50.00) nor more than one hundred dollars ($100).

49-439 -- 49-440. [RESERVED.]

SECTION 101. That Section 49-107, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~107~~441. OWNER TO SECURE REGISTRATION FROM A COUNTY ASSESSOR OR

FROM BOARD. ~~a.~~ (1) Every owner of a motor vehicle, trailer or semi-trailer who intends to operate the vehicle upon any highway in this state shall before thesame is so operated, apply to a county assessor and obtain registration thereof, except the owner of any vehicle which is exempted ~~by~~ as specified in section 49-~~100~~426(2), Idaho Code, and excepting, also, when an owner is permitted to operate a vehicle under the special provisions relating to lien holders, ~~manufacturers,~~ dealers, and vehicles registered in a foreign country, state, territory, or federal district, as ~~contained~~ specified in sections ~~49-117(c), 49-120 and 49-206--49-211~~ 49-431 and 49-432, Idaho Code, provided that the registration for commercial vehicles or commercial combinations having a maximum gross weight in excess of sixteen thousand (16,000) pounds and noncommercial vehicles or noncommercial combinations having a maximum gross weight in excess of sixteen thousand (16,000) pounds shall be procured from, and the ~~registration and use tax~~ operating fees ~~therefor~~ for them paid to~~,~~ the ~~board~~ department, except as hereinafter provided. Every owner of a vehicle registered by a county assessor shall give his principal residence or domicile address to the assessor so that the proper county can be entered upon the registration. Failure to do so shall be unlawful. The department shall then attribute the registration, and all fees to be apportioned to the highway distribution account, to the county of residence regardless of the county in which the registration occurred. Fees imposed under the provisions of section 40-1416, Idaho Code, shall be separately identified and accounted for, and transmitted by the department directly to the highway district for which collected.

~~b.~~(2) The following motor vehicles shall be registered for the appropriate gross weight scale with the ~~county~~ assessor of the county in which the owner resides:

(~~1~~a) Motor vehicles equipped primarily to haul passengers on a commercial basis, doing strictly an intrastate business, and having gross weights of twenty-four thousand (24,000) pounds or less ~~including school buses as defined in subsection gg. of section 49-101, Idaho Code, operated by contract carriers pursuant to a service contract with a school district.~~

(~~2~~b) Any farm vehicle or combination of vehicles where each vehicle or combination of vehicles shall not exceed a gross weight of sixty thousand (60,000) pounds~~, and utility farm trailers for the gross weight as shown in section 49-126(5), Idaho Code.~~

~~c.~~(3) Nonresident vehicles or combination of vehicles owned by transient labor used in hauling unprocessed agricultural products for hire and not exceeding sixty thousand (60,000) pounds gross weight shall register their vehicle for the appropriate gross weight scale for the annual fee if registered on or before June 30, and for one-half (1/2) the annual fee if not registered until on or after July 1 of any year, with the ~~county~~ assessor of the county in which the owner resides.

~~d.~~(4) For the purposes of vehicle registration, a person is an actual and permanent resident of the county in which he has his principal residence or domicile. A principal residence or domicile shall not be a person's workplace, vacation, or part-time residence.

~~e.~~(5) A violation of the provisions of ~~subsection a. of~~ this sec-

tion shall be an infraction.

SECTION 102. That Section 49-109, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~109~~442. APPLICATION FOR REGISTRATION -- RECEIPT FOR FEE -- RECORD OF APPLICANTS. ~~a.~~(1) Application for the registrations of a vehicle required to be registered hereunder the provisions of section 49-441, Idaho Code, shall be made to the assessor or the department as ~~provided~~ specified in that section ~~49-107, Idaho Code~~, by the owner ~~thereof~~ upon the appropriate form ~~approved or furnished by the department and every~~. Every application shall be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, the engine or identification number, whether new or used, and the last license number if known and the state in which issued~~, and~~ upon. Upon the registration of a new vehicle, the application shall also show the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain any other information as may be required by the department. ~~b.~~ The assessor shall issue to the applicant a receipt for any fee paid, and shall forward to the department a duplicate copy ~~thereof~~ that receipt, together with the application. ~~However, no fee shall be charged for the registration or re-registration of a motor vehicle owned by a veteran who has established his rights to benefits under the provisions of Public Law 662, 79th Congress, as amended, and Public Law 107, 82nd Congress, as amended. Nor shall a fee be charged for the registration or reregistration of a motor vehicle owned by a veteran, as defined by section 65-509, Idaho Code, or, of any war or armed conflict of the United States, who is at the time of such registration or re-registration, receiving compensation from the veterans administration or in lieu thereof, from any of the armed forces of the United States, for one hundred per cent (100%) service connected disability or for any of the following specific disabilities: Loss or permanent loss of use of one or both feet; loss or permanent loss of use of one or both hands; loss of sight in both eyes or permanent impairment of vision in both eyes to the degree as to constitute virtual blindness. This paragraph shall be considered applicable not only as to the vehicle originally purchased under this authorization, but also as to any vehicle subsequently purchased and owned by the same veteran, so long as this privilege shall not extend to more than one (1) vehicle at a time. Special license plates shall be issued for such vehicles, identified by placing the inscription "D.V." thereon, and separate number series shall be used to further identify such license plates. Said license plates shall not be issued by the counties but shall be issued by the department through and at the request of the appropriate county assessor. Said plates shall be displayed in accordance with the procedure applicable to number plates set forth in section 49-114, Idaho Code.~~

~~c.~~(2) The assessor shall record on a form prescribed and furnished by the department, the names of all owners of motor vehicles residing in the county who make application for licenses thereon,

together with the amounts of the fees~~,~~ paid by such owners. He shall, on or before the tenth of each month, forward to the department a duplicate copy of such record for the preceding month.

~~d.~~(3) ~~On--and after January 1, 1964, w~~When application for registration is made ~~hereunder~~ by any motor carrier as defined ~~by~~ in section 61-801, Idaho Code, or by any interstate carrier as defined ~~by~~ in section 61-801A, Idaho Code, the assessor or the department shall require each such applicant to exhibit a receipt for the payment of the regulatory fee required of any motor carrier by section 61-811, Idaho Code, or evidence of the payment of the registration fee of any interstate carrier required by section 61-802A and section 61-812, Idaho Code. The number ~~thereof~~ and the amount paid shall be noted on the application. No receipt, registration or ~~number~~ plates shall in such cases be given or issued by ~~such~~ the assessor or the department until ~~such~~ the fees have been paid and evidence ~~thereof~~ of payment presented as ~~hereinabove~~ required. Pursuant to the authority and duty provided ~~by~~ in section 61-811A, Idaho Code, each assessor and the department, shall when the regulatory fees of motor carriers and the registration fees of interstate carriers have not been paid prior to registration ~~hereunder~~, collect such regulatory fees for the public utilities commission, and ~~shall~~ issue the ~~registration~~ permit required by section 61-802A, Idaho Code, and collect the permit fees ~~therefor~~ for the public utilities commission. Each assessor and the department shall monthly submit a list of all carriers paying ~~such~~ fees and remit monthly all ~~such~~ fees to the Idaho public utilities commission no later than the tenth day of each month following ~~such~~ collection.

SECTION 103. That Section 49-113, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~113~~443. ~~NUMBER~~ LICENSE PLATES TO BE FURNISHED BY DEPARTMENT -- FORM AND CONTENTS. ~~a.~~ (1) The assessor shall furnish to every owner whose vehicle ~~shall be~~ is registered by that office, pursuant to section 49-402, Idaho Code, one (1) ~~number~~ license plate for a motorcycle, trailer, truck-tractor, or semitrailer and two (2) ~~number~~ license 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 thereafter 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 cancelled by the board anytime after five (5) years from the year of issuance of the series.

(2) Commencing January 1, 1987, license numbering plates for vehicles covered in section 49-~~126(1)~~402, Idaho Code, shall be reissued beginning with the number 1 in each county in accordance with the twelve (12) registration periods therein described with subsequent mandatory reissues reoccurring every fifth January 1 thereafter.

(3) During intervening years in which license ~~number~~ plates are not issued, replaced, or cancelled, license ~~number~~ plates shall be retained by the owner until lost, stolen, mutilated, or illegible~~, at which~~. At that time and under those circumstances, the owner shall

then apply for a duplicate or substitute ~~therefor as provided in section 49-121, Idaho Code~~. The assessor shall also furnish for each registration, and to validate the ~~number~~ license plate, a pressure-sensitive, serially numbered registration sticker. ~~This registration sticker shall be serially numbered.--Number~~ License 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.

(4) ~~Number~~ License plates issued ~~to~~ for vehicles required to be registered in accordance with the provisions of section 49-~~126~~402, Idaho Code, shall be issued colored coded registration validation stickers showing the year of registration. Each registration validation sticker shall bear a number from 1 ~~to~~ through 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 plates within the outlined rectangular area.

~~b.~~(5) Every ~~number~~ license plate shall have displayed upon it the registration number assigned to the vehicle and its owner, ~~also~~ the name ~~of this state~~ "Idaho" 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~~ license plates. The plates 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~~ license 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~~ license plate must bear upon its face the inscription "Famous Potatoes."

~~c.~~(6) The ~~board~~ department shall furnish to every owner whose vehicle is ~~subject to the payment of the use fee provided by subdivision (e) of~~ registered under sections 49-~~127~~434 and 49-435, 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~~ pressure-sensitive, serially numbered registration sticker to validate the license plate.

~~d.~~(7) The board shall have authority to require the return to the department of all ~~number~~ license 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.~~(8) Whenever a vehicle is completely destroyed by fire or accident and the operator submits satisfactory proof of that destruction to the department or appropriate assessor's office, the registration use increment and fees shall be transferred to the replacement vehicle for a service transfer fee of five dollars ($5.00), which fee shall be retained by the registering authority. None of the original fees shall be subject to refund.

SECTION 104. That Section 49-2801, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2801~~444. ~~DEFINITIONS~~ RECREATION VEHICLE REGISTRATION. ~~The term "recreational vehicle" means a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. The term "recreational vehicle" as used in this act shall not include pick up hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles.~~

Recreational vehicles ~~as defined herein must~~ shall be registered as provided ~~by~~ in this chapter ~~1, title 49, Idaho Code,~~ before the a county assessor can issue a recreational vehicle annual license as provided ~~by this chapter, except truck~~ in sections 49-445 through 49-448, Idaho Code. Truck campers ~~which do not require registration under chapter 1, title 49, Idaho Code. Specific classes of "recreational vehicles" are defined as follows:~~ need not be registered before the county assessor can issue a recreational vehicle annual license.

~~(1) The term "motor home" shall mean a vehicular unit designed to provide temporary living quarters, built into an integral part of or permanently attached to a self propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the American National Standards Institute (ANSI) A119.7 Standard for Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or ice box, self contained toilet, heating and/or air conditioning, a portable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP gas supply.~~

~~(2) The term "travel trailer" shall mean a vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.~~

~~(3) The term "fifth wheel trailer" shall mean a vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth wheel hitch, which is typically installed in the bed of a pickup truck.~~

~~(4) The term "park trailer" shall mean a trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.~~

~~(5) The term "fold down camping trailer" shall mean a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recre-~~

~~ational,-camping-or-travel-use.~~

~~(6)--The-term-"truck-camper"--shall--mean--a--portable--unit--constructed-to-provide-temporary-living-quarters-for-recreational,-travel or-camping-use,-consisting-of-a-roof,-floor,-and-sides,-designed-to-be loaded-onto-and-unloaded-from-the-bed-of-a-pickup-truck.~~

SECTION 105. That Section 49-2802, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2002~~445. RECREATIONAL VEHICLE ANNUAL LICENSE. (1) There is ~~hereby~~ levied and there shall be collected an annual license fee on each motor home and recreational vehicle in Idaho, except motor homes and recreational vehicles in possession of a manufacturer or dealer and offered for sale or resale. If the motor home or recreational vehicle is registered as a motor vehicle under the provisions of this chapter ~~1,-title-49,-Idaho-Code~~, the annual license fee imposed ~~by~~ in this ~~chapter~~ section shall be in addition to and not in lieu of the motor vehicle registration fees.

(2) The annual license fee imposed upon each motor home or recreational vehicle shall be ~~determined-according-to-the-following--schedule,-but-shall-be-not-less-than~~ eight dollars and fifty cents ($8.50)~~:~~ for a market value of one thousand dollars ($1,000) or less, and an additional five dollars ($5.00) for each additional one thousand dollars ($1,000) or portion of it, of market value.

~~Market-Value-of-Recreational-Vehicle~~	~~Annual-License-Fee~~
~~Less-than-$1,001~~	~~$---0.50~~
~~$1,001-to-$2,000~~	~~$--13.50~~
~~$2,001-to-$3,000~~	~~$--18.50~~
~~$3,001-to-$4,000~~	~~$--23.50~~
~~$4,001-to-$5,000~~	~~$--28.50~~
~~$5,001-to-$6,000~~	~~$--33.50~~
~~$6,001-to-$7,000~~	~~$--38.50~~
~~$7,001-to-$8,000~~	~~$--43.50~~
~~$8,001-to-$9,000~~	~~$--48.50~~
~~$9,001-to-$10,000~~	~~$--53.50~~
~~$10,001-to-$11,000~~	~~$--58.50~~
~~$11,001-to-$12,000~~	~~$--63.50~~
~~$12,001-to-$13,000~~	~~$--68.50~~
~~$13,001-to-$14,000~~	~~$--73.50~~
~~$14,001-to-$15,000~~	~~$--78.50~~
~~$15,001-to-$16,000~~	~~$--83.50~~
~~$16,001-to-$17,000~~	~~$--88.50~~
~~$17,001-to-$18,000~~	~~$--93.50~~
~~$18,001-to-$19,000~~	~~$--98.50~~
~~$19,001-to-$20,000~~	~~$-103.50~~
~~Over-$20,000~~	~~$-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 motor home or 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 motor home or rec-

reational vehicle annual license shall expire midnight December 31 of each year.

SECTION 106. That Section 49-2803, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2803~~446. COUNTY ASSESSOR TO ADMINISTER AND COLLECT LICENSE FEE. (1) The county assessor shall administer and collect the recreational vehicle annual license fee.

(2) Market value of recreational vehicles shall be determined by the county assessor according to the rules and regulations of the state tax commission. Whenever indices are available, the rules and regulations shall use any standard industry indices of retail value of recreational vehicles to determine market value.

SECTION 107. That Section 49-2804, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2804~~447. ~~IDAHO TRANSPORTATION~~ DEPARTMENT TO PROVIDE IDENTIFICATION TAGS. The ~~Idaho transportation~~ department shall devise and provide to ~~the~~ county assessors suitable identification plates, tags or stickers for attachment to or placement on recreational vehicles to indicate that the annual recreational vehicle license fee has been paid. The plate, tag or sticker shall be of suitable size and design for easy identification, and shall show the year and month of the year in which the license expires. The department shall also provide suitable registration forms and all other forms required for the purpose of ~~this chapter~~ registration and shall prepay all ~~transportation~~ charges ~~thereon~~ including mailing fees. Each recreational vehicle registration shall be filed annually by the department under a distinctive number assigned to the vehicle and alphabetically under the name of the owner.

SECTION 108. That Section 49-2805, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2805~~448. DISPOSITION OF ~~LICENSE~~ FEES. ~~(1)~~ The revenues received from the annual license fees imposed by ~~this chapter~~ section 49-445, Idaho Code, for recreational vehicle registration shall be paid over monthly to the county treasurer, to be distributed as follows:

(~~a~~1) 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~~2) 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~~ established in the dedicated fund of the state treasury;

(~~c~~3) From the balance remaining, one-half (1/2) shall be placed in the county road fund to be apportioned as provided in section

40-709, Idaho Code, and one-half (1/2) shall be paid to the state treasurer for deposit in the highway distribution account, as created in section 40-701, Idaho Code.

SECTION 109. That Section 49-122, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~122~~449. SUSPENSION OF REGISTRATION UPON NOTICE OF THEFT OR EMBEZZLEMENT. Whenever the owner of any motor vehicle, trailer or semitrailer which is stolen or embezzled files an affidavit alleging either ~~said~~ fact with the department ~~it~~, the department shall immediately suspend the registration of such vehicle and shall not transfer the registration of or register such vehicle until ~~such time as it~~ the department shall be notified that the owner has recovered ~~such~~ the vehicle~~, but notices~~. Notices given ~~as heretofore provided~~ shall be effective only during the current registration year in which given, but if during such year ~~such~~ the vehicle is not recovered a new affidavit may be filed with like effect during the ensuing year. Every owner who has filed an affidavit of theft or embezzlement shall immediately notify the department of the recovery of ~~such~~ the vehicle.

SECTION 110. That Section 49-157, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~157~~450. ADDITIONAL FEE FOR EACH PLATE ISSUED. Whenever any plate ~~or plates are~~ is issued for vehicle registration, there shall be charged a fee of one dollar and seventy cents ($1.70) per plate, which shall be in addition to the vehicle registration fee provided ~~in this chapter~~ by law.

SECTION 111. That Section 49-158, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~158~~451. ADDITIONAL FEES FOR VEHICLE LICENSURE. An administrative fee of not more than one dollar and fifty cents ($1.50) shall be collected in addition to each motor vehicle registration ~~tax or~~ fee amount collected by a county assessor under the provisions of ~~sections 49-126 and 49-127, Idaho Code~~ this chapter, and shall be ~~paid to the county treasurer where the vehicle is registered and be~~ placed in the county current expense fund. The amount of the administrative fee to be collected on each motor vehicle registration shall be set by the respective boards of county commissioners conditioned on the annual budget request of their county assessor for the administration of motor vehicle licensure ~~and said~~. The administrative fee shall be applied as a proportional reduction of the current expense ad valorem tax charges of the county.

SECTION 112. That Section 49-159, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~159~~452. EMERGENCY MEDICAL SERVICES FEE. An emergency medical services fee of seventy-five cents ($.75) shall be collected in addi-

tion to each motor vehicle registration ~~tax or~~ fee amount collected under the provisions of ~~sections 49-126 and 49-127, Idaho Code~~ this chapter, with the exception of those vehicles proportionally registered under section 49-~~127B~~435, Idaho Code. All collections shall be transmitted to the state treasurer for deposit in the emergency medical services account ~~created by~~ established in section 39-146, Idaho Code.

SECTION 113. That Section 49-131, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~131~~453. LETTERING ON VEHICLES. Every commercial motor truck, truck-tractor, trailer and semi-trailer shall have painted or stenciled upon the outside on both sides thereof, in a conspicuous place, in letters not less than two (2) inches high, the name of the registered owner.

49-454 -- 49-455. [RESERVED.]

SECTION 114. That Section 49-125, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~125~~456. VIOLATIONS OF REGISTRATION PROVISIONS. It shall be unlawful for any person ~~to commit any of the following acts:~~

(1~~.~~) To operate or for the owner ~~thereof~~ to permit the operation upon a highway of any motor vehicle, trailer or semitrailer which is not registered and which does not have attached ~~thereto~~ and displayed ~~thereon~~ the ~~number plate or~~ license plates assigned ~~thereto~~ it for the current registration year, subject to the exemptions allowed in sections 49-~~115~~428, 49-~~117(c)~~431~~,~~ 49-~~118~~, 49-~~120~~, 49-~~125A~~, and 49-~~206~~433 through -- 49-~~211~~435 ~~as amended by this act~~, Idaho Code.

(2~~.~~) To display or cause or permit to be displayed, or to have in possession any registration card, ~~registration number plate~~ license or use fee plate knowing the same to be fictitious or to have been cancelled, revoked, suspended or altered.

(3~~.~~) To lend or knowingly permit the use by one not entitled ~~thereto of~~ any registration card, ~~registration number plate~~ license or use fee plate issued to the person so lending or permitting that use ~~thereof~~.

(4~~.~~) To fail or refuse to surrender to the department, upon demand, any registration card, ~~registration number plate,~~ license or use fee plate which has been suspended, cancelled or revoked ~~as in this chapter provided~~.

(5~~.~~) To use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate ~~thereof~~, or knowingly to make a false statement or ~~knowingly to~~ conceal a material fact or otherwise commit a fraud in any ~~such~~ application.

CHAPTER 5
VEHICLE TITLES

SECTION 115. That Sections 49-501 through 49-579, be, and the same are hereby repealed.

SECTION 116. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~402~~501. APPLICATION TO CERTAIN VEHICLES -- EXEMPTIONS. The provisions of this chapter shall apply exclusively to every motor vehicle required to be registered with the department under the laws of this state except that the board may, by rules and regulations, exempt vehicle and motor vehicle registrations under provisions of subsection c(3) of section 49-~~107~~441 and sections 49-~~127~~434 and 49-~~127B~~435, Idaho Code, from the titling requirements of this chapter. Trailers whose unladen weight is less than two thousand (2,000) pounds, ~~v~~Vehicles owned by the federal government, and vehicles exempt from registration under the provisions of section 49-~~100~~426, Idaho Code, are exempt from the provisions of this chapter.

SECTION 117. That Section 49-403, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~403~~502. DELIVERY OF CERTIFICATE OF TITLE UPON SALE OR DISPOSITION -- REASSIGNMENT BY DEALERS. No person shall hereafter sell or otherwise dispose of a motor vehicle without delivery to the purchaser or transferee thereof a certificate of title with such an assignment thereon as may be necessary to show title in the purchaser, nor purchase or otherwise acquire or bring into ~~this~~ the state a motor vehicle except for temporary use as provided by section 49-~~120~~432, Idaho Code ~~as amended by chapter 66, Idaho Session laws 1939~~, unless he shall obtain a certificate of title ~~for the same~~ in his name in accordance with the provisions of this ~~act, provided that any~~ chapter. Any dealer holding current Idaho dealer license plates ~~issued by this state~~ may, in lieu of having a certificate of title issued in the his name ~~of such dealer~~, reassign any existing certificate of title issued in this state.

SECTION 118. That Section 49-404, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~404~~503. ISSUANCE OF CERTIFICATE OF TITLE REQUISITE TO ACQUISITION OF TITLE -- WAIVER OR ESTOPPEL. Except as provided in sections 49-~~403~~502, 49-~~412~~,510 through 49-~~413~~512, 49-~~414~~, and 49-~~416~~514, Idaho Code, no person acquiring a motor vehicle from the owner thereof, whether such the owner be is a dealer or otherwise, shall hereafter acquire any right, title, claim or interest in or to ~~said motor~~ the vehicle until he ~~shall have~~ has issued to him a certificate of title to ~~said motor~~ that vehicle, nor shall any waiver or estoppel operate in favor of such that person against a person having possession of such a certificate of title or an assignment of such the certificate

of ~~said-motor~~ the vehicle for a valuable consideration.

SECTION 119. That Section 49-405, Idaho Code, be, and the same is hereby amended to read as follows

49-~~405~~504. APPLICATIONS TO DEPARTMENT FOR CERTIFICATES -- PROCEDURE -- IDENTIFICATION NUMBERS. (~~a~~1) Application for a certificate of title shall be made upon a form furnished ~~and-approved~~ by the department and shall contain a full description of the ~~motor~~ vehicle including the make, the engine or identification numbers, and the odometer reading at the time of sale or transfer, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon ~~said~~ the vehicle, and the name and address of the person to whom the certificate of title shall be delivered, and any other information as the department may require. The application shall be filed with the department, and if a certificate of title has previously been issued for that vehicle in this state, shall be accompanied by the certificate of title duly assigned, unless otherwise provided for in this chapter. The department may promulgate rules and regulations to provide for exceptions to the odometer requirement.

(~~b~~2) If a certificate of title has not previously been issued for ~~such-motor~~ the vehicle in this state, ~~said~~ the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or a duly certified copy thereof, or by a certificate of title, bill of sale or other evidence of ownership required by the law of any other state from which ~~such--motor~~ the vehicle was brought into this state.

(~~c~~3) In the case of a new ~~motor~~ vehicle being titled for the first time, no certificate of title or registration shall be issued unless ~~such~~ the application is indorsed by a franchised new ~~motor~~ vehicle dealer licensed to sell ~~such~~ a new ~~motor~~ vehicle ~~in-the--state of--Idaho~~. Each ~~such~~ application shall be accompanied by a manufacturers' certificate of origin or manufacturers' statement of origin executed by the manufacturer and delivered to his agent or his franchised ~~motor~~ vehicle dealer. The certificate or statement of origin shall be in ~~such~~ a form ~~as-set~~ prescribed by the board ~~in-accordance with-the-provisions-of-the-administrative--procedures--act~~ and shall contain the year of manufacture or the model year of the ~~motor~~ vehicle, the manufacturer's vehicle identification number ~~of--the--motor vehicle~~, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new ~~motor~~ vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate or statement, together with any lien or encumbrance to which the vehicle is subject.

(~~d~~4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an engine or identification numbers index of registered ~~motor~~ vehicles, and upon receiving an application for a certificate of title, shall first check the engine or identification number shown in the application against ~~said~~ the index and against the

stolen and recovered motor vehicle index required to be maintained by section 49-~~411~~509, Idaho Code. The department, when satisfied that the applicant is the owner of ~~such motor~~ the vehicle and that the application is in proper form, shall ~~thereupon~~ issue in the name of the owner of the vehicle a certificate of title bearing a title number ~~and~~, the signature of the director of the department ~~and~~, the seal of his office, ~~and setting forth~~ the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle ~~therein described~~, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(~~e~~5) In all cases of transfer of motor vehicles the application for certificates of title shall be filed within ten (10) days after the delivery of ~~such motor~~ the vehicles~~, provided, licensed.~~ Licensed dealers need not apply for certificate of title for ~~such motor~~ vehicles in stock or when ~~such~~ they are acquired for stock purposes.

(~~f~~6) In the case of the sale of a motor vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. If a lien is to be recorded, the title documentation as required in this section shall be submitted to ~~an agent of~~ the department by the dealer or the lienholder upon application signed by the purchaser. In all other cases ~~such~~ the certificates shall be obtained by the purchaser.

(~~g~~7) If the motor vehicle has no engine and no identification number, then the department shall designate an identification number for ~~such motor~~ that vehicle at the time of issuance of the certificate of title~~, which~~. The identification number shall be permanently affixed to or indented upon the frame of the motor vehicle and legibly maintained ~~thereon~~ by the owner at all times while a certificate of title to ~~such~~ the vehicle shall be issued and outstanding.

SECTION 120. That Section 49-406, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~406~~505. ISSUANCE OF CERTIFICATES OF TITLE BY DEPARTMENT -- DELIVERY. ~~All c~~Certificates of title shall be printed and the department shall issue the certificate in ~~quadruplicate~~ duplicate. ~~Two (2) copies shall be retained by the department and one (1) copy shall be transmitted, postage prepaid, on the date that the application is made, to the assessor of the county where the applicant resides if the applicant is a resident of the state, or if the applicant is not a resident of the state, then to the county assessor of the county where the motor vehicle was sold or transferred. The director of the Idaho transportation department shall sign and affix his seal to the original certificate of title, and~~ The original copy shall be delivered to the applicant if there are no liens or encumbrances on ~~said motor vehicle, shall deliver~~ the certificate ~~of title to the applicant~~. If there are ~~one or more~~ liens or encumbrances ~~on said motor vehicle, said~~ recorded, the certificate ~~of title~~ shall be delivered or mailed to the holder of the lien or encumbrance ~~which is prior in date and~~ who is first in time~~,~~ on the date of the ~~execution of such~~ applica-

tion. The second copy shall be transmitted to the county assessor of the county where the application for title was processed. The signature and seal of the director shall be affixed to the original certificate of title.

SECTION 121. That Section 49-408, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~408~~506. DESTRUCTION OF RECORDS. Records pertaining to certificates of title shall be retained until all 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~~ The miniaturized files shall be maintained so as to permit the tracing of title of the vehicles ~~so~~ designated ~~therein~~.

SECTION 122. That Section 49-409, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~409~~507. DEPARTMENTAL REGULATIONS FOR TRANSFER OF VEHICLES -- APPOINTMENT OF DEPUTIES AND ASSISTANTS. Procedure for the transfer of ~~motor~~ vehicles, and the issuance of certificates of title not otherwise expressly provided for by this chapter, may be provided for by regulations issued by the department, and in addition ~~thereto~~ the ~~department is hereby authorized by and with the written approval of the governor to~~ director shall appoint all necessary ~~deputies and other assistants~~ personnel to carry out the provisions of this chapter.

SECTION 123. That Section 49-410, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~410~~508. CANCELLATION OF CERTIFICATES OF TITLE -- RETURN OF REGISTRATION RECEIPTS AND LICENSE PLATES. (1) If it appears ~~to the department~~ that a certificate of title has been improperly issued, the department shall ~~have the power and it shall be its duty~~, after notice and hearing, ~~to~~ cancel the ~~same~~ certificate. ~~Said~~ The notice shall be served in person or by registered mail, and shall be served upon the person to whom ~~such~~ that certificate of title was issued, as well as any lien holders appearing thereon. The holder of ~~such~~ the certificate of title shall return ~~the same~~ it to the department ~~forthwith after~~ upon cancellation, but the cancellation of any ~~such~~ certificate of title shall not affect the validity of any lien recorded ~~thereon~~ it.

(2) If a receipt of registration has been issued to the holder of a cancelled certificate of title ~~so canceled~~, the department shall immediately cancel ~~the same~~ it and demand the return of ~~such~~ the receipt of registration and license plates ~~or tags~~, and the holder of ~~such~~ the receipt of registration and license plates ~~or tags~~ shall immediately return ~~the same~~ them to the department ~~forthwith. An appeal may be taken from any decision of the department as from the decision of a justice of the peace.~~

SECTION 124. That Section 49-411, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~411~~509. STOLEN ~~MOTOR~~ VEHICLES -- REPORTING BY OFFICERS -- PUBLICATION OF LISTS -- RECOVERED CARS -- NOTICE. (1) It shall be the duty of every sheriff, chief of police, constable, ~~state--highway patrolman,~~ Idaho state police officer, or officer having knowledge of a stolen ~~motor~~ vehicle, to immediately furnish the department of law enforcement with full information in connection therewith, and it shall be the duty of the department of law enforcement whenever it shall receive a report of the theft or conversion of a ~~motor~~ vehicle, whether the same has been registered or not, and whether owned in this state or any other state, to make a distinctive record ~~thereof~~ it together with the make and manufacturer's serial number, and file the same in numerical order of the manufacturer's serial number or motor number with the index records of the motor vehicles of the same make.

(2) The department of law enforcement shall prepare a report listing motor vehicles stolen and recovered as disclosed by reports submitted to it, and ~~said~~ the report shall be distributed as ~~it--may~~ deemed advisable. At least once each month the department of law enforcement shall furnish reports of stolen and recovered vehicles to every county sheriff and the police department in every ~~municipality~~ of over three thousand (3,000) population within this state, and shall transmit copies of ~~such~~ the reports to the motor vehicle departments of other states. In the event of the receipt by the department of law enforcement of a certificate of title to ~~such~~ a stolen ~~motor~~ vehicle, the department of law enforcement shall immediately notify the owner ~~thereof~~, and if upon investigation it appears that ~~such~~ the certificate of title was improperly issued, the transportation department shall immediately cancel ~~the same as provided by this chapter~~ it. In the event of the recovery of a stolen or converted ~~motor~~ vehicle ~~it shall be the duty of~~ the owner ~~to~~ shall immediately notify ~~the~~ department of law enforcement, which shall cause the record of the theft or conversion to be removed from its file.

SECTION 125. That Section 49-412, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~412~~510. 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~~ December 31, 1986, irrespective of whether such registration was effected prior or subsequent to the creation of ~~such~~ the lien or encumbrance, shall be perfected as against creditors or subsequent purchasers or encumbrancers without notice until the holder of ~~such~~ the lien or encumbrance, or his successor or assignee, has complied with the requirements of section 49-~~405~~504, 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~~504, 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 lien holder 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 lien holder 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 contain the name of the owner of the vehicle, the name and address of each holder of a lien or encumbrance, and a statement of all liens or encumbrances which have been filed with the department, together with the date of each lien or encumbrance and the date and hour received by the department or agent of the department~~, and such~~. The filing of a lien or encumbrance and the notation ~~thereof~~ it upon ~~the~~ certificate of title shall be a condition of perfection and shall constitute constructive notice of ~~such~~ the lien or encumbrance and its contents to creditors and subsequent purchasers and encumbrancers~~, and all~~. All liens or encumbrances so filed with the department and noted upon ~~the~~ certificate of title shall be perfected and take priority according to the order of time in which the same are noted upon the certificate of title by the department.

SECTION 126. That Section 49-413, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~413~~511. CANCELLATION OR DISCHARGE OF LIEN OR ENCUMBRANCE. When ~~such~~ a lien ~~or~~ encumbrance is cancelled or discharged, the holder ~~thereof~~ shall note a cancellation or discharge ~~of the same~~ on the certificate of title in the space provided ~~therefor~~, over his signature, or by some other legal document discharging ~~said~~ the encumbrance, and shall deliver it to the owner. ~~Such~~ The owner ~~shall~~ present ~~said~~ the certificate of title within thirty (30) days to the department or its agent, together with a fee as provided for in section 49-~~104~~202(2)(b)~~2~~, Idaho Code, and have the department issue a new ~~(duplicate)~~ certificate of title with the lien discharged from the face of the certificate of title ~~and~~, upon the records of the department, and of the county assessor ~~wherein~~ the copy of the certificate of title is filed.

SECTION 127. That Section 49-414, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~414~~512. SECURITY INTERESTS -- METHOD OF GIVING CONSTRUCTIVE

NOTICE EXCLUSIVE. The method provided in this ~~act~~ chapter for perfection of a security interest on a ~~motor~~ vehicle~~,~~ is exclusive, except as to security interests in ~~motor~~ vehicles held in inventory for sale, which shall be governed by the ~~Uniform--Commercial-Code--Secured Transactions~~ provisions of chapter 9, title 28, Idaho Code.

SECTION 128. That Section 49-415, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~415~~513. SALE OF ENCUMBERED VEHICLE -- CONSENT OF LIENHOLDER -- EFFECT. Sale of any ~~motor~~ vehicle by the owner ~~thereof~~ with the knowledge and consent of the holder of any lien or encumbrance properly noted upon the certificate of title ~~thereof~~, shall not render the sale void or ineffective as against ~~such~~ that lien or encumbrance.

SECTION 129. That Section 49-416, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~416~~514. TRANSFER OF OWNERSHIP BY OPERATION OF LAW -- LIENS -- VEHICLES REGISTERED IN FOREIGN STATE -- CERTIFICATES OF TITLE. In the event of the transfer of ownership of a ~~motor~~ vehicle by operation of law, as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, or execution sale, or whenever the engine of a ~~motor~~ vehicle is replaced by another engine, or whenever a motor vehicle is sold to satisfy storage or repair charges, or if the interest of the owner is terminated or the vehicle is sold under a security agreement, the department may upon the surrender of the prior certificate of title, or when that is not possible, upon presentation of satisfactory proof to the department of ownership and right to possession of the ~~motor~~ vehicle and presentation of an application for a certificate of title, issue to the applicant a certificate of title ~~thereto~~. Only an affidavit by the person or agent of the person to whom possession of the ~~motor~~ vehicle so passed, setting forth facts entitling him to possession and ownership, together with a copy of the journal entry, court order or instrument upon which ~~such~~ the claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession. If the applicant cannot produce ~~such~~ proof of ownership he may apply directly to the department and submit ~~such~~ any evidence as he may have, and the department ~~may thereupon~~ shall, if it finds the evidence sufficient, issue a certificate of title to the applicant.

If from the records in the office of the department there appears to be any prior lien or liens on ~~said-motor~~ the vehicle, ~~such~~ the certificate of title shall contain a statement ~~of said~~ those liens ~~as--in this--chapter--provided~~, unless ~~such~~ the application is accompanied by proper evidence of their satisfaction or discharge.

~~Provided,-however,-that-i~~In the case of a ~~motor~~ vehicle registered in a foreign state the applicant for a certificate of title under the provisions of this section must present to the department a certificate of title properly issued to the applicant under the laws of ~~such~~ the foreign state before he shall be entitled to a certificate of title issued by the department.

~~Provided that u~~Upon the death of the owner of one or more registered vehicles ~~registered--hereunder--and~~ not exceeding a total value of one thousand dollars ($1,000), the following heirs of ~~said~~ the owner, to wit: the surviving spouse, the children, lawful issue of the deceased children, the parents, the brothers or sisters, or the guardian of the estate of any minor or insane or incompetent person having such relationship to the owner, if such person has a right to succeed to the property of the owner, may secure a transfer of the certificate or certificates of title of ~~said~~ the owner to ~~said~~ the vehicle or vehicles, upon presenting to the department~~,~~ the appropriate certificate or certificates of title, if available, and an affidavit of ~~such~~ the person or persons~~,~~ setting forth the fact of ~~such~~ survivorship or heirship, the names and addresses of any other heirs, that the decedent died intestate, that the decedent has no creditors, that the decedent did not leave other property necessitating probate, and~~,~~ if required by the department, a certificate of the death of the deceased. The department, when satisfied of the genuineness and regularity of ~~such~~ the transfer, shall transfer the registrations and titles accordingly.

SECTION 130. That Section 49-417, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~417~~515. LOST, MUTILATED OR ILLEGIBLE CERTIFICATES -- DUPLICATE CERTIFICATES. In the event any certificate of title is lost, mutilated or becomes illegible, the owner or legal representative of the owner of ~~said motor~~ the vehicle, or the holder of the lien ~~thereon~~ which is prior in date and time as shown by the records of the department, shall immediately make application for and may obtain a duplicate certificate of title upon the applicant~~'~~s furnishing information satisfactory to the department~~;provided,that after one (1) year from the effective date of this act such.~~ The duplicate certificate shall not be issued until ~~after the lapse of~~ five (5) days have elapsed from the date of ~~such~~ application. Any certificate of title issued pursuant to this section shall have printed or stamped in ink upon its face "duplicate certificate" and, in the event that more than one duplicate certificate shall be issued, this fact shall likewise be made to appear upon the face of ~~said~~ the duplicate certificate. In the event of the recovery of the original certificate of title by ~~said~~ the owner or the first lienholder, he shall ~~forthwith~~ immediately surrender ~~the same~~ it to the department for cancellation.

SECTION 131. That Section 49-418, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~418~~516. JUNKED OR CHANGED VEHICLES -- CANCELLATION OF CERTIFICATE. Each owner of a ~~motor~~ vehicle and each person mentioned as owner in the last certificate of title when ~~such motor~~ a vehicle is dismantled, destroyed or changed in ~~such~~ a manner that it is not the ~~motor~~ vehicle described in the certificate of title, shall surrender his certificate of title to the department, and ~~thereupon said~~ the department shall with the consent of any holders of any liens ~~thereon~~, enter

a cancellation upon its records. The department upon receipt of a certified copy of an order or judgment from a court of competent jurisdiction that a partially dismantled, junked, abandoned or non-operating vehicle is a public nuisance shall cancel the certificate of title to ~~said~~ the vehicle if there be one. Upon cancellation of a certificate of title in the manner prescribed by this section the department may cancel and destroy all certificates in that chain of title.

SECTION 132. That Section 49-419, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~419~~517. PRINTING AND FORM OF CERTIFICATES. All certificates of title shall be printed upon safety paper to be selected by the department, and shall be in such form as the department shall prescribe.

SECTION 133. That Section 49-420, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~420~~518. ALTERING OR FORGING CERTIFICATE -- STOLEN CARS -- DESTROYING OR ALTERING ENGINE NUMBER -- USE OF FICTITIOUS NAME -- FRAUD ~~---PENALTY. Whoever alters or forges~~ It shall be a felony for any person to: (1) Alter or forge any certificate of title to a motor vehicle, or any assignment thereof, or any cancellation of any liens on a motor vehicle~~;~~; or ~~whoever holds or uses such~~

(2) Hold or use a certificate of title or assignment or cancellation~~,~~ knowing ~~the same~~ it to be altered or forged~~;~~; or ~~whoever procures or attempts~~

(3) Procure or attempt to procure a certificate of title to a motor vehicle, or to passes or attempts to pass a certificate of title or any assignment ~~thereof~~ to a motor vehicle, knowing or having reason to believe that ~~such motor~~ the vehicle has been stolen~~;~~; or ~~whoever sells or offers~~

(4) Sell or offer for sale in this state a motor vehicle on which the motor number ~~or~~ manufacturer's serial number has been destroyed, removed, covered, altered or defaced, with knowledge of ~~such~~ that destruction, removal, covering, alteration or defacement of ~~said~~ the motor number or manufacturer's serial number~~;~~; or ~~whoever uses~~

(5) Use a false or fictitious name, or gives a false or fictitious address, or makes a false statement in any application or affidavit required under the provisions of this ~~act~~ chapter, or any bill of sale or sworn statement of ownership, or otherwise commits a fraud in any application~~;~~; or ~~whoever shall purport~~

(6) Purport to sell or transfer a motor vehicle without delivering to the purchaser or transferee ~~thereof~~ a certificate of title ~~thereto~~ duly assigned to ~~such~~ the purchaser ~~as provided for in this act, shall upon conviction thereof be fined no more than $1,000 or imprisoned for not less than six (6) months nor more than five (5) years, or both, for each such offense.~~

SECTION 134. That Section 49-421, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~421~~519. OPERATION OF VEHICLE WITHOUT CERTIFICATE OF TITLE -- FAILURE TO SURRENDER CERTIFICATE ---~~GENERAL PENALTY PROVISION~~. ~~Whoever~~ It shall be unlawful, except as otherwise provided ~~for~~ in this chapter, for a person:

(1) To operate ~~in this state~~ a ~~motor~~ vehicle for which a certificate of title is required, without ~~such~~ the certificate having been obtained in accordance with the provisions of this chapter~~,~~; or ~~upon~~

(2) To operate a vehicle for which the certificate of title has been cancelled~~,~~; or ~~whoever, not~~

(3) Not being an enfranchised dealer, or acting upon behalf of such dealer, ~~shall~~ to acquire, purchase, hold or display for sale a new ~~motor~~ vehicle without having obtained a certificate of title ~~therefor~~ as provided for in this chapter~~,~~; or ~~whoever shall~~

(4) To fail to surrender a certificate of title or any certificate of registration or license plates ~~or tags~~ upon cancellation of the same by the department, as provided by this chapter~~,~~; or ~~whoever fails~~

(5) To fail to surrender the certificate of title to the department ~~as provided in this chapter~~ in connection with the destruction ~~or~~, dismantling or change of a ~~motor~~ vehicle in ~~such~~ any respect that it is not the ~~motor~~ vehicle described in the certificate of title~~,~~; or ~~whoever shall~~

(6) To violate any of the other provisions of this ~~act~~ chapter or any laws, or rules or regulations promulgated pursuant to ~~the provisions of~~ this ~~act, shall, unless a different penalty is prescribed herein or by the laws of this state, be fined not more than three hundred dollars ($300) or imprisoned for not more than ninety (90) days, or both, for each such offense~~ title.

SECTION 135. That Section 49-422, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~422~~520. REFUSAL TO ISSUE CERTIFICATE OF TITLE OR REGISTER ~~CAR~~ VEHICLE -- REVOCATION AFTER ISSUANCE OR REGISTRATION. If the department shall determine an applicant for a certificate of title to a ~~motor~~ vehicle is not entitled ~~thereto~~ it, it shall refuse to issue ~~such~~ a certificate or to register ~~such~~ the vehicle, and in that event unless the department reverses its decision or its decision ~~be~~ is reversed by a court of competent jurisdiction, the applicant shall have no further right to apply for a certificate of title or registration on the statements in ~~said~~ the application. The department may for a like reason after notice and hearing, revoke registration already acquired or any outstanding certificate of title. ~~Said~~ The notice shall be served in person or by registered mail. An appeal may be taken from any decision of the department ~~as from the decision of a justice of the peace~~.

SECTION 136. That Section 49-426, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~426~~521. DEALERS IN ~~USED~~ VEHICLES -- RECORDS OF PURCHASES AND

SALES -- POSSESSION OF CERTIFICATES OF TITLE -- FOREIGN VEHICLES. (~~a~~1) Every dealer in ~~used~~ motor vehicles, trailers or semitrailers shall maintain a record in a form as prescribed by the department of every used motor vehicle, trailer or semitrailer bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange~~,--which~~. The record shall contain a description of ~~every--said~~ the vehicle, including the name of the maker, type, engine and serial number and other distinguishing marks, and whether any numbers thereon have been defaced, destroyed, or changed and shall state with reference to each vehicle the name and address of the person from whom purchased or received ~~and~~, when sold or otherwise disposed of by the licensee, and the name and address of the person to whom sold or delivered.

(~~b~~2) Every licensee shall have in his possession a separate certificate of title assigned to ~~such licensee~~ him or other documentary evidence of his right to the possession of and for every motor vehicle in his possession.

SECTION 137. That Sections 49-431 and 49-432, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~431~~522. INDORSEMENT "FOR JUNK ONLY" ON CERTIFICATE WHEN VEHICLE SOLD OR TRANSFERRED ~~NOT TO BE OPERATED~~ -- OPERATION PROHIBITED. (1) The owner of any motor vehicle who sells or transfers ~~the same~~ it to another with the intention or understanding that ~~said~~ the motor vehicle is not to be used as an operating unit shall, at the time of sale or transfer, indorse on the face of the certificate of title to ~~such~~ that vehicle the words "for junk only", and the department shall place ~~said~~ those words on the face of each subsequent certificate of title to ~~said~~ that vehicle.

~~49-432.--OPERATION--OF--MOTOR-VEHICLE-WHEN-CERTIFICATE-SO-INDORSED PROHIBITED.~~ (2) No person shall operate upon ~~the--public--roads--of this--state~~ a highway any motor vehicle, the certificate of title to which has been so indorsed, and no person shall sell or attempt to sell ~~such~~ that vehicle for use as an operating unit.

SECTION 138. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~434~~523. PROCEDURE WHEN DEPARTMENT UNSATISFIED AS TO OWNERSHIP OR SECURITY INTERESTS -- TEMPORARY REGISTRATION PROCEDURE. (1) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle, but shall either:

(a) Withhold issuance of a certificate of ownership until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or

(b) As a condition of issuing a certificate of ownership, require the applicant to file with the department all documents held as to the applicant's ownership of the vehicle, together with a bond in the form prescribed by the department and executed by the appli-

cant, or ~~in lieu thereof,~~ a deposit of cash in a like amount. The bond shall be in an amount equal to one and one-half (1 1/2) times the value of the vehicle, as determined by the department, and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle, or on account of any defect in or disclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, or any cash deposit, shall be returned at the end of three (3) years, or prior to that time if the vehicle is no longer registered in this state and the current~~ly~~ valid certificate of ownership is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

(c) As to a motor vehicle twenty-five (25) years old or more since manufacture, an applicant who is a resident of the state of Idaho may file with the department, before its authorized representative, a verified statement of facts setting out in detail the manner in which the applicant came into possession of the motor vehicle, the establishment of ownership, and a summary of the applicant's attempts to contact any prior owners of the motor vehicle. Upon receipt by the department of the verified statement and all documentation relating to the applicant's possession of the vehicle, and completion of an inspection of the vehicle identification number by an authorized representative of the department, the applicant shall execute a document in the form provided by the department releasing it of any and all damages that may be suffered by the applicant, along with warranties that the applicant will pay any and all damages suffered by any person or entity as to the issuance of a title for that motor vehicle by the department. The department shall then issue a certificate of title to the applicant in form set out by this section. The certificate of title shall include the statement, "TITLE ISSUED UPON STATEMENT OF APPLICANT", in bold, permanent letters upon its face. The title issued pursuant to this subsection shall be presumed to indicate legal ownership of the motor vehicle at the end of the three (3) year period from the date of issue of that title, provided the motor vehicle is still registered in the state of Idaho, and there are no actions or claims pending against the applicant which places legal ownership in question. The department and the state of Idaho shall be immune as to any damages suffered by any person or entity as a result of the issuance of a certificate of title as provided by this subsection.

(2) Every dealer desiring the privilege of issuing temporary registration permits for the operation of motor vehicles shall make application to the ~~motor vehicle division~~ department. If the privilege is granted, the dealer will receive a series of permits, consecutively

numbered by the ~~motor--vehicle--division~~ department, secured by the dealer at a fee of five dollars ($5.00) for each permit. A permit subsequently issued by a dealer to a purchaser shall be valid for a period not to exceed thirty (30) days.

The dealer shall issue temporary registration permits in numerical sequence, one (1) only for each motor vehicle sold to a bona fide purchaser. Each permit, and the attached stub, shall be completed in duplicate, in ink or by typewriter at the time of issuance. The expiration date on the original permit shall be filled in by rubber stamp or broad-tipped marking pen, and the print shall be at least three-fourths (3/4) inch high and one-eighth (1/8) inch wide. The original permit shall be displayed in the rear window of the motor vehicle for which it is issued, except when issued for a convertible, station wagon, motorcycle, or other motor vehicle for which this would not be practical. In these exceptional cases, the permit should be conspicuously displayed in a place where the number of the permit and the expiration date may be easily read and where protected from exposure to weather conditions which would render it illegible. The duplicate stub shall be returned to the ~~motor-vehicle-division~~ department within thirty-one (31) days from the date of issue.

(3) The dealer shall keep a written record of every temporary registration permit issued. This record shall include the name and address of the person or firm to whom the permit is issued, a description of the motor vehicle for which it is issued, including year, make, model, identification number, and the date of issue. This record shall list all permits in numerical sequence and shall be open to inspection by any peace officer or designated employee of the department ~~or-any-peace-officer~~.

(4) The fees collected from dealers by the department under the provisions of this section shall be transmitted by the department to the state treasurer for deposit in the highway distribution account.

(5) Upon application for title and for registration of a vehicle for which temporary registration has been issued under this section, the county assessor shall collect and fees shall be deemed due from the date of issuance of the temporary registration permit rather than from date of application for title or registration.

(6) The department or a county assessor may issue temporary motor vehicle registration permits in an emergency situation. The fee for a temporary registration shall be five dollars ($5.00)~~.--The--temporary registration~~, and shall be valid for a period of thirty (30) days. The temporary fees collected by the department shall be transmitted to the state treasurer for deposit in the highway distribution account. ~~The~~ tTemporary fees collected by an assessor shall be distributed as follows: three dollars ($3.00) shall be deposited in the county current expense fund and two dollars ($2.00) shall be transmitted to the department for deposit through the state treasurer in the highway distribution account.

CHAPTER 6
RULES OF THE ROAD

SECTION 139. That Sections 49-602 and 49-627, Idaho Code, be, and the same are hereby repealed.

SECTION 140. That Sections 49-601 and 49-605, Idaho Code, be, and the same is hereby amended to read as follows:

49-601. ~~PROVISIONS-OF-THIS-TITLE-REFER-TO-VEHICLES-UPON-THE-HIGHWAYS----EXCEPTIONS~~ APPLICATION. The provisions of this ~~title--relating to--the--operation-of-vehicles-refer~~ chapter relate exclusively to the operation of vehicles upon highways, except where a different place is specifically referred to in a given section.

~~49-605.-PERSONS-WORKING-ON-HIGHWAYS----EXCEPTIONS.-Unless-specifically-made-applicable,-the-provisions-of-this--title~~ They shall not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway but shall apply to ~~such~~ persons and vehicles when traveling to or from ~~such~~ that work.

SECTION 141. That Section 49-701A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~701A~~602. UNATTENDED MOTOR VEHICLE. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake ~~thereon~~ and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

SECTION 142. That Section 49-663, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~663~~603. STARTING PARKED VEHICLE. No person shall start movement of a vehicle which is stopped, standing or parked unless ~~and until-such~~ movement can be made with reasonable safety.

SECTION 143. That Section 49-702, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~702~~604. LIMITATIONS ON BACKING. (1) The driver of a vehicle shall not back the ~~same~~ vehicle unless ~~such~~ that movement can be made with safety and without interfering with other traffic.

(2) The driver of a vehicle shall not back ~~the-same~~ it upon any shoulder or ~~roadway~~ lane of travel of any controlled-access highway.

SECTION 144. That Section 49-703, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~703~~605. DRIVING UPON SIDEWALK. No person shall drive any vehicle ~~other-than-by-human-power~~ upon a sidewalk or sidewalk area except upon a permanent or ~~duly-authorized~~ temporary driveway. This section shall not apply to any vehicle moved exclusively by human power nor to any motorized wheelchair.

SECTION 145. That Section 49-708, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~708~~606. COASTING PROHIBITED. ~~(1)~~ The driver of any motor vehicle when traveling upon a downgrade shall not coast with the gear or transmission ~~of such vehicle~~ in neutral~~. (2) The driver of a truck or bus when traveling upon a downgrade shall not coast~~ nor with the clutch disengaged.

SECTION 146. That Section 49-705, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~705~~607. OPENING AND CLOSING VEHICLE DOORS. No person shall open the door of a motor vehicle on a side available to moving traffic unless and until it is reasonably safe to do so~~,~~ and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on a side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

SECTION 147. That Section 49-706, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~706~~608. RIDING IN ~~HOUSE TRAILERS~~ MANUFACTURED HOMES OR COMMERCIAL COACHES. No person ~~or persons~~ shall occupy a ~~house trailer as defined by section 49-575(2)(a), Idaho Code,~~ manufactured home or commercial coach while it is being moved upon a ~~public~~ highway. ~~This prohibition shall not extend to fifth wheel trailers, as defined by section 49-575(5), Idaho Code.~~

SECTION 148. That Section 49-604, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~604~~609. PERSONS RIDING ANIMALS OR DRIVING ANIMAL-DRAWN VEHICLES. Every person riding an animal or driving any animal-drawn vehicle upon a highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except those provisions of this title which, by their very nature, can have no application.

49-610 -- 49-611. [RESERVED.]

SECTION 149. That Section 49-704, Idaho Code, be, and the same us hereby amended to read as follows:

49-~~704~~612. OBSTRUCTION TO DRIVER'S VIEW OR DRIVING MECHANISM. (1) No person shall drive a vehicle when it is so loaded or when there are in the front seat ~~such~~ a number of persons~~,~~ exceeding three (3), as to obstruct the view of the driver to the front or the sides of the vehicle, or as to interfere with the driver's control over the driving mechanism of the vehicle.

(2) No passenger in a vehicle shall ride in ~~such~~ a position as to

interfere with the driver's view ahead or to the sides, or to interfere with his control of the driving mechanism of the vehicle.

(3) No vehicle shall be operated ~~except--under--adverse--weather conditions~~ when the windshield and/or windows of ~~such~~ the vehicle are coated with ice, snow, sleet, or dust to the extent that the driver's view ahead, or to the sides or rear of the vehicle are obstructed.

SECTION 150. That Section 49-711, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~711~~613. PUTTING GLASS~~,--ETC.~~ OR OTHER INJURIOUS MATERIALS ON HIGHWAY PROHIBITED. (1) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal or vehicle upon ~~such~~ the highway.

(2) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove ~~the same~~ that material or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from ~~such~~ that vehicle.

SECTION 151. That Section 49-712, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~712~~614. STOP WHEN TRAFFIC OBSTRUCTED. No driver shall enter an intersection ~~or~~, a marked crosswalk, or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians or railroad trains ~~notwithstanding~~, regardless of any traffic control signal indication to proceed.

SECTION 152. That Section 49-724, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~724~~615. DRIVERS TO EXERCISE DUE CARE. Notwithstanding other provisions of this title or the provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian or any person propelling a human-powered vehicle~~,~~ and shall give an audible signal when necessary ~~and~~. Every driver shall exercise proper precaution upon observing any child or any obviously confused, incapacitated or intoxicated person.

SECTION 153. That Section 49-728, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~728~~616. DRIVING THROUGH SAFETY ZONE PROHIBITED. No vehicle shall at any time be driven through or within a safety zone.

49-617 -- 49-618. [RESERVED.]

SECTION 154. That Section 49-801A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~801A~~619. SLOW MOVING VEHICLES -- ~~DEFINITION,~~ RESTRICTION, EQUIPMENT -- EMBLEMS ON CERTAIN MACHINERY. ~~(a) A slow moving vehicle is hereby defined as any vehicle not normally operated upon the highways of the state.~~

(b1) Except for emergency and snow removal vehicles owned and operated by the state or its political subdivisions when enroute to, from, or in the performance of activities essential to the public safety, and implements of husbandry, except on interstate highways, equipped with lights as required by section 49-~~8~~916, Idaho Code, when being moved from one (1) farm operation to another, and implements of husbandry when operating from one-half hour after sunset to one-half hour before sunrise shall have flashing lamps visible from a distance of not less than five hundred (500) feet to the rear, it shall be unlawful to operate a slow moving vehicle ~~as herein defined~~ on the highways ~~of this state~~ at the following times and under the following circumstances:

(~~1~~a) ~~f~~From a half hour after sunset to a half hour before sunrise;

(~~2~~b) ~~a~~At a speed in excess of twenty-five (25) miles per hour;

(~~3~~c) ~~i~~In such a manner as to obstruct the free movement of traffic on the highways.

(c2) A slow moving motor vehicle ~~as herein defined~~ shall be equipped with a foot brake and with a mechanical signaling device as required for other similarly constructed vehicles ~~by this act~~.

(d3) All slow moving vehicles, farm tractors, road rollers and implements of husbandry shall have affixed ~~thereto~~ at the rear of the vehicle an emblem identifying them as slow moving equipment. The Idaho traffic safety commission shall ~~prescribe~~ recommend to the ~~director of the department of law enforcement~~ board the minimum standards for ~~such~~ the emblem.

49-620 -- 49-622. [RESERVED.]

SECTION 155. That Section 49-606, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~606~~623. AUTHORIZED EMERGENCY OR POLICE VEHICLES. (1) The driver of an authorized emergency or police vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions ~~herein~~ stated~~:~~.

(2) The driver of an authorized emergency or police vehicle may:

(a) Park or stand, irrespective of the parking or standing provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limits so long as he does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions ~~herein~~ granted to an authorized emergency or police vehicle shall apply ~~only when such vehicle is making~~ when necessary to warn and to make use of an audible signal having a decibel rating of at least one hundred (100) at a distance of ten (10) feet and/or is displaying a flashing light ~~or lights~~ visible in a 360 degree arc at a distance of one thousand (1,000) feet under normal atmospheric conditions ~~or both. Only a police vehicle operated as an emergency vehicle shall display at least one (1) blue light and all other authorized emergency vehicles shall display at least one (1) red light meeting the above visibility requirements.~~

(4) The foregoing provisions shall not relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons, nor shall ~~such~~ these provisions protect the driver from the consequences of his reckless disregard for the safety of others.

49-624. [RESERVED.]

SECTION 156. That Section 49-645, Idaho Code, be, and the same is hereby amended to read as follows:

49-645625. OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY OR POLICE VEHICLES. (1) Upon the immediate approach of an authorized emergency or police vehicle making use of an audible or visible signal, meeting the requirements of section 49-606623, Idaho Code, the driver of every other vehicle shall yield the right-of-way and ~~shall~~ immediately drive to a position parallel to, and as close as possible to, the nearest edge or curb of the ~~road~~highway lawful for parking and clear of any intersection, and ~~shall~~ stop and remain in ~~such~~ that position until the authorized emergency or police vehicle has passed, except when otherwise directed by a ~~police~~ peace officer.

(2) This section shall not operate to relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons using the highway.

SECTION 157. That Section 49-709, Idaho Code, be, and the same is hereby amended to read as follows:

49-709626. FOLLOWING FIRE APPARATUS PROHIBITED. The driver of any vehicle other than one on official business shall not follow ~~any fire apparatus traveling in response to a fire alarm~~ closer than five hundred (500) feet any fire apparatus traveling in response to a fire alarm, or stop ~~such~~ a vehicle within five hundred (500) feet of any fire apparatus stopped in answer to a fire alarm.

SECTION 158. That Section 49-710, Idaho Code, be, and the same is hereby amended to read as follows:

49-710627. CROSSING FIRE HOSE. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any

street, road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

49-628 -- 49-629. [RESERVED.]

SECTION 159. That Section 49-621, Idaho Code, be, and the same is hereby amended to read as follows:

49-62~~1~~630. DRIVE ON RIGHT SIDE OF ROADWAY -- EXCEPTIONS. (1) Upon all roadways highways of sufficient width a vehicle shall be driven upon the right half of the roadway except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(b) When an obstruction exists making it necessary to drive to the left of the center of the ~~road~~highway~~;--provided--any.~~ Any person ~~so~~ doing so shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within ~~such~~ a distance as to constitute an immediate hazard;

(c) Upon a ~~road~~highway divided into three (3) marked lanes for traffic under the applicable rules ~~applicable--thereon~~; or

(d) Upon a ~~road~~highway restricted to one-way traffic.

(2) Upon all ~~road~~highways any vehicle proceeding at less than ~~the~~ normal speed of ~~the traffic at~~ the time and place and under the conditions then existing, shall be driven in the right-hand lane ~~then~~ available for traffic, or as close as practicable to the right-hand curb or edge of the ~~road~~highway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(3) No vehicle shall be driven to the left of the center line u~~U~~pon any ~~road~~highway having four (4) or more lanes for moving traffic and providing for two-way movement of traffic, ~~no--vehicle--shall--be driven--to-the-left-of-the-centerline-of-a-roadway,~~ except when authorized by ~~an-official~~ traffic-control device designating certain lanes to the left side of the center of the ~~road~~highway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (1)(b) hereof this section. ~~However,--t~~This subsection shall not be construed as prohibiting the crossing of the centerline in making a left turn into or from an alley, private road or driveway.

SECTION 160. That Section 49-622, Idaho Code, be, and the same is hereby amended to read as follows:

49-62~~2~~631. PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTIONS. Drivers of vehicles proceeding in opposite directions shall pass each other to the right~~;--and--upon--roadways.~~ Upon highways having width for not more than one (1) line of traffic in each direction, each driver shall give to the other at least one-half the main traveled portion of the ~~road~~highway as ~~nearly-as~~ possible.

SECTION 161. That Section 49-623, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~623~~632. OVERTAKING A VEHICLE ON THE LEFT. The following ~~rules~~ shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special ~~rules hereinafter~~ requirements stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left ~~thereof~~ at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

SECTION 162. That Section 49-624, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~624~~633. WHEN PASSING ON THE RIGHT IS PERMITTED. (1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a ~~road~~highway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. ~~Such~~ That movement shall not be made by driving off the roadway.

SECTION 163. That Section 49-625, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~625~~634. LIMITATIONS ON OVERTAKING ON THE LEFT. No vehicle shall be driven to the left side of the center of the ~~road~~highway in overtaking and passing another vehicle proceeding in the same direction, unless ~~such~~ the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit ~~such~~ the overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred (200) feet of any approaching vehicle.

SECTION 164. That Section 49-626, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~626~~635. FURTHER LIMITATIONS ON DRIVING ON LEFT OF CENTER OF ~~ROAD~~HIGHWAY. (1) No vehicle shall be driven on the left side of the

roadhighway under the following conditions:

(a) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such a distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(b) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing, unless otherwise indicated by ~~official~~ traffic control devices;

(c) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

(2) The foregoing limitations shall not apply upon a one-way roadhighway, nor under the conditions described in subsection (1)(b) of section 49-~~621~~630, Idaho Code, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

(3) A motorist may drive to the left of no passing pavement markings to complete a passing maneuver started in advance of the no-passing zone, providing the requirements of section 49-634, Idaho Code, are met.

(4) The provisions of this section do not apply under the conditions described in section 49-630(1)(b), Idaho Code, nor to the driver of a vehicle turning into, or from a highway.

SECTION 165. That Section 49-628, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~628~~636. ONE-WAY ~~ROADHIGHWAYS~~. ~~(1)--The--Idaho-transportation department-and-local-authorities-with-respect-to-highways-under--their respective-jurisdictions-may-designate-any-highway,-roadway,-part-of-a roadway--or--specific-lanes-upon-which-vehicular-traffic-shall-proceed in-one-(1)-direction-at-all-or-such-times-as--shall--be--indicated--by official-traffic-control-devices.~~

~~(2)~~ Upon a roadhighway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by ~~official~~ traffic-control devices.

SECTION 166. That Section 49-629, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~629~~637. DRIVING ON ~~ROADHIGHWAYS~~ LANED FOR TRAFFIC. Whenever any roadhighway has been divided into two (2) or more clearly marked lanes for traffic the follow~~ing rules~~, in addition to all ~~others--consistent-herewith~~ else, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from ~~such~~ that lane until the driver has first ascertained that ~~such~~ the movement can be made with safety.

(2) Upon a roadhighway which is divided into three (3) lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when ~~such~~ the center lane is clear of traffic within a safe distance, or in preparation~~,~~ for making a left-turn or where ~~such~~ the center lane is at the time allocated

exclusively to traffic moving in the same direction that the vehicle is proceeding and ~~such~~ the allocation is designated by ~~an--official~~ traffic-control device.

(3) ~~Official--t~~Traffic-control devices may be erected directing specified traffic to use a designated lane, or designate those lanes to be used by traffic moving in a particular direction, regardless of the center of the ~~road~~highway and drivers of vehicles shall obey the directions of every device.

(4) ~~Official--t~~Traffic-control devices may be installed prohibiting the changing of lanes on sections of ~~road~~highways and drivers of vehicles shall obey the directions of every device.

SECTION 167. That Section 49-630, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~630~~638. FOLLOWING TOO CLOSELY. (1) The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of ~~such~~ the vehicles, the traffic upon and the condition of the highway.

(2) The driver of any ~~truck--or~~ motor vehicle drawing another vehicle when traveling upon a ~~road~~highway outside of a business or residential district and which is following another ~~truck--or~~ motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy ~~such~~ the space without danger~~, except that this~~. This shall not prevent a ~~truck or~~ motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

(3) Motor vehicles being driven upon any ~~road~~highway outside of a business or ~~residence~~ residential district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each ~~such~~ vehicle or combination of vehicles ~~so--as~~ in order to enable any other vehicle to enter and occupy ~~such~~ the space without danger. This provision shall not apply to funeral processions.

SECTION 168. That Section 49-634, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~634~~639. TURNING OUT OF SLOW MOVING VEHICLES. On a two-lane highway outside an urban area where passing is unsafe ~~because--of~~ due to oncoming traffic or other conditions, the driver of a vehicle traveling slower than the normal speed of traffic and behind which three (3) or more vehicles are formed in line, shall turn off the roadway at the nearest place designated as a turnout or wherever sufficient area for a safe turnout exists, in order to permit the following vehicles to pass.

SECTION 169. That Section 49-641, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~641~~640. VEHICLE APPROACHING OR ENTERING INTERSECTION. (1) When two (2) vehicles approach or enter an intersection from different

highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(2) The right-of-way rule declared in subsection (1) of this section is modified at through highways and otherwise as stated in this title.

SECTION 170. That Section 49-642, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~642~~641. VEHICLE TURNING LEFT. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection, or so close ~~thereto~~ as to constitute an immediate hazard.

SECTION 171. That Section 49-644, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~644~~642. VEHICLE ENTERING ~~ROAD~~HIGHWAY. The driver of a vehicle about to enter or cross a ~~road~~highway from any place other than another ~~road~~highway shall yield the right-of-way to all vehicles approaching on the ~~road~~highway to be entered or crossed.

SECTION 172. That Section 49-646, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~646~~643. HIGHWAY CONSTRUCTION AND MAINTENANCE. (1) The driver of a vehicle shall yield the right-of-way to any vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by ~~official~~ traffic-control devices.

(2) The driver of a vehicle shall yield the right-of-way to any authorized vehicle obviously and actually engaged in work upon a highway whenever ~~such~~ that vehicle displays flashing lights meeting the requirements ~~of section 49-828, Idaho Code~~ adopted by the board.

SECTION 173. That Section 49-661, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~661~~644. REQUIRED POSITION AND METHOD OF TURNING. The driver of a vehicle intending to turn shall do so as follows:

(1) ~~Right-turns.~~ Both the approach for a right turn and the right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) ~~Left--turns.~~ The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of ~~such~~ the vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction on the ~~road~~highway being entered.

(3) ~~The Idaho transportation department and local authorities--in~~

~~their--respective--jurisdictions--may--cause--official-traffic-control devices-to-be-placed-and-thereby-require-and-direct-that--a--different course--from--that--specified--in--this-section-be-traveled-by-turning vehicles-and-when-such-devices-are-so-placed-no-driver--shall--turn--a vehicle-other-than-as-directed-and-required-by-such-devices.--~~

~~(4)--Two-way-left-turn-lanes.~~ Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by ~~official~~ traffic-control devices:

(a) A left turn shall not be made from any other lane~~.~~;

(b) A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the ~~road~~highway or when preparing for or making a U-turn when otherwise permitted by law.

SECTION 174. That Section 49-662, Idaho Code, be, and the same is hereby amended to read as follows:

49-66~~2~~645. LIMITATIONS ON TURNING AROUND. (1) The driver of any vehicle shall not turn ~~such~~ the vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

(2) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where ~~such~~ the vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet, or where a no-passing zone has been established ~~in-conformance-with-section-49-627,-Idaho-Code~~.

49-646 -- 49-647. [RESERVED.]

SECTION 175. That Section 49-671, Idaho Code, be, and the same is hereby amended to read as follows:

49-67~~1~~648. OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver ~~of-the-vehicle~~ shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of ~~such~~ the railroad, and shall not proceed until he can do so safely. ~~The-foregoing~~ These requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or when a ~~human~~ flagman gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately fifteen hundred (1,500) feet of the highway crossing emits a signal audible from ~~such~~ that distance and ~~such~~ the railroad train, by reason of its speed or nearness to ~~such~~ the crossing, is an immediate hazard;

(d) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

(2) No person shall drive any vehicle through, around or under

any crossing gate or barrier at a railroad crossing while ~~such~~ the gate or barrier is closed or is being opened or closed.

SECTION 176. That Section 49-673, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~673~~649. ~~CERTAIN--VEHICLES--MUST--STOP~~ COMPLIANCE WITH STOPPING REQUIREMENT AT ALL RAILROAD GRADE CROSSINGS. (1) ~~Except-as-provided-in subsection-(2)-of-this-section,-t~~The driver of any vehicle ~~described in--regulations--issued--pursuant--to--subsection-(3)-of-this-section, before-crossing-at-grade-any-track-or-tracks-of-a-railroad,-shall-stop such-vehicle-within-fifty-(50)-feet-but-not--less--than--fifteen--(15) feet--from-the-nearest-rail-of-such-railroad-and-while-so~~ stopped at a railroad grade crossing shall listen and look in both directions along ~~such~~ the track for any approaching train, and for signals indicating the approach of a train and shall not proceed until he can do so safely. ~~After-stopping-as-required-herein-and-u~~Upon proceeding when it is safe to do so the driver ~~of-any-said-vehicle~~ shall cross only in ~~such~~ a gear of the vehicle in order that there will be no necessity for manually changing gears while traversing ~~such~~ the crossing, and the driver shall not manually shift gears while crossing the ~~track-or~~ tracks.

(2) This section shall not apply at:

(a) Any railroad grade crossing at which traffic is controlled by a ~~police~~ peace officer or ~~human~~ flagman;

(b) Any railroad grade crossing at which traffic is regulated by a traffic-control signal;

(c) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train; or

(d) Any railroad grade crossing at which an~~--official~~ traffic-control device gives notice that the stopping requirement imposed by this section does not apply.

~~(3)--The-department-of-law-enforcement-shall--adopt--such--regulations--as--may--be-necessary-describing-the-vehicles-which-must-comply with-the-stopping-requirements-of-this-section.--In--formulating--such regulations,--the-department-shall-give-consideration-to-the-number-of passengers-carried-by-the-vehicle-and-the--hazardous--nature---of--any substance--carried--by-the-vehicle-in-determining-whether-such-vehicle shall-be-required-to-stop.--Such-regulations-shall-correlate-with--and so-far-as-possible-conform-to-the-most-recent-regulation-of-the-United States-department-of-transportation.~~

SECTION 177. That Section 49-674, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~674~~650. MOVING HEAVY EQUIPMENT AT RAILROAD GRADE CROSSINGS. (1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two (2) adjacent axles or in any event of less

than nine (9) inches, measured above the level surface of a ~~road~~highway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Notice of ~~any such~~ intended crossing shall be given to a station agent of ~~such~~ the railroad and a reasonable time be given to ~~such~~ the railroad to provide proper protection at ~~such~~ the crossing.

(3) Before making ~~any such~~ the crossing the person operating or moving ~~any such~~ the vehicle or equipment shall first stop ~~the same~~ not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of ~~such~~ the railroad and while so stopped shall listen and look in both directions along ~~such~~ the track for any approaching train ~~and~~ or for si~~gnals indic~~ating the approach of a train, and shall not proceed until the crossing can be made safely.

(4) No ~~such~~ crossing shall be made when warning is given by automatic signal ~~or~~, crossing gates ~~or~~, a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

SECTION 178. That Section 49-675, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~675~~651. EMERGING FROM ALLEY, DRIVEWAY OR BUILDING. The driver of a vehicle emerging from an alley, building, private road or driveway within a business or residential district shall stop ~~such~~ the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across ~~such~~ the alley, building entrance, ~~road~~ or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the ~~street~~ highway to be entered where the driver has a view of approaching traffic ~~thereon~~.

49-652 -- 49-653. [RESERVED.]

SECTION 179. That Section 49-681, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~681~~654. BASIC RULE AND MAXIMUM SPEED LIMITS. (1) ~~Basic--rules.~~ - No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding ~~road~~highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(2) ~~Maximum speed limits.--~~ Where no special hazard exists that requires lower speed for compliance with subsection (1) of this section the limits as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of ~~such~~ the maximum limits:

(a) Thirty-five (35) miles per hour in any urban district;

(b) Sixty-five (65) miles per hour on highways designated as permissible by federal law;

(c) Fifty-five (55) miles per hour in other locations.

~~The maximum speed limits set forth in this section may be altered as authorized in sections 49-683 and 49-684, Idaho Code.~~

(3) ~~Penalty.~~ --- When the maximum speed on a given highway is set at sixty-five (65) miles per hour, and the maximum posted speed was more than sixty-five (65) miles per hour prior to January 2, 1974, or when the maximum speed on a portion of any interstate highway system is sixty-five (65) miles per hour and the speed of the vehicle was seventy (70) miles per hour or less, the maximum fine that shall be imposed for exceeding sixty-five (65) miles per hour shall be five dollars ($5.00). In addition, no jail sentence shall be imposed on such a conviction, nor shall a conviction result in violation point counts as prescribed in section 49-33026(2), Idaho Code. A conviction under this subparagraph shall not be deemed to be a moving traffic violation for the purpose of establi~~shing ra~~tes of motor vehicle insurance charged by a casualty insurer.

SECTION 180. That Section 49-684, Idaho Code, be, and the same is hereby amended to read as follows:

49-684655. MINIMUM SPEED REGULATION. ~~(1)~~ No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with the law.

~~(2) Whenever the Idaho transportation department or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the transportation department or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law and that limit shall be effective when posted upon appropriate fixed or variable signs; provided, however, that any offense created hereunder shall constitute an infraction as the same is defined in section 49-3401(3), Idaho Code.~~

SECTION 181. That Section 49-685, Idaho Code, be, and the same is hereby amended to read as follows:

49-685656. SPECIAL SPEED LIMITATIONS. ~~(1)~~ No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such the bridge or structure, when such the structure is posted as provided in this section title.

~~(2) The Idaho transportation department and local authorities on highways under their respective jurisdictions may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under the title, the Idaho transportation~~

~~department or local authorities shall determine and declare the maximum speed of vehicles which such structure can safely withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained before each end of such structure; provided, however, that any offense created hereunder shall constitute an infraction as the same is defined in section 49-3401(3), Idaho Code.~~

~~(3) Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by the Idaho transportation department or local jurisdictions and the existence of the said signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure.~~

49-657 -- 49-658. [RESERVED.]

SECTION 182. That Section 49-691, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~691~~659. STOPPING, STANDING OR PARKING OUTSIDE BUSINESS OR RESIDENTIAL DISTRICTS. (1) Outside a business or residential district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practicable to stop, park or so leave ~~such~~ the vehicle off the roadway, but in every event in an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of the stopped vehicle shall be available from a distance of two hundred (200) feet in each direction upon ~~such~~ the highway.

(2) This section and sections 49-69~~3~~60 and 49-69~~4~~61, Idaho Code, shall not apply to the driver of any vehicle which is disabled in such a manner and to ~~such~~ an extent that it is impossible to avoid stopping and temporarily leaving the vehicle in ~~such~~ that position.

SECTION 183. That Section 49-693, Idaho Code, be, and the same is hereby amended to read as follows:

49-693660. STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES. ~~(1)~~ Except when necessary to avoid conflict with other traffic, ~~or~~ in compliance with law ~~or~~, the directions of a ~~police~~ peace officer or ~~official~~ traffic control device, no person shall:

(a) Stop, stand or park a vehicle:

1. On the ~~roadway~~ traffic side of any vehicle stopped or parked at the edge or curb of a ~~street~~ highway;
2. On a sidewalk;
3. Within an intersection;
4. On a crosswalk;
5. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
6. Alongside or opposite any highway excavation or obstruction when stopping, standing, or parking would obstruct traffic;
7. Upon any bridge or other elevated structure upon a high-

way or within a highway tunnel;

8. On any railroad tracks;

9. On any controlled-access highway;

10. At any place where ~~official~~ traffic-control devices prohibit stopping;

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

1. In front of a public or private driveway;

2. Within fifteen (15) feet of a fire hydrant;

3. Within twenty (20) feet of a crosswalk at an intersection;

4. Within thirty (30) feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of a ~~road~~highway;

5. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a ~~street~~ highway opposite the entrance to any fire station within seventy-five (75) feet of ~~said~~ the entrance (when properly sign-posted);

6. At any place where ~~official~~ traffic-control devices prohibit standing.

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

1. Within fifty (50) feet of the nearest rail of a railroad crossing;

2. At any place where ~~official~~ traffic-control devices prohibit parking.

(2) No person shall move a vehicle not lawfully under his control into any prohibited area or away from a curb such a distance as ~~is~~ to be unlawful.

SECTION 184. That Section 49-694, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~694~~661. ADDITIONAL PARKING REGULATIONS. (1) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way ~~road~~highway shall be stopped or parked with the right-hand wheels parallel to and within eighteen (18) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by local ordinances, every vehicle stopped or parked upon a one-way ~~road~~highway shall be ~~so~~ stopped or parked parallel to the curb or edge of the ~~road~~highway, in the direction of authorized traffic movement, with its right-hand wheels within eighteen (18) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within eighteen (18) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(3) Local authorities may permit angle parking on any ~~road~~highway, except that angle parking shall not be permitted on any federal-aid or state highway unless the ~~Idaho~~ transportation department has determined that the roadway is of sufficient width to permit

angle parking without interfering with the free movement of traffic.

~~(4)--The Idaho transportation department with respect to--highways under its jurisdiction may place official traffic control devices prohibiting,--limiting,--or restricting the stopping,-standing or parking of vehicles on any highway where in its opinion such stopping,--standing--or--parking--is dangerous to those using the highway or where the stopping,-standing or parking of vehicles would unduly interfere--with the--free movement of traffic thereon.--No person shall stop,-stand or park any vehicle in violation of the restrictions--indicated--by--such devices.~~

SECTION 185. That Section 49-692, Idaho Code, be, and the same is hereby amended to read as follows:

49-69~~2~~662. OFFICERS AUTHORIZED TO REMOVE VEHICLES. (1) Whenever any ~~police~~ peace officer finds a vehicle in violation of any of the provisions of section 49-69~~1~~659, Idaho Code, ~~such~~ the officer is ~~hereby~~ authorized to move ~~such~~ the vehicle, or require the driver or other person in charge of the vehicle to move ~~the same,~~ it to a position off the roadway.

(2) Any ~~police~~ peace officer is ~~hereby~~ authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway~~, bridge, causeway, or in any tunnel,~~ in ~~such~~ a position or under ~~such~~ circumstances as to obstruct the normal movement of traffic.

(3) Any ~~police~~ peace officer is ~~hereby~~ authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

(a) A ~~r~~Report has been made that ~~such~~ the vehicle has been stolen or taken without the consent of its owner, or

(b) The person or persons in charge of ~~such~~ the vehicle are unable to provide for its custody or removal, or

(c) ~~When t~~The person driving or in control of ~~such~~ the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

(4) Whenever any ~~police~~ peace officer finds a vehicle inoperable as a result of an accident and standing upon a highway ~~or public right-of-way~~, ~~such~~ the officer is ~~hereby~~ authorized to require the driver or other person in charge of the vehicle to have the vehicle removed from the scene of the accident~~,~~ to a position off the paved or main-traveled part of ~~such~~ the highway. In the event that the owner of ~~such~~ the vehicle is left incapacitated resulting from injuries suffered from the accident, ~~such~~ the officer is ~~hereby~~ authorized to have the inoperative vehicle moved from the scene to the nearest garage or other place of safety.

49-663 -- 49-664. [RESERVED.]

SECTION 186. That Section 49-761, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~761~~665. RIDING ON MOTORCYCLES. A person operating a motorcycle shall ride only upon the permanent and regular seat attached ~~thereto~~ it, and ~~such~~ the operator shall not carry any other person nor shall any other person ride on a motorcycle unless ~~such~~ the motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator vehicle.

SECTION 187. That Section 49-761A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~761A~~666. MOTORCYCLE SAFETY HELMETS -- REQUIREMENTS AND STANDARDS. ~~(a)~~ No person under eighteen (18) years of age shall ride upon a motorcycle as operator or passenger, upon any ~~public road or~~ highway, unless at all times when so operating or riding upon ~~said~~ the vehicle he is wearing, as part of his motorcycle equipment, a protective safety helmet of a type and quality equal to or better than the standards established for ~~such~~ helmets by the director.

~~(b) "Motorcycle" as used in this section shall mean every motor vehicle designed to travel on not more than three (3) wheels in contact with the ground, except any such motor vehicle as may be included within the term "tractor" as defined by chapter 1, title 49, Idaho Code.~~

~~(c) The director is hereby authorized to adopt and publish rules and regulations establishing reasonable standards for such safety helmets.~~

49-667 -- 49-668. [RESERVED.]

SECTION 188. That Section 49-713, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~713~~669. SNOWMOBILE OPERATION LIMITED. (1) No person shall operate a snowmobile on any controlled-access highway.

(2) No person shall operate a snowmobile on any other highway except when crossing the highway at a right angle, when use of the highway by other motor vehicles is impossible because of snow, or when ~~such~~ the operation is authorized by the authority having jurisdiction over the highway.

49-670 -- 49-671. [RESERVED.]

SECTION 189. That Section 49-763, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~763~~672. PASSENGER SAFETY FOR CHILDREN. (1) No resident noncommercial motor vehicle operator who is a parent or guardian shall transport his child under the age of four (4) years or who weighs less than forty (40) pounds in a motor vehicle manufactured with seat belts after January 1, 1966, unless the child is properly restrained in a car safety seat that meets the requirements of federal motor vehicle

safety standard 213. The provisions of this section shall not apply:

(a) If all of the motor vehicle's seat belts are in use, but in such an event any unrestrained child to which this ~~act~~ section applies shall be placed in the rear seat of the motor vehicle, if it is so equipped; or

(b) When the child is removed from the car safety seat and held by the attendant for the purpose of nursing the child or attending the child's other immediate physiological needs.

(2) A violation of the provisions of this section ~~shall constitute an infraction and~~ may be dismissed by a court upon proof of possession of a required safety seat.

(3) The failure to use a child safety seat shall not be considered under any circumstances as evidence of contributory negligence, nor shall such failure be admissible as evidence in any civil action with regard to negligence.

SECTION 190. That Section 49-764, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~764~~673. SAFETY RESTRAINT USE. (1) Except as provided in section 49-~~763~~672, Idaho Code, and subsection (2)(b) ~~hereof~~ this section, each occupant of the front seat of a motor vehicle which has a gross vehicle weight of not more than eight thousand (8,000) pounds, and which was manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, shall have a safety belt properly fastened about his ~~or her~~ body at all times when the vehicle is in motion.

(2) The provisions of this section shall not apply to:

(a) An occupant of a motor vehicle who possesses a written statement from a licensed physician that he ~~or she~~ is unable for medical reasons to wear a safety belt;

(b) Occupants of motorcycles, implements of husbandry and emergency vehicles;

(c) Occupants of the front seat of a motor vehicle in which all safety belts are then properly in use by other occupants of ~~such~~ that vehicle.

(3) If a person is convicted of a violation of any traffic law ~~provided by Idaho Code~~, other than a violation of the provisions of sections ~~49-233,~~ 49-~~2341~~229 or 49-~~2351~~230, Idaho Code, relating to proof of liability insurance, it shall be an additional infraction for any person to violate the provisions of this section, for which a fine of five dollars ($5.00) shall be imposed. A conviction under this section shall not result in violation point counts as prescribed in section 49-~~330~~326, Idaho Code. In addition, a conviction under this section shall not be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

(4) The ~~Idaho transportation~~ department shall initiate and conduct an educational program, to the extent sufficient private donations or federal funds for this specific purpose are available to the department, to encourage compliance with the provisions of this section and to publicize the effectiveness of use of safety belts and

other restraint devices in reducing risk of harm to occupants of motor vehicles.

(5) The ~~Idaho transportation~~ department shall evaluate the effectiveness of the provisions of this section and shall include a report of its findings in its annual evaluation report on the Idaho Highway Safety Plan which it submits to ~~NHTSA and FHWA~~ National Highway Traffic Safety Administration and Federal Highway Administration pursuant to 23 U.S.C. 402.

CHAPTER 7
PEDESTRIANS AND BICYCLES

SECTION 191. That Sections 49-701 and 49-707, Idaho Code, be, and the same are hereby repealed.

SECTION 192. That Section 49-721, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~721~~701. PEDESTRIAN OBEDIENCE TO TRAFFIC-CONTROL DEVICES AND TRAFFIC REGULATIONS. (1) A pedestrian shall obey the instructions of any ~~official~~ traffic-control devices specifically applicable to him, unless otherwise directed by a ~~police~~ peace officer.

(2) Pedestrians shall be subject to traffic and pedestrian-control signals as provided in sections 49-~~612~~802 and 49-~~613~~803, Idaho Code.

(3) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this title.

SECTION 193. That Section 49-722, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~722~~702. PEDESTRIANS' RIGHT-OF-WAY IN CROSSWALKS. (1) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to ~~so~~ yield to a pedestrian crossing the ~~road~~highway within a crosswalk.

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

(3) Subsection (1) of this section shall not apply under the conditions stated in ~~subsection (2) of~~ section 49-~~723~~704(2), Idaho Code.

(4) Whenever any vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to per~~mit a pedestri~~an to cross the ~~road~~highway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

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

SECTION 194. That Section 49-725, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~725~~703. PEDESTRIANS TO USE RIGHT HALF OF CROSSWALKS. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

SECTION 195. That Section 49-723, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~723~~704. CROSSING AT OTHER THAN CROSSWALKS. (1) Every pedestrian crossing a ~~road~~highway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the ~~road~~highway.

(2) Any pedestrian crossing a ~~road~~highway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the ~~road~~highway.

(3) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(4) No pedestrian shall cross a ~~road~~highway intersection diagonally unless authorized by ~~official~~ traffic-control devices~~; and~~. When authorized to cross diagonally, pedestrians shall cross only in accordance with the ~~official~~ traffic-control devices pertaining to ~~such~~ crossing movements.

SECTION 196. That Section 49-730, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~730~~705. PEDESTRIANS YIELD TO AUTHORIZED EMERGENCY VEHICLES. (1) Upon the immediate approach of an authorized emergency vehicle making use of an audible or visual signal meeting the requirements of section 49-~~606~~623, Idaho Code, or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency or police vehicle.

(2) This section shall not relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

SECTION 197. That Section 49-731, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~731~~706. BLIND AND/OR HEARING IMPAIRED PEDESTRIAN HAS RIGHT-OF-WAY. The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog or a hearing impaired person accompanied by a hearing aid dog.

SECTION 198. That Section 49-729, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~729~~707. PEDESTRIANS' RIGHT-OF-WAY ON SIDEWALKS. The driver of a vehicle crossing a sidewalk shall yield the right-of-way to any

pedestrian and all other traffic on the sidewalk.

SECTION 199. That Section 49-726, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~726~~708. PEDESTRIANS ON HIGHWAYS. (1) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(2) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(3) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way ~~road~~highway, shall walk only on the left side of the ~~road~~highway.

(4) Except as otherwise provided in this title, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

SECTION 200. That Section 49-727, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~727~~709. PEDESTRIANS SOLICITING RIDES OR BUSINESS~~,--ETC~~. (1) No person shall stand ~~in~~ on a ~~road~~highway for the purpose of soliciting a ride.

(2) No person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.

(3) No person shall stand on or in proximity to a ~~street or~~ highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a ~~street or~~ highway.

SECTION 201. That Section 49-733, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~733~~710. BRIDGE AND RAILROAD SIGNALS. (1) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given.

(2) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while ~~such~~ the gate or barrier is closed or is being opened or closed.

49-711 -- 49-712. [RESERVED.]

SECTION 202. That Section 49-739, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~739~~713. ~~EFFECT--OF--REGULATIONS~~ APPLICATION. ~~(a)--It--is--an infraction--subject--to--penalty-as-provided-in-section-49-3406,-Idaho Code,-for-any-person-to-do-any-act-forbidden-or-fail--to--perform--any act-required-in-this-article.~~

(~~b~~1) The parent of any child and the guardian of any ward shall not authorize or knowingly permit ~~any such~~ the child or ward to violate any of the provisions of the remainder of this ~~act~~ chapter.

(~~c~~2) ~~These--s~~Statutes applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to exceptions stated herein.

SECTION 203. That Section 49-740, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~740~~714. TRAFFIC LAWS APPLY TO PERSONS ON BICYCLES AND OTHER HUMAN-POWERED VEHICLES -- DUE CARE. (1) Every person operating a vehicle propelled by human power or riding a bicycle shall have all of the rights and all of the duties applicable to the driver of any other vehicle under the provisions of chapters ~~5~~6 and ~~6,~~ 7 of this title ~~49, Idaho Code~~, except as otherwise provided in this chapter and except as to those provisions which by their nature can have no application.

(2) Every operator or rider of a bicycle or ~~humanpowered~~ human-powered vehicle shall exercise due care.

SECTION 204. That Section 49-741, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~741~~715. RIDING ON BICYCLES. (1) A person propelling a bicycle shall not ride other than upon or astride an attached permanent and regular seat ~~attached thereto~~.

(2) No bicycle or human-propelled vehicle shall be used to carry more persons at one (1) time than the number for which it is designed and equipped.

(3) An adult rider may carry a child securely attached to his person in a backpack or sling or in a child carrier attached to the bicycle.

SECTION 205. That Section 49-742, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~742~~716. CLINGING TO OR FOLLOWING VEHICLES. (1) No person riding upon any bicycle, coaster, roller skates, skateboard, sled or toy vehicle shall attach ~~the same~~ it or himself to any vehicle upon a ~~road~~highway.

(2) The provisions of this section shall not prohibit the attachment of a bicycle trailer or bicycle semitrailer to a bicycle if that trailer or semitrailer has been designed for ~~such~~ that attachment.

(3) No person riding upon any bicycle or human-powered vehicle shall follow a ~~motor~~ vehicle so closely as to constitute an immediate hazard to the rider.

SECTION 206. That Section 49-743, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~743~~717. POSITION ON HIGHWAY. (1) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the

time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

(a) When overtaking and passing another bicycle or vehicle proceeding in the same direction.

(b) When preparing for a left turn at an intersection or into a private road or driveway.

(c) When reasonably necessary to avoid conditions including~~,--but not--limited--to,~~ fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or substandard width lanes that make it unsafe to continue along the right-hand curb or edge. ~~For-purposes-of-this--section,--a--"substandard width-lane"-is-a-lane-that-is-too-narrow-for-a-bicycle-and-a-vehicle-to-travel-safely-side-by-side-within-the-lane.~~

(2) Any person operating a bicycle upon a one-way roadway with two (2) or more marked traffic lanes may ride as near the left-hand curb or edge of ~~such~~ the roadway as practicable.

SECTION 207. That Section 49-744, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~744~~718. RIDING TWO ABREAST. Persons riding bicycles upon a ~~road~~highway shall not ride more than two (2) abreast except on paths or parts of ~~road~~highways set aside for the exclusive use of bicycles. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

SECTION 208. That Section 49-745, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~745~~719. CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the operator from using at least one (1) hand in the control and operation of the bicycle.

SECTION 209. That Section 49-746, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~746~~720. STOPPING -- TURN AND STOP SIGNALS ~~--EDUCATIONAL PROGRAMS~~. (1) A person operating a bicycle or human-powered vehicle approaching a stop sign shall slow down and, if required for safety, ~~shall~~ stop before entering the intersection. After slowing to a reasonable speed or stopping, the person shall yield the right-of-way to any vehicle in the intersection or approaching on another ~~road~~highway so closely as to constitute an immediate hazard during the time ~~such~~ the person is moving across or within the intersection or junction of ~~road~~highways, except that a person after slowing to a reasonable speed and yielding the right-of-way if required, may cautiously make a turn or proceed through the intersection without stopping.

(2) A person operating a bicycle or human-powered vehicle approaching a steady ~~circular~~ red traffic control signal shall stop

before entering the intersection, except that a person after slowing to a reasonable speed and yielding the right-of-way if required, may cautiously make a right-hand turn without stopping or may cautiously make a left-hand turn onto a one-way ~~road~~highway without stopping.

(3) ~~Except as provided in this section, a~~ A person riding a bicycle shall comply with the provisions of section 49-~~661~~643, Idaho Code.

(4) A signal of intention to turn right or left shall be given during not less than the last one hundred (100) feet traveled by the bicycle before turning, provided that a signal by hand and arm need not be given if the hand is needed in the control or operation of the bicycle.

~~(5) Nothing in this section shall prohibit any governmental entity or private organization from adopting or carrying out any educational program to help make children and adults aware of their highway safety responsibilities in connection with the operation of either bicycles or motor vehicles.~~

SECTION 210. That Section 49-747, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~747~~721. BICYCLES ON SIDEWALKS. (1) A person operating a bicycle upon and along a sidewalk, or across a ~~road~~highway upon and along a crosswalk, shall yield the right-of-way to any pedestrian, and shall give an audible signal before overtaking and passing ~~such~~ a pedestrian or another bicyclist.

(2) A person shall not operate a bicycle along and upon a sidewalk or across a ~~road~~highway upon and along a crosswalk, where the use of bicycles is prohibited by official traffic control devices.

(3) A person operating a vehicle by human power upon and along a sidewalk, or across a ~~road~~highway upon and along a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.

SECTION 211. That Section 49-748, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~748~~722. BICYCLE RACING. (1) Bicycle racing on the highways is prohibited ~~as set out in section 49-687, Idaho Code,~~ except as authorized in this section.

(2) Bicycle racing on a highway shall not be unlawful when a racing event has been approved by ~~state~~ the department or local law enforcement authorities on any highway under their respective jurisdictions. Approval of bicycle highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.

(3) By agreement with the approving authority, participants in an approved bicycle highway racing event may be exempt from compliance with any traffic laws otherwise applicable ~~thereto~~, provided that traffic control is adequate to assure the safety of all highway users.

SECTION 212. That Section 49-749, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~749~~723. LIGHT AND REFLECTOR REQUIRED AT NIGHT. Every bicycle in use at the times described in section 49-~~802~~903, Idaho Code, shall be operated with a light emitting device visible from a distance of at least five hundred (500) feet to the front ~~in use~~, attached to the bicycle or the rider, and with a reflector clearly visible from the rear of the bicycle.

SECTION 213. That Section 49-750, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~750~~724. ADDITIONAL LIGHTS AUTHORIZED. A bicycle or its rider may be equipped with lights or reflectors in addition to those required ~~by the foregoing~~ in section 49-723, Idaho Code.

CHAPTER 8
SIGNS, SIGNALS AND MARKINGS

SECTION 214. That Sections 49-801, 49-801B, 49-808 and 49-845, Idaho Code, be, and the same are hereby repealed.

SECTION 215. That Section 49-611, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~611~~801. OBEDIENCE TO AND REQUIRED TRAFFIC-CONTROL DEVICES. (1) The driver of any vehicle shall obey the instructions of any ~~official~~ traffic-control device ~~applicable thereto~~ placed or held in accordance with the provisions of this title, unless otherwise directed by a ~~police~~ peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle by this title.

(2) No provisions of this title for which ~~official~~ traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation ~~an official~~ device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that ~~official~~ traffic-control devices are required, ~~such~~ the section shall be effective even though no devices are erected and in place.

(3) Whenever ~~official~~ traffic-control devices are placed or held in position approximately conforming to the requirements of this title, ~~such~~ the devices shall be presumed to have been placed or held by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(4) Any ~~official~~ traffic-control device placed or held pursuant to the provisions of this title and purporting to conform to the lawful requirement pertaining to ~~such~~ those devices shall be presumed to comply with the requirements of this title, unless the contrary shall be established by competent evidence.

SECTION 216. That Section 49-612, Idaho Code, be, and the same is

hereby amended to read as follows:

49-6~~12~~802. TRAFFIC-CONTROL SIGNAL LEGEND. Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for ~~special~~ pedestrian control signals ~~carrying a word--legend,~~ and ~~said~~ the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

(a) ~~Vehicular-traffic~~ A driver facing a circular green signal ~~may~~ shall proceed straight through or turn right or left unless a sign ~~at such place~~ prohibits ~~either of such~~ a right or left turns. ~~But vehicular traffic~~ Any driver, including ~~vehicles~~ one turning ~~right or--left~~, shall yield the right-of-way to other ~~vehicles~~ traffic and to pedestrians lawfully within the intersection or an adjacent crosswalk ~~at the time such signal is exhibited~~.

(b) ~~Vehicular-traffic~~ A driver facing a green arrow signal, shown alone or in combination with another indication, ~~may--cautiously~~ shall enter the intersection only to make the movement indicated by ~~such~~ the green arrow, or ~~such~~ other movement ~~as~~ that is permitted by other indications shown at the same time. ~~Such--vehicular traffic~~ A driver facing a left turn green arrow shall yield the right-of-way to other traffic and to pedestrians lawfully within the intersection or an adjacent crosswalk ~~and to other traffic lawfully using the intersection~~.

(c) A pedestrian facing a circular green signal, u~~U~~nless ~~otherwise--directed~~ prohibited by a sign or otherwise direction by a pedestrian-control signal, as provided in section 49-6~~13~~803, Idaho Code, ~~pedestrians facing any green signal, except--when--the--sole green--signal--is a turn arrow,~~ may proceed across the ~~road~~highway within any marked or unmarked crosswalk, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(d) A pedestrian facing a green arrow turn signal unless otherwise directed by a pedestrian control signal as provided in section 49-803, Idaho Code, shall not enter the highway.

(2) Steady yellow indication:

(a) ~~Vehicular-traffic~~ A driver facing a steady circular yellow or yellow arrow signal is ~~thereby~~ being warned that the related green movement is ~~being terminated~~ ending, or that a red indication will be ~~exhibited~~ shown immediately ~~thereafter~~ it.

(b) A p~~P~~edestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in section 49-6~~13~~803, Idaho Code, ~~are--thereby advised~~ is being warned that there is insufficient time to cross the ~~roadway before a red indication is--shown--and--no--pedestrian shall then start to cross the road~~highway.

(3) Steady red indication:

(a) ~~Vehicular--traffic~~ A driver facing a steady circular red signal alone shall stop at a ~~clearly~~ marked ~~stop~~ limit line or crosswalk, or if none, ~~then~~ before entering the intersection, and shall

remain ~~standing~~ stopped until an indication to proceed is shown except as provided in ~~subsection--(3)~~ paragraph (b) of this subsection.

(b) Except when a sign is in place prohibiting a turn, ~~vehicular traffic~~ a driver after stopping, facing a steady circular red signal, may ~~cautiously--enter-the-intersection-to~~ turn right, ~~after stopping-as-required-in-subsection-(3)(a)-of-this--section.--Vehicles--may--also--cautiously-enter-the-intersection-on-a-steady-red signal-to~~ or turn left from a highway onto a one-way roadhighway after stopping ~~as-required-in-subsection-(3)(a)-of-this-section. Such-v~~Vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) ~~Vehicular-traffic~~ A driver facing a steady red arrow indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another ~~indication~~ signal shall stop at a clearly marked ~~stop~~ limit line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain ~~standing~~ stopped until an indication permitting the movement ~~indicated-by-such-red arrow~~ is shown.

(d) Unless otherwise directed by a pedestrian-control signal ~~as provided--in--section--49-613,--Idaho-Code~~, a pedestrians facing a steady circular red or red arrow signal ~~alone~~ shall not enter the ~~roadway~~ traffic lanes of a highway.

(4) ~~In--the--event~~ When an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or ~~marking-on-the-pavement~~ crosswalk or limit line indicating where the stop shall be made, but in the absence of ~~any-such~~ sign or marking the stop shall be made at the signal.

SECTION 217. That Section 49-613, Idaho Code, be, and the same is hereby amended to read as follows:

49-6~~13~~803. PEDESTRIAN-CONTROL SIGNALS. Whenever ~~special~~ a pedestrian-control signals~~--exhibiting~~ showing the words "Walk" or "Wait" or "Don't Walk" are is in place, ~~such~~ the signals shall indicate ~~as~~ the following:

(1) Flashing or ~~s~~Steady "~~W~~walk--". A ~~p~~Pedestrians facing ~~such~~ the signal may proceed across the ~~road~~highway in the direction of the signal.~~--Every--driver--of-a-vehicle,~~ but shall yield the right-of-way to ~~such-pedestrians~~ vehicles lawfully within the intersection at the time the signal is first shown.

(2) Flashing or ~~s~~Steady "~~D~~don't ~~w~~Walk" or "Wait". -- No pedestrian shall start to cross the ~~road~~highway in the direction of ~~such~~ the signal, but any pedestrian who has partially completed ~~his~~ crossing ~~on-the-"Walk"-signal~~ shall proceed to a sidewalk or safety island while the "Don't Walk" or "Wait" signal is showing.

SECTION 218. That Section 49-614, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~614~~804. FLASHING SIGNALS. (1) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign, it shall require obedience by ~~vehicular traffic~~ drivers as follows:

(a) Flashing red (stop signal).-- When a red lens is illuminated with rapid intermittent flashes, a drivers~~-of-vehicles~~ shall stop at a clearly marked ~~stop~~ limit line, but if none~~,~~ before entering the crosswalk on the near side of the intersection, or if none~~,~~ then at the point nearest the intersecting ~~road~~highway where the driver has a view of approaching traffic on the intersecting ~~road~~highway before entering it, and the ~~right to~~ driver may proceed ~~shall be~~ subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal).-- When a yellow lens is illuminated with rapid intermittent flashes, a drivers~~-of-vehicles~~ may proceed through the intersection or past ~~such~~ the signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the ~~rules as~~ requirements set forth in section 49-~~671~~648, Idaho Code.

SECTION 219. That Section 49-615, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~615~~805. DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS OR MARKINGS. (1) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be, or is an imitation of, or resembles ~~an--official~~ traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any ~~official~~ traffic-control device or any railroad sign or signal.

(2) No person shall place or maintain, nor shall any public authority permit upon any highway any ~~official~~ traffic-control device bearing ~~thereon~~ it any commercial advertising, except for business signs included as a part of official roadside area information panels approved by the ~~Idaho transportation~~ department.

(3) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for ~~official~~ traffic control signs.

(4) Every ~~such~~ prohibited sign, signal or marking is ~~hereby~~ declared to be a public nuisance and the authority having jurisdiction over the highway is ~~hereby~~ empowered to remove the ~~same~~ public nuisance or cause it to be removed without notice.

SECTION 220. That Section 49-617, Idaho Code, be, and the same is

hereby amended to read as follows:

49-~~617~~806. LANE USE CONTROL SIGNALS. When lane use control signals are placed over individual lanes, ~~said~~ the signals shall indicate and apply to drivers of vehicles as follows:

(1) Green indication ~~--Vehicular-traffic.~~ A driver may travel in any lane over which a green signal is shown.

(2) Steady yellow indication ~~--Vehicular--traffic.~~ A driver is ~~thereby~~ being warned that a lane control change is ~~being-made~~ in process.

(3) Steady red indication ~~--Vehicular-traffic.~~ A driver shall not enter or travel in any lane over which a red signal is shown.

(4) Flashing yellow indication ~~--Vehicular-traffic.~~ A driver may use the lane only for the purpose of ~~approaching-and~~ making a left turn to or from the highway.

SECTION 221. That Section 49-643, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~643~~807. STOP SIGNS AND YIELD SIGNS. (1) Preferential right-of-way may be indicated by stop signs or yield signs as authorized in section 49-~~589~~212, Idaho Code.

(2) Except when directed to proceed by a ~~police~~ peace officer or traffic-control signal, every driver of a vehicle approaching a stop sign shall stop:

(a) at a clearly marked stop line, or

(b) before entering the crosswalk on the near side of the intersection, or

(c) at the point nearest the intersecting ~~road~~highway where the driver has a view of approaching traffic on the intersecting ~~road~~highway before entering it.

After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another ~~road~~highway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of ~~road~~highways.

(3) The driver of a vehicle approaching a yield sign shall, in obedience to such sign, slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, or before entering the crosswalk on the near side of the intersection, or at the point nearest the intersecting ~~road~~highway where the driver has a view of approaching traffic on the intersecting ~~road~~highway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another ~~road~~highway so closely as to constitute an immediate hazard during the time ~~such~~ the driver is moving across or within the intersection or junction of ~~road~~highways. Provided, however, that if ~~such~~ a driver is involved in a collision with a vehicle in the intersection or junction of ~~road~~highways, after driving past a yield sign without stopping, ~~such~~ the collision shall be deemed prima facie evidence of his failure to yield right-of-way.

SECTION 222. That Section 49-664, Idaho Code, be, and the same is hereby amended to read as follows:

49-664808. TURNING MOVEMENTS AND REQUIRED SIGNALS. (1) No person shall turn a vehicle or move right or left upon a ~~road~~highway unless and until ~~such~~ the movement can be made with reasonable safety nor without giving an appropriate signal ~~in--the--manner--hereinafter provided~~.

(2) A signal of intention to turn or move right or left when required shall be given continuously to warn other traffic. On controlled-access highways and before turning from a parked position, ~~such~~ the signal shall be given continuously for not less than five (5) seconds and, in all other instances, for not less than the last one hundred (100) feet traveled by the vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal ~~in-the-manner--provided-herein~~ to the driver of any vehicle immediately to the rear when there is opportunity to give such a signal.

(4) The signals required on vehicles by section 49-665809, Idaho Code, shall not be flashed on one (1) side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one (1) side only of a parked vehicle except as may be necessary for compliance with this section.

SECTION 223. That Section 49-665, Idaho Code, be, and the same is hereby amended to read as follows:

49-665809. SIGNALS BY HAND AND ARM OR SIGNAL LAMPS. (1) Any stop or turn signal when required shall be given either by means of hand and arm, or by signal lamps, except as otherwise provided in subsection (2) of this section.

(2) Any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of ~~such~~ the vehicle exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet. The latter measurements shall apply not only to any single vehicle, but also to any combination of vehicles.

SECTION 224. That Section 49-666, Idaho Code, be, and the same is hereby amended to read as follows:

49-666810. METHOD OF GIVING HAND AND ARM SIGNALS. All signals ~~herein~~ required to be given by hand and arm shall be given from the left side of the vehicle in the following manner, and ~~such~~ the signals shall indicate ~~as follows~~ the following:

(1) Left turn. - Hand and arm extended horizontally.

(2) Right turn. - Hand and arm extended upward. A person operating a bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle.

(3) Stop or decrease speed. - Hand and arm extended downward.

CHAPTER 9
VEHICLE EQUIPMENT

SECTION 225. That Sections 49-904, 49-910 and 49-917, Idaho Code, be, and the same are hereby repealed.

SECTION 226. That Sections 49-830 and 49-831, Idaho Code, be, and the same are hereby amended to read as follows:

49-830~~831~~. ~~AUTHORITY~~ DUTIES OF DEPARTMENT AND DIRECTOR ~~WITH REFERENCE TO LIGHTING DEVICES~~ OF LAW ENFORCEMENT. (1) The director shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on snow removal equipment when operated on the highways in lieu of the lamps otherwise required on vehicles by this title. Standards and specifications may permit the use of flashing lights for purposes of identification on snow removal equipment when in service upon the highways.

(2) The director may adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses supplemental to but consistent with the provisions of section 49-914, Idaho Code. Standards and specifications shall correlate with and so far as possible conform to specifications then current as approved by the society of automotive engineers.

(~~a~~3) The director is authorized to approve or disapprove lighting devices and to issue and enforce regulations establishing standards and specifications for the approval of ~~such~~ lighting devices, their installation, adjustment, and aiming, and adjustment when in use on motor vehicles. ~~Such r~~Regulations shall correlate with and, so far as practicable, conform to the then current standards and specifications of the society of automotive engineers applicable to ~~such~~ that equipment.

(~~b~~4) The director ~~is hereby required to~~ shall approve or disapprove any lighting device, of a type on which approval is specifically required in this ~~act~~ title, within a reasonable time after ~~such~~ the device has been submitted ~~as provided in (f) hereof. (c) The director is further~~. He is authorized to set up the procedure which shall be followed when any device is submitted for approval~~. (d) The director~~, and upon approving any ~~such~~ lamp or device shall issue to the applicant a certificate of approval together with any instructions determined by him. ~~(e) The director~~ The department shall publish lists of all lamps and devices by name and type which have been approved ~~by him~~. ~~(f)~~ Any person~~, firm or corporation~~ desiring approval of a device shall notify the director in writing of ~~such~~ the person~~, firm or coporation~~'s intention and shall submit ~~said~~ the device for testing and approval as directed by the director. ~~(g)~~ The director ~~may~~ shall not approve a lighting device on any motorcycle or motor-driven cycle that does not have a self-recovery lighting system such as a generator or alternator to replace the power supply.

(~~h~~5) The director ~~is hereby authorized to~~ shall approve and disapprove warning lighting devices on emergency and police vehicles and

~~to issue and enforce regulations~~ establishing standards and specifications for such emergency warning lighting devices.

~~49-831. REVOCATION OF CERTIFICATE OF APPROVAL ON LIGHTING DEVICES.~~

(6) When the ~~director~~ department has reason to believe that an approved device as being sold commercially does not comply with the requirements of this ~~act~~ title, ~~he~~ the director may, after giving thirty (30) days' previous notice to the person holding the certificate of approval for ~~such~~ the device in this state, conduct a hearing upon the question of compliance of ~~said~~ the approved device. After ~~said~~ the hearing ~~the director~~ he shall determine whether ~~said~~ the approved device meets the requirements of this ~~act~~ title. If ~~said~~ the device does not meet the requirements of this ~~act~~ title, he shall give notice to the person holding the certificate of approval for ~~such~~ the device in this state.

If at the expiration of ninety (90) days after ~~such~~ the notice, the person holding the certificate of approval for ~~such~~ the device has failed to satisfy the ~~director~~ department that ~~said~~ the approved device as thereafter to be sold meets the requirements of this ~~act~~ title, the director shall suspend or revoke the approval issued ~~therefor~~ until or unless ~~such~~ the device is resubmitted to and retested by an ~~authorized~~ approved testing agency and ~~is~~ found to meet the requirements of this ~~act~~ title, and may require that all ~~said~~ the devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this ~~act~~ title. The ~~director~~ department may at the time of the retest, purchase in the open market and submit to the testing agency one or more sets of ~~such~~ the approved devices, and if ~~such~~ the device upon ~~such~~ retest fails to meet the requirements of this ~~act~~ title, the director may refuse to renew the certificate of approval of ~~such~~ the device.

(7) The director shall adopt and enforce safety requirements, regulations and specifications applicable to air conditioning equipment which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to air conditioning equipment approved by the society of automotive engineers.

(8) The director in cooperation with the state board of education shall adopt and enforce regulations not inconsistent with this title to govern the design and operation of all school buses when owned and operated by any school district or privately owned and operated under contract with any school district in the state, and these regulations shall by reference be made a part of any contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to these regulations.

SECTION 227. That Section 49-801C, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~801C~~902. SCOPE AND EFFECT ~~OF--REGULATIONS~~. (1) It shall be unlawful for any person to drive, or move, or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in ~~such~~ an unsafe condition as to endanger any person, or which does not contain those parts or is not

at all times equipped with ~~such~~ the lamps and other requirements in proper condition and adjustment, as required by the provisions of this chapter, or which is equipped in any manner in violation of the provisions of this chapter.

(2) Nothing contained in the provisions of this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(3) The provisions of this chapter, with respect to equipment on vehicles, shall not apply to implements of husbandry, road machinery, road rollers, farm tractors or slow moving vehicles except as ~~herein~~ otherwise specifically made applicable.

SECTION 228. That Section 49-802, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~802~~903. WHEN LIGHTED LAMPS ARE REQUIRED. Every vehicle upon a highway ~~within this state~~ at any time from a one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred (500) feet ahead shall display lighted lamps and illuminating devices as ~~hereinafter~~ respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as ~~hereinafter~~ stated herein.

SECTION 229. That Section 49-803, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~803~~904. VISIBILITY DISTANCE AND MOUNTED HEIGHT OF LAMPS. (a1) Whenever a requirement is ~~hereinafter declared~~ stated as to the distance from which certain lamps and devices shall render objects visible, or within which ~~such~~ lamps or devices shall be visible, ~~said~~ those provisions shall apply during the times stated in section 49-~~802~~903, Idaho Code, in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(b2) Whenever a requirement is ~~hereinafter declared~~ stated as to the mounted height of lamps or devices, it shall mean from the center of ~~such~~ the lamp or device to the level ground upon which the vehicle stands when ~~such~~ the vehicle is without a load.

SECTION 230. That Section 49-804, Idaho Code, be, and the same is hereby amended to read as folows:

49-~~804~~905. HEAD LAMPS ON MOTOR VEHICLES. (a1) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two (2) head lamps with at least one (1) on each side of the front of the motor vehicle~~, which~~. The head lamps shall comply with the requirements and limitations set forth in this ~~article~~ chapter.

(b2) Every motorcycle and every motor-driven cycle shall be equipped with at least one (1) and not more than two (2) head lamps which shall comply with the requirements and limitations of this

~~article~~ chapter.

(~~c~~3) Every head lamp upon every motor vehicle, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the head lamp of not more than fifty-four (54) inches nor less than twenty-four (24) inches to be measured as set forth in section 49-~~803(b)~~904(2), Idaho Code.

SECTION 231. That Section 49-805, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~805~~906. TAIL LAMPS. (~~a~~1) Every motor vehicle, trailer, semi-trailer, and pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one (1) tail lamp mounted on the rear, which when lighted as ~~hereinbefore~~ required, shall emit a red light plainly visible from a distance of five hundred (500) feet to the rear~~,-provided-that-in.~~ In the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually ~~to~~ be seen from the distance specified. ~~And-further,-e~~Every ~~such-above~~ mentioned vehicle, other than a truck tractor, registered in this state and manufactured or assembled after ~~January~~ December 31, 19~~56~~5, shall be equipped with at least two (2) tail lamps mounted on the rear, which when lighted as ~~herein~~ required, shall comply with the provisions of this section.

(~~b~~2) Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two (72) inches nor less than twenty (20) inches.

(~~c~~3) Any tail lamp ~~or-tail-lamps~~ shall be ~~so~~ wired so to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

SECTION 232. That Section 49-806, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~806~~907. NEW MOTOR VEHICLES TO BE EQUIPPED WITH REFLECTORS. (~~a~~1) Every ~~new~~ motor vehicle ~~hereafter~~ sold and operated upon a highway, other than a truck tractor, shall carry on the rear, either as a part of the tail lamps or separately, two (2) red reflectors~~,-except that-every.~~ Every motorcycle and every motor-driven cycle shall carry at least one (1) reflector~~,~~ meeting the requirements of this section~~,-and-except-that-vehicles.~~ Vehicles of the type mentioned in section 49-~~0~~909, Idaho Code, shall be equipped with reflectors as required in ~~those~~ the applicable subsections ~~applicable-thereto.~~

(~~b~~2) ~~Every-such~~ Except as otherwise provided, every reflector shall be mounted on the vehicle at a height of not less than twenty (20) inches nor more than sixty (60) inches measured as set forth in section 49-~~803(b)~~904(2), Idaho Code, and shall be of ~~such~~ a size and characteristics and ~~so~~ mounted ~~as~~ so to be visible at night from all distances within three hundred fifty (350) feet to one hundred (100) feet from ~~such~~ the vehicle when directly in front of lawful upper beams of head lamps~~,-except-that-visibility-from-a-greater-distance-is hereinafter-required-of-reflectors-on-certain-types-of-vehicles.~~

SECTION 233. That Section 49-807, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~807~~908. STOP LAMPS AND TURN SIGNALS REQUIRED ON NEW MOTOR VEHICLES. ~~(a)~~ ~~From and a~~After ~~January~~ December 31, 195~~5~~86, it shall be unlawful for any person to sell any new motor vehicle, including any motorcycle or motor-driven cycle, in this state or for any person to drive ~~such~~ a vehicle on the highways unless it is equipped with at least one (1) stop lamp meeting the requirements of section 49-~~8~~919, Idaho Code.

~~(b)~~2) No person shall sell or offer for sale or operate on the highways any motor vehicle, trailer, or semitrailer registered in this state and manufactured or assembled after ~~January~~ December 31, 1955~~4~~, unless it is equipped with mechanical or electrical turn signals meeting the requirements of section 49-~~8~~918, Idaho Code. This ~~paragraph~~ subsection shall not apply to any motorcycle or motor-driven cycle.

SECTION 234. That Sections 49-809 and 49-811, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~809~~909. ADDITIONAL EQUIPMENT REQUIRED ON CERTAIN VEHICLES. In addition to other equipment required in this ~~act~~ chapter, the following vehicles shall be equipped as ~~herein stated under the conditions stated in section 49-802.~~ follows:

~~(a)~~1) On every bus or truck, whatever its size, there shall be ~~the following~~:

~~(a)~~ On each side, one (1) reflector, at or near the rear~~.~~; and

~~(b)~~ On the rear, two (2) reflectors, one (1) at each side, and one (1) stoplight.

~~(b)~~2) On every bus or truck eighty (80) inches or more in over-all width and less than thirty (30) feet in over-all length, in addition to the requirements in ~~paragraph (a)~~ subsection (1):

~~(a)~~ On the front, two (2) clearance lamps, one (1) at each side~~.~~; and

~~(b)~~ On the rear, two (2) clearance lamps, one (1) at each side.

~~(c)~~3) On every bus or truck thirty (30) feet or more in over-all length, regardless of its width, in addition to the requirements in ~~paragraph (a): Clearance~~ subsection (1), clearance lamps required in subsection ~~(b)~~2) ~~above~~, plus:

~~(a)~~ On each side, two (2) side marker lamps, one (1) at or near the front and one (1) at or near the rear~~.~~; and

~~(b)~~ On each side, one (1) reflector at or near the front.

~~(d)~~4) On every truck tractor, the cab of which is as wide as or wider than any vehicle being drawn:

~~(a)~~ On the front, two (2) clearance lamps, one (1) at each side~~.~~; and

~~(b)~~ On each side, one (1) side marker lamp at or near the front.

~~(e)~~5) On every trailer or semitrailer having a gross weight in excess of three thousand (3,000) pounds, if wider than the truck or the cab of the truck tractor drawing it, the following:

~~(a)~~ On the front, two (2) clearance lamps, one (1) at each side~~.~~;

~~(b)~~ On each side, two (2) side marker lamps, one (1) at or near

the front and one (1) at or near the rear~~.~~;

(c) On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear~~.~~; and

(d) On the rear, two (2) clearance lamps, one (1) at each side, also two (2) reflectors, one (1) at each side, and one (1) stoplight.

(~~f~~6) On every trailer or semitrailer having a gross weight in excess of three thousand (3,000) pounds if of the same width or less than the truck or the cab of the truck drawing it, the following:

(a) On each side, one (1) side marker lamp near the rear~~.~~;

(b) On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear~~.~~;

(c) On the rear, two (2) clearance lamps, one (1) at each side~~.~~; and

(d) On the rear, two (2) reflectors, one (1) at each side and one (1) stoplight.

(~~g~~7) On every pole trailer in excess of three thousand (3,000) pounds gross weight:

(a) On each side, one (1) side marker lamp and one (1) clearance lamp which may be in combination, to show the front, side and rear~~.~~; and

(b) On the rear of the pole trailer or load, two (2) reflectors, one (1) at each side.

(~~h~~8) On every trailer, semitrailer and pole trailer weighting three thousand (3,000) pounds gross or less~~:~~ ~~-~~On the rear, two (2) reflectors, one (1) on each side.

(9) If any trailer or semitrailer is so loaded or is of ~~such~~ dimensions ~~to~~ which obscure the stoplight on the towing vehicle, then ~~such~~ the drawn vehicle shall also be equipped with one (1) stoplight.

~~49-811.--MOUNTING--OF-REFLECTORS,-CLEARANCE-LAMPS,-AND-SIDE-MARKER LAMPS.~~

(~~a~~10) Reflectors ~~when-required-by-section-49-809~~ shall be mounted at a height no less than twenty-four (24) inches and not higher than sixty (60) inches above the ground on which the vehicle stands~~,-except that-if.~~ If the highest part of the permanent structure of the vehicle is less than twenty-four (24) inches, the reflector at ~~such~~ that point shall be mounted as high as that part of the permanent structure will permit. ~~The-r~~Rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but ~~such~~ the reflector shall meet all the other reflector requirements of this ~~act~~ chapter.

(~~b~~11) Clearance lamps shall be mounted on the permanent structure of the vehicle in ~~such~~ a manner ~~as~~ to indicate its extreme width and as near the top ~~thereof~~ as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as ~~required-herein-with-reference-to~~ prescribed for both.

(~~c~~12) ~~The--l~~Lighting devices required ~~herein~~ shall be mounted, so far as practicable, in ~~such~~ a manner ~~as~~ to reduce the hazard of their being obscured by mud or dust thrown by the vehicle's wheels.

SECTION 235. That Section 49-810, Idaho Code, be, and the same is

hereby amended to read as follows:

49-~~818~~910. COLOR OF CLEARANCE LAMPS, SIDE MARKER LAMPS, AND REFLECTORS. (~~a~~1) Front clearance lamps and ~~those~~ marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(~~b~~2) Rear clearance lamps and ~~those~~ marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(~~c~~3) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stoplight or other signal device, which may be red, amber, or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp may be white, amber, or red.

SECTION 236. That Section 49-830A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~830A~~910A. COLOR OF LAMPS AND GLOBES LIMITED TO CERTAIN VEHICLE CLASSES. For the purposes of this chapter lighting devices utilizing various colors of lighted globes approved by the director for use on vehicles shall be restricted to the following class of vehicles:

(~~a~~1) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.

(~~b~~2) Fire fighting vehicles, ambulances and designated emergency vehicles. With the exception of school buses as provided in section 49-~~889A~~915, Idaho Code, only fire fighting vehicles, ambulances, and designated emergency vehicles may display red flashing lights or red lenses or globes which are visible from the front of the vehicle.

(~~c~~3) All vehicles. Any motor vehicles~~--shall--be--entitled--to display~~ may have attached to it a flashing amber light to warn motorists of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the vehicle displaying such lighting. The driver of an approaching vehicle shall yield the right-of-way to any stationary vehicle displaying a flashing amber light.

SECTION 237. That Section 49-812, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~812~~911. VISIBILITY OF REFLECTORS, CLEARANCE LAMPS, AND MARKER LAMPS. (~~a~~1) Every reflector upon any vehicle referred to in section 49-~~8~~909, Idaho Code, shall be of ~~such~~ a size and characteristics and ~~so~~ maintained ~~as~~ to be readily visible at nighttime from all distances within six hundred (600) feet to one hundred (100) feet from the vehicle when directly in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(~~b~~2) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred (500) feet from the front and rear, respectively, of the vehicle.

(~~c~~3) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred (500) feet from the side of the vehicle on which mounted.

SECTION 238. That Section 49-813, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~813~~912. OBSTRUCTED LIGHTS NOT REQUIRED. Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp, ~~(~~except tail lamps~~)~~, need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicles required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

SECTION 239. That Section 49-814, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~814~~913. LAMP OR FLAG ON PROJECTING LOAD. Whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of ~~such~~ the vehicle, there shall be displayed at the extreme rear end of the load, at ~~the times specified in section 49-802 hereof~~ 49-903, Idaho Code, a red light or lantern plainly visible from a distance of at least five hundred (500) feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of ~~such~~ the load a red flag or cloth not less than sixteen (16) inches square and ~~so~~ hung so that the entire area is visible to the driver of a vehicle approaching from the rear.

SECTION 240. That Section 49-815, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~815~~914. LAMPS ON PARKED VEHICLES. (~~a~~1) Whenever a vehicle is lawfully parked upon a ~~street or~~ highway ~~during the hours between a half hour after sunset and a half hour before sunrise~~ at the times specified in section 49-903, Idaho Code, and in the event there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon ~~such street or~~ the highway, no lights need be displayed upon ~~such~~ the parked vehicle.

(~~b~~2) Whenever a vehicle is parked or stopped upon a ~~roadway or shoulder adjacent thereto~~ highway, whether attended or unattended, ~~during the hours between a half hour after sunset and a half hour before sunrise~~ at the times specified in section 49-903, Idaho Code, and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon ~~such~~ the highway, ~~such vehicle so~~ the parked or stopped vehicle shall be equipped with one or more lamps meeting the following requirements: ~~A~~at least one

(1) lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle, and the same lamp or at least one (1) other lamp shall display a red light visible from a the same distance ~~of 500 feet~~ to the rear of the vehicle~~,--and the~~. The location of ~~said~~ the lamp ~~or lamps~~ shall always be such that at least one (1) lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. ~~The foregoing~~ This provisions shall not apply to a motor-driven cycle.

(~~e~~3) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

SECTION 241. That Section 49-809A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~809A~~915. SCHOOL BUSES -- VISUAL SIGNAL ~~---DEFINED~~. (1) Every school bus shall, in addition to any other equipment and distinctive markings required by this ~~act~~ title, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall display to the front two (2) alternately flashing red lights located at the same level and to the rear two (2) alternately flashing red lights located at the same level~~,--and these~~. These lights shall be visible at five hundred (500) feet in normal sunlight.

(2) Any school bus ~~may~~ shall, in addition to the lights required by subsection (1), be equipped with yellow signal lamps mounted near each of the four (4) red lamps and at the same level, but closer to the vertical centerline of the bus, which shall display two (2) alternately flashing yellow lights to the front and two (2) alternately flashing yellow lights to the rear~~,--and these~~. These lights shall be visible at five hundred (500) feet in normal sunlight. These lights shall be displayed by the school bus driver at least two hundred (200) feet before every stop at which the alternately flashing red lights required by subsection (1) will be actuated.

(3) Every school bus shall be equipped with a semaphore stop arm ~~meeting the following specifications:~~ which shall be a flat eighteen (18) inch octagon exclusive of brackets for mounting, with reflectorized material on both sides, be red with a silver white border, ~~with~~ and have a legend reading "stop" six (6) inches high with three-quarter (3/4) inch wide silver white letters, mounted outside the bus on the left side opposite driver's seat and have a driver-controlled mechanism. Flashing lamps in the stop arm may be connected to the alternating red flashing signal lamp circuits. The stop arm signal may be vacuum, electric, air or manually controlled.

~~(4)--The--director-is-authorized-to-adopt-standards-and-specifications-applicable-to-lighting-equipment-on-and-special-warning--devices to--be--carried-by-school-buses-consistent-with-the-provisions-of-this section;-but-supplemental-thereto.-Such-standards--and--specifications shall--correlate-with-and-so-far-as-possible-conform-to-the-specifications-then-current-as-approved-by-the-society-of-automotive-engineers.~~

SECTION 242. That Section 49-816, Idaho Code, be, and the same is hereby amended to read as follows:

49-816916. LAMPS ON FARM TRACTORS, FARM EQUIPMENT AND IMPLEMENTS OF HUSBANDRY. (a1) Every farm tractor and every self-propelled farm equipment unit or implement of husbandry not equipped with an electric lighting system shall at all times mentioned specified in section 49-802903, Idaho Code, be equipped with at least one (1) lamp displaying a white light visible from a distance of not less than five hundred (500) feet to the front of such the vehicle and shall also be equipped with at least one (1) lamp displaying a red light visible from at least the same distance of not less than 500 feet to the rear of such the vehicle, and two (2) red reflectors visible from a distance of one hundred (100) to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps. The 1Lights required herein in this section shall be positioned so that one (1) lamp showing to the front and one (1) lamp or reflector showing to the rear will indicate the further projection of said the tractor, unit or implement on the side of the road used in passing such the vehicle.

(b2) Every combination of farm tractor and towed unit of farm equipment or implement of husbandry not equipped with an electric lighting system shall at all times mentioned specified in section 49-802903, Idaho Code, be equipped with the following:

1.(a) At least one (1) lamp mounted to indicate as nearly as practicable the extreme left projection of said the combination and displaying a white light visible from a distance of not less than five hundred (500) feet to the front of said the combination;

2.(b) Two (2) red reflectors visible from a distance of one hundred (100) to six hundred (600) feet to the rear thereof the combination when illuminated by the upper beams of head lamps, which. The reflectors shall be mounted in such a manner as to indicate as nearly as practicable the extreme left and right rear projections of said the towed unit or implement on the highway.

(c3) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry equipped with an electric lighting system shall at all times mentioned specified in section 49-802903, Idaho Code, be equipped with two (2) single-beam or multiple-beam head lamps meeting the requirements of sections 49-821922 or 49-823924, Idaho Code, of this act respectively or, as an alternative, section 49-825 of this act 49-926, Idaho Code, and two (2) red lamps visible from a distance of not less than five hundred (500) feet to the rear, or in the alternative, one (1) red lamp visible from a distance of not less than five hundred (500) feet to the rear and two (2) red reflectors visible from a distance of one hundred (100) to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps; and such red. Red lamps or reflectors shall be mounted in the rear of said the farm tractor or self-propelled implement of husbandry so as to indicate as nearly as practicable the extreme left and right projections of said the vehicle on the highway.

(d4) The farm tractor element of eEvery combination of farm tractor and towed farm equipment or towed implement of husbandry equipped with an electric lighting system shall at all times mentioned specified in section 49-802903, Idaho Code, be equipped with the following lamps: 1. The farm tractor element of every such combination

~~shall be equipped with~~ two (2) single-beam or multiple-beam head lamps meeting the requirements of sections 49-~~821~~922, 49-~~823~~926, or 49-~~825~~926, Idaho Code ~~of this act~~.

SECTION 243. That Section 49-817, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~817~~917. LAMPS ON OTHER VEHICLES AND EQUIPMENT. Every vehicle, including animal-drawn vehicles and other vehicles ~~referred to in section 49-801(c) not~~ specifically required by the provisions of this ~~article~~ chapter to be equipped with lamps or other lighting devices, shall at all times specified in section ~~49-802 of this act~~ 49-903, Idaho Code, be equipped with at least one (1) lamp displaying a white light visible from a distance of not less than five hundred (500) feet to the front of ~~such~~ the vehicle, and shall also be equipped with two (2) lamps displaying a red light visible from ~~a~~ the same distance ~~of not less than 500 feet~~ to the rear of ~~said~~ the vehicle, or as an alternative, one (1) lamp displaying a red light visible from ~~a~~ the same distance ~~of not less than 500 feet~~ to the rear and two (2) red reflectors visible for distances of one hundred (100) to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

SECTION 244. That Section 49-818, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~818~~918. SPOT LAMPS AND AUXILIARY LAMPS. (~~a~~1) ~~Spot lamps.~~ Any motor vehicle may be equipped with not ~~to exceed~~ more than two (2) spot lamps, and ~~every~~ each lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred (100) feet ahead of the vehicle.

(~~b~~2) ~~Fog lamps.~~ Any motor vehicle may be equipped with not ~~to exceed~~ more than two (2) fog lamps mounted on the front, at a height not less than twelve (12) inches nor more than thirty (30) inches above the level surface upon which the vehicle stands, and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five (25) feet ahead project higher than a level of four (4) inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting ~~the above~~ these requirements may be used with lower head lamp beams as specified in section 49-~~821(b)~~922(2), Idaho Code.

(~~c~~3) ~~Auxiliary passing lamps.~~ Any motor vehicle may be equipped with not ~~to exceed~~ more than two (2) auxiliary passing lamps mounted on the front at a height not less than twenty-four (24) inches nor more than forty-two (42) inches above the level surface upon which the vehicle stands. The provisions of section 49-~~821~~922, Idaho Code, shall apply to any combination of head lamps and auxiliary passing lamps.

(~~d~~4) ~~Auxiliary driving lamps.~~ Any motor vehicle may be equipped

with not ~~to exceed~~ more than two (2) auxiliary driving lamps mounted on the front at a height not less than sixteen (16) inches nor more than forty-two (42) inches above the level surface upon which the vehicle stands. The provisions of section 49-~~821~~922, Idaho Code, shall apply to any combination of head lamps and auxiliary driving lamps.

SECTION 245. That Section 49-819, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~819~~919. SIGNAL LAMPS AND SIGNAL DEVICES. (~~a~~1) Any motor vehicle may be equipped and when required under this ~~act~~ chapter shall be equipped with ~~a~~ stop ~~lamp or~~ lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred (100) feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may but need not, be incorporated with one or more other rear lamps.

(~~b~~2) Any motor vehicle may be equipped and when required under this ~~act~~ chapter shall be equipped with lamps or mechanical signal devices showing to the front and rear for the purposes of indicating an intention to turn either to the right or left. When lamps are used for ~~such~~ this purpose, the lamps showing to the front shall be located on the same level and as widely spaced laterally as practicable, and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than one hundred (100) feet to the front in normal sunlight, and the lamps showing to the rear shall be located at the same level and as widely spaced laterally as practicable, and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred (100) feet to the rear in normal sunlight. When actuated ~~such~~ the lamps shall indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made. Where mechanical signal devices are used for ~~such~~ this purpose, ~~said~~ the devices shall be self-illuminated when in use at the times ~~mentioned~~ specified in section 49-~~802~~903, Idaho Code.

(~~c~~3) No stop lamp or signal lamp or device shall project a glaring light.

SECTION 246. That Section 49-820, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~820~~920. ADDITIONAL LIGHTING EQUIPMENT. (~~a~~1) Any motor vehicle may be equipped with not more than two (2) side cowl or fender lamps which shall emit an amber or white light without glare.

(~~b~~2) Any motor vehicle may be equipped with not more than one (1) running-board courtesy lamp on each side ~~thereof~~ which shall emit a white or amber light without glare.

(~~c~~3) Any motor vehicle may be equipped with not more than two (2) back-up lamps either separately or in combination with other lamps, but any ~~such~~ back-up lamp shall not be lighted when the motor vehicle is in forward motion.

(d4) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such that warning in addition to any other warning signals required by this act title. The (1)Lamps used to display such the warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade or color between white and amber. The lamps used to display such the warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than five hundred (500) feet under normal atmospheric conditions at night.

(e5) Any commercial vehicle eighty (80) inches or more in overall width may be equipped with not more than three (3) identification lamps showing to the front which shall emit an amber light without glare, and not more than three (3) identification lamps showing to the rear which shall emit a red light without glare. Such These lamps shall be placed in a row and may be mounted either horizontally or vertically.

SECTION 247. That Section 49-820A, Idaho Code, be, and the same is hereby amended to read as follows:

49-820A921. OPTIONAL USE OF REAR MOUNTED ACCELERATION AND DECELERATION LIGHTING SYSTEM. (a1) Every motor vehicle, trailer, semitrailer, truck tractor, and pole trailer used in the state of Idaho may be equipped with an auxiliary lighting system consisting of:

(1a) One (1) green light to be activated when the accelerator of the motor vehicle is depressed;

(2b) Not more than two (2) amber lights to be activated when the motor vehicle is moving forward, or standing and idling, but is not under the power of the engine.

(b2) Such An auxiliary system shall not interfere with the operation of vehicle tail lamps as required by section 49-805, Idaho Code, and shall not interfere with the operation of vehicle signal lamps and signal devices as required by section 49-819, Idaho Code. Such The system, however, may operate in conjunction with such tail lamps or signal lamps and signal devices.

(c3) Only one (1) color of the system may be illuminated at any one (1) time, and at all times either the green light, or amber light or lights shall be illuminated when the tail lamps of the vehicle are not illuminated.

(d4) The green light and the amber light or lights, when illuminated, shall be plainly visible at a distance of five hundred (500) feet to the rear.

(e5) Only one (1) system may be mounted on a motor vehicle, trailer, semitrailer, truck tractor, or pole trailer; and such the system shall be rear mounted in a horizontal fashion, at a height of not more than seventy-two (72) inches, nor less than twenty (20)

inches~~;--as-provided-by-section-49-805(b),-Idaho-Code~~.

(~~f~~6) On a combination of vehicles, only the lights of the rearmost vehicle need actually be seen and distinguished as provided in subsection (~~d~~4) of this section.

(~~g~~7) Each manufacturer's model of such a system described in this section shall be approved by the ~~director-as-provided-for-in--sections 49-825--and-49-826,-Idaho-Code,~~ board before it may be sold or offered for sale in the state ~~of-Idaho~~.

SECTION 248. That Section 49-821, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~821~~922. MULTIPLE-BEAM ROAD-LIGHTING EQUIPMENT. Except as ~~hereinafter~~ otherwise provided in this chapter, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or their combinations ~~thereof~~ on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that selection may be made between distributions of light projected to different elevations, and ~~such~~ the lamps may~~,-in-addition,~~ be so arranged that ~~such~~ the selection can be made automatically, subject to the following requirements and limitations:

(~~a~~1) There shall be an uppermost distribution of light, or composite beam, so aimed and of ~~such~~ an intensity ~~as~~ to reveal persons and vehicles at a distance of at least three hundred fifty (350) feet ahead for all conditions of loading.

(~~b~~2) There shall be a lowermost distribution of light, or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead~~;--and on~~. On a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(~~c~~3) Every new motor vehicle manufactured after December 31, 1954, other than a motorcycle or motor-driven cycle, ~~registered-in this--state--after--January---1,---1954,~~ which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. ~~Said~~ The indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

SECTION 249. That Section 49-822, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~822~~923. USE OF MULTIPLE-BEAM ROAD-LIGHTING EQUIPMENT. (~~a~~1) Whenever a motor vehicle is being operated on a ~~roadway-or-shoulder adjacewnt-thereto~~ highway during the times specified in section 49-~~802~~903, Idaho Code, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle~~,-subject-to-the-following-requirements-and-limitations:~~.

(~~b~~2) Whenever a driver of a vehicle approaches an oncoming vehi-

cle within five hundred (500) feet, ~~such~~ the driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, ~~specified--in--section 49-821(b)~~ shall be deemed to avoid glare at all times, regardless of road contour and loading.

(~~c~~3) Whenever the driver of a vehicle follows another vehicle within two hundred (200) feet to the rear, except when engaged in the act of overtaking and passing, ~~such~~ the driver shall use a distribution of light permissible under this ~~act~~ chapter other than the uppermost distribution of light specified in ~~paragraph (a) of~~ section 49-~~821~~922, Idaho Code.

SECTION 250. That Section 49-823, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~823~~924. SINGLE-BEAM ROAD-LIGHTING EQUIPMENT. Head lamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured ~~and sold~~ prior to one~~--(1)--year--after the--effective--date-of-this-act~~ January 1, 1955, in lieu of multiple-beam road-lighting equipment ~~herein~~ specified in this chapter if the single distribution of light complies with the following requirements and limitations:

(1~~.~~) The head lamps shall be so aimed that when the vehicle is not loaded, none of the high-intensity portion of the light shall at a distance of twenty-five (25) feet ahead project higher than a level of five (5) inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands at a distance of seventy-five (75) feet ahead.

(2~~.~~) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred (200) feet.

SECTION 251. That Section 49-824, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~824~~925. LIGHTING EQUIPMENT ON MOTOR-DRIVEN CYCLES. The head lamp ~~or head lamps~~ upon every motor-driven cycle may be of the single-beam or multiple-beam type, but in either event shall comply with the requirements and limitations as follows:

(1~~.~~) Every ~~said~~ head lamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred (100) feet when the motor-driven cycle is operated at any speed less than twenty-five (25) miles per hour and at a distance of not less than two hundred (200) feet when the motor-driven cycle is operated at a speed of twenty-five (25) or more miles per hour, and at a distance of three hundred (300) feet when the motor-driven cycle is operated at a speed of thirty-five (35) miles or more per hour.

(2~~.~~) In the event a motor-driven cycle is equipped with a multiple-beam ~~head lamp or~~ head lamps, the ~~uppper~~ beams shall meet the minimum requirements set forth above and shall not exceed the limitations

set forth in section ~~49-821(a) and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in section 49-821(b)~~ 49-922, Idaho Code.

(3~~.~~) In the event ~~the~~ a motor-driven cycle is equipped with a single-beam lamp ~~or lamps, said~~, the lamp ~~or lamps~~ shall be so aimed that when the vehicle is loaded, none of the high-intensity portion of light, at a distance of twenty-five (25) feet ahead, shall project higher than the level of the center of the lamp from which it comes.

SECTION 252. That Section 49-825, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~825~~926. ALTERNATE ROAD-LIGHTING EQUIPMENT. Any motor vehicle may be operated under the conditions specified in section 49-~~802~~903, Idaho Code, when equipped with two (2) lighted lamps upon the front ~~thereof~~ capable of revealing persons and objects seventy-five (75) feet ahead in lieu of lamps required in section 49-~~821~~922 or section ~~49-823, provided, however, that at~~ 49-924, Idaho Code. At no time shall it be operated at a speed in excess of twenty (20) miles per hour.

SECTION 253. That Section 49-826, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~826~~927. NUMBER OF DRIVING LAMPS REQUIRED OR PERMITTED. (~~a~~1) At all times specified in section 49-~~802~~903, Idaho Code, at least two (2) lighted lamps shall be displayed, one (1) on each side at the front of every motor vehicle other than a motorcycle or motor-driven cycle, except when ~~such~~ the vehicle is parked subject to the ~~regulations~~ requirements governing lights on parked vehicles.

(~~b~~2) Whenever a motor vehicle equipped with required head lamps ~~as herein required~~ is also equipped with any auxiliary lamps, a spot lamp, or any other lamp on the front ~~thereof~~ projecting a beam of intensity greater than three hundred (300) candlepower, not more than a total of four (4) ~~of any such~~ lamps on the front of a vehicle shall be lighted at any one (1) time when upon a highway.

SECTION 254. That Section 49-827, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~827~~928. SPECIAL RESTRICTIONS ON LAMPS. (~~a~~1) Any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, or flashing turn signals, emergency vehicle warning lamps, and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred (300) candlepower shall be so directed that no part of the high-intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle.

(~~b~~2) No person shall drive or move any vehicle or equipment upon any highway with any lamp or device ~~thereon~~ displaying a red light visible from directly in front of the center ~~thereof~~ of the vehicle or equipment. This section shall not apply to any vehicle upon which a

red light visible from the front is expressly authorized or required by this code title.

(3) As a practical means of determining whether head lamps or auxiliary driving or fog lamps glare the following test shall apply: Any such lamp shall be deemed to be glaring if any part of the main beam strikes the body of a person, vehicle, screen or other object higher than the lamp centers twenty-five (25) feet or more ahead of the vehicle and in no event shall the main bright portion of the beam be higher than forty-two (42) inches at a distance of seventy-five (75) feet ahead of the vehicle.

(c4) Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow removal equipment, or on any vehicle as a means for indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing.

SECTION 255. That Section 49-828, Idaho Code, be, and the same is hereby amended to read as follows:

49-828929. ~~STANDARDS-FOR~~ LIGHTS ON SNOW REMOVAL EQUIPMENT. ~~(a) The-Idaho-transportation-department-shall-adopt-standards-and-specifications--applicable-to-head-lamps,-clearance-lamps,-identification-and other-lamps-on-snow-removal-equipment-when-operated-on-the-highways-of this-state-in-lieu-of-the-lamps-otherwise-required-on--motor--vehicles by--this--act.-Such-standards-and-specifications-may-permit-the-use-of flashing-lights-for-purposes-of-identification-on-snow-removal--equipment--when--in-service-upon-the-highways.--(b)~~ It shall be unlawful to operate any snow removal equipment on any highway unless the lamps thereon the equipment comply with and are lighted when and as required by the standards and specifications adopted ~~as--provided-in-this section~~ by the director.

SECTION 256. That Section 49-829, Idaho Code, be, and the same is hereby amended to read as follows:

49-829930. SELLING OR USING LAMPS OR EQUIPMENT. (a1) ~~On-and-after January-1,-1956,-n~~No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle any head lamp, auxiliary or fog lamp, rear lamp, or reflector which reflector is required hereunder in this chapter, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the director and approved by him. ~~The foregoing-provisions-of-this-section-shall-not-apply-to--equipment--in actual-use-when-this-section-is-adopted-or-replacement-parts-therefor. (b)--No--person--shall--have-for-sale,-sell,-or-offer-for-sale-for-use upon-or-as-a-part-of-the-equipment-of-a--motor--vehicle,--trailer,--or semi-trailer--any--lamp--or-device-mentioned-in-this-section-which-has been-approved-by--the--director--unless--such--lamp--or--device--bears~~ thereon, and which bears the trademark or name under which it is approved so as to be legible when installed.

(c2) No person shall use upon any motor vehicle, trailer, or

semitrailer any lamps mentioned in this section unless ~~said~~ the lamps are mounted, adjusted and aimed in accordance with instructions of the ~~director~~ department.

49-931 -- 49-932. [RESERVED.]

SECTION 257. That Section 49-832, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~832~~933. BRAKES. ~~A. Brake equipment required. 1.~~ (1) Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold ~~such~~ the vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If these two (2) separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one (1) part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

(2~~.~~) Every motorcycle and every motor-driven cycle, when operated upon a highway, shall be equipped with at least one (1) brake, which may be operated by hand or foot.

(3~~.~~) Every trailer or semitrailer of an unladen weight of one thousand five hundred (1,500) pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold ~~such~~ the vehicle and ~~so~~ be designed ~~as~~ to be applied by the driver of the towing motor vehicle from its cab~~, and said~~. The brakes shall be ~~so~~ designed and so connected that in case of an accidental breakaway of the towed vehicle, the brakes shall be automatically applied.

(4~~.~~) Every new motor vehicle, trailer, or ~~semi-trailer hereafter~~ semitrailer sold in this state and operated upon the highways shall be equipped with service brakes upon all wheels of ~~every such~~ the vehicle, except that any motorcycle or motor-driven cycle, ~~except~~ trucks and truck tractors having three (3) or more axles need not have brakes on the front wheels~~, except when such vehicles are~~. Vehicles equipped with at least two (2) steerable axles ~~the wheels of one (1) such axle~~ need not be equipped with brakes~~, and except that~~ on the wheels of one (1) axle, and any trailer or ~~semi-trailer~~ semitrailer of less than one thousand five hundred (1,500) pounds unladen weight need not be equipped with brakes. ~~(a)~~ Every farm trailer while being used hauling agricultural products or livestock from farm to storage, marketing or processing plant, or returning therefrom, and used within a radius of fifty (50) miles, shall be exempt from these braking requirements ~~as set forth above~~.

(5~~.~~) One (1) of the means of brake operation shall consist of a mechanical connection from the operating lever, or by ~~spring action or by~~ equivalent means to the brake shoes or bands, and this brake shall be capable of holding the vehicle, or combination of vehicles, stationary under any condition of loading on any upgrade or downgrade upon which it is operated.

(6~~.~~) ~~The b~~Brake shoes operating within or upon the drums on the

vehicle wheels of any motor vehicle may be used for both service and hand operation.

(~~8.~~7) ~~Performance--ability--of--brakes.~~----Every motor vehicle or combination of vehicles, at all times and under all conditions of ~~loading, shall~~, upon application of the service (foot) brake, be capable of decelerating and developing a braking force equivalent to ~~such deceleration according to the minimum requirements set--forth--herein, and--also--of~~ required deceleration, and stopping within the ~~distances~~ requirements set forth herein this subsection:

	Stopping distance in feet	Deceleration in feet per second	Equivalent braking force in percentage of vehicle or combination weight
Passenger vehicles, not including buses	25	17	53.0%
Single-unit vehicles with a manufacturer's gross vehicle weight rating of less than 10,000 pounds	30	14	43.5%
Single-unit, 2-axle vehicles with a manufacturer's gross vehicle weight rating of 10,000 or more pounds	40	14	43.5%
All other vehicles and combinations with a manufacturer's gross vehicle weight rating of 10,000 or more pounds	50	14	43.5%

Compliance with these standards ~~set forth herein~~ shall be determined either ~~(1)~~ by actual road tests conducted on a substantially level, ~~(~~not to exceed a plus or minus one per cent (1%) grade~~)~~, dry, smooth, hard-surfaced road that is free from loose material, ~~and~~ with stopping distances measured from the actual instant braking controls are moved and from an initial speed of twenty (20) miles per hour~~,~~; or else ~~(2)~~ by suitable mechanical tests in a testing lane which recreates ~~such~~ the same conditions~~,~~; or ~~(3)~~ by a combination of both methods.

~~8.--Maintenance--of--brakes.---~~ (8) All brakes shall be maintained in good working order and shall be adjusted to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

SECTION 258. That Section 49-833, Idaho Code, be, and the same is hereby amended to read as follows:

49-833934. BRAKES ON MOTOR-DRIVEN CYCLES. (~~a~~1) The director is authorized to require an inspection of the brake on any motor-driven

cycle and to disapprove any ~~such~~ brake which he finds will not comply with the performance ~~ability~~ standard set forth in section 49-~~832~~933, Idaho Code, or which in his opinion is not so designed or constructed as to insure reasonable and reliable performance in actual use.

(~~b~~2) The director may request the department to refuse ~~to register or may~~ registration for, or suspend or revoke the registration of any vehicle referred to in this section when he determines that the brake ~~thereon~~ the vehicle does not comply with the provisions of this section.

(~~c~~3) No person shall operate on any highway any vehicle referred to in this section in the event the director has disapproved the brake equipment upon ~~such~~ that vehicle or type of vehicle.

49-935 -- 49-936. [RESERVED.]

SECTION 259. That Section 49-835, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~835~~937. MUFFLERS, PREVENTION OF NOISE. (~~a~~1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway. When any motor vehicle was originally equipped with a noise suppressing system or when any motor vehicle is required by law or regulation of this state or the federal government to have a noise suppressing system, that system shall be maintained in good working order ~~and no~~. No person shall disconnect any part of that system except temporarily in order to make repairs, replacements or adjustments, and no person shall modify or alter that system or its operation in any manner, except to conform to the manufacturer's specifications. No person shall knowingly operate and no owner shall knowingly cause or permit to be operated any motor vehicle originally equipped or required by any law or regulation of the state or the federal government to be equipped with a noise suppressing system while any part of that system is disconnected or while that system or its operation is modified or altered in any manner, except to conform to the manufacturer's specifications.

~~"Excessive or unusual noise" as used in this section includes, but is not limited to, any sound made by a passenger motor vehicle or a motorcycle at any time under any condition of grade, speed, acceleration or deceleration, which exceeds ninety-two (92) decibels, or, any lower decibel level that is fixed by law or the rules and regulations regularly adopted by the board of health and welfare, on the A scale of a general radio company No. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of such vehicle or motorcycle as such vehicle or motorcycle passes the soundmeter or is stationed not less than twenty (20) feet from a stationary motor or engine.~~

(~~b~~2) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

(~~c~~3) No person shall modify the exhaust system of a motor vehicle

or a motorcycle in a manner which will amplify or increase the noise of ~~such~~ the vehicle or motorcycle above that emitted by the muffler originally installed on the vehicle by the manufacturer.

(~~d~~4) A showing that the sound made by a passenger motor vehicle or motorcycle exceeds the maximum allowable decibel level shall be prima facie evidence of a violation of sub~~division~~section (~~a~~1) of this section.

(~~e~~5) No person shall sell, offer for sale, or install any noise suppressing system or device which will produce excessive or unusual noise ~~as defined in subsection (a) above~~.

49-938 -- 49-939. [RESERVED.]

SECTION 260. That Section 49-836, Idaho Code, be, and the same is hereby amended to read as follows:

49-836940. MIRRORS. (~~a~~1) Every motor vehicle ~~except motorcycles, motorbikes and other two wheeled vehicles~~ shall be equipped with a mirror so located as to reflect to the ~~driver~~ operator a view of the highway for a distance of at least two hundred (200) feet to the rear of ~~such~~ the vehicle.

(~~b~~2) When a motor vehicle is so loaded or constructed, or is towing a vehicle or trailer which is so loaded or constructed as to obstruct the driver's view straight to the rear ~~thereof~~, then ~~said~~ the motor vehicle shall be equipped with a mirror on the left side and a mirror on the right side so located as to reflect to the ~~driver~~ operator a view of the highway for a distance of at least two hundred (200) feet to the rear of ~~such~~ the vehicle.

49-941 -- 49-942. [RESERVED.]

SECTION 261. That Section 49-837, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~837~~943. WINDSHIELDS ~~MUST~~ TO BE UNOBSTRUCTED AND EQUIPPED WITH WIPERS. (~~a~~1) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of ~~such~~ the vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

(~~b~~2) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be constructed as to be controlled or operated by the driver of the vehicle.

(~~c~~3) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

SECTION 262. That Section 49-837A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~837A~~944. ~~PROHIBITING~~ USE OF CERTAIN APPLICATIONS ON WINDSHIELDS, CERTAIN WINDOWS OR HEADLAMPS OF MOTOR VEHICLES PROHIBITED

-- EXTERIOR MIRRORS -- SALES PROHIBITED ---~~PENALTY~~. (1) Any passenger car, pickup truck, van, panel truck, noncommercial or recreational vehicle which is operated on the highways ~~of this state~~ and has no rear or rear side window or windows, or has a rear window or rear side windows composed of, covered by, or treated with any material, substance, system, or component which, when viewed from the position of the driver, obstructs the view of the driver or makes ~~such~~ the window or windows opaque and nontransparent, shall be equipped with an exterior mirror on each side, so located with respect to the driver's position as to comply with the visibility requirements of section 49-~~836~~940, Idaho Code.

(2) No person shall operate any motor vehicle on the highways of this state on which the windshield or any side window adjacent to or to the front of the position of the driver is composed of, covered by, or treated with any material, substance, system, or component which:

(a) Presents a metallic or mirrored appearance when viewed from outside the vehicle; or

(b) Makes the window opaque and nontransparent or which obstructs the view of the driver when viewed from the position of the driver~~;--except--that--certificates~~. Certificates or other papers which do not obstruct the view of the driver or which are required by law to be displayed may be attached to ~~such~~ the window.

(3) No person shall operate any motor vehicle on the highways ~~of this--state~~ with headlamps which are composed of, covered by, or treated with any material, substance, system, or component which, when ~~such~~ the headlamps are not in operation, is highly reflective or otherwise opaque and nontransparent.

(4) No person ~~or persons~~ shall have for sale, sell, or offer for sale any motor vehicles with windshields, windows, or headlamps that are in violation of this section.

(5) Nothing in this section shall be construed to make illegal the operation or sale of any motor vehicle, the windshield, windows, or headlamps of which are composed of, covered by, or treated with any material, substance, system, or component with which ~~such~~ the motor vehicle was sold when new or could have been equipped for sale when new as standard or optional equipment under any United States government statute or regulation governing ~~such~~ the sale at the time of manufacture.

SECTION 263. That Section 49-838, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~838~~945. SAFETY GLAZING MATERIAL IN MOTOR VEHICLES. ~~(a) On--and after--January--1,-1955-n~~No person shall sell any new motor vehicle ~~as specified herein~~, nor shall any new motor vehicle ~~as specified--herein~~ be registered ~~thereafter~~ unless ~~such~~ the vehicle is equipped with safety glazing material of a type approved by the director wherever glazing material is used in doors, windows, and windshields. ~~The foregoing~~ This provisions shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material shall apply to all glazing material used in doors,

windows, and windshields in the drivers' compartments of such the vehicles.

~~(b)--The--term--"safety-glazing-materials"-means-glazing-materials so-constructed,-treated-or-combined-with-other-materials-as-to--reduce substantially,-in-comparison-with-ordinary-sheet-glass-or-plate-glass, the--likelihood--of-injury-to-persons-by-objects-from-exterior-sources or-by-these-safety-glazing-materials-when-they-may-be-cracked-or--broken.~~

~~(c)--The--director--shall--compile--and-publish-a-list-of-types-of glazing-material-by-name-approved-by-him-as-meeting--the--requirements of--this--section-and-the-director-shall-not-register-after-January-1, 1955-any-motor-vehicle-which-is-subject-to-the-provisions-of-this-section-unless-it-is-equipped-with-an-approved--type--of--safety--glazing material,--and--he--shall--thereafter--suspend-the-registration-of-any motor-vehicle-so-subject-to-this-section-which--he--finds--is--not--so equipped--until-it-is-made-to-conform-to-the-requirements-of-this-section.~~

49-946 -- 49-947. [RESERVED.]

SECTION 264. That Section 49-839, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~839~~948. RESTRICTIONS AS TO TIRE EQUIPMENT. (~~a~~1) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.

(~~b~~2) No person shall operate or move on any highway any motor vehicle, trailer, or ~~semi-trailer~~ semitrailer having any metal tire in contact with the ~~road~~highway.

(~~c~~3) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike, or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire~~,--except--that--it~~. It shall be permissible to use farm machinery with tires having protuberances which will not unduly injure the highway, and except ~~also-that~~ it shall be permissible to use tire chains~~;-provided-further that--built-in~~. Built-in lugs of tungsten carbide or other suitable material of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid, that will not unduly damage the highway, may be inserted if approved by the ~~director-of-law-enforcement~~ board. The ~~Idaho-transportation~~ board shall have the power to revoke any permission for built-in lugs at any time it may determine such the lugs are unduly damaging to the ~~public~~ highways.

~~(d)--The-Idaho-transportation-department-and-local-authorities--in their--respective--jurisdictions-may-in-their-discretion-issue-special permits-authorizing-the-operation-upon-a-highway-of--traction--engines or--tractors--having--movable-tracks-with-transverse-corrugations-upon the-periphery-of-such-movable-tracks-or-farm-tractors--or--other--farm machinery,--the--operation--of-which-upon-a-highway-would-otherwise-be prohibited-under-this-act.~~

SECTION 265. That Section 49-840, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~848~~949. REQUIREMENT AS TO FENDER OR COVERS OVER ALL WHEELS ON MOTOR VEHICLES ---~~PENALTY~~. (~~a~~1) It shall be unlawful for any person to operate~~,~~ or move or any owner to permit to be operated or moved, any motor vehicle, ~~motor~~ truck, ~~motor~~ bus, ~~bus--trailer,--semi-trailer~~ semitrailer or trailer, upon ~~or-over~~ any ~~public~~ highway without having ~~such~~ the vehicle equipped with fenders or covers which may include flaps or splash aprons, over and to the rear of wheels, as follows:

~~1.~~(a) On the rear wheels of every ~~motor~~ truck equipped with a body, ~~motor~~ bus, ~~bus-trailer,-semi-~~trailer or ~~trailer-such~~ semitrailer the fenders or covers shall extend in full width from a point above and forward of the center of the ~~tire-or~~ tires over and to the rear of the ~~wheel-or~~ wheels to a point that is not more than ten (10) inches above the surface of ~~such~~ the highway when ~~such~~ the vehicle is empty.

~~2.~~(b) Behind the rear wheels of every ~~motor~~ truck not equipped with a body ~~such~~ the fenders or covers shall extend downward in full width from a point not lower than halfway between the center of ~~such~~ the wheels and the top of the tires on ~~such~~ the wheels to a point that is not more than ten (10) inches above the surface of ~~such~~ the highway when ~~such~~ the vehicle is empty.

~~3.~~(c) Behind all wheels of every motor vehicle other than ~~motor~~ trucks, ~~motor~~ buses, ~~bus-trailers,-semi-trailers~~ semitrailers, or trailers, ~~such~~ the fenders or covers shall extend in full width from a point above and forward of the center of the tire over and to the rear of the wheel to a point that is not more than twenty (20) inches above the surface of ~~such~~ the highway.

(~~b~~2) Fenders or covers, as used in ~~paragraph (a)~~ subsection (1) of this section, shall be deemed to be of sufficient size and construction as to comply with ~~the~~ those requirements ~~thereof,~~ if constructed as follows:

~~1.~~(a) When measured on the cross sections of the tread of the wheel or on the combined cross sections of the treads of multiple wheels, ~~such~~ the fender or cover extends at least to each side of the width of the tire or of the combined width of the multiple tires, as the case may be; and

~~2.~~(b) ~~Such~~ The fender or cover is constructed as to be capable at all times of arresting and deflecting ~~such~~ dirt, mud, water, or other substance as may be picked up and carried by ~~such--wheel--or~~ wheels.

~~3.~~(c) For school buses if the body extension behind the rear wheels exceeds five (5) feet.

49-950 -- 49-951. [RESERVED.]

SECTION 266. That Section 49-841, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~841~~952. CERTAIN VEHICLES TO CARRY FLARES OR OTHER WARNING

DEVICES. (~~a~~1) No person shall operate any motor truck, passenger bus, or truck tractor upon any highway outside the corporate limits of municipalities at any time ~~from a half hour after sunset to a half hour before sunrise~~ specified in section 49-903, Idaho Code, unless there shall be carried in ~~such~~ the vehicle the following equipment, except as provided in ~~paragraph (b)~~ subsection (2):

~~1.~~(a) At least three (3) flares, or three (3) red electric lanterns, or three (3) portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred (600) feet under normal atmospheric conditions at nighttime.

~~3.~~(b) At least two (2) red-cloth flags, not less than twelve (12) inches square, with standards to support ~~such~~ the flags.

(c) No flare, fusee, electric lantern or cloth warning flag shall be used for the purpose of compliance with the requirements of this section unless ~~such~~ the equipment is of a type which has been submitted to the ~~commissioner~~ board and approved by ~~him~~ it. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section unless it is ~~so~~ designed and constructed ~~as~~ to include two (2) reflecting elements one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within six hundred (600) feet to one hundred (100) feet under normal atmospheric conditions at night when directly in front of lawful upper beams of head lamps, and unless it is of a type which has been submitted to the ~~commissioner~~ board and approved by ~~him~~ it.

~~2. At least three (3) red burning fusees unless red electric lanterns or red portable emergency reflectors are carried.~~

(~~b~~2) No person shall operate at the time and under conditions stated in ~~paragraph (a)~~ subsection (1) any motor vehicle used in the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases, or any motor vehicle using a compressed gas as a fuel unless there shall be carried in ~~such~~ the vehicle three (3) red electric lanterns or three (3) portable red emergency reflectors meeting the requirements of ~~paragraph (a)~~ subsection (1) of this section, and there shall not be carried in any ~~said~~ compressed gas propelled vehicle any flares, fusees, or signal produced by flame.

SECTION 267. That Section 49-842, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~842~~953. DISPLAY OF WARNING DEVICES WHEN VEHICLE DISABLED. (~~a~~1) Whenever any motor truck, passenger bus, truck tractor, trailer, semi-trailer, or pole trailer is disabled upon the traveled portion ~~of any highway~~ or the shoulder ~~thereof~~ of any highway outside of any municipality at any time when lighted lamps are required on vehicles, the driver of ~~such~~ the vehicle shall display the following warning devices upon the highway during the time the vehicle is ~~so~~ disabled on the highway except as provided in ~~paragraph (b)~~ subsection (2):

~~1.~~(a) A lighted fusee, a lighted red electric lantern or a portable red emergency reflector shall be immediately placed at the

traffic side of the motor vehicle in the direction of the nearest approaching traffic.

~~2.~~(b) As soon thereafter as possible, but in any event within the burning period of the fusee (15 minutes), the driver shall place three (3) liquid-burning flares (pot torches), or three (3) lighted red electric lanterns, or three (3) portable red emergency reflectors on the traveled portion of the highway in the following order:

~~(I)~~1. One, approximately two hundred (200) feet from the disabled vehicle in the center of the lane occupied by ~~such~~ the vehicle and toward traffic approaching in that lane.

~~(II)~~2. One, approximately two hundred (200) feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by ~~such~~ the vehicle.

~~(III)~~3. One at the traffic side of the disabled vehicle not less than ten (10) feet rearward or forward ~~thereof~~ in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph ~~(I~~1.~~)~~ of this subsection, it may be used for this purpose.

(~~b~~2) Whenever any vehicle referred to in this section is disabled within five hundred (500) feet of a curve, hill crest, or other obstruction to view, the warning signal in that direction shall be ~~so~~ placed ~~as~~ to afford ample warning to other users of the highway, but in no case less than five hundred (500) feet from the disabled vehicle.

(~~c~~3) Whenever any vehicle of a type referred to in this section is disabled upon any ~~roadway~~ portion of a divided highway during the time that lights are required, the appropriate warning devices prescribed in ~~paragraphs (a) and (c)~~ subsections (1) and (5) of this section shall be placed ~~as follows: O~~one (1) at a distance of approximately two hundred (200) feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one (1) at a distance of approximately two hundred (200) feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; and one (1) at the traffic side of the vehicle and approximately ten (10) feet from the vehicle in the direction of the nearest approaching traffic.

(~~d~~4) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion or the shoulder of a highway ~~or the shoulder thereof~~ outside ~~of~~ any municipality at any time when the display of fusees, flares, red electric lanterns or portable red emergency reflectors is not required, the driver of the vehicle shall display two (2) red flags upon the ~~road~~highway in the lane of traffic occupied by the disabled vehicle, one (1) at a distance of approximately two hundred (200) feet in advance of the vehicle, and one (1) at a distance of approximately two hundred (200) feet to the rear of the vehicle.

(~~e~~5) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any

flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway ~~of--this state~~ at any time or place mentioned in ~~paragraph (a)~~ subsection (1) of this section, the driver of ~~such~~ the vehicle shall immediately display ~~the following warning devices: O~~one (1) red electric lantern or portable red emergency reflector placed on the ~~road~~highway at the traffic side of the vehicle, and two (2) red electric lanterns or portable red reflectors, one (1) placed approximately two hundred (200) feet to the front and one (1) placed approximately two hundred (200) feet to the rear of the disabled vehicle in the center of the traffic lane occupied by ~~such~~ the vehicle. Flares, fusees, or signals produced by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this ~~paragraph~~ subsection.

(~~f~~6) ~~The--f~~Flares, fusees, red electric lanterns, portable red emergency reflectors, and flags to be displayed as required in this section shall conform with the requirements of section ~~49-841 applicable thereto~~ 49-952, Idaho Code.

49-954 -- 49-955. [RESERVED.]

SECTION 268. That Section 49-834, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~834~~956. HORNS AND WARNING DEVICES. (~~a~~1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn, but shall not otherwise use ~~such~~ the horn when upon a highway.

(~~b~~2) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(~~c~~3) It is permissible, but not required ~~that~~ for any ~~commercial~~ vehicle to be equipped with a theft alarm signal device ~~which--is~~, so arranged that it cannot be used by the driver as an ordinary warning signal.

(~~d~~4) Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred (500) feet and of a type approved by the ~~department~~ director, but ~~such~~ the siren shall not be used except when ~~such~~ the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which ~~said~~ the latter events the driver of ~~such~~ the vehicle shall sound ~~said~~ the siren when reasonably necessary to warn pedestrians and other drivers of the approach ~~thereof~~.

49-957 -- 49-958. [RESERVED.]

SECTION 269. That Section 49-844, Idaho Code, be, and the same is hereby amended to read as follows:

49-844959. AIR-CONDITIONING EQUIPMENT. ~~(a)---The---term---"air-conditioning--equipment"--as-used-or-referred-to-in-this-section-shall mean-mechanical-vapor-compression--refrigeration--equipment--which--is used--to-cool-the-driver's-or-passenger-compartment-of-any-motor-vehicle.~~

(b1) ~~Such~~ Air-conditioning equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public and shall not contain any refrigerant which is toxic to persons or which is flammable.

~~(c)--The-director-may-adopt-and-enforce-safety-requirements,--regulations--and--specifications--consistent-with-the-requirements-of-this section-applicable-to-such-equipment-which-shall-correlate--with--and, so--far--as--possible,--conform-to-the-current-recommended-practice-or standard-applicable-to-such-equipment-approved-by-the-society-of-automotive-engineers.~~

(d2) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any ~~such~~ air-conditioning equipment unless it complies with the requirements of this section.

(e3) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless ~~said~~ the equipment complies with the requirements of this section.

49-960 -- 49-961. [RESERVED.]

SECTION 270. That Section 49-849, Idaho Code, be, and the same is hereby amended to read as follows:

49-849962. FOOTRESTS ON MOTORCYCLES AND MOTOR DRIVEN CYCLES. It shall be unlawful for the operator of any motorcycle or motor driven cycle to carry a passenger on ~~said~~ the vehicle unless it is equipped with footrests designed exclusively for the use of a passenger on ~~said~~ the vehicle.

49-963 -- 49-964. [RESERVED.]

SECTION 271. That Section 49-847, Idaho Code, be, and the same is hereby amended to read as follows:

49-847965. MODIFICATION OF VEHICLE TO REDUCE ROAD CLEARANCE BEYOND CERTAIN LIMITS UNLAWFUL. It shall be unlawful to operate any passenger motor vehicle which has been modified from the original design so that any portion of ~~such~~ the vehicle other than the wheels has less clearance from the surface of a level ~~road~~highway than the clearance between the ~~road~~highway and the lowermost portion of any rim of any wheel in contact with ~~such roadway~~ the highway.

CHAPTER 10
WEIGHT, SPEED AND TIRE REGULATIONS

SECTION 272. That Section 49-901, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~901~~1001. ALLOWABLE GROSS LOADS. The gross load imposed on the highway by any vehicle or combination of vehicles shall not exceed the limits in this section. The maximum single axle gross weight shall be twenty thousand (20,000) pounds, the maximum single wheel gross weight shall be ten thousand (10,000) pounds and the maximum gross vehicle or combination weight shall be one hundred five thousand five hundred (105,500) pounds, provided that maximum gross vehicle or combination weight on United States federal interstate and defense highways of this state shall not exceed eighty thousand (80,000) pounds, except as permitted under the provisions of section 49-~~905~~1004, Idaho Code.

(~~a~~1) The total gross weight imposed on the highway by any group of consecutive axles shall be determined by the following formula:

$$W=500((LN/N-1)+12N+36)$$

Where W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L is the distance in feet between the extremes of any group of two (2) or more consecutive axles, and N is the number of axles under consideration.

The formula is modified as illustrated in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000			WHEN NO ALLOWABLE WEIGHT IS LISTED				
6	34,000			FOR ANY AXLE SPACING, APPLY THE				
7	34,000			ALLOWABLE WEIGHT AS LISTED IN THE				
8	34,000	42,000		FIRST COLUMN TO THE LEFT				
9	39,000	42,500						
10	40,000	43,500						
11		44,000						
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500					
15		47,000	52,000					
16		48,000	52,500	58,000				
17		48,500	53,500	58,500				
18		49,500	54,000	59,000				
19		50,000	54,500	60,000				
20		51,000	55,500	60,500	66,000			
21		51,500	56,000	61,000	66,500			
22		52,500	56,500	61,500	67,000			
23		53,000	57,500	62,500	68,000			
24		54,000	58,000	63,000	68,500	74,000		
25		54,500	58,500	64,500	69,000	74,500		
26		55,500	59,500	65,000	69,500	75,000		
27		56,000	60,000	65,000	70,000	75,500		

28	57,000	60,500	65,500	71,500	76,500	82,000
29	57,500	61,500	66,000	71,500	77,000	82,500
30	58,500	62,000	66,500	72,000	77,500	83,000
31	59,000	62,500	67,500	72,500	78,000	83,500
32	60,000	63,500	68,000	73,000	78,500	84,500
33		64,000	68,500	74,000	79,000	85,000
34		64,500	69,000	74,500	80,000	85,500
35		65,500	70,000	75,000	80,500	86,000
36		66,000	70,500	75,500	81,000	86,500
37		66,500	71,000	76,000	81,500	87,000
38		67,500	72,000	77,000	82,000	87,500
39		68,000	72,500	77,500	82,500	88,500
40		68,500	73,000	78,000	83,500	89,000
41		69,500	73,500	78,500	84,000	89,500
42		70,000	74,000	79,000	84,500	90,000
43		70,500	75,000	80,000	85,000	90,500
44		71,500	75,500	80,500	85,500	91,000
45		72,000	76,000	81,000	86,000	91,500
46		72,500	76,500	81,500	87,000	92,500
47		73,500	77,500	82,000	87,500	93,000
48		74,000	78,000	83,000	88,000	93,500
49		74,500	78,500	83,500	88,500	94,000
50		75,500	79,000	84,000	89,000	94,500
51		76,000	80,000	84,500	89,500	95,000
52		76,500	80,500	85,000	90,500	95,500
53		77,500	81,000	86,000	91,000	96,500
54		78,000	81,500	86,500	91,500	97,000
55		78,500	82,500	87,500	92,000	97,500
56		79,500	83,000	87,500	92,500	98,000
57		80,000	83,500	88,000	93,000	98,500
58			84,000	89,000	94,000	99,000
59			85,000	89,500	94,500	99,500
60			85,500	90,000	95,000	100,500
61			86,000	90,500	95,500	101,000
62			87,000	91,000	96,000	101,500
63			87,500	92,000	96,500	102,000
64			88,000	92,500	97,500	102,500
65			88,500	93,000	98,000	103,000
66			89,500	93,500	98,500	103,500
67			90,000	94,000	99,000	104,500
68			90,500	95,000	99,500	105,000
69			91,000	95,500	100,000	105,500
70			92,000	96,000	101,000	
71			92,500	96,500	101,500	
72			93,000	97,000	102,000	
73			93,500	98,000	102,500	
74			94,500	98,500	103,000	
75			95,000	99,000	103,500	
76			95,500	99,500	104,500	
77			96,000	100,000	105,000	
78			97,000	101,000	105,500	
79			97,500	101,500		

80	98,000	102,000
81	98,500	102,500
82	99,000	103,000
83	100,000	104,000
84		104,500
85		105,000
86 or more		105,500

(~~1~~a) The ~~Idaho transportation~~ board may limit the application of the weights authorized in this section as to certain highways which it determines have limited structural capacity of pavements, bridges, or other appurtenances ~~thereto~~. In designating such highways, it may specify a minimum wheelbase for combinations to be operated thereon. It may also designate specific highways or portions ~~thereof~~ on which operation of a combination of vehicles with seven (7), eight (8) or nine (9) axle vehicles will be subject to specified lesser allowable gross weights.

(~~2~~b) Notwithstanding the figures shown in the above table, two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more.

(~~b~~2) The weight limitations set forth in the table above shall not apply to any vehicle, or combination of vehicles when a greater allowed weight in pounds would be permitted such vehicles under the table provided in this subsection, except that with regard to transportation on the United States federal interstate and defense highways of this state, the following table of allowable weights shall apply only to vehicles engaged in the transportation of logs, pulp wood, stull, rough lumber, poles or piling; or to any such vehicle engaged in the transportation of ores, concentrates, sand and gravel and aggregates thereof, in bulk; or to any such vehicle engaged in the transportation of agricultural commodities, including livestock:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds: Vehicles with Three or Four axles	Allowed Load in Pounds: Vehicles with Five or more axles
3 through 12	37,800	37,800
~~4~~	~~37,000~~	~~37,000~~
~~5~~	~~37,000~~	~~37,000~~
~~6~~	~~37,000~~	~~37,000~~
~~7~~	~~37,000~~	~~37,000~~
~~8~~	~~37,000~~	~~37,000~~
~~9~~	~~37,000~~	~~37,000~~
~~10~~	~~37,000~~	~~37,000~~
~~11~~	~~37,000~~	~~37,000~~
~~12~~	~~37,000~~	~~37,000~~
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140

19	64,350	64,3
20	65,450	65,4
21	66,000	66,3
22	66,000	67,2
23	66,000	67,8
24	66,000	68,5
25	66,000	69,1
26	66,000	69,7
27	66,000	70,4
28	66,000	70,9
29	66,000	71,5
30	66,000	72,0
31		72,6
32		73,1
33		73,7
34		74,2
35		74,8
36		75,3
37		75,9
38		76,4
39		77,0
40		77,5
41		78,1
42		78,6
43 and over		79,0

(~~c~~3) In applying the weight limitations imposed in this section, the distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half (1/2) foot the next larger whole number shall be used.

(~~d~~4) The limitations imposed in this section are in addition and supplemental to all other laws imposing limitations upon the size and weight of vehicles.

(~~e~~5) Notwithstanding the other provisions of this chapter, no vehicle, motor vehicle, trailer and/or semitrailer, or combination thereof, may be operated on the public highways of the state under loads which would result in the withholding of funds by operation of controlling federal law as provided in the Federal Aid Highway Act of 1956, as amended.

SECTION 273. That Section 49-902, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~902~~1002. Allowable load per inch width of tire. The maximum allowable load for any vehicle tire operated on any public highway shall not exceed six hundred (600) pounds per inch width of tire. The width of a tire shall be determined by the manufacturer's description marked on the sidewall of the tire. Tires on vehicles manufactured prior to July 1, 1987, may exceed the six hundred (600) pounds per inch width of tire limit subject to a maximum of eight hundred (800) pounds per inch width of tire.

SECTION 274. That Section 49-903, Idaho Code, be, and the same is

hereby amended to read as follows:

49-~~903~~1003. SPEED LIMITS FOR VEHICLES REGULATED ACCORDING TO WEIGHT AND TIRE EQUIPMENT. ~~a~~ It shall be unlawful to operate any vehicle equipped with other than pneumatic tires on a ~~public~~ highway at a rate of speed in excess of twenty (20) miles per hour for vehicles having a gross weight of not more than ten thousand (10,000) pounds, and twelve (12) miles per hour for vehicles having a gross weight of more than ten thousand (10,000) pounds~~;provided, that no vehicle equipped with tires made wholly or partly of metal shall be operated at a speed in excess of six (6) miles per hour and shall be flagged both front and rear of the vehicle, or combination of vehicles~~.

SECTION 275. That Section 49-905, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~905~~1004. PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS. Upon application in writing to the ~~Idaho transportation~~ board or other proper authorities in charge of, or having jurisdiction over a ~~public~~ highway, ~~such~~ the board or authorities may in their discretion issue a special permit to the owner or operator of any vehicle allowing vehicles or loads having a greater weight or size than permitted by law to be moved or carried over and on the ~~public~~ highways and bridges. ~~Such s~~Special permits shall be in writing and may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain ~~such~~ any special conditions and require ~~such~~ any undertaking or other security as the ~~said Idaho transportation~~ board or other proper authority shall deem to be necessary to protect the ~~public~~ highways and bridges from injury, or provide indemnity for any injury to ~~said public~~ highways and bridges or to persons or property resulting from such operation. The owner or operator of an overweight or oversize vehicle shall obtain a permit, or shall establish intent to obtain a permit by contacting a permit office and receiving a permit number before moving the vehicle on the highways. All ~~such~~ special permits or evidence of intent to obtain a permit, shall be carried in the vehicles to which they refer and shall upon demand be delivered for inspection to any peace officer ~~or~~, authorized agent of the ~~Idaho transportation~~ board or any officer or employee charged with the care or protection of the ~~public~~ highways. It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of ~~such~~ special permits and any ~~such~~ violation shall be deemed for all purposes to be a violation of the provisions of this chapter.

SECTION 276. That Section 49-906, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~906~~1005. SPECIAL REGULATIONS AND NOTICE ~~THEREOF~~. Whenever in the judgment of the ~~Idaho transportation~~ board or ~~public~~ authorities in charge of, or having jurisdiction over a ~~public~~ highway, the operation on any ~~state~~ highway or section of highway of vehicles of the

sizes and weights ~~and~~ at ~~the~~ rates of speed permissible by law which will cause damage to the ~~road~~ highway by reason of climatic or other conditions, or will interfere with the safe and efficient use of ~~such~~ the highway by the traveling public, the ~~said--Idaho--transportation~~ board or other ~~public~~ authorities in charge of, or having jurisdiction over a ~~public~~ highway ~~shall~~ have authority to make regulations reducing the permissible sizes, weights or speeds of vehicles operated on that highway for ~~such~~ any periods as may be necessary for the protection of the ~~road~~ highway or for public safety~~;--and--shall--erect--and maintain--signs.~~ Signs designating ~~such~~ those regulations shall be erected and maintained at each end of ~~such~~ the highway or section and at intersections with main traveled ~~roads and~~ highways.

SECTION 277. That Section 49-907, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~907~~1006. RESPONSIBILITY FOR DAMAGE TO HIGHWAY OR BRIDGE. ~~Anything to the contrary herein notwithstanding, t~~The owner and the operator, driver or mover of any vehicle, object or contrivance over a ~~public~~ a highway or bridge, shall be jointly and severally responsible for all damages which ~~said~~ the highway or bridge may sustain as the result of illegally operating or driving or moving ~~such~~ any vehicle, object or contrivance, or as the result of driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight specified in this chapter, but authorized by a temporary permit~~;--and the.~~ The amount of ~~such~~ the damages may be recovered in an action at law by the authorities in control of ~~such~~ the highway or bridge; ~~provided--it.~~ It shall be unlawful for more than one (1) vehicle, motor vehicles, trailer and/or semitrailer, or combination of vehicles with gross weights in excess of those specified in section 49-91001(1) and (2) ~~subdivisions (a) and (b)~~, Idaho Code, to pass at the same time on any bridge with a span of nineteen (19) feet or more posted by the ~~Idaho transportation~~ board for single lane traffic by ~~such~~ those trucks.

SECTION 278. That Section 49-908, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~908~~1007. LIMITING LIABILITY OF AUTHORITIES. No action or proceedings of any nature or description shall lie against the ~~Idaho transportation~~ board ~~or~~, its authorized agents, or any other authorities charged with the administration of this chapter because of their compliance with any of the terms of this chapter ~~or~~, the exercise of any authority, or the performance of any duties granted or prescribed by this chapter.

SECTION 279. That Section 49-911, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~911~~1008. GRANTING PERMISSION FOR TRANSPORTATION OF LOADS OF LOGS, POLES, PILING AND MATERIAL FROM MINES WHICH HAS NOT BEEN FINALLY PROCESSED. With respect to ~~the~~ transportation of logs, poles or piling

by motor vehicle, the ~~Idaho--transportation~~ board or other proper authorities in charge of, or having jurisdiction over a ~~public~~ highway, are ~~hereby~~ authorized to designate and post a highway~~,~~ or section of highway or bridge over which loads of logs, poles, or piling may be transported in continuous operation by motor vehicles in excess of width and length provided by section 49-9~~1~~31010, Idaho Code~~.--Also~~, and to designate and post a highway~~,~~ or section of highway or bridge over which loads of logs, poles, piling or material from mines which has not been finally processed may be transported in continuous operation by motor vehicles in excess of weight provided by section 49-90~~1~~1001, Idaho Code.

The designation and posting of ~~said-public~~ a highway~~,~~ or section of highway or bridge by the ~~Idaho-transportation~~ board or other proper authorities shall state width, length ~~and~~, gross weight and maximum speed of loads that may be transported ~~and-maximum-speed~~. Any motor vehicle complying with width, length and weight allowed by posting of a highway under authority of this ~~act~~ title shall not be required to obtain a permit under section 49-90~~5~~1004, Idaho Code.

SECTION 280. That Section 49-912, Idaho Code, be, and the same is hereby amended to read as follows:

49-9~~1~~21009. CONTRACT FOR BUILDING AND MAINTAINING ROADS. The ~~Idaho--transportation~~ board, the governing board of a county ~~road-system,-municipal-street-system~~, city or highway ~~or--good--roads--system~~ district is authorized to contract with any individual, firm or corporation, state or federal agency or any combination of ~~said~~ parties, to build, rebuild or maintain or contribute financial aid to ~~such~~ the building, rebuilding or maintenance of any section or sections of a ~~public~~ highway to any standard necessary for the transportation by private or contract trucks principally engaged in the transportation of products originating or produced in Idaho, to permit the hauling of heavier gross weights and wider loads than now provided by law, to any extent necessary ~~in-order~~ to accomplish ~~such~~ that maintenance or construction~~;-provided-however,-that-upon~~. Upon application of any of the above mentioned parties for permission to use and operate private or contract trucks for hauling greater gross weights and wider loads than provided by law ~~provided~~, ~~said~~ the board, county, or city or district may make and enter into an agreement with ~~such~~ the applicant permitting ~~such~~ the overload and providing for payment of an additional financial contribution or an agreement to maintain, build or rebuild ~~said~~ the ~~highway for such~~ the additional or extraordinary use, specifically providing~~,~~ where necessary, for reasonable protective restrictions. If in the opinion of the negotiating officials, a bond should be required, then a surety bond shall be furnished. Nothing in this chapter shall be construed to require any public agency to enter into ~~such~~ these contracts or agreements.

SECTION 281. That Section 49-913, Idaho Code, be, and the same is hereby amended to read as follows:

49-9~~1~~31010. SIZE OF VEHICLES AND LOADS. No vehicle shall exceed

the dimensions specified below, except that certain devices determined by the ~~Idaho transportation~~ board as necessary for the safe and efficient operation of motor vehicles, including energy conservation devices, shall be excluded from the calculation of width or length.

(1) The width of a vehicle, including any load thereon, except as noted below, shall not exceed ..... 8 1/2 feet.

(a) The limitations as to size of vehicles stated in this section shall not apply to farm tractors or to implements of husbandry, including any load thereon, and including all equipment used in land leveling operations, when being incidentally operated upon the ~~public~~ highway from one (1) farm operation to another during daylight hours.

(b) Notwithstanding the exemption from width limitation for farm tractors included in paragraph (a) of this subsection, the total outside width of any farm tractor being transported on the interstate system in this state, except as permitted by section 49-9051004, Idaho Code, shall not exceed ..... 9 feet.

(c) A farm tractor or implement of husbandry, when being incidentally transported upon the highway with a width in excess of the limits of paragraphs (a) and (b) of this subsection, must not proceed at a speed in excess of twenty-five (25) miles per hour, must display one (1) eighteen (18) by eighteen (18) inch red flag on the outermost left projection of the tractor or implement being transported, except that the speed restriction of twenty-five (25) miles per hour shall not apply when such tractor or implement of husbandry is being hauled on legal width highway vehicles equipped as required by ~~title 49, Idaho Code~~ law.

(2) The height of a vehicle, including the load thereon, shall not exceed ..... 14 feet.

(3) The length of a vehicle, or vehicle combination, except as noted below, shall not exceed:

(a) When a single motor vehicle ..... 40 feet.

(b) When a trailer or semitrailer, except as noted below ..... 48 feet.

1. Semitrailers operating on routes determined by the ~~Idaho transportation~~ board to have severe curvature, deficient width and/or heavy traffic conditions shall be limited to a distance between kingpin and last axle of not to exceed ..... 39 feet.

2. The length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer, shall be excluded from the calculation of a trailer length.

(c) When a motor vehicle and one or more trailers ..... 75 feet.

(d) When a combination of semitrailer and trailer, including the connecting dolly tongue, or the length of the two (2) semitrailers excluding the length of the tractor in such double-trailer combination ..... 60 feet.

(e) When a dromedary tractor with semitrailer, stinger-steered by having the kingpin located five (5) feet to the rear of the centroid of the rear axle(s) ..... 75 feet.

(f) When a dromedary tractor with semitrailer, not meeting the

stinger-steer requirement as defined in (e) above ..... 65 feet.
(g) When an auto transporter, stinger-steered as defined in (e) above, including front and rear overhang of load ..... 75 feet.
Semitrailer portion of auto transporter ..... 48 feet.
(h) When a tractor with stinger-steered pole trailer or log dolly, connected by a reach or pole, or a combination used for transporting long loads such as poles, pipes, logs or structural members generally capable of sustaining themselves as beams between supporting bunks or connections ..... 75 feet.
(4) The overhang or extension of a load shall not extend:
(a) Beyond the front of a vehicle, more than ..... 4 feet.
(b) Beyond the last axle, more than ..... 15 feet.
(c) Beyond the left fender of a passenger vehicle, more than ..... 0 feet.
(d) Beyond the right fender of a passenger vehicle, more than ..... 6 inches.
(e) To the front and rear combined of an auto transporter, more than ..... 7 feet.
(5) Noncargo-carrying devices necessary for the safe and efficient~~,~~ operation of the vehicle, as determined by the ~~Idaho transportation~~ board, shall not be included in measurement for length.
(6) No combination shall include more than three (3) units.
(7) Vehicle combinations consisting of not more than four (4) vehicle units may be operated by permit, with an overall length in excess of the limits of subsection (3) of this section, on routes designated for such operations by the ~~Idaho-transportation~~ board with an overall combination length not to exceed one hundred and five (105) feet.

SECTION 282. That Section 49-916, Idaho Code, be, and the same is hereby amended to read as follows:

49-9~~1~~61011. EXCEPTION TO WEIGHT AND SIZE LIMITATIONS. (1~~.~~) If federal law permits ~~Idaho~~ the several states to establish size and weight limits in excess of those prescribed by sections 49-91001~~,~~ ~~Idaho---Code,~~ and ~~section~~ 49-9~~1~~31010, 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 semitrailers, or combinations thereof, of a size or weight in excess of the limits prescribed in sections 49-91001~~,-Idaho-Code,~~ and ~~section~~ 49-9~~1~~31010, 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 40-312, Idaho Code, or by issuance of permits pursuant to section 49-9051004, Idaho Code, except that the maximum size and weight limits authorized by this section apply.

SECTION 283. That Section 49-918, Idaho Code, be, and the same is hereby repealed.

49-9~~1~~81012. TEMPORARY MOVEMENT OF HARVESTING MACHINERY AFTER

DARKNESS. Notwithstanding any other provision of law, harvesting machinery may be moved during hours of darkness when ~~said~~ that machinery is equipped, in addition~~,~~ to those requirements set forth in chapter ~~09~~, title 49, Idaho Code, with a flashing amber-colored light at least four (4) inches in diameter clearly visible from in front of the machinery, a flashing red-colored light at least four (4) inches in diameter clearly visible from the back of ~~said~~ the machinery, and ~~said~~ the machinery is preceded by a well-lighted pilot vehicle or flagman at least three hundred (300) feet in advance of ~~such~~ the vehicle to give warning of the approach of ~~said~~ the equipment and followed by a well-lighted pilot vehicle or flagman at least three hundred (300) feet behind ~~such~~ the vehicle to give warning of the presence of ~~said~~ the equipment on the ~~roadway ahead~~ highway.

SECTION 284. That Section 49-909, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~909~~1013. PENALTIES FOR VIOLATIONS. It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this chapter, and any person convicted of such violation shall be subject to punishment by a fine of not to exceed one hundred dollars ($100) or by imprisonment in the county jail for not more than thirty (30) days and to the cancellation of registration of each motor vehicle operated in violation of any order for the regulation or suspension of traffic issued under the authority of this chapter and the cancellation of the license of the operator of such vehicle.

CHAPTER 11
CARAVANING OF MOTOR VEHICLES

SECTION 285. That Sections 49-1119, 49-1125 and 49-1126, Idaho Code, be, and the same are hereby repealed.

SECTION 286. That Section 49-1802, Idaho Code, be, and the same, is hereby amended to read as follows:

49-~~1802~~1101. PERMIT REQUIRED -- DISPLAY -- DISTANCE BETWEEN CARS IN CARAVAN. No person shall use any highway ~~in--this state~~ for caravaning motor vehicles unless ~~and until there shall first have been secured from the Idaho transportation department~~ he obtains a special permit ~~as to~~ from the department for each vehicle ~~so~~ caravaned ~~for use of--the highways of this state in caravaning such vehicle, which~~. The permit shall be displayed by posting ~~the same~~ it upon the windshield of each ~~such~~ vehicle or in another prominent place ~~thereon~~, where it may be ~~readily legible~~ readable. It shall be unlawful to operate a motor vehicle or group of motor vehicles in caravaning unless a space of at least one hundred fifty (150) feet shall be maintained at all times ~~be maintained~~ between each vehicle or group of vehicles being ~~so~~ caravaned~~,--a--group--being--defined as one (1) motor vehicle operated under its own motive power with one (1) motor vehicle in tow,--or--one (1)--or--more--motor--vehicles in tow in saddlemount fashion, provided such saddlemounting meets the requirements therefor prescribed by--the~~

~~United-States-department-of-transportation.~~

SECTION 287. That Section 49-1803, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1003~~1102. FEE FOR PERMIT -- COMPLIANCE WITH TRANSPORTATION LAWS. ~~As--a-condition-precedent-to-the-issuance-of-any-special-permit provided-for-in-section-49-1002,-Idaho-Code,-t~~The ~~Idaho-transportation~~ department shall ~~charge-and~~ collect a fee of twelve dollars ($12.00) for each motor vehicle for which a caravaning permit ~~may~~ is to be issued, whether the vehicle be operated under its own power or in tow of another motor vehicle~~;-provided,-however,-that-no~~. No permit shall be issued by the ~~Idaho-transportation~~ department unless and until the applicant ~~therefor--shall-have~~ has produced evidence to the satisfaction of the ~~Idaho-transportation~~ department that all of the laws ~~of this--state~~ relating to transportation of property upon the highways for hire ~~shall~~ have been complied with.

SECTION 288. That Section 49-1804, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1004~~1103. PERMIT NONTRANSFERABLE -- DURATION -- CONTENTS. No permit issued ~~under-this-act~~ for caravaning motor vehicles shall be transfer~~able either as bet~~ween persons or as to the vehicle for which ~~it-is~~ issued, and shall only be valid for the trip ~~to-be~~ specified in ~~said~~ the particular permit~~;-and-in~~. In no event shall ~~such~~ the permit be valid for a period of more than thirty (30) days after it ~~shall have--been~~ is issued. ~~Such~~ The permit shall contain ~~such~~ information ~~and~~, be in ~~such~~ a form, and ~~shall-be~~ issued under ~~such~~ rules and regulations ~~as-may-be~~ prescribed ~~by-said-Idaho--transportation--department~~ the board. ~~Such~~ The permit shall be conditioned upon the permittee's ~~complying~~ compliance with all of the laws of the state of Idaho and of the United States.

SECTION 289. That Section 49-1805, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1005~~1104. FEE FOR PERMIT IN LIEU OF OTHER FEES -- EXCEPTION. The fee paid for any caravaning permit ~~issued-under-this-act~~ shall be in lieu of all other registration ~~fees~~ and license fees for the use of ~~public~~ highways ~~in-this-state~~ by any motor vehicle during the period that ~~such~~ the motor vehicle may be operated ~~under--and~~ in accordance with ~~such~~ the permit upon the ~~public~~ highways ~~in-this-state;-provided, however,-that-nothing~~. Nothing in the provisions of this section shall exempt the owner or operator of ~~such~~ the vehicle from compliance, except with respect to fees or license charges, with all of the laws of this state ~~now-or-hereafter-adopted~~, relating to the transportation of property for hire.

SECTION 290. That Section 49-1807, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1807~~1105. ADMINISTRATION OF LAW. The department of law enforcement and the ~~Idaho~~ transportation department are charged with the enforcement of the provisions of this ~~act~~ chapter. The ~~Idaho~~ transportation department is charged with the administration of the provisions of this ~~act~~ chapter.

CHAPTER 12
MOTOR VEHICLE FINANCIAL RESPONSIBILITY

SECTION 291. That Section 49-1502, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1502~~1201. DEPARTMENT TO ADMINISTER -- COURT REVIEW. (~~a~~1) The department shall administer and enforce the provisions of this ~~act and may make rules and regulations necessary for its administration~~ chapter.

(~~b~~2) Any person aggrieved by an order or an act of the department, may, within ten (10) days after notice ~~thereof,~~ file a petition in the district court for Ada County for a review. ~~thereof; but t~~The filing of such a petition shall not suspend the order or act unless a stay ~~thereof~~ shall be allowed by a judge of ~~said~~ the court pending final determination of the review. The court shall summarily hear the petition and may make any appropriate order or decree.

SECTION 292. That Section 49-1503, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1503~~1202. DEPARTMENT TO FURNISH OPERATING RECORD. The department shall upon request furnish any person a certified abstract of the operating record of any person subject to the provisions of this ~~act, which~~ chapter. The abstract shall also fully designate the motor vehicles, if any, registered in the name of ~~such~~ the person~~, and~~. ~~I~~If there ~~shall be~~ is no record of any conviction of ~~such~~ the person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by ~~such~~ that person, the department shall so certify. ~~Such~~ These abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident.

SECTION 293. That Section 49-1512, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1512~~1203. COURTS TO REPORT NONPAYMENT OF JUDGMENTS -- NONRESIDENTS ~~-- JUDGMENTS AGAINST -- REPORT~~. (~~a~~1) Whenever any person fails within sixty (60) days to satisfy ~~any~~ a judgment, it shall be the duty of the clerk of the court, or of the judge of a court, which has no clerk, in which ~~any such~~ a judgment is rendered within this state, to forward to the department immediately after the expiration of ~~said~~ the sixty (60) days, a certified copy of ~~such~~ the judgment.

(~~b~~2) If the defendant named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of

the issuance of operator's and chauffeur's licenses ~~and registration certificates~~ of the state of which the defendant is a resident.

SECTION 294. That Section 49-1513, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1513~~1204. SUSPENSION FOR NONPAYMENT OF JUDGMENTS. (~~b~~1) Upon ~~the~~ receipt of a certified copy of a judgment, the department shall ~~forthwith~~ suspend, except as provided in section 49-~~1516~~1207, Idaho Code, the operator's or chauffeur's license and ~~registration--and~~ the nonresident's operating privilege of any person against whom ~~such~~ the judgment was rendered.

(~~b~~2) If the judgment creditor consents in writing, in ~~such~~ a form as the department may prescribe, that the judgment debtor be allowed an operator's or chauffeur's license ~~and registration~~ or nonresident's operating privilege, they ~~same~~ may be allowed by the department, in its discretion, for six (6) months from the date of ~~such~~ consent and thereafter until ~~such~~ consent is revoked in writing, notwithstanding default in the payment of ~~such~~ the judgment, or of any installments ~~thereof~~ prescribed in section 49-~~1516~~1207, Idaho Code, provided the judgment debtor furnishes proof of financial responsibility.

SECTION 295. That Section 49-1514, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1514~~1205. SUSPENSION TO CONTINUE UNTIL JUDGMENTS PAID AND PROOF GIVEN. ~~Such~~ The operator's or chauffeur's license~~,--registration~~ and nonresident's operating privilege shall, except as provided in section 49-~~1516~~1207, Idaho Code, remain ~~so~~ suspended and shall not be renewed, nor shall any ~~such~~ operator's or chauffeur's license ~~or registration~~ be ~~thereafter~~ issued in the name of ~~such~~ that person, including any ~~such~~ person not previously licensed, unless and until every ~~such~~ judgment is stayed, satisfied or discharged.~~,--except--that a~~A discharge in bankruptcy shall not be deemed a satisfaction of ~~such~~ judgment~~;-and-until-the-said~~ unless the person gives proof of financial responsibility.

SECTION 296. That Section 49-1515, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1515~~1206. PAYMENTS SUFFICIENT TO SATISFY REQUIREMENTS. Judgments in excess of the amounts specified in section 49-~~1501-(j)~~117, Idaho Code, shall, for the purpose of this ~~act~~ chapter only, be deemed satisfied when payments in the amounts ~~so~~ specified have been credited ~~thereon;-provided-however,-payments.~~ Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the respective amount specified.

SECTION 297. That Section 49-1516, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1516~~1207. INSTALLMENT PAYMENT OF JUDGMENTS -- DEFAULT. (~~a~~1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which ~~such~~ judgment was rendered for the privilege of paying ~~such~~ the judgment in installments and the court may, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, ~~may~~ so order and fix the amounts and times of payment of the installments.

(~~b~~2) The department shall not suspend an operator's or chauffeur's license~~,-registration~~ or a nonresident's operating privilege, and shall restore any operator's or chauffeur's license~~,~~ ~~registration~~ or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains ~~such~~ an order permitting the payment of ~~such~~ the judgment in installments, and while the payment of any ~~said~~ installment is not in default.

(~~c~~3) In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of ~~such~~ default, the department shall ~~forthwith~~ suspend the operator's or chauffeur's license~~,-registration~~ or nonresident's operating privilege of the judgment debtor until ~~such~~ the judgment is satisfied, as provided in this ~~act~~ chapter.

SECTION 298. That Section 49-1517, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1517~~1208. PROOF REQUIRED UPON CERTAIN CONVICTIONS. ~~(a)--Whenever-the-department,-under-any-law-of-this-state,-suspends-or revokes-the-license-of-any-person-upon-receiving-record-of--a--conviction-or-a-forfeiture-of-bail,-the-director-shall-also-suspend-the-registration--for--all-motor-vehicles-registered-in-the-name-of-such-person,-except-that-he-shall-not-suspend-such-registration,-unless-otherwise-required-by-law,-if-such-person-has--previously--given--or--shall immediately--give-and-thereafter-maintain-proof-of-financial-responsibility-with-respect-to-all-motor-vehicles-registered-by--such--person.~~

~~(b)--Such--license--and--registration--shall--remain--suspended-or revoked-and-shall-not-at-any-time-thereafter-be-renewed-nor-shall--any license-be-thereafter-issued-to-such-person,-nor-shall-any-motor-vehicle-be-thereafter-registered-in-the-name-of-such-person-until-he-shall give-and-thereafter-maintain-proof-of-financial-responsibility.~~

(~~c~~1) If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of the license, or for operating a motor vehicle upon the highways without being licensed to do so, ~~or-for-operating-an-unregistered motor-vehicle-upon-the-highways,~~ no operator's or chauffeur's license shall be thereafter issued to ~~such~~ that person ~~and-no-motor-vehicle shall-continue-to-be-registered-or-thereafter--be--registered--in--the name--of--such--person~~ until he ~~shall~~ gives and thereafter maintains proof of financial responsibility.

(~~d~~2) Whenever the department or a court suspends, or the department revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, ~~such~~ the privilege shall remain so

suspended or revoked unless such the person shall have previously given or shall immediately give and maintain proof of financial responsibility.

SECTION 299. That Section 49-1518, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1518~~1209. ALTERNATE METHODS OF GIVING PROOF. Proof of financial responsibility shall be furnished for each motor vehicle registered by any person required to give such proof and may be given by filing:

(~~a~~1) A certificate of insurance as provided in section 49-~~1519~~1210 or ~~section~~ 49-~~1520~~1211, Idaho Code; or

(~~b~~2) A bond as provided in section 49-~~1524~~1215, Idaho Code; or

(~~c~~3) A certificate of deposit of money or securities as provided in section 49-~~1525~~1216, Idaho Code; or

(~~d~~4) A certificate of self-insurance as provided in section 49-~~1534~~1224, Idaho Code.

SECTION 300. That Section 49-1519, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1519~~1210. CERTIFICATE OF INSURANCE AS PROOF. (~~a~~1) Proof of financial responsibility may be furnished by filing with the department the written certificate of any insurance carrier duly authorized to do business in this state on a form approved by the department certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. ~~Such~~ The certificate shall give the effective date of ~~such~~ the motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered ~~thereby~~ that policy, unless ~~such~~ the policy is issued to a person who is not the owner of a motor vehicle.

(~~b~~2) No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless the motor vehicle is so designated in such a certificate.

SECTION 301. That Section 49-1520, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1520~~1211. CERTIFICATE FURNISHED BY NONRESIDENT AS PROOF. (~~a~~1) The nonresident owner of a motor vehicle not registered in ~~this--state~~ Idaho may give proof of financial responsibility by filing with the department on a form approved by it a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in ~~such~~ the certificate is registered, or if ~~such~~ the nonresident does not own a motor vehicle, then in the state in which the insured resides, provided ~~such~~ the certificate otherwise conforms to the provisions of this ~~act~~ chapter, and the department shall accept the ~~same~~

certification upon condition that ~~said~~ the insurance carrier complies with the following provisions with respect to the policies so certified:

~~1.~~(a) ~~Said~~ The insurance carrier shall execute a power of attorney authorizing the department to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state;

~~2.~~(b) ~~Said~~ The insurance carrier shall agree in writing that ~~such~~ the policies shall be deemed to conform with the laws of ~~this state~~ Idaho relating to the terms of motor vehicle liability policies issued ~~herein~~ Idaho.

(b2) If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any ~~said~~ undertakings or agreements, the department shall not thereafter accept as proof any certificate of ~~said~~ the carrier whether ~~theretofore~~ previously filed or thereafter tendered as proof, so long as ~~such~~ the default continues.

SECTION 302. That Section 49-1521, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1521~~1212. ~~"MOTOR--VEHICLE--LIABILITY--POLICY"------DEFINED----~~ EXPRESSED, PERMITTED AND IMPLIED PROVISIONS OF MOTOR VEHICLE LIABILITY POLICY. ~~(a)-A-"motor-vehicle-liability-policy"-as-said-term--is--used in-this-act-shall-mean-an-owner's-or-an-operator's-policy-of-liability insurance,--certified-as-provided-in-section-49-1519-or-49-1520,-Idaho Code,-as-proof-of-financial--responsibility,--and--issued,--except--as otherwise--provided--in--section--49-1520,-Idaho-Code,-by-an-insurance carrier-duly-authorized-to-transact-business-in-this-state,-to-or--for the-benefit-of-the-person-named-therein-as-insured.~~

(b1) ~~Such~~ An owner's policy of liability insurance~~.~~ shall:

~~1.~~(a) ~~Shall--d~~Designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

~~2.~~(b) ~~Shall--i~~Insure the person named therein and any other person, as insured, using any such described ~~motor-vehicle--or~~ motor vehicles with the express or implied permission of ~~such~~ the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of ~~such~~ the ~~motor-vehicle-or~~ motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each ~~such~~ motor vehicle, as ~~follows:--twenty-five-thousand-dollars-($25,000)-because-of-bodily injury-to-or-death-of-one-(1)-person-in-any-one-(1)-accident--and, subject--to--said-limits-for-one-(1)-person-fifty-thousand-dollars ($50,000)-because-of-bodily-injury-to-or-death-of-two-(2)-or--more persons--in--any--one--(1)--accident,-and-fifteen-thousand-dollars ($15,000)-because-of-injury--to--or--destruction--of--property--of others--in--any-one-(1)-accident~~ provided in section 49-117, Idaho Code.

~~(c2)~~ ~~Such~~ An operator's policy of liability insurance shall insure the person named as insured therein against loss from the lia-

bility imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth ~~above~~ in subsection (1) of this section with respect to an owner's policy of liability insurance.

(~~d~~3) ~~Such~~ A motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be indorsed that insurance is provided ~~thereunder~~ in accordance with the coverage defined in this ~~act~~ chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this ~~act~~ chapter.

(~~e~~4) ~~Such~~ A motor vehicle liability policy shall not insure any liability under any workmen's compensation law as provided in title 72, Idaho Code, nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any ~~such~~ described motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(~~f~~5) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

~~1.~~(a) The policy may not be canceled or annulled as to ~~such~~ any liability by any agreement between the insurance carrier and the insured after the occurrence of any injury or damage covered by ~~said~~ the motor vehicle liability policy.

~~2.~~(b) ~~The s~~Satisfaction by the insured of a judgment for ~~such~~ injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of ~~such~~ the injury or damage.

~~3.~~(c) The insurance carrier shall have the right to settle any claim covered by the policy, and if ~~such~~ the settlement is made in good faith, the amount ~~thereof~~ shall be deductible from the limits of liability specified in ~~paragraph~~ subsection (1)(b) ~~2 hereof~~ of this section.

~~4.~~(d) The policy~~,--the~~ and its written application ~~therefor~~, if any, and any rider or indorsement which does not conflict with the provisions of ~~the act~~ this chapter shall constitute the entire contract between the parties.

(~~g~~6) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and ~~such~~ any excess or additional coverage shall not be subject to the provisions of this ~~act~~ chapter. With respect to a policy which grants ~~such~~ an excess of additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(~~h~~7) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this ~~act~~ chapter.

(~~i~~8) Any motor vehicle liability policy may provide for the pro-

rating of the insurance ~~thereunder~~ with other valid and collectible insurance.

(~~j~~9) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet ~~such~~ the requirements of this chapter.

(~~k~~10) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

SECTION 303. That Section 49-1522, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1522~~1213. NOTICE OF CANCELLATION OR TERMINATION OF CERTIFIED POLICY. When an insurance carrier has certified a motor vehicle liability policy under section 49-~~1519~~1210, or 49-1211, Idaho Code, ~~or--a policy--under--section-49-1520,-Idaho-Code,~~ the insurance so certified shall not be cancelled or terminated until at least ten (10) days after a notice of cancellation or termination of the insurance so certified shall be filed with the department~~,-except-that-such-a~~. A policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 304. That Section 49-1523, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1523~~1214. NOT TO AFFECT OTHER POLICIES. (~~a~~1) This ~~act~~ chapter shall not be held to apply to or affect policies of ~~automobile~~ motor vehicle insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if they contain an agreement or are indorsed to conform to the requirements of this ~~act~~ chapter, may be certified as proof of financial responsibility under this ~~act~~ chapter.

SECTION 305. That Section 49-1524, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1524~~1215. BOND AS PROOF. (~~a~~1) Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact~~-business-~~within this state, or a bond with at least two (2) individual sureties each owning real estate within ~~this-state~~ Idaho, which real estate shall be scheduled in the bond approved by a judge of a court of record~~,-which-said~~. The bond shall be conditioned for payment of the amounts specified in section 49-~~1501~~117, Idaho Code. ~~Such~~ The bond shall be filed with the department and shall not be cancelable except after ten (10) days' written notice to the department. ~~Such~~ The bond shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed ~~such~~ the bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of prop-

erty, including the loss of use ~~thereof~~, resulting from the ownership, maintenance, use or operation of a motor vehicle after ~~such~~ the bond was filed, upon the filing of notice to that effect by the department in the office of the proper clerk or court of the county or city where ~~such~~ the real estate shall be located, as provided in chapter 8, title 55, Idaho Code.

(~~b~~2) If ~~such~~ a judgment, rendered against the principal on ~~such~~ the bond, shall not be satisfied within sixty (60) days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense~~,~~ bring an action ~~or actions~~ in the name of the state against the company or persons executing ~~such~~ the bond, including an action or proceedings to foreclose any lien that may exist upon the real estate of a person who has executed ~~such~~ the bond. In the foreclosure of the lien mentioned herein, the provisions ~~for~~ of chapter 1, title 6, Idaho Code, for the foreclosure of real estate mortgages shall apply as far as possible.

SECTION 306. That Section 49-1525, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1525~~1216. MONEY OR SECURITIES AS PROOF. (~~a~~1) Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named ~~therein~~ it has deposited with him fifty thousand dollars ($~~25~~0,000) in cash, or securities ~~such~~ as may legally be purchased by savings banks or for trust funds of a market value of fifty thousand dollars ($~~25~~0,000). The state treasurer shall not accept any ~~such~~ deposit and issue a certificate ~~therefor~~ and the ~~commissioner~~ department shall not accept ~~such~~ a certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(~~b~~2) ~~Such~~ The deposit shall be held by the state treasurer to satisfy, in accordance with the provisions of this ~~act~~ chapter, any execution on a judgment issued against ~~such~~ the person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use ~~thereof~~, resulting from the ownership, maintenance, use or operation of a motor vehicle after ~~such~~ the deposit was made. Money or securities ~~so~~ deposited shall not be subject to attachment or execution unless ~~such~~ the attachment or ~~examination~~ execution shall arise out of a suit for damages as ~~aforesaid~~ provided in this section.

SECTION 307. That Section 49-1526, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1526~~1217. OWNER MAY GIVE PROOF FOR OTHERS. Whenever any person required to give proof of financial responsibility is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the department shall accept proof given by ~~such~~ the owner in lieu of proof by ~~such~~ the other person to permit ~~such~~ that other person to operate a motor

vehicle for which the owner has given proof as ~~herein--provided~~ required. The department shall designate the restrictions imposed by this section on the face of ~~such~~ the person's license.

SECTION 308. That Section 49-1527, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1527~~1218. SUBSTITUTION OF PROOF. The department shall consent to the cancellation of any bond or certificate of insurance, or the department shall direct and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this ~~act~~ chapter.

SECTION 309. That Section 49-1528, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1528~~1219. OTHER PROOF MAY BE REQUIRED. Whenever any proof of financial responsibility filed under the provisions of this ~~act~~ chapter no longer fulfills the purposes for which required, the department shall ~~for the purpose of this act,~~ require other proof as required by this ~~act~~ chapter and shall suspend the operator's or chauffeur's license and motor vehicle registration or the nonresident's operating privilege pending the filing of ~~such~~ other proof.

SECTION 310. That Section 49-1529, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1529~~1220. DURATION OF PROOF -- WHEN PROOF MAY BE CANCELLED OR RETURNED. (~~a~~1) The department shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the department shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this ~~act as proof of financial responsibility~~ chapter, or the department shall waive the requirement of filing proof, in any of the following events:

~~1.~~(a) At any time after three (3) years from the date ~~such~~ the proof was required when, during the three (3) year period preceding the request, the department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the operator's or chauffeur's license~~, registration~~ or nonresident's operating privilege of the person by or for whom the proof was furnished; or

~~2.~~(b) In the event of the death of the person on whose behalf ~~such~~ the proof was filed or the permanent incapacity of ~~such~~ the person to operate a motor vehicle; or

~~3.~~(c) In the event the person who has given proof surrenders his operator's or chauffeur's license ~~and registration~~ to the department.

(b2) ~~Provided, however, that~~ The department shall not consent to the cancellation of any bond or the return of any money or securities

in the event any action for damages upon a liability covered by such the proof is then pending, or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such the bond or deposited such the money or securities has, within one (1) year immediately preceding such the request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such the facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such the injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

(c3) Whenever any person whose proof has been canceled or returned under--subdivision--three--(3) applies for an operator's or chauffeur's license within a period of three (3) years from the date proof was originally required, any--such the application shall be refused unless the applicant shall reestablish such proof for the remainder of such the three (3) year period.

SECTION 311. That Section 49-1530, Idaho Code, be, and the same is hereby amended to read as follows:

49-1530 1221. TRANSFER OF REGISTRATION TO DEFEAT PURPOSE -- PROHIBITED. If an owner's registration has been suspended hereunder the provisions of this chapter, such that registration shall not be transferred nor the motor vehicle in respect of which such the registration was issued registered in any other name until the commissioner director is satisfied that such the transfer of registration is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this act chapter. Nothing in this section shall be held construed to apply to or affect the registration of any motor vehicle sold by a person who, pursuant to the terms or conditions of any written instrument giving a right of repossession, has exercised such that right and has repossessed such that motor vehicle from a person whose registration has been suspended under the provisions of this act chapter.

SECTION 312. That Section 49-1531, Idaho Code, be, and the same is hereby amended to read as follows:

49-1531 1222. SURRENDER OF OPERATOR'S OR CHAUFFEUR'S LICENSE AND REGISTRATION. Any person whose operator's or chauffeur's license or registration shall have been suspended as herein provided in this chapter, or whose policy of insurance or bond, when required under this act chapter, shall have been canceled or terminated, or who shall neglect to furnish other proof upon request of the department, shall immediately return his license and registration to the department. If any person shall fail to return to the department the license or registration as provided--herein required, the department shall forthwith direct any peace officer to secure its possession thereof and to return the same license to the department.

SECTION 313. That Section 49-1533, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1533~~1223. EXCEPTIONS FROM ~~ACT~~ CHAPTER. This ~~act~~ chapter shall not apply with respect to any motor vehicle owned by the United States, ~~this~~ the state, ~~or any political subdivision of this state or~~ any municipality ~~therein~~ or other political subdivision.

SECTION 314. That Section 49-1534, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1534~~1224. SELF-INSURERS. (~~a~~1) Any person in whose name more than twenty-five (25) motor vehicles are registered, or engaged in the operation of a railroad, street railway system or public utility subject to the regulation of the public utilities commission irrespective of the number of vehicles registered, may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department ~~as provided in paragraph (b)~~.

(~~b~~2) The department may, in its discretion, upon the application of such a person, issue a certificate of self-insurance when the department is satisfied that ~~such~~ the person is possessed and will continue to be possessed of ability to pay judgments obtained against ~~such~~ that person.

(~~c~~3) Upon not less than five (5) days' notice and a hearing pursuant to ~~such~~ the notice, the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty (30) days after ~~such~~ a judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

~~(d) Any person engaged in the operation of a railroad, street railway system or public utility subject to the regulation of the public utilities commission irrespective of the number of vehicles registered.~~

SECTION 315. That Section 49-1535, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1535~~1225. ASSIGNED RISK PLANS. After consultation with insurance companies authorized to issue automobile liability policies in this state, the ~~commissioner~~ director of insurance shall approve ~~a~~ reasonable ~~plan or~~ plans for the equitable apportionment among ~~such~~ those companies of applicants for ~~such~~ policies and for motor vehicle liability policies who are in good faith entitled to but are unable to procure ~~such~~ policies through ordinary methods. When ~~any such~~ a plan has been approved, all ~~such~~ those insurance companies shall subscribe thereto and participate ~~therein~~ the plan. Any applicant for ~~any such~~ a policy, any person insured under ~~any~~ such a plan, and any insurance company affected, may appeal to the ~~commissioner~~ director of insurance from any ruling or decision of the manager or committee designated to operate ~~such~~ the plan. Any person aggrieved hereunder by any order or act of the ~~commissioner~~ director of insurance may, within ten (10) days after notice ~~thereof~~ it, file a petition in the district court of

Ada County, Idaho, for a review thereof. The court shall summarily hear the petition and may make an appropriate order or decree.

SECTION 316. That Section 49-1537, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1537~~1226. ~~ACT~~ CHAPTER NOT TO PREVENT OTHER PROCESS. Nothing in this ~~act~~ chapter shall be construed as preventing the plaintiff in any action at law from relying for relief upon other processes provided by law.

49-1227 -- 49-1228. [RESERVED.]

SECTION 317. That Section 49-233, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~233~~1229. REQUIRED MOTOR VEHICLE INSURANCE. (~~a~~1) Every owner of a motor vehicle which is registered and operated in Idaho by the owner or with his permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of ~~a motor vehicle or~~ motor vehicles described therein in an amount not less than that required by section 49-~~1521~~1117, Idaho Code, and shall demonstrate the existence of any other coverage required by this title ~~49, Idaho Code~~, or a certificate of self-insurance issued by the department pursuant to section 49-~~1534~~1224, Idaho Code, for each motor vehicle to be registered.

(~~b~~2) A motor vehicle owner who prefers to post an indemnity bond with the director of the department of insurance in lieu of obtaining a policy of liability insurance may do so. Such bond shall guarantee that any loss resulting from liability imposed by law for bodily injury, death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance and use of the motor vehicle sought to be registered shall be paid within thirty (30) days. ~~Such~~ The indemnity bond shall guarantee payment in an amount not less than fifty thousand dollars ($50,000) for any one (1) accident of which fifteen thousand dollars ($15,000) is for property damage, for each vehicle registered up to a maximum of one hundred twenty thousand dollars ($120,000) for five (5) or more vehicles.

(3) Any bond given in connection with this ~~act~~ chapter shall be, and shall be construed to be, a continuing instrument and shall cover the period for which the motor vehicle is to be registered and operated. Such bond shall be on a form approved by the director of insurance with a surety company authorized to do business in the state.

(4) In addition to any motor vehicle insurance required by the provisions of this chapter, any motor carrier operating under authority of a permit issued by the public utilities commission shall comply with the insurance requirements of section 61-804, Idaho Code.

SECTION 318. That Section 49-234, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~234~~1230. PROOF OF COMPLIANCE. Before any applicant required to register his motor vehicle ~~as defined in section 49-232, Idaho Code,~~ may do so the applicant shall certify the existence of automobile liability insurance covering the motor vehicle ~~or vehicles~~ on a form prescribed by the department. The department may immediately cancel the registration card and license plates of the vehicle upon notification that the insurance certification was not correctly represented.

An owner of a motor vehicle who ceases to maintain the insurance required in accordance with this ~~act~~ chapter shall immediately surrender the registration card and license plates for the vehicle to the department and may not operate or permit operation of the vehicle in Idaho until insurance has again been furnished as required in accordance with this ~~act~~ chapter and the vehicle is again registered and licensed.

SECTION 319. That Section 49-244, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~244~~1231. CERTIFICATE OF LIABILITY INSURANCE -- HOW ACQUIRED. (1) A certificate of liability insurance to be effective must be issued by an insurance or surety company authorized to do business in this state, ~~or~~ by an authorized agent of such a company, or by the director of the department of insurance ~~of this state~~. The certificate of liability insurance shall be in a form prescribed by the director of the department of insurance. Upon purchase or renewal of ~~such~~ a policy of insurance or upon request of its insured, an insurance or surety company or its authorized agent shall issue a certificate of liability insurance and ~~give the same~~ present it to its insured. An insurance or surety company or its authorized agent shall not charge a fee for ~~any such~~ a certificate of liability insurance.

~~A--motor--vehicle--owner--who-prefers-to-post-an-indemnity-bond-or cash-with-the-director-of-the--department--of--insurance--in--lieu--of obtaining--a-policy-of-liability-insurance-may-do-so.-In-the-case-of-a cash-deposit,-the-motor-vehicle-owner--shall--deposit--not--less--than twenty--thousand--dollars-($20,000)-for-the-first-vehicle-to-be-registered-and-ten-thousand-dollars-($10,000)-for-each-other-vehicle-to--be registered--up--to--a--maximum-of-sixty-thousand-dollars-($60,000)-for five-(5)-or-more-vehicles.-A-person-obtaining-a-judgment--against--the motor--vehicle--owner-arising-out-of-the-operation,-maintenance-or-use of-the-motor-vehicle-to-be-registered-may-have--the--court--where--the judgment-is-rendered-order-the-director-of-the-department-of-insurance to--pay--the--judgment-creditor-or-creditors-such-amount-or-amounts-as are-designated-by-said-court-but-not-to-exceed-a-payment-of-more--than ten--thousand-dollars-($10,000)-for-any-one-(1)-person-or-twenty-thousand-dollars-($20,000)-for-any-one-(1)-accident.-In--the--case--of--an indemnity-bond,-such-bond-shall-guarantee-that-any-loss-resulting-from liability--imposed--by-law-for-bodily-injury,-death-or-damage-to-property-suffered-by-any-person-caused-by-accident-and-arising-out-of--the operation,--maintenance-and-use-of-the-motor-vehicle-sought-to-be-registered-shall-be-paid-within-thirty-(30)--days.--Such--indemnity--bond shall--guarantee--payment-in-an-amount-not-less-than-ten-thousand-dollars-($10,000)-for-any-one--(1)--person--or--twenty--thousand--dollars~~

~~($20,000)--for--any-one-(1)-accident-for-each-vehicle-to-be-registered up-to-a-maximum-of-sixty-thousand-dollars-($60,000)-for--five--(5)--or more-vehicles.~~

~~Any--bond-given-in-connection-with-this-act-shall-be,-and-shall-be construed-to-be,-a-continuing-instrument-and-shall--cover--the--period for-which-the-motor-vehicle-is-to-be-registered.-Such-bond-shall-be-on a--form-approved-by-the-director-of-the-department-of-insurance-with-a surety-company-authorized-to-do-business-in-this-state.~~

(2) When to the satisfaction of the director of the department of insurance it appears that a bond or cash deposit complying with the requirements of this ~~act~~ chapter has been deposited with him, he shall issue to the motor vehicle owner a certificate of liability insurance.

SECTION 320. That Section 49-245, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~245~~1232. CERTIFICATE OR PROOF OF LIABILITY INSURANCE TO BE CARRIED IN MOTOR VEHICLE. A certificate or proof of liability insurance shall be in the possession of the operator of every motor vehicle or present in every motor vehicle at all times when ~~said~~ the vehicle is operated within this state. The certificate or proof of liability insurance shall be provided for inspection to any peace officer upon request to the operator of any motor vehicle. ~~A-violation-of-this-section-shall-be-a-misdemeanor,-provided-that-n~~No person shall be convicted of violating this section if that person produces at any time prior to conviction the certificate or proof of liability insurance covering the motor vehicle that person is accused of operating in violation of this section, where ~~such~~ the certificate or proof of liability insurance demonstrates the existence of liability insurance described in section 49-~~1521~~1212, Idaho Code, which was in effect at the time of occurrence of the violation ~~of-this-section~~.

SECTION 321. That Section 49-236, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~236~~1233. MANDATORY MOTOR VEHICLE LIABILITY INSURANCE. (1) The Idaho transportation department is hereby authorized and directed to develop, by rules and regulations, an additional method of enforcement of the mandatory motor vehicle liability insurance by requiring motor vehicle liability insurance carriers to verify, on a random basis not to exceed five percent (5%), insurance coverage on a motor vehicle at time of registration and to notify the Idaho transportation department upon cancellation or termination of coverage that occurs within the first six (6) months of the policy inception date. The method of enforcement shall provide for ~~recision~~ rescission of the motor vehicle registration for which verification of coverage is not received by the department or where coverage is cancelled or terminated. The rules and regulations shall also provide rules of practice and procedure before the department for affected persons.

(2) The department is authorized to require a twenty-five dollar ($25.00) fee for reinstatement of any registration rescinded for failure to provide verification or maintain coverage.

(3) A motor vehicle liability insurance carrier and its employees, while acting within the course and scope of their employment and without malice or criminal intent shall not be liable for any claim which arises out of the cancellation or rescision, or the failure to cancel or rescind, any motor vehicle registration and license plates for failure of the owner to verify or maintain motor vehicle liability insurance coverage.

CHAPTER 13
ACCIDENTS

SECTION 322. That Section 49-1002, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1002~~1301. ACCIDENTS INVOLVING DAMAGE TO ~~A~~ VEHICLE. (~~a~~1) The driver of any vehicle involved in an accident, either on public or private property open to the public, resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop the vehicle at the scene of the accident, or as close ~~thereto~~ as possible, and shall immediately return to, and in every event shall remain at, the scene of the accident until he has fulfilled the requirements of ~~section 49-1003, Idaho Code~~ law. A stop as required by this section shall be made without obstructing traffic more than is necessary.

(~~b~~2) Any person failing to stop or to comply with the requirements ~~of law~~ under these circumstances shall be guilty of a misdemeanor.

(~~c~~3) The department shall revoke for a period of one (1) year the license or permit to drive, or the nonresident operating privilege, of any person convicted of a violation of the provisions of this section.

SECTION 323. That Section 49-1003, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1003~~1302. DUTY TO GIVE INFORMATION ~~AND RENDER AID~~ IN ACCIDENT INVOLVING DAMAGE TO A VEHICLE. The driver of any vehicle involved in an accident~~, either on public or private property open to the public,~~ resulting in damage to any vehicle which is driven or attended by any person shall give his name, address, the name of his insurance agent or company if he has automobile liability insurance, and the motor vehicle registration number of the vehicle he is driving~~, and shall, if~~. If available, he shall exhibit his operator's or chauffeur's license to the person struck or to the driver ~~or occupant of~~ or person attending any vehicle collided with.

SECTION 324. That Section 49-1004, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1004~~1303. DUTY UPON STRIKING UNATTENDED VEHICLE. The driver of any vehicle which collides with any unattended vehicle ~~which is unattended~~ shall immediately stop, and ~~shall~~ then and there either locate and notify the operator or owner of ~~such~~ the vehicle of the

name and address of the driver and owner of the vehicle striking the unattended vehicle, or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking, along with ~~and~~ a statement of the circumstances ~~thereof~~.

SECTION 325. That Section 49-1005, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1005~~1304. DUTY UPON STRIKING FIXTURES UPON OR ADJACENT TO A HIGHWAY. The driver of any vehicle involved in an accident resulting in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of ~~such~~ the property of ~~such~~ the fact, of his name and address, the name of his insurance agent or company if he has automobile liability insurance, the motor vehicle registration number of the vehicle he is driving, and upon request and if available exhibit his operator's or chauffeur's license.

SECTION 326. That Section 49-1006, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1006~~1305. IMMEDIATE NOTICE OF ACCIDENTS. (~~a~~1) The driver of a vehicle involved in an accident resulting in injury to or death of any person, or damage to the property of any one person in excess of two hundred fifty dollars ($250) shall immediately, by the quickest means of communication, give notice of ~~such~~ the accident to the local police department if ~~such~~ the accident occurs within a ~~municipality~~ city, otherwise to the office of the county sheriff or the nearest office of the state police.

(~~b~~2) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required herein, and there was another occupant in the vehicle at the time of the accident capable of doing so, ~~such~~ the occupant shall give or cause to be given the notice not given by the driver.

SECTION 327. That Section 49-1007, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1007~~1306. WRITTEN REPORTS OF ACCIDENTS. (~~a~~1) Every law enforcement officer, ~~including county and municipal officers,~~ who, in the regular course of duty, investigates a motor vehicle accident, either at the time of and at the scene of the accident, or thereafter by interviewing participants or witnesses, shall within twenty-four (24) hours after completing ~~such~~ the investigation, forward a written report of ~~such~~ the accident to the department.

(~~b~~2) Written reports required to be forwarded by law enforcement officers and the information contained ~~therein~~ them shall not be privileged or held confidential.

SECTION 328. That Section 49-1009, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1009~~1307. ACCIDENT REPORT FORMS. (~~a~~1) The department shall prepare and upon request supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for written accident reports required ~~hereunder~~ by this chapter, appropriate with respect to the persons required to make ~~such~~ those reports and the purposes to be served. ~~The w~~ Written reports shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicles involved.

(~~b~~2) Every accident report required to be made in writing shall be made on the appropriate form approved by the department, and shall contain all of the information required ~~therein~~ on the form unless not available.

SECTION 329. That Section 49-106A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~106A~~1308. FILING FALSE ACCIDENT REPORTS. It is unlawful for any person to file an accident report~~, as provided in section 49-106, Idaho Code,~~ knowing the same to be false~~, and the commission of said act shall constitute a misdemeanor~~.

SECTION 330. That Section 49-1011, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1011~~1309. CORONERS TO REPORT. Every coroner or other official performing like functions shall, on or before the 10th day of each month, report in writing to the department the death of any person within his jurisdiction during the preceding calendar month as the result of a traffic accident, giving the time and place of the accident and the circumstances relating ~~thereto~~ it.

SECTION 331. That Section 49-1012, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1012~~1310. GARAGES TO REPORT. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which a report ~~must be made~~ is required as provided in section 49-~~1007~~1306, Idaho Code, or struck by any bullet, shall report to the local police department if the garage is located within a city, otherwise to the office of the county sheriff or the nearest office of the state police within forty-eight (48) hours after ~~such~~ the motor vehicle is received, giving the engine number, registration number, and the name and address of the owner or operator of ~~such~~ the vehicle.

SECTION 332. That Section 49-1013, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1013~~1311. ACCIDENT REPORTS CONFIDENTIAL -- EXCEPTIONS. All accident reports made by garages shall be without prejudice to the

individual ~~so~~ reporting and shall be for the confidential use of the department or other governmental agencies having use for the records for accident prevention purposes. ~~except--that--t~~The department may, however, disclose the identity of a person involved in an accident when ~~such~~ the identity is not otherwise known or when ~~such~~ a person denies his presence at the scene of ~~such~~ the accident. No ~~such~~ report shall be used as evidence in any trial, civil or criminal, arising out of an accident.

SECTION 333. That Section 49-1014, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1014~~1312. DEPARTMENT TO TABULATE AND ANALYZE ACCIDENT REPORTS. The department shall tabulate and may analyze all accident reports and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number of circumstances of traffic accidents.

SECTION 334. That Section 49-1015, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1015~~1313. ANY INCORPORATED CITY MAY REQUIRE ACCIDENT REPORTS. Any incorporated city~~,-town,-village,-or--other--municipality~~ may by ordinance require that the driver of a vehicle involved in an accident ~~shall~~ also file with a designated city department a report of ~~such~~ an accident or a copy of any report ~~herein~~ required to be filed with the department. All such reports shall be for the confidential use of the city department and subject to the provisions of section 49-~~1013~~1311, Idaho Code.

SECTION 335. That Section 49-1016, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1016~~1314. TESTING BLOOD OF PERSONS KILLED IN ACCIDENTS. (1) The director of the department of health and welfare, jointly with the various county coroners, shall provide a system and procedure whereby all morticians in ~~the-state-of~~ Idaho shall obtain blood samples from all pedestrians and motor vehicle operators who have died as a result of and contemporaneously with an accident involving a motor vehicle.

(2) All investigating ~~police~~ peace officers shall report ~~such~~ traffic fatalities to the county coroner or follow the procedure established by the joint action of the board and the various coroners.

(3) The blood sample, with ~~such~~ any information as may be required, ~~will~~ shall be delivered to the director of the department of health and welfare or his designee. Upon receipt of ~~such~~ the sample the director will cause ~~such~~ all tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs that may be contained in ~~such~~ the sample.

(4) The results of such tests shall be used exclusively for statistical purposes and the sample shall never be identified with the name of the deceased. Any person releasing or making public such information other than as herein prescribed, shall be guilty of a mis-

demeanor.

SECTION 336. That Section 49-1017, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1017~~1315. REPORT AND INVESTIGATION OF TRAFFIC HAZARD CAUSING ACCIDENT. Whenever any investigation or judicial action stemming from a traffic accident which resulted in death or injury to any person or damage to any property in an apparent extent of five hundred dollars ($500) or more results in a finding that a physical traffic hazard caused or was responsible for the traffic accident, the investigating traffic enforcement officer or presiding judicial officer shall submit a written statement of ~~such~~ his finding to the safety engineer of the ~~Idaho transportation~~ department and to the board of county commissioners of the county in which the accident occurred. Within sixty (60) days, the ~~Idaho transportation~~ department shall examine and report on the alleged traffic hazard. Copies of the report shall be sent to the reporting traffic enforcement officer or presiding judicial officer who originated the action and the board of county commissioners of the county in which the accident occurred. ~~Such~~ The report by the ~~Idaho transportation~~ department shall contain the engineer's explanation of the hazard and shall propose what can be done to alleviate the hazard or what has been done to alleviate the hazard, or information to fully explain why no action has been taken or is anticipated.

CHAPTER 14
TRAFFIC -- ENFORCEMENT AND GENERAL PROVISIONS

SECTION 337. That Section 49-1103, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1103~~1401. RECKLESS DRIVING. (~~a~~1) ~~Reckless driving.~~ --- Any person who drives or is in actual physical control of any vehicle upon a highway~~,--street--or-bridge~~ or upon public or private property open to public use, carelessly and heedlessly~~,~~ or without due caution and circumspection, and at a speed or in a manner ~~so~~ as to endanger or be likely to endanger any person or property, or who passes when there is a line in his lane indicating a sight distance restriction, shall be guilty of reckless driving and upon conviction shall be punished as provided in subsection (~~b~~2) of this section.

(~~b~~2) ~~Reckless--driving------Penalty:---~~ Every person convicted of reckless driving under this section shall be punished by imprisonment in the county or municipal jail for a period of not less than five (5) days nor more than ninety (90) days, or by a fine of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300), or by both fine and imprisonment~~,--and-on.~~ On a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300), or by both ~~such~~ fine and imprisonment~~,--and--provided--further that--the.~~ The department ~~of-law-enforcement~~ shall suspend the license of any such person as provided ~~by~~ in section 49-~~330~~326, Idaho Code.

(c3) ~~Inattentive-driving----Penalty.----Any-person-who--drives--a vehicle--upon--a--highway,--street-or-bridge-or-upon-public-or-private property-open-to-public-use-in-a-careless-or-inattentive-manner-or--in disregard--of--the-safety-of-persons-or-property-is-guilty-of-a-misdemeanor-as-provided-in-section-49-1104,-Idaho-Code.~~

Inattentive driving shall be considered a lesser offense than reckless driving and shall be applicable in those circumstances where the conduct of the operator has been inattentive, careless or imprudent, in light of the circumstances then existing, rather than heedless or wanton, or in those cases where the danger to persons or property by the motor vehicle operator's conduct is slight.

SECTION 338. That Section 49-1106, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1106~~1402. PARTIES TO A CRIME. Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of~~,~~ any act declared ~~herein~~ to be a crime, whether individually or in connection with one or more other persons or as a principal, agent, or accessory, shall be guilty of ~~such~~ that offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits, or directs another to violate any provision of this ~~act~~ title is likewise guilty of ~~such~~ that offense.

SECTION 339. That Section 49-1107, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1107~~1403. OFFENSES BY PERSONS OWNING OR CONTROLLING VEHICLES. It shall be unlawful for the owner, or any other person, employing or otherwise ~~directing~~ the driver of any vehicle, to require or knowingly permit the operation of ~~such~~ the vehicle upon a highway in any manner contrary to law.

SECTION 340. That Section 49-1102, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1102~~1404. FLEEING OR ATTEMPTING TO ELUDE A ~~POLICE~~ PEACE OFFICER -- PENALTY. (1) Any driver of a motor vehicle who wilfully flees or attempts to elude a pursuing police vehicle when given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a misdemeanor. The signal given by a peace officer may be by emergency lights or siren.

(2) A person convicted of a violation of the provisions of this section shall be punished by imprisonment in the county or ~~municipal~~ city jail for a period of not less than five (5) days nor more than ninety (90) days, or by a fine of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300), or by both fine and imprisonment. On a second or subsequent conviction that person shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300), or by both fine

and imprisonment. The department shall suspend the license of a person convicted for a violation of the provisions of this section as provided in section 49-~~330~~326, Idaho Code.

SECTION 341. That Section 49-1109, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1109~~1405. ARRESTS FOR SERIOUS OFFENSES. (~~a~~1) The authority to make an arrest is the same as upon an arrest for a felony when any person is charged with any of the following offenses:

(~~1.~~a) Negligent homicide.

(~~2.~~b) Driving, or being in actual physical control, of a vehicle while under the influence of intoxicating liquor.

(~~3.~~c) Driving a vehicle while under the influence of any narcotic drug, or driving a vehicle while under the influence of any other drug to a degree which renders the person incapable of safely driving a vehicle.

(~~4.~~d) Failure to stop, or failure to give information, or failure to render reasonable assistance, in the event of an accident resulting in death or personal injuries.

(~~5.~~e) Failure to stop, or failure to give information, in the event of an accident resulting in damage to a vehicle or to fixtures or other property legally upon or adjacent to a highway.

(~~6.~~f) Reckless driving.

(~~7.~~g) Fleeing or attempting to elude a ~~police~~ peace officer.

(~~b~~2) Whenever any person is arrested as authorized in this section, he shall be taken without unnecessary delay before the proper magistrate as ~~specified--in-section-49-1115,-Idaho-Code,~~ provided by law, except that in the case of either of the offenses designated in paragraphs ~~5,--6-and-7~~ (e), (f) and (g), a ~~police~~ peace officer shall have the same discretion as is provided ~~in--other--cases--in--section 49-1111,-Idaho-Code~~ by law.

SECTION 342. That Section 49-1110, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1110~~1406. WHEN PERSON MUST BE TAKEN IMMEDIATELY BEFORE A MAGISTRATE. Whenever any person is halted by a ~~police~~ peace officer for any violation of the provisions of this title not amounting to a misdemeanor and demands an immediate appearance before a magistrate, he shall be taken without unnecessary delay before the proper magistrate as specified in section 49-~~1115~~1411, Idaho Code.

SECTION 343. That Section 49-1111, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1111~~1407. WHEN PEACE OFFICER HAS OPTION TO TAKE PERSON BEFORE A MAGISTRATE. Whenever any person is halted by a ~~police~~ peace officer for any misdemeanor violation of the provisions of this title and is not required to be taken before a magistrate ~~as-hereinbefore-provided~~, the person shall, in the discretion of the officer, either be given a traffic citation ~~as-hereinafter-provided,~~ or be taken without unneces-

sary delay before the proper magistrate as specified in section 49-~~1115~~1411, Idaho Code, in ~~any of~~ the following cases:

(1~~.~~) When the person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court.

~~2. When the person is charged with a violation of section 49-843, Idaho Code, relating to vehicles transporting explosives.~~

(2~~3.~~) When the person is charged with a violation ~~of sections~~ relating to the refusal of a driver of a vehicle to submit ~~such~~ a vehicle to an inspection and test.

(3~~4.~~) When the person is charged with a violation ~~of sections~~ relating to the failure or refusal of a driver of a vehicle to submit the vehicle and load to a weighing or to remove excess weight therefrom.

SECTION 344. That Section 49-1112, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1112~~1408. ARREST OF NONRESIDENT. (~~a~~1) All of the provisions of this ~~chapter~~ title apply both to residents and nonresidents of ~~this state~~ Idaho, except the special provisions in this section which shall govern misdemeanor violations in respect to nonresidents under the circumstances ~~herein~~ stated.

(~~b~~2) A ~~police~~ peace officer at the scene of a traffic accident may arrest without a warrant any driver of a vehicle who is a nonresident of this state and who is involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any ~~misdemeanor~~ offense under the provisions of this ~~act~~ title in connection with the accident, and if the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court.

(~~c~~3) Whenever any person is arrested under the provisions of this section, he shall be taken without unnecessary delay before the proper magistrate as specified in section 49-~~1115~~1411, Idaho Code.

SECTION 345. That Section 49-1113, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1113~~1409. ISSUANCE OF TRAFFIC CITATION. Whenever a person is halted by a ~~police~~ peace officer for a misdemeanor traffic violation and is not taken before a magistrate as required or permitted by this ~~chapter~~ title, the officer shall issue a citation as provided by section 19-3901, Idaho Code, and by rule of the supreme court.

SECTION 346. That Section 49-1114, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1114~~1410. AUTHORITY OF OFFICER TO ISSUE CITATION AT SCENE OF ACCIDENT. A ~~police~~ peace officer at the scene of a traffic accident may issue a written traffic citation, as provided in section 19-3901,

Idaho Code, to any driver of a vehicle involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person had committed any offense under the provisions of this title in connection with the accident.

SECTION 347. That Section 49-1115, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1115~~1411. APPEARANCE BEFORE MAGISTRATE -- PROCEDURE. A person shall be taken before a magistrate or given a traffic citation~~,~~ and the charge ~~thereafter~~ subsequently processed, as provided by rule of the supreme court.

SECTION 348. That Section 49-1116, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1116~~1412. RELEASE OF DEFENDANT WHEN MAGISTRATE NOT AVAILABLE. Whenever any person is taken into custody by an officer for the purpose of taking him before a magistrate ~~or court~~ as authorized or required in this ~~article~~ chapter upon any charge other than a felony or the offenses enumerated in ~~paragraphs 1, 2, 3, and 4 of subsection (a) or section 49-1109~~ subsections (1)(a) through (d) of section 49-1405, Idaho Code, and no magistrate is available at the time of arrest, and there is no bail schedule established by any ~~such~~ magistrate or court and no lawfully designated court clerk or other public officer who is available and authorized to accept bail upon behalf of the magistrate or court, ~~such~~ the person shall be released from custody upon the issuance to him of a written traffic citation and his signing a promise to appear.

SECTION 349. That Section 49-1118, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1118~~1413. PROCEDURE PRESCRIBED ~~HEREIN~~ NOT EXCLUSIVE. The ~~foregoing~~ provisions of this chapter shall govern all ~~police~~ peace officers in making arrests without a warrant for misdemeanor violations of the provisions of this title, but the procedure prescribed ~~herein~~ shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade.

SECTION 350. That Section 49-1120, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1120~~1414. CONVICTION FOR TRAFFIC VIOLATION NOT TO AFFECT CREDIBILITY OF WITNESS. The conviction of a person upon a charge of violating any provision of this ~~act or other traffic regulation~~ title less than a felony shall not affect or impair the credibility of ~~such~~ that person as a witness in any civil or criminal proceeding.

SECTION 351. That Section 49-1123, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1123~~1415. ILLEGAL CANCELLATION OF TRAFFIC CITATION -- AUDIT OF CITATION RECORDS. (~~a~~1) Any person who cancels or solicits the cancellation of any traffic citation, in any manner other than as provided in this ~~act~~ chapter, shall be guilty of a misdemeanor.

(~~b~~2) Every record of traffic citations required in this ~~article~~ chapter shall be audited at least biennially by the appropriate fiscal officer of the governmental agency to which the traffic-enforcement agency is responsible.

(~~c~~3) ~~Such~~ The fiscal officer shall publish or cause to be published at least biennially a summary of all traffic violation notices issued by ~~said~~ the traffic-enforcement agency and their dispositions ~~thereof~~ in at least one (1) local newspaper of general circulation.

SECTION 352. That Section 49-1124, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1124~~1416. RECORD OF TRAFFIC CASES -- REPORT OF CONVICTIONS TO ~~IDAHO--TRANSPORTATION~~ DEPARTMENT. (~~a~~1) Every magistrate or judge of a court shall keep or cause to be kept a record of every traffic complaint, traffic citation, or other legal form of traffic charge deposited with or presented to ~~said~~ the court ~~or its traffic violations bureau~~, and shall keep a record of every official action by ~~said~~ the court ~~or its traffic violations bureau~~ in reference thereto, including ~~but not limited to~~ a record of every conviction, forfeiture resulting from every ~~said~~ traffic complaint or citation deposited with or presented to ~~said~~ the court ~~or traffic violations bureau~~.

(~~b~~2) Within ten (10) days after ~~the~~ a conviction or forfeiture of bail of a person upon a charge of violating any provision of this ~~act~~ title or other law regulating the operation of vehicles on highways, ~~every said~~ the magistrate of the court or clerk of the court of record in which ~~such~~ the conviction was had or bail was forfeited shall prepare and immediately forward to the ~~Idaho transportation~~ department an abstract of the record of ~~said~~ the court covering the case in which ~~said~~ the person was ~~so~~ convicted or forfeited bail~~, which~~. The abstract ~~must~~ shall be certi~~fied by t~~he person required to prepare the ~~same~~ abstract to be true and correct. A rReport need not be made of any conviction involving the illegal parking or standing of a vehicle.

(~~c~~3) ~~Said~~ The abstract ~~must~~ shall be made upon a form furnished by the ~~Idaho transportation~~ department and shall include the name and address of the party charged, the number~~,~~ if any~~,~~ of his operator's or chauffeur's license, the registration number of the motor vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail forfeited, and the amount of the fine or forfeiture as ~~the case may be~~ applicable.

(~~d~~4) Every court of record shall also forward a like report to the ~~Idaho transportation~~ department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(~~e~~5) The failure, refusal, or neglect of any ~~such~~ judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal

~~therefrom.~~

(~~f~~6) The ~~Idaho transportation~~ department shall keep all abstracts received ~~hereunder~~ at its main office, and ~~the same~~ abstracts shall be open to public inspection during reasonable business hours.

SECTION 353. That Section 49-1127, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1127~~1417. PROVISIONS OF SECTIONS UNIFORM THROUGHOUT STATE. The provisions of sections ~~49-768, 49-1103,~~ 49-~~1104~~1401 and 49-~~1113~~1402, Idaho Code, shall be applicable and uniform throughout the state and in all political subdivisions and ~~municipalities therein and~~ no local authority shall enact or enforce any ordinance, rule, or regulation in conflict with the provisions of ~~the aforementioned~~ those sections.

SECTION 354. That Section 49-1128, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1128~~1418. AUTHORIZING SEIZURE OF VESSELS, 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 transportation department employee commissioned by the department of law enforcement, with or without a warrant, may seize and take possession of any 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~~ a vehicle, vessel, equipment or parts thereof immediately shall notify the ~~transportation~~ department~~,~~ 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,~~ unlawful for any person owning, conducting, managing or operating a service station, public garage, paint shop, or other repair shop for vehicles, vessels, or equipment described in subsection (1) of this section, to fail to notify local law enforcement agencies or the ~~transportation~~ department, of any 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 a~~ the 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~~.

SECTION 355. That Section 49-1129, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1129~~1419. OBEDIENCE TO TRAFFIC DIRECTION. No person shall willfully fail or refuse to comply with any lawful order or direction of any ~~police~~ peace officer, fireman or uniformed adult school crossing guard invested by law with authority to direct, control or regulate traffic.

SECTION 356. That Section 49-1130, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1130~~1420. INTERFERENCE WITH OFFICIAL TRAFFIC CONTROL DEVICES OR RAILROAD SIGNS OR SIGNALS. No person shall, without lawful authority, attempt to or in fact alter, twist, deface, injure, knock down, remove or interfere with the effective operation of any traffic control device or any railroad sign or signal or any inscription, shield or insignia ~~thereon~~, or any other part ~~thereof~~.

SECTION 357. That Section 49-1131, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1131~~1421. DRIVING ON DIVIDED HIGHWAYS -- RESTRICTED ACCESS. (1) Whenever any highway has been divided into two (2) or more ~~roadways~~ traffic lanes by leaving an intervening space or by a physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand ~~roadway~~ traffic lane unless directed or permitted to use another ~~roadway~~ traffic lane by ~~official~~ traffic control devices or ~~police~~ peace officers. No vehicle shall be driven over, across or within any ~~such~~ dividing space, barrier or section, except through an opening in ~~such~~ the physical barrier, dividing section or space or at a crossover or intersection as established, unless specifically prohibited by public authority.

(2) No person shall drive a vehicle onto or from any controlled access ~~roadway~~ highway except at ~~such~~ entrances and exits as are established by ~~public~~ proper authority.

SECTION 358. That Section 49-1132, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1132~~1422. OVERTAKING AND PASSING SCHOOL BUS. (1) The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching ~~such~~ the school bus

when there is in operation on ~~said~~ a school bus the visual signals specified in section 49-~~809A~~915, Idaho Code, and the driver of a vehicle shall not proceed until ~~such~~ the school bus resumes motion or the visual signals are no longer actuated. Oncoming traffic on a highway of more than three (3) lanes is not required to stop upon meeting a school bus when visual signals are actuated. Any person found guilty of violating the provisions of this subsection shall be fined an amount of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(2) Every school bus shall be equipped with visual signals meeting the requirements of section 49-~~809A~~915, Idaho Code, which ~~may~~ shall be actuated by the driver of the school bus whenever, but only whenever ~~such~~ the vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate ~~said~~ the special visual signals:

(a) In business districts designated by the department ~~of transportation~~ or local authorities; or

(b) At intersections or other places where traffic is controlled by traffic control signals or ~~police~~ peace officers; or

(c) In designated school bus loading areas where the bus is entirely off the roadway.

(3) Every school bus shall bear upon the front and rear ~~thereof~~ plainly visible signs containing the words "SCHOOL BUS" in letters not less than eight (8) inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school all markings thereon indicating "school bus" shall be covered or concealed.

(4) When any school bus is sold and is no longer to be used for the transportation of pupils, before it may again be used on the highways of this state it shall be painted a color other than school bus chrome and all school bus markings shall be obliterated.

SECTION 359. That Section 49-1132A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1132A~~1423. OWNER'S LIABILITY FOR VEHICLE ILLEGALLY PASSING SCHOOL BUS. (1) Every school bus driver who observes a violation of the provisions of section 49-~~1132~~1422, Idaho Code, is authorized and directed to record the vehicle description and license number of the offending vehicle and time and place of the occurrence and report ~~such~~ the information within twenty-four (24) hours of the occurrence to any peace officer. ~~Such~~ The peace officer shall file a report containing ~~such~~ the information with the prosecuting attorney of the county or the city attorney of the city in which the alleged violation occurred, whichever office has prosecutorial jurisdiction. Such prosecuting attorney or city attorney may petition the district court for a subpoena to compel attendance and testimony of any person determined to be a registered owner of the vehicle described in ~~such~~ the reports. Any judge of the district court shall have the authority, upon a determination that there is probable cause to suspect a violation of the provisions of section 49-~~1132~~1422, Idaho Code, to issue a show cause order requiring the attendance and testimony of the registered

owner on record with the ~~Idaho-transportation~~ department. ~~Such~~ The registered owner shall attend and testify, subject to civil contempt sanction of a fine for failure or refusal to so appear or testify, unless that person either confesses to a violation of the provisions of section 49-~~1132~~1422, Idaho Code~~.-Should-such-registered-owner-fail or-refuse-to-attend-or-testify,-he-shall-be-held-in-contempt-of-court~~, or unless ~~such~~ the registered owner claims a privilege against self-incrimination.

If ~~such~~ a person claims a privilege against self-incrimination, and if the judge determines that such a claim of privilege is appropriate, the judge may, upon motion of the prosecuting authority, grant immunity from criminal prosecution to the person claiming the privilege for the specific, alleged violation of the provisions of section 49-~~1132~~1422, Idaho Code, which constitutes the basis of the inquiry. Upon the granting of ~~such~~ the immunity, if the registered owner fails or refuses to testify fully, ~~such~~ the refusal shall constitute an admission of liability for civil, administrative purposes, and the judge shall suspend the driver's license of ~~such~~ the registered owner for a period not to exceed thirty (30) days, or impose a civil penalty of not more than one hundred dollars ($100), or impose both the suspension and fine. If, otherwise, at the conclusion of the hearing the judge finds by a preponderance of the evidence, on the record as a whole, that the registered owner committed ~~such~~ acts described in section 49-~~1132~~1422, Idaho Code, ~~such~~ the judge shall suspend the driver's license of that person for a period not to exceed thirty (30) days.

SECTION 360. That Section 49-1133, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1133~~1424. RACING ON PUBLIC HIGHWAYS. (1) No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any ~~such~~ race, competition, contest, test or exhibition.

~~(2)--Drag--race--is--defined--as--the-operation-of-two-(2)-or-more vehicles-from-a-point-side-by-side-at-accelerating-speeds-in-a-competitive-attempt-to-outdistance-each-other,-or-the-operation--of--one--or more--vehicles--over--a-common-selected-course,-from-the-same-point-to the-same-point,-for-the-purpose-of-comparing-the--relative--speeds--or power--of--acceleration--of--such-vehicle-or-vehicles-within-a-certain distance-or-time-limit.~~

~~(3)--Racing-is-defined-as-the-use-of-one-or-more--vehicles--in--an attempt-to-outgain,-outdistance,-or-prevent-another-vehicle-from-passing,--to--arrive--at--a--given-destination-ahead-of-another-vehicle-or vehicles,-or-to-test-the-physical-stamina-or-endurance-of-drivers-over long-distance-driving-routes.~~

(~~4~~2) The provisions of this section shall not prohibit the use of the ~~roadways-of-this-state~~ highways for organized motoring activities where speed or acceleration is not the objective of the contest but rather the prime objective is the precise measurement of time and dis-

tance within the posted legal speed limits.

(~~5~~3) The provisions of this section shall not prohibit organized motoring activities upon the ~~roadways of this state~~ highways where speed is a primary objective of the contest when prior written permission is obtained from the authority having jurisdiction over the area to be used, and prior notification is given to law enforcement agencies in the area to be used.

SECTION 361. That Section 49-1134, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1134~~1425. RAILROAD TRAINS NOT TO UNNECESSARILY BLOCK CROSSINGS. No person or government agency shall operate any train in a manner as to prevent vehicular use of any ~~roadway~~ highway for a period of time in excess of fifteen (15) consecutive minutes except:

(1) When necessary to comply with signals affecting the safety of the movement of trains;

(2) When necessary to avoid striking any object or person on the track;

(3) When the train is stopped to comply with a governmental safety regulation;

(4) When the train is disabled;

(5) When the train is in motion except while engaged in switching operations;

(6) When there is no vehicular traffic waiting to use the crossing.

SECTION 362. That Section 49-1135, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1135~~1426. PEDESTRIANS UNDER INFLUENCE OF ALCOHOL OR DRUGS. A pedestrian who is under the influence of alcohol or any drug to a degree which renders him~~self~~ a hazard shall not walk or be upon a highway except on a sidewalk.

SECTION 363. That Section 49-1136, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1136~~1427. VEHICLES TRANSPORTING EXPLOSIVES. Any person operating a vehicle transporting any explosive as a cargo or part of a cargo, upon a highway, shall at all times comply with the provisions of this section.

(1) The vehicle shall be marked or placarded on each side and the rear with the word "explosives" in letters not less than eight (8) inches high, ~~or~~ and there shall be displayed on the rear of ~~such~~ the vehicle a red flag not less than twenty-four (24) inches square, marked with the word "danger" in white letters six (6) inches high.

(2) The vehicle shall be equipped with not less than two (2) fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle ~~so used~~.

~~(3) The director is hereby authorized and directed to promulgate such additional regulations governing the transportation of explosives~~

~~and-other-dangerous-articles-by-vehicles-upon-the-highways-as-he-shall deem-advisable-for-the-protection-of-the-public.~~

SECTION 364. That Section 49-235, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2351~~1428. ~~PENALTIES~~ FINANCIAL RESPONSIBILITY. It shall be unlawful for any person to operate a motor vehicle upon highways~~,~~ ~~streets--or-roadways-of-this-state~~ without a valid policy of liability insurance in full force and effect in an amount not less than that provided in section 49-~~1521~~117, Idaho Code, or unless ~~such~~ the person has been issued a certificate of self insurance pursuant to section 49-~~1534~~1224, Idaho Code, or has previously posted an indemnity bond with the director of insurance as provided ~~by~~ in section 49-~~2331~~1229, Idaho ~~Code. A-violation-of-this-section-shall-be-a-misdemeanor.~~

SECTION 365. That Section 49-246, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2461~~1429. FALSE CERTIFICATE ----~~PENALTY~~. It shall be unlawful for anyone to alter, falsify, forge, counterfeit, or issue or make any certificate of liability insurance except as provided for in this ~~act. A-violation-of-this-statute-shall-be-a-misdemeanor~~ title.

SECTION 366. That Section 49-1532, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1532~~1430. ~~OTHER--VIOLATIONS------PENALTIES~~ FORGED CERTIFICATE. ~~(a)-Any-person-whose-license-or-registration-or-nonresident's--operating--privileges--has-been-suspended-or-revoked-under-this-act-and-who, during-such-suspension-or-revocation-drives-any-motor-vehicle-upon-any highway-or-knowingly-permits-any-motor-vehicle-owned-by-such-person-to be-operated-by-another-upon-any-highway,--except--as--permitted--under this--act,--shall--be--deemed-guilty-of-a-misdemeanor-and-be-fined-not more-than-$300-or-imprisoned-not-exceeding-6-months,-or-both.~~

~~(b)-Any-person-wilfully-failing-to-return-license-or--registration as-required-in-section-49-1531-shall-be-deemed-guilty-of-a-misdemeanor and-be-fined-not-more-than-$300-or-imprisoned-not-to-exceed-30-days-or both.~~

~~(c)~~ Any person who shall forge or, without authority, sign any notice provided for under in section 49-~~1505~~1209, Idaho Code, that a policy or bond is in effect, or any evidence of proof of financial responsibility, or who files or offers for filing any notice or evidence of proof knowing or having reason to believe ~~that~~ it is forged or signed without authority, shall be deemed guilty of a misdemeanor and be fined not more than one thousand dollars ($1,000) or imprisoned not more than one (1) year, or both.

~~(d)--Any--person--who--shall-violate-any-provision-of-this-act-for which-no-penalty-is-otherwise-provided-shall-be-fined--not--more--than $300-or-imprisoned-not-more-than-90-days,-or-both.~~

CHAPTER 15
TRAFFIC INFRACTIONS

SECTION 367. That Sections 49-1501, 49-1504 through 49-1511, 49-1536, 49-1538, 49-1539 and 49-1540, Idaho Code, be, and the same are hereby repealed.

SECTION 368. That Section 49-3402, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3402~~1501. INFRACTION CITATION -- ISSUANCE. ~~(1) It is unlawful and an infraction for any person to do any act forbidden, or fail to perform any act required by the provisions of subsection a. of section 49-107 or chapters 5, 6, 7 and 8, title 49, Idaho Code.~~

~~(2)~~ A peace officer may issue an Idaho uniform citation for any infraction specified in the provisions of ~~subsection a. of section 49-107 or~~ chapters ~~5, 6, 7 and 8, title 49, Idaho Code~~ through 9 of this title, in which he shall certify that he has reasonable grounds to believe and does believe, that the person cited committed the infraction contrary to law.

SECTION 369. That Section 49-3403, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3403~~1502. PROCEDURE FOR PROCESSING INFRACTION CITATIONS. (1) The procedure for processing an infraction citation and the trial thereon, if any, shall be the same as provided for the processing of a misdemeanor citation under rules promulgated by the supreme court, except there shall be no right to a trial by jury. An infraction is a civil public offense, but in order to insure the maximum protection of the laws to the citizens charged with having committed an infraction, the burden of proof and the rules of evidence applied to an infraction proceeding shall be those provided in a criminal trial.

(2) In the event the defendant of an infraction citation admits the offense, pays the penalty prescribed in the rules of the supreme court pursuant to section 49-~~3406(4)~~1503(2), Idaho Code, or is found to have committed the infraction after trial before the court, a judgment shall be entered and reported to the department within ten (10) days of entry of the judgment.

SECTION 370. That Section 49-3406, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3406~~1503. PENALTIES FOR VIOLATIONS OF STATUTES AND ORDINANCES. ~~(1) It is an infraction for any person to violate any of the provisions of subsection a. of section 49-107 or chapters 5, 6, 7 or 8, title 49, Idaho Code, and such infraction is punishable only by a penalty not exceeding one hundred dollars ($100) and no imprisonment.~~

~~(2) It is an infraction for any person to violate any county, city or other local ordinance which has been adopted as provided in section 49-502, Idaho Code, or any other provision of title 49, Idaho Code, and such infraction is punishable only by a penalty not exceeding one hundred dollars ($100) and no imprisonment.~~

(~~3~~1) No local authority may, by ordinance, regulation or otherwise make any act a misdemeanor which, but for ~~such~~ that ordinance or regulation, would constitute an infraction under any provision of this chapter and all such acts made a misdemeanor or for which a misdemeanor penalty has been established by any local authority through ordinance, regulation or otherwise are hereby declared to be infractions as defined in section 49-~~3401(3)~~110, Idaho Code~~,--and shall be punishable by a penalty not exceeding one hundred dollars ($100),--and shall be treated as such in the courts of this state~~.

(~~4~~2) The penalty for an infraction citation and the judgment entered for the commission of an infraction shall be the amount set for that infraction in the payment schedule to be adopted by supreme court order and published annually by the administrative director of the courts.

SECTION 371. That Section 49-3407, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3407~~1504. APPEALS -- PROCEDURES. (1) Any person found to have committed an infraction after a hearing by a court may appeal the findings to the district court in the same manner prescribed by law and rule for any criminal appeal from the magistrate's division of the district court.

(2) An appeal under this section shall not operate to stay the reporting requirements of section 49-~~3403~~1502(2), Idaho Code.

SECTION 372. That Section 49-3408, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3408~~1505. SUSPENSION OF OPERATOR'S LICENSE FOR FAILURE TO PAY UNDERLYING TRAFFIC INFRACTION PENALTY -- APPEAL. (1) The ~~Idaho transportation~~ department shall immediately suspend the license, permit and ~~driving~~ operating privileges of any operator or chauffeur upon receiving notice from any court of the state that ~~such~~ a person has failed to pay the penalty for an traffic infraction judgment. ~~Such~~ The notice may be sent to the department by any court which shall certify that a judgment for an infraction not involving a pedestrian or a bicycle violation has been entered against the person and that he has failed to pay the penalty after notice and hearing, or opportunity for hearing, as prescribed by rule of the supreme court. No notice of nonpayment of an infraction penalty shall be sent to the department if the court finds that the person failing to pay the penalty has a complete and continuing financial inability to pay ~~such~~ the penalty.

(2) The suspension of operating privileges under this section shall continue for a period of ninety (90) days or until the penalty has been paid, ~~or~~ whichever comes first, from notice of suspension by the department. The suspension shall be processed by the department in the same manner as other suspensions under section 49-~~330~~326, Idaho Code, except that no hearing shall be held by the department. Upon receipt of the notice of nonpayment of the penalty from the court, the department shall perform the ministerial duty of giving official notification of suspension of the license.

(3) Upon proper application and payment of any required fee, a license or permit suspended under this section shall be reinstated by the department after the period of ninety (90) days, or shall be reinstated at an earlier date upon proof of payment of the penalty for the infraction. Upon payment of the infraction penalty, the court shall issue a receipt which may be filed with the department together with an application for reinstatement of the license or permit.

(4) After the expiration of a ninety (90) day suspension under this section, the license, permit and driving privileges of the operator or chauffeur whose license was suspended shall not be reinstated under the provisions of section 49-~~331A~~328, Idaho Code, nor renewed under the provisions of section 49-~~322~~319, Idaho Code, until the penalty for the infraction has been paid to the court in the county in which the citation was issued.

(5) Any person operating a motor vehicle after the expiration of a ninety (90) day suspension under this section, whose license has not been reinstated under the provisions of section 49-~~331A~~328, Idaho Code, or renewed under the provisions of section 49-~~322~~319, Idaho Code, shall be in violation of the provisions of section 49-~~307~~301, Idaho Code, for operating a motor vehicle without a license.

(6) Any person whose license has been suspended under this section may appeal to the district court in the county where the infraction judgment was entered within the time and in the manner provided for criminal appeals from the magistrates division to the district court. The appeal shall be expedited as provided by rule of the supreme court. If the district court finds that the notice of nonpayment of the infraction penalty should not have been sent to the department for suspension of the license, the district court shall order the license reinstated by the department and upon receipt of a copy of such order the department shall reinstate the license without the payment of a fee.

SECTION 373. That Section 49-3411, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3411~~1506. PROVISIONS UNIFORM THROUGHOUT STATE. The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions ~~and municipalities therein~~.

CHAPTER 16
DEALERS AND SALESMEN LICENSING

SECTION 374. That Section 49-2401, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2401~~1601. UNLICENSED ~~VEHICLE~~ DEALERS AND SALES~~PERSON~~MEN PROHIBITED. It shall be unlawful for any person to act as a ~~vehicle~~ dealer~~,~~ or ~~vehicle~~ salesperson~~man~~, ~~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~~ from the department. It shall be unlawful for any person other than a licensed ~~vehicle~~ dealer to display a vehicle

for sale unless the title is in the name of the displayer. It shall be unlawful to solicit sales of vehicles without a vehicle dealer's license, unless the title is in the name of the seller.

SECTION 375. That Section 49-2403, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2403~~1602. ADMINISTRATION -- POWERS AND DUTIES. The department ~~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 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.~~

~~(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~~1) ~~To~~ Issue, and for reasonable cause shown, or refuse to issue, ~~for just cause shown, to any~~ an applicant, ~~other than a partnership or corporation,~~ any license ~~provided for if the applicant has not complied with the~~ authorized under the provisions of this ~~act~~ chapter. The department shall not refuse to issue to any applicant, other than a partnership or corporation, a license if the applicant has complied with the terms and provisions of this chapter and the rules and regulations ~~promulgated by the department, or~~ of the board, unless the applicant, ~~though never licensed under the terms and provisions of this act,~~ has ~~violated some one or more of the terms and~~ been convicted of a violation of any of the provisions of this ~~act or of a rule or regulation promulgated by the department, or some one or more of the terms or provisions of~~ chapter ~~4~~5, title 49, ~~Idaho Code,~~ section 49-~~1128~~1410, ~~Idaho Code,~~ or chapter 6, title 48, Idaho Code, or of ~~federal motor vehicle safety standards~~ an applicable rule or regulation. ~~If~~ Should 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~~ the applicant where it determines~~:~~ ~~T~~that one or more of the partners, ~~if the applicant be~~ of a partnership, or one or more of the stockholders or officers of ~~the~~ a 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~~ and the license ~~in the case of revocation~~ revoked was never reissued ~~or in the case of suspension was~~ the suspended license never reinstated, or that one or more of ~~such~~ the partners, stockholders, or officers, though not previously the holder of a license, has violated ~~one or more~~ any of the provisions of this ~~act~~ chapter or of an applicable rule or regulation ~~promulgated by the department 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~~2) For just cause shown, ~~to revoke,~~ or ~~to~~ suspend, on ~~such~~ terms, ~~and~~ conditions, and for ~~such~~ a period of time as ~~to~~ the department shall ~~appear~~ consider fair and just, any license or licenses issued ~~under and~~ pursuant to the ~~terms--and~~ provisions of this ~~act~~ chapter. No ~~such~~ license shall be revoked or suspended ~~except that~~ unless it shall ~~first~~ be shown that the licensee has violated ~~one--or more--of--the--terms--and~~ a provisions of this ~~act~~ chapter or of an applicable rule or regulation, ~~promulgated by the department, 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~~3) ~~The department shall have the power o~~On its own motion ~~and it--shall~~, ~~or~~ upon the sworn complaint of any person, investigate any suspected or alleged violation by ~~any~~ a licensee ~~hereunder~~ of any of the ~~terms--and provisions of~~ this ~~act~~ chapter or of ~~any~~ an applicable rule or regulation ~~promulgated by the department~~.

(~~6~~4) ~~To p~~Prescribe ~~the~~ forms ~~to--be--used~~ for applications for licenses ~~to be issued under the provisions of this act~~ and ~~to require of such~~ qualifications for an 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~~ for licensure. Every application for a ~~licensee's~~ license shall contain, in addition to ~~such~~ other information ~~as~~ required by 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~~. If the applicant ~~be~~ is 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~~. If the applicant ~~be~~ is a corporation, the name of the corporation and the name and address of each of its principal officers and directors.

(b) A complete description, including the city with the street ~~and~~ number, ~~if any,~~ of the principal place of business and ~~such~~ any 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 new vehicle dealer's license, c~~Copies of any letters of franchise for new ~~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 n~~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~~man's license, certification by the

vehicle dealer by whom the salespersonman 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.

(75) To-rRequire that a licensee's dealer's principal place of business, and such other sites-or locations as-may-be operated and maintained by such-licensees him in conjunction with their his principal place of business, have erected or posted thereon--such signs or devices providing information relating to the licensee's dealer's name, the location and address of such-licensee's the 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 of the license held by the dealer.

(86) To--pProvide for regular meetings of the dealer advisory board, to be held not less frequently than semiannually,-and-from-time to-time-to-call-special--meetings--thereof;--providing--that--notices. 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 the meeting shall is to be held.

(7) Inspect, prior to licensing, the principal place of business and other sites or locations as may be operated and maintained by the applicant.

(98) To Seek and consider the advisory board's recommendations and comments regarding proposed rules and regulations promulgated for the administration of the provisions of this act chapter.

(10)--To-seek-the-dealer-advisory-board's-recommendations-and-comments-regarding-the-administration-of-this-act.

(119) To-rRequire the attendance of not less than one or more than three (3) advisory board members at all hearings held relating to this act chapter.

SECTION 376. That Section 49-2404, Idaho Code, be, and the same is hereby amended to read as follows:

49-24041603. DEALER ADVISORY BOARD. (1) There-is--hereby--created an--advisory--board,-to-consist-of-eight-(8)-members;-five-(5)-members to-be-appointed-from-licensed-dealers-selling-new-vehicles,--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--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.--The--governor--shall--appoint-two-(2)-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 governor-shall-appoint-one-(1)--member--from----licensed--mobile--home dealers--to-serve-a-three-(3)-year-term.~~ There shall be a dealer advisory board to consist of eight (8) members to assist and advise the department in the administration of the provisions of this chapter. Five (5) members shall be appointed from licensed dealers selling new vehicles, one (1) member appointed from licensed dealers selling manufactured homes, and two (2) members appointed from licensed dealers selling used vehicles. The governor shall appoint the board with consideration to recommendations of the board of directors of the Idaho Automobile Dealers Association and recommendations of the Independent Dealer Association representing used vehicle dealers. The term of office of each member shall be three (3) years. Vacancies occurring on the board other than by expiration of the term~~,~~ shall be filled for the unexpired term only~~.--Each~~, and each member of the board shall serve until his successor is appointed and qualified. ~~The-m~~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~~ and payments of compensation shall be paid from the state highway account ~~of-the-state-of-Idaho~~ as part of the expenses of administering the provisions of this ~~act~~ chapter. 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 advisory board any matter, thing or question referred to it by the department, or which~~,~~ by reason of any provisions of this ~~act~~ chapter, it has power to determine.

(2) The advisory board on the first day of each July, or as soon thereafter as 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~~ has elected its officers, the secretary ~~so-elected~~ shall certify the results of ~~such~~ the election to the department. The chairman shall preside at all meetings of the advisory board and the secretary shall make a record of their 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 377. That Section 49-2405, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2405~~1604. RECORDS AS EVIDENCE. Copies of all records and papers in the office of the director, ~~duly~~ authenticated under the hand and seal of the director, shall be received in evidence in all cases equally and with like effect as the original ~~thereof~~.

SECTION 378. That Section 49-2406, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2406~~1605. 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-see-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 379. That Section 49-2407, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2407~~1606. CLASSES OF LICENSES. Licenses issued under the provisions of this ~~act~~ chapter shall be ~~the-following-classes~~ as follows:

(1) ~~New-vehicle~~ A dealer's license~~.-This-license~~ shall permit the licensee to engage in the business of selling or exchanging new and used vehicles ~~or--both~~, new and used motorcycles and motor scooters, new and used manufactured homes and travel trailers, and new and used motor homes. This form of license shall permit ~~the-persons-named therein~~ licensees who shall be owners or part owners of the business of the licensee to act as vehicle salespersonsmen.

(2) ~~Used--vehicle-dealer's-license.-This-license-shall-permit-the licensee-to-engage-in-the-business-of-selling-or-exchanging-used-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-vehicle-salespersons.~~

~~(3)~~ A ~~v~~Vehicle salespersonman's license~~.--This-license~~ shall permit the licensee to engage in the activities of a vehicle salespersonman ~~as--defined--in--section--49-2402,---Idaho---Code.~~ A ~~s~~Salespersonman'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 vehicle-salespersons.~~

~~(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-vehi-~~

~~cle-salespersons.~~

~~(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--vehicle-salespersons.~~

~~(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~~3) A wWholesale 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,~~ for a principal place of business, except for the requirement of display area and adequate room to repair vehicles.

(~~9~~4) A vVehicle manufacturer's license.~~This-license~~ shall permit the licensee to engage in the business of constructing or assembling vehicles, of the type subject to registration under ~~the-vehicle-act-of the-state-of-Idaho~~ this title at an established place of business within Idaho.

(~~10~~5) A dDistributor, factory branch, or distributor branch.~~This~~ license shall permit the licensee to engage in the business of selling and distributing vehicles, parts, and accessories to their franchised dealers.

(~~11~~6) A rRepresentative (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 vehicles, parts, and accessories.

(~~12~~7) Pending the satisfaction of the department that the applicant has met the requirements ~~under-this-chapter~~ for licensure, 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~~ for a license. ~~Such~~ A temporary permit shall terminate when the applicant's license has been issued or refused.

(~~13~~8) The department may issue a probationary vehicle salespersonman'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 380. That Section 49-2408, Idaho Code, be, and the same is hereby amended to read as follows:

49-24001607. FEES -- FUNDS -- EXPENSES -- EXPIRATION OF LICENSES. (1) ~~To pay the expenses of administering and enforcing this act, t~~The department shall collect with each application for ~~each class of license~~ licensure, the following fees:

(a) ~~Vehicle d~~Dealer's, wholesale dealer's and vehicle manufacturer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

~~(b) Used vehicle dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).~~

~~(c)~~ Vehicle salespersonman's license, five dollars ($5.00).

~~(d) New motorcycle or motor scooter dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).~~

~~(e) Used motorcycle or motor scooter dealer's license, initial application, one hundred twenty-five dollars ($125). 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) Vehicle manufacturer's license, one hundred dollars ($100).~~

~~(i~~c) Distributor-factory branch-distributor branch license, one hundred dollars ($100).

~~(j~~d) Representative's license, twenty-five dollars ($25.00).

~~(k~~e) To reissue a license, salespersonman 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~~f) Supplemental lot license or relocated principal place of business, and temporary supplemental lot, 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 for a temporary supplemental lot.

~~(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.

(3) All such fees shall be paid over to the state treasurer ~~and shall be kept in~~ for credit to the state highway account ~~of the state of Idaho. The~~ out of which shall be paid the expenses of ~~said~~ the

department and the expenses incurred in enforcing the provisions of this act shall be paid from said account chapter.

(4) Such--lLicenses, 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 through December 31 next following the date of issuance thereof and shall then expire. A license uUpon the expiration of--such license, unless by suspension or revocation, the same may be renewed upon the payment of the fees specified herein this section to accompany applications, and such renewals shall be made from year to year as a matter of right.

(5)--When an applicant or licensee is conducting more than one (1) category of business as defined in--section--49-2402(3),--Idaho--Code, 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 ($125) for initial application and a fee of one hundred dollars ($100) for a renewal application.

SECTION 381. That Section 49-2409, Idaho Code, be, and the same is hereby amended to read as follows:

49-24091608. LICENSE BOND. (1) Before any vehicle 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 shown for the following classes, with a 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 the applicant shall not practice any fraud, make any fraudulent representation or violate any of the provisions of this act chapter, or rules and regulations promulgated by of the department, or the provisions of chapter 45, title 49, Idaho Code, section 49-112418, Idaho--Code, or chapter 6, title 48, Idaho Code, or the federal motor vehicle safety standards, in the conduct of the business for which he is licensed:.

(1a) New--vehicle All dealers, including wholesale, but excluding a dealer exclusively in the business of motorcycles and motor scooters, twenty thousand dollars ($20,000).

(2)--Used vehicle dealer, twenty thousand dollars ($20,000).

(3b) New A dealer exclusively in the business of motorcycle or and motor scooter dealer sales, 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.

(2) If a bond is cancelled or otherwise becomes invalid, upon receiving notice of the cancellation or invalidity, the department shall immediately suspend the dealer's license and take possession of the license itself, all vehicle plates used in the business and all

unused title applications of the licensee. The licensee is entitled to a hearing which shall be held within twenty (20) days of the suspension. Upon receiving notice that a valid bond is in force, the department shall immediately reinstate the license.

(3) The bond required in this section may be continuous in form and the total aggregate liability on the bond shall be limited to the payment of the amounts set forth in this section.

SECTION 382. That Section 49-2410, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2410~~1609. 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 383. That Section 49-2411, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2411~~1610. 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 the dealer's salespersons~~man~~men acting for the dealer, in his behalf~~,~~ or within the scope of the employment of ~~such~~ salespersonman, or shall suffer any loss or damage by reason of the violation by ~~such~~ the dealer or salespersonman of any of the provisions of this ~~act~~ chapter, ~~such~~ that person shall have a right of action against ~~such~~ the dealer and his salespersonman.

(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~~ chapter, or any party to a franchise who is so injured in his business or property by a violation of a provision of this ~~act~~ chapter relating to that franchise, or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of the provisions of this ~~act~~ chapter, may bring an action for damages and equitable relief, including injunctive relief.

(3) A ~~dealer's or salesperson's~~ license or a renewal ~~of said license~~ shall not be issued to any applicant ~~therefor~~ unless and until ~~such~~ the 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~~ the applicant upon whom all process may be served in any action or actions which may ~~thereafter~~ subsequently be commenced against ~~said~~ the applicant arising out of any claim for damages suffered by any ~~firm, person, association or corporation~~ by reason of the violation ~~by said~~ of the applicant of any of the terms

and provisions of this ~~act,~~ chapter or provisions of chapter 45, title 49, ~~Idaho Code,~~ section 49-1~~1~~2418, ~~Idaho Code,~~ or chapter 6, title 48, Idaho Code, or of federal motor vehicle safety standards. The applicant shall stipulate and agree in ~~said~~ the appointment that any process directed to ~~said~~ the 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~~ his designee, shall be of the same legal force and effect as if served upon ~~said~~ the applicant personally. ~~Said~~ The applicant shall further stipulate and agree in writing that the agency created by ~~said~~ the 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 provisions of this chapter. 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~~ the process shall be left with ~~said~~ the director. Not later than two (2) days after the service of ~~said~~ the process upon him, the 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.~~ The licensee shall then 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~~ the 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 384. That Section 49-2412, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~24~~1~~2~~1611. 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~~ the card is a licensed dealer or vehicle salespersonman, as the case may be, and each vehicle salespersonman's card shall also contain the name and address of the dealer employing him~~, and each~~. Each and every salespersonman shall, on request, display his card.

SECTION 385. That Section 49-2413, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~24~~1~~3~~1612. NOTICE OF CHANGE OF ADDRESS. The department shall not issue a dealer's license to any applicant ~~therefor~~ who ~~has~~ does

not have 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~~ the change so notify the department, and ~~thereupon~~ a new license shall be granted for the unexpired portion of the term of ~~such~~ the license, providing the new location meets all the requirements ~~of--section--49-2402(18), Idaho--Code~~ for a principal place of business. Should a dealer~~, for any reason whatsoever,~~ cease to be in possession of a principal place of business 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~~ the dealer's license, which shall be held and retained until it shall be made to appear to the department that ~~such~~ the licensee has again come into possession of a principal place of business, whereupon ~~such~~ the dealer's license shall be reissued to him, without charge. Nothing ~~contained~~ in the provisions of this ~~act~~ chapter shall be construed to prevent a dealer from conducting the business for which ~~such~~ the dealer is licensed at one or more licensed supplemental lots or locations not contiguous to ~~such~~ the dealer's principal place of business ~~but~~ operated and maintained in conjunction ~~therewith~~ it.

SECTION 386. That Section 49-2414, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2414~~1613. 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~~ of this chapter to:

(a) ~~To i~~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~~;~~;

(b) ~~To--v~~Violate any of the ~~terms--and~~ provisions of this ~~act~~ chapter or any of the applicable rules and regulations ~~promulgated by the department under the authority herein conferred upon--him;~~;

(c) ~~To--k~~Knowingly purchase, sell or otherwise acquire or dispose of a stolen vehicle~~;~~;

(d) ~~To v~~Violate any law ~~of the state~~ respecting commerce in vehicles or any lawful rule or regulation respecting commerce in vehicles promulgated by any licensing or regulating authority now existing or hereafter created by the laws of the state~~;~~;

(e) ~~To--e~~Engage in the business for which ~~such~~ the dealer is licensed without at all times maintaining a principal place of business ~~as required by this act;~~;

(f) ~~To--e~~Engage in a type of business respecting the selling or exchanging of ~~new or new and used~~ 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 k~~Knowingly purchase a vehicle which has an altered or removed vehicle identification number plate or alter or remove a vehicle identification number plate~~,--as--provided--in--section 49-1128, Idaho Code;~~;

(h) ~~To--v~~Violate any provision of ~~the-Idaho-motor-vehicle~~ this title ~~act~~ or any rules and regulations promulgated ~~for-chapter--4,-title-49,-Idaho-Code,-or-chapter-6,-title-48,-Idaho-Code.~~;

(i) ~~To-v~~Violate any provision of the federal motor vehicle safety standards~~.~~; or

(j) ~~To-d~~Display for sale, exchange, or sell any vehicle for which the vehicle dealer does not hold title.

(2) It shall be ~~a--violation--of--the--provisions--of-this-act~~ unlawful for any manufacturer licensed under this ~~act~~ chapter to require, attempt to require, coerce, or attempt to coerce, any new vehicle dealer in this state to:

(a) ~~To-o~~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.~~ This paragraph is not intended to modify or supersede any terms or provisions of ~~the~~ a franchise requiring ~~new-vehicle~~ dealers to market a representative line of ~~those~~ vehicles which the manufacturer or distributor is publicly advertising.

(b) ~~To-o~~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-p~~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--e~~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.~~ This paragraph 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~~ those terms or provisions shall not constitute a violation of the provisions of this ~~act~~ chapter.

(e) ~~To-c~~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.~~ 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.~~ Consent shall not be unreasonably withheld.

(f) ~~To-r~~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.~~ This paragraph does not apply unless the ~~new-vehicle~~ dealer maintains

a reasonable line of credit for each make or line of new vehicle, and 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~~ dealership.

(g) ~~To-p~~Prospectively assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability to be imposed by this ~~law~~ chapter 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~~ that referral would be binding upon the ~~new vehicle~~ dealer.

(h) ~~To--e~~Either establish or maintain exclusive facilities, personnel, or display space.

(i) ~~To-e~~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--m~~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~~ unlawful for any manufacturer licensed under this ~~act~~ chapter to:

(a) ~~To-d~~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~~ the franchise, if ~~such~~ the 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-r~~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-o~~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~~ the benefit is promptly accounted for, and transmitted to~~,~~ the ~~new-vehicle~~ dealer.

(d) ~~To--i~~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.--T~~the addition to a vehicle of required or optional equipment~~;~~, or ~~2.--R~~revaluation of the United States dollar, in the case of foreign-make vehicles or components~~;~~, or ~~3. A~~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-r~~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-d~~Deny any ~~new-vehicle~~ dealer the right of free association with any other ~~new-vehicle~~ dealer for any lawful purpose.

(g) ~~To-u~~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~~ that dealership on reasonable terms and conditions.

(h) ~~To-u~~Unfairly discriminate among its ~~new-vehicle~~ dealers with respect to warranty reimbursement.

(i) ~~To--u~~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--f~~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~~ those purposes and containing the required information ~~required--therein. Such--f~~Failure to respond shall be deemed to be consent to the request.

(k) ~~To-p~~Prevent or attempt to prevent, by contract or otherwise, any ~~new-vehicle~~ dealer from changing the executive management control of the ~~new-vehicle~~ dealership unless the manufacturer, having the burden of proof, can show that ~~such~~ the 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.~~ 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~~ dealership shall be presumptively ~~deemed~~ considered approved.

(l) ~~To--t~~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--p~~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~~ chapter.

(n) ~~To--e~~Engage in any predatory practice or discrimination against any ~~new-vehicle~~ dealer.

(o) ~~To-r~~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--m~~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~~ the dealer in connection with the sale by him in this state of new vehicles, manufactured or sold by ~~such~~ the 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 by:

~~1.--By--any~~ (a) Any statement, suggestion, promise or threat that ~~such~~ the manufacturer will, in any manner, benefit or injure ~~such new--vehicle~~ the dealer, whether ~~such~~ the statement, suggestion, threat or promise is express or implied or made directly or indirectly~~.~~;

~~2.--By--any~~ (b) Any act that will benefit or injure ~~such-new vehicle~~ the dealer~~.~~;

~~3.-By-any~~ (c) Any contract, or any express or implied offer of contract, made directly or indirectly to ~~such-new-vehicle~~ a dealer for handling ~~such~~ new vehicles, on the condition that ~~such-new vehicle~~ the 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~~.~~; or

~~4.--By-any~~ (d) Any express or implied statement or representation made directly or indirectly that ~~such-new-vehicle~~ the 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~~ that manufacturer to ~~such~~ a finance company or class of companies, or other specified person, because of any relationship or affiliation between ~~such~~ the manufacturer and ~~such~~ a finance company or companies, or ~~such~~ a specified person or persons.

Any 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, and are unlawful ~~and are hereby prohibited~~.

(5) It ~~shall be illegal~~ is unlawful 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~~ chapter 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 387. That Section 49-2415, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2415~~1614. TERMINATION, CANCELLATION OR NONRENEWAL. (1) Notwithstanding the terms, provisions or conditions of any franchise, or ~~notwithstanding the terms or provisions of~~ any waiver, ~~no~~ a manufacturer shall not cancel, terminate or fail to renew any franchise with a ~~licensed licensee~~ dealer unless the manufacturer has~~:(a)~~ ~~S~~satisfied ~~the notice requirement~~ of subsection (2) of this section~~;~~, and ~~(b)~~ ~~H~~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) T~~the manufacturer shall furnish notification of ~~such~~ termination, cancellation or nonrenewal to the department and the ~~licensee as follows~~ dealer:

~~1.~~(a) In the manner described in paragraph (b) of this subsection; and

~~2.~~(b) Not less than ninety (90) days prior to the effective date of ~~such~~ termination, cancellation or nonrenewal; or

~~3.~~(c) 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)~~1. Insolvency of the ~~licensee~~ dealership, or filing of any petition by or against the ~~licensee~~ dealership under any bankruptcy or receivership law;

~~(ii)~~2. Failure of the ~~licensee~~ dealership 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~~ dealer;

~~(iii)~~3. Conviction of the ~~licensee~~ dealer, or any owner or his operator ~~thereof, resulting in~~ imprisonment ~~in excess of~~ exceeding thirty (30) days;

~~(iv)~~4. Revocation of any license which the ~~licensee~~ dealer is required to have to operate a dealership; and

~~4.~~(d) 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.

(b3) Notification under this section shall be in writing~~;--shall be~~, by certified mail or personally delivered to the ~~licensee~~ dealer; and shall contain~~:--1.--A~~ a statement of intention to terminate, cancel or not to renew the franchise~~;~~, and ~~2.--A~~ a statement of the reasons for ~~the--termination;--cancellation--or--nonrenewal;--and--3.--The~~ and the date on which ~~such~~ termination, cancellation or nonrenewal takes effect.

(34) 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)--T~~there is a failure by the ~~licensee~~ dealer to comply with a provision of the franchise, ~~which~~ where the provision is both reasonable and of material significance to the franchise relationship, and provided that the dealer has been notified in writing of the failure within one hundred eighty (180) days prior to termination, ~~cancellation~~ or nonrenewal. A protest may be filed in accordance with the provisions of section 49-1617, Idaho Code.

~~(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~~5) The manufacturer shall have the burden of proof under this section.

(~~8~~6) 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~~7) ~~Such--f~~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~~8) 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~~ dealer, the manufacturer shall pay~~:--(a)--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~~ 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~~9) The rental payment required under subsection (~~10~~8) 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~~8) 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 388. That Section 49-2416, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~24~~16~~1~~615. SUCCESSION TO OWNERSHIP. Notwithstanding the terms, provisions or conditions of any franchise:

(1) ~~Any--owner--of-a~~ 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~~ dealership.

(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~~ dealership may succeed to the ownership ~~of-the-new-vehicle~~ under the existing franchise, provided ~~that:--(a)--T~~the designated family member gives the manufacturer written notice of his ~~or-her~~ intention to succeed to the ownership of the ~~new--vehicle~~ dealership within one hundred twenty (120) days of the owner's death or incapacity~~;~~, and ~~(b)-T~~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~~ dealership by a family member of a deceased or incapacitated owner of a ~~new--vehicle~~ dealership under the existing franchise agreement, the manufacturer may, not more than sixty (60) days following receipt of~~:~~ ~~(a)-N~~notice of the designated family member's intent to succeed to the ownership of the ~~new--vehicle~~ dealership~~,~~ or ~~(b)-A~~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 a 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.~~ A protest may be filed in accordance with the provisions of section 49-1617, Idaho Code.

(6~~5~~) 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~~ chapter.

~~(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~~6) This act chapter does not preclude the owner of a new ~~vehicle~~ dealership from designating any person as his successor by written instrument filed with the manufacturer and, in the event there is a conflict between ~~such~~ that written instrument and the provisions of this section, and that written instrument has not been revoked by the owner of the new dealership, 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 389. That Section 49-2417, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2417~~1616. LIMITATIONS ON ESTABLISHING OR RELOCATING DEALERS. (1) In the event that a manufacturer seeks to enter into a franchise establishing an additional ~~licensee~~ dealership or relocating an existing ~~licensee~~ dealership 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~~ dealer ~~in such~~ for the line ~~make in the county~~ within the ten (10) mile radius, of the intention to establish an additional dealership or to relocate an existing dealership 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~~ shall not apply~~:-(a)-T~~to the relocation of an existing dealer within ~~the~~ that dealer's relevant market area, provided that the relocation not be at a site within seven (7) miles of a licensed ~~licensee~~ franchise for the same line maker of vehicle~~;~~, or ~~(b)-I~~if the proposed ~~licensee~~ franchise is to be established at or within two (2) miles of a location at which a former ~~licensed-licensee~~ franchise for the same line make of new vehicle had ceased operating within the previous two (2) years. If the seven (7) and two (2) mile exceptions are not applicable, the relocation may still be possible upon notice and resolution of protest under subsections (1) and (3) of this section.

~~(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.~~

(3) A protest may be filed in accordance with the provisions of section 49-1617, Idaho Code.

SECTION 390. That Chapter 16, 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 49-1617, Idaho Code, and to read as follows:

49-1617. PROTESTS -- HEARINGS -- COSTS. (1) Within twenty (20) days of receiving notice or within twenty (20) days after the end of any appeal procedure provided by a manufacturer, a dealer, in respect to termination, cancellation or nonrenewal of a franchise, or establishing or relocating a dealership, or a designated family member for a refusal to honor the succession of the dealership, may file with the department to protest termination or refusal to honor the succession. When 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, establish a new or relocate a dealership, or discontinue the existing franchise until the department has held a hearing, nor subsequently, if the department has determined that there is not good cause for permitting the termination, addition, relocation or succession, or that the manufacturer is not acting in good faith.

(2) The department shall select a hearing examiner to conduct a hearing and render proposed findings of fact. In determining whether good cause for termination exists the proposed findings of fact shall be conclusive unless clearly erroneous and unsupported by the record. In determining whether good cause for the refusal to honor the succession exists, the manufacturer has the burden of proving that the successor is a person who is not of good moral character or does not meet the manufacturer's existing and reasonable standards and, considering the volume of sales and service of the dealership, uniformly applied minimum business experience standards in the consumer consumption channel. In determining whether good cause had been established for not entering into or relocating an additional franchise for the same line make, the department shall take into consideration the existing circumstances including:

(a) Permanency of the investment of both the existing and proposed franchises;

(b) Growth or decline in population and new car registrations in the consumer consumption 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 franchise to be established;

(e) Whether the franchises for the same line make in that relevant consumption 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 franchise would increase competition and be in the public interest.

(3) The department shall render its final determination within one hundred twenty (120) days after the manufacturer responds to the 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, addition, relocation, or nonhonor of the succession, unless the delay is caused by acts of the manufacturer.

(4) All costs of the department, including 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.

SECTION 391. That Section 49-2418, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2418~~1618. 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~~ in this chapter, and before revoking or suspending any license ~~issued by it hereunder~~, it shall give ~~such~~ the applicant or licensee~~, as the case may be,~~ written notice of the action which the department contemplates taking with respect to ~~such~~ the 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~~ the applicant or licensee shall show cause, if any ~~he has~~, in writing~~,~~ duly verified and filed with the department, why ~~such~~ the contemplated action should not be taken. Upon ~~the~~ receipt of ~~such~~ the 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~~ the showing, when it will hear evidence and argument in support ~~thereof, and shall give written~~ of it. Written notice of the date and place of hearing shall be given 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 n~~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~~ it a complete statement orf 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~~ chapter 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~~ the notice to the applicant or licensee personally, or by the department mailing ~~such~~ the notice by registered mail to:

(a) ~~To t~~The applicant for a license at the residence address given in his application for license;

(b) ~~To a~~ A licensed ~~vehicle~~ dealer or ~~used vehicle dealer~~ at the last known address of the principal place of business of ~~such~~ the dealer; and

(c) ~~To a~~ A licensed salesperson~~man~~ at his last known residence address.

(4) The date on which ~~such~~ the notice shall be ~~deemed~~ considered to have been served for purposes of computing time~~, as provided in this act,~~ shall be the date on which ~~such~~ the notice is delivered to the applicant or licensee personally, ~~if served by delivery as provided herein,~~ or the date on which ~~such~~ the notice is mailed~~, if service thereof is by mailing~~.

(45) The director~~,~~ or his designee~~,~~ shall preside at all hearings~~. The~~ and 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 recommenda-

tions to the director. The findings of fact shall be conclusive unless clearly erroneous and unsupported by the record.

SECTION 392. That Section 49-2419, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2419~~1619. PRODUCTION OF WITNESSES AND DOCUMENTS. In the preparation and conduct of ~~such~~ hearings, the department ~~shall have~~ has 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~~ considers 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 authorized in this chapter. The party against whom ~~such~~ the matter may be pending shall have the right to obtain ~~from the department~~ a subpoena from the department for any witnesses ~~which~~ he may desire at ~~such~~ the 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~~ him as the basis for a criminal prosecution under the laws of this state.

SECTION 393. That Section 49-2420, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2420~~1620. REPORT OF FINDINGS. The director shall state in writing ~~officially signed by him,~~ his decision after ~~such~~ the 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~~ determines that a license holder has violated any of the provisions of this ~~act~~ chapter 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~~ a period of time as to the director appears fair, reasonable and just, or the director may revoke ~~such~~ the license. ~~The decision of the director shall be the decision of the department.~~

SECTION 394. That Section 49-2421, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2421~~1621. JUDICIAL REVIEW. Any party to a hearing before the department, or any party to a hearing ~~shall have~~ has 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~~ shall be as provided in section 67-5215, Idaho Code.

SECTION 395. That Section 49-2423, Idaho Code, be, and the same

is hereby amended to read as follows:

49-~~2423~~1622. 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~~. 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 396. That Section 49-2424, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2424~~1623. PRODUCT LIABILITY INDEMNIFICATION. Notwithstanding the terms of any franchise agreement, it shall be ~~a-violation-of-this act~~ unlawful 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 397. That Section 49-2425, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2425~~1624. 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~~ requirement when replaced by identical manufacturer's original equipment.

SECTION 398. That Section 49-2426, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2426~~1625. REPAIRED DAMAGE, NOT GROUNDS FOR ~~REVOCATION~~ REJECTION. Repaired damage to a customer-ordered new vehicle, not

exceeding the six percent (6%) ~~rule~~ requirement, shall not constitute grounds for ~~revocation~~ rejection of the customer order. The customer's right of ~~revocation~~ rejection ceases upon his acceptance of delivery of the vehicle, provided disclosure as required in section 49-~~24251~~1624, Idaho Code, is made prior to delivery.

SECTION 399. That Section 49-2427, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~24271~~1626. 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~~ its products, 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~~ unlawful 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 400. That Section 49-2428, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~24281~~1627. USE ~~AND--DISPLAY~~ OF DEALER AND MANUFACTURER LICENSE 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~~ Any dealer or manufacturer license plate 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~~2) Dealer plates shall not be used on vehicles under the following circumstances:

~~1.~~(a) On work or service vehicles not held in stock for sale;

~~2.~~(b) On leased or rented vehicles owned by the licensed manufacturer or dealer;

~~3.~~(c) On a laden vehicle designed for transportation of cargo, unless the manufacturer or dealer has complied with sections 49-~~127~~434, Idaho Code;

~~4.~~(d) On vehicles which have been sold;

~~5.~~(e) On vehicles used by the licensee for furtherance of another business;

~~6.~~(f) On vehicles owned by a licensed wholesaler ~~dealer~~ used for personal use;

~~7.~~(g) On vehicles owned by a licensed wholesaler, operated by their licensed salespersonmen, used for personal use.

(~~b~~3) Dealer and manufacturer plates may be used on vehicles operated by the manufacturer, dealer or his licensed vehicle salespersonman, ~~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 salespersonman. ~~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 salespersonman 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 salespersonman.

(~~c~~4) Licensed part-time vehicle salespersonmen may use a dealer plate on a vehicle that is offer~~ed 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 salespersonman, 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 that manufacturer or dealer.

(~~2~~5) 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~~. The record shall be open to inspection by any ~~police~~ peace officer or any officer or employee of the department.

(~~3~~6) No manufacturer ~~of~~ or dealer ~~in vehicles~~ shall cause or permit any ~~such~~ vehicle owned by ~~such person~~ them to be operated or moved upon a public highway without ~~there being~~ displayeding upon the vehicle a ~~number~~ license plate issued to that person, either under the provisions of this section or section 49-~~11~~4428, Idaho Code, ~~or under this section,~~ except as otherwise authorized in ~~subdivision (c) of~~ section 49-~~117~~431, Idaho Code.

SECTION 401. That Section 49-2436, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2436~~1628. 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.~~

~~(1) The department shall promulgate reasonable rules and regulations establishing procedures consistent with this section, including: (a) A rule requiring the dealer to~~ shall maintain a log showing the vehicle identification number, date, reason for use, and the name of the person authorized to use the plate.

(~~b~~2) ~~A rule requiring the displayer~~ The user of a loaner plate ~~to~~ shall carry identification showing dealer name, number on plate, signature of dealer and year ~~the card~~ for which the plate 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~~ on vehicles held in stock for sale which are loaned to a customer of a dealership while the customer vehicle is being repaired~~. (b) On~~, and, 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~~4) Loaner plates may not be used on:

(a) ~~On w~~Work or service vehicles not held in stock for sale;

(b) ~~On l~~Leased or rented vehicles owned by the licensed dealer;

(c) ~~On a~~ A laden vehicle designed for transportation of cargo, unless the dealer has complied with the provisions of section 49-~~127~~434, Idaho Code;

(d) ~~On v~~Vehicles which have been sold;

(e) ~~On v~~Vehicles used by licensee for furtherance of another business;

(f) ~~On v~~Vehicles used for personal use by licensed salespersonman or other nonlicensed employees of the dealership;

(g) ~~On v~~Vehicles of which the dealer does not have legal owner-

ship;

(h) ~~On--v~~Vehicles being operated by ~~a-bona-fide~~ an actual purchaser.

SECTION 402. That Sections 49-2429, 49-2430, 49-2431 and 49-2433, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~2429~~1629. ~~REPAIR-OR-REPLACEMENT-OF-AN~~ ODOMETERS. (1) Nothing in this chapter shall prevent the service, repair or replacement of an odometer, provided the mileage indicated ~~thereon~~ remains the same as before ~~such~~ the service, repair or replacement. Where the odometer is incapable of registering the same mileage as before 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:

(a) ~~F~~fail to adjust an odometer or affix a notice regarding ~~such~~ adjustment, as required under this section.

(b) ~~No-person-shall,-w~~With intent to defraud, remove or alter any notice affixed to a vehicle pursuant to the provisions of this section.

~~49-2430.-DISCONNECTING,-RESETTING-OR-TURNING-BACK-PROHIBITED.~~

(2) It shall be unlawful for any person to:

(a) ~~D~~disconnect, turn back, or reset the odometer of any vehicle with the intent to reduce the number of miles indicated on the odometer gauge.

~~49-2431.-SELLING-VEHICLE-KNOWING-ODOMETER-TURNED-BACK-UNLAWFUL.-It shall-be-unlawful-for-any-person-to-sell~~

(b) Sell a vehicle in this state if ~~such~~ that person has knowledge that the odometer on the vehicle has been turned back or replaced, and if the person fails t~~o notify th~~e buyer prior to the time of the sale, that the odometer has been turned back or replaced, or that he has reason to believe that the odometer has been turned back or replaced.

~~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~~

(c) 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 403. That Section 49-2434, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2434~~1630. PURCHASER PLAINTIFF TO RECOVER COSTS AND ATTORNEY'S FEES. In any suit brought by the purchaser of a vehicle against the seller of ~~such~~ that vehicle, the purchaser shall be entitled to recover his court costs and a reasonable attorney's fee fixed by the

court, if:

(1) ~~t~~The suit or claim is based substantially upon the purchaser's allegation that the odometer on the vehicle has been tampered with or replaced contrary to this ~~act, or replaced contrary to this act, and~~ chapter; and

(2) ~~It~~ It is found in ~~such~~ the 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 404. That Section 49-2435, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2435~~1631. 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 405. That Section 49-2437, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2437~~1632. APPLICABILITY OF ~~THIS ACT~~ CHAPTER. (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~~ chapter and shall be subject to the jurisdiction of the courts of this state.

(2) The applicability of this ~~act~~ chapter 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~~ chapter shall be ~~deemed~~ considered 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~~ unlawful conduct under this ~~act~~ chapter on the part of the manufacturer.

(5) Nothing in this ~~act~~ chapter shall be construed to impair the obligations of a contract entered into prior to ~~the date this act becomes effective~~ January 1, 1989, or to prevent a manufacturer, distributor, representative or any other person, whether or not licensed under this ~~act~~ chapter, from requiring performance of ~~such~~ a prior written contract entered into with any ~~licensee hereunder~~ dealer, nor shall the requirement of ~~such~~ performance constitute a violation of any of the provisions of this ~~act; provided, any such~~ chapter. Any contract, or the terms ~~thereof~~ it, requiring performance, shall have been ~~theretofore~~ freely entered into and executed between the contracting parties. ~~However, this act~~ This chapter shall apply to any amendments, novations, records or modifications of ~~such~~ prior contracts ~~and to any contract~~ and to any contracts entered into subsequent to ~~the date this act becomes effective~~ March 31, 1989.

SECTION 406. That Section 49-2439, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2439~~1633. LIMITATIONS. (1) Actions arising out of any provision of this ~~act~~ chapter shall be commenced within a four (4) year period of the accrual of the cause of action~~;--provided,--however,--that if~~. If a person liable hereunder this chapter 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~~ the civil, criminal or administrative proceeding.

CHAPTER 17
LABOR AND MATERIAL LIENS

SECTION 407. That Section 49-1703, Idaho Code, be, and the same is hereby repealed.

SECTION 408. That Section 49-3502, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3502~~1701. LABOR AND MATERIAL LIENS ON MOTOR VEHICLES. Every person has a lien, dependent upon possession, for the compensation to which he is legally entitled for making repairs or performing labor upon, and/or for the furnishing supplies or materials for, and/or for the towing, storage, repair or safekeeping of, and/or for the rental of parking space for any vehicle of a type subject to registration under the motor vehicle code, and upon the contents thereof.

SECTION 409. That Section 49-3503, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3503~~1702. FORM FOR NOTICE OF LIEN. To claim the benefits of the provisions of this chapter a lien claimant shall, prior to making any repairs, provide notice to the registered and legal owner of a motor vehicle of intended repairs, service, or storage at the request of a person in possession of the vehicle. The notice shall be substantially in the following form:

To: [Name of registered and legal owner and addresses]

Notice is hereby given, in accordance with the provisions of , Idaho Code, that the undersigned, of [address] has been requested by , of , [address] , [the registered owner, or agent thereof] , to [repair or as the case may be] the follow-

ing described motor vehicle of which you are designated the registered or legal owner on the title: [specify year, make and model] , [vehicle identification or engine no.] , [license no.] . If appropriate, add: The repairs requested are as follows: .

The undersigned intends to begin such [repairs or as the case may be] on approximately , 19 .

The approximate charges for the services requested will be $, and the undersigned will claim a lien on the vehicle for the actual amount of such charges.

In accordance with the provisions of sections and , Idaho Code, the undersigned requests that you consent to the performance of [such repairs or as the case may be] by signing and returning the enclosed copy of this notice.

Dated , 19 .

[Signature]

Consent

I hereby consent to the performance of the above described [repairs or as the case may be.]

Dated , 19 .

[Signature of registered or legal owner]

SECTION 410. That Section 49-3504, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3504~~1703. ASSIGNMENT OF LIEN. Any lien provided for in this ~~or the following~~ chapter may be assigned by written instrument accompanied by delivery of possession of the vehicle subject to the lien, and the assignee may exercise the rights of a lien holder. Any lien holder assigning a lien, as authorized herein, shall at the time of assigning the lien give written notice of the assignment by certified mail to the registered and legal owner, including the name and address of the person to whom the lien is assigned.

SECTION 411. That Section 49-3505, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3505~~1704. REVIVAL OF LOST LIENS. Whenever the lien upon any vehicle is lost by reason of the loss of possession through trick, fraud, or device, the repossession of the vehicle by the lien holder revives the lien, but any lien so revived is subordinate to any right, title or interest of any person under any sale, transfer, encumbrance, lien or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

SECTION 412. That Section 49-3506, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3506~~1705. SALE TO SATISFY LIENS. (1) When a possessory lien holder is not paid the amount of the lien due, within ten (10) days after the same becomes due, the lien holder may proceed to conduct a

sale as provided by this section to satisfy the lien and costs of sale, if an authorization to conduct a lien sale has been issued by the ~~division of motor vehicles~~ department, or a judgment has been entered in favor of the lien holder on the claim which gives rise to the lien, or the registered and legal owners of the vehicle have signed, after the lien has arisen, a release of any interest in the vehicle.

(2) A possessory lien holder may apply to the department for the issuance of an authorization to conduct a lien sale. The application shall include all of the following information:

(a) A description of the vehicle, including make, vehicle identification number, license number. In the case of motorcycles, the engine number shall also be included;

(b) The names and addresses of the registered and legal owners of the vehicle, if ascertainable from registration certificates within the vehicle, and the names and addresses of other persons whom the lien holder knows or reasonably should know to claim an interest in the vehicle;

(c) A statement of the amount of the lien and the facts concerning the claim which give rise to the lien; and

(d) A statement that the lien holder has no information or belief that there is a valid defense to the claim which gives rise to the lien.

(3) Upon receipt of an application, the department shall send a copy of the application to the registered and legal owners at their addresses of record with the department and to any other interested persons listed in the application. The department shall also send a notice which shall include the following information:

(a) That an application has been made with the department for the issuance of an authorization to conduct a lien sale;

(b) That the person has a legal right to a hearing in court;

(c) That if a hearing in court is desired, an enclosed declaration of opposition must be signed and returned;

(d) That if the declaration is signed and returned, the possessory lien holder will be allowed to sell the vehicle only if he obtains a judgment in court or obtains a release from the registered and legal owners;

(e) That the department will issue the authorization to conduct a lien sale unless the person signs and returns the declaration of opposition within ten (10) days after the date the notice was mailed; and

(f) That the person may be liable for costs if the lien holder brings an action and if a judgment is entered in favor of the lien holder.

(4) If the department receives a timely mailed declaration of opposition, it shall notify the possessory lien holder that he may not conduct a lien sale unless:

(a) A judgment has been entered in his favor on the claim which gives rise to the lien; or

(b) The registered and legal owners of the vehicle have signed a release of any interest in the vehicle.

(5) An applicant shall include with his application for lien sale

a fee of ten dollars ($10.00) which shall be deposited in the abandoned vehicle trust account. The fee shall be recoverable as a cost by the lien holder. ~~The application fee shall be deposited in the abandoned vehicle trust account.~~

SECTION 413. That Section 49-3507, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3507~~1706. RELEASE OF OWNER'S INTEREST IN VEHICLE. (1) A registered or legal owner of a vehicle in the possession of a person holding a lien under the provisions of this chapter may release any interest in the vehicle after the lien has attached.

(2) The release shall contain the following information:

(a) A description of the vehicle, including the year and make, the engine or vehicle identification number, and the license number;

(b) The names and addresses of the registered and legal owners of record;

(c) A statement of the amount of the lien and the facts concerning the claim which give rise to the lien; and

(d) A statement that the person releasing the interest understands that he has a legal right to a hearing in court prior to the sale of the vehicle and that he waives the right to contest the claim.

(3) A copy of the release shall be filed with the department in connection with the transfer of interest in a vehicle under the provisions of this section.

SECTION 414. That Section 49-3508, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3508~~1707. NOTICE OF SALE. Prior to any ~~such~~ sale the possessory lien holder shall give at least ten (10) days' notice of the sale by advertising in one (1) issue of a newspaper of general circulation in the county in which the vehicle is located. Prior to the sale of any vehicle to satisfy ~~any such~~ lien, twenty (20) days' notice by certified mail shall be given to the legal owner and to the registered owner of the vehicle, if registered in this state, as the same appear in the registration certificate, and to the ~~motor vehicle division~~ department. All notices specify the make, the vehicle identification number, and license number, and the date, time, and place of the sale. In the case of motorcycles, the engine number shall be included.

SECTION 415. That Section 49-3509, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3509~~1708. INSPECTION PRIOR TO SALE. No lien sale conducted pursuant to this ~~act~~ chapter shall be undertaken unless the vehicle has been available for public inspection, at a location easily accessible to the public, for at least one (1) hour before sale. Sealed bids shall not be accepted. The possessory lien holder shall conduct

the sale in a commercially reasonable manner.

SECTION 416. That Section 49-3510, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3510~~1709. DISPOSITION OF PROCEEDS. (1) The proceeds of a lien sale shall be disbursed as follows:

(a) To ~~discharge~~ the lien; then to actual costs of selling the property. The cost of selling shall be the actual cost, not to exceed seventy-five dollars ($75.00), for each vehicle;

(b) The balance, if any, shall be forwarded to the ~~division of motor vehicles~~ department within five (5) days of the sale for payment to the legal owner of any unpaid obligation or for deposit in the abandoned vehicle trust account.

(2) Any person claiming an interest in the vehicle may file a claim with the ~~division of motor vehicles~~ department for any portion of the funds from ~~such~~ the lien sale which were forwarded to the department. Upon determination of the ~~motor vehicle division~~ department that the claimant is entitled to some amount, the department shall pay an amount which in no case shall exceed the amount forwarded to the department in connection with the sale of the vehicle. The department shall not honor any claim not filed within two (2) years of the sale.

~~(3) Those funds in the abandoned vehicle trust account received under the provisions of this section are appropriated to reimburse administrative costs and approved claims.~~

SECTION 417. That Section 49-3511, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3511~~1710. UNLAWFUL REMOVAL OR OBTAINING OF VEHICLE SUBJECT TO LIEN. ~~It is a misdemeanor for any~~ No person ~~to~~ shall obtain possession of any vehicle or any part ~~thereof~~ that vehicle, subject to a lien under the provisions of this chapter, through surreptitious removal or by trick, fraud, or device perpetrated upon the lien holder.

CHAPTER 18
ABANDONED MOTOR VEHICLES

SECTION 418. That Sections 49-1801 and 49-1808, Idaho Code, be, and the same are hereby repealed.

SECTION 419. That Section 49-3603, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3603~~1801. ABANDONMENT PROHIBITED. (1) No person shall abandon a vehicle upon any highway.

(2) No person shall abandon a vehicle upon public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

SECTION 420. That Section 49-3604, Idaho Code, be, and the same

is hereby amended to read as follows:

49-~~3604~~1802. PRESUMPTION. The abandonment of any vehicle ~~in--a manner--prescribed-in-section-49-3603,-Idaho-Code,~~ shall create a presumption that the last registered owner of record is responsible for ~~such~~ the abandonment and is thereby liable for the cost of removal and disposition of the vehicle.

SECTION 421. That Section 49-3606, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3606~~1803. REMOVAL OF STOLEN ~~MOTOR~~ VEHICLES OR ~~MOTOR~~ VEHICLES FOUND UNDER EMERGENCY CIRCUMSTANCES. (1) Any authorized officer, upon discovery of a ~~motor~~ vehicle reported as stolen and not recovered, or any ~~motor~~ vehicle involved in any extraordinary circumstances ~~as defined-in-section-49-3601,-Idaho-Code~~, may take ~~such~~ the vehicle into custody and cause ~~the-same~~ it to be taken to and stored in a suitable place, or may cause ~~any-such-motor~~ the vehicle to be placed in the custody of a tow truck operator, all expenses of towing and storage to be those of the vehicle owner unless otherwise determined according to the provisions of section 49-~~3609(6)~~1805(5), Idaho Code.

(2) Within forty-eight (48) hours of the time that the ~~motor~~ vehicle is taken into custody and is stored pursuant to this chapter, the agency of which the officer is an agent shall give written notice by certified mail to the registered and legal owners of ~~such-motor~~ the vehicle, if known~~,-which~~. The notice shall state:

(a) That the ~~motor~~ vehicle has been taken into custody and stored; and

(b) The location of storage of the ~~motor~~ vehicle.

(3) The public agency by which the officer is employed shall appraise the vehicle and shall~~:-(a)-Within-the-same--forty-eight--(48) hours,--notify--the--department--of--the--removal-of-such-vehicle;-(b) I~~include in the notice~~:-the-appraised-value-of-the-vehicle;~~, identification of the ~~appraiser~~ officer; location of the vehicle; a description of the vehicle including make, year model, identification number, license number, state of registration and, if a motorcycle, an engine number; and the statutory authority for storage.

SECTION 422. That Section 49-3608, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3608~~1804. REMOVAL OF ABANDONED VEHICLES BY AUTHORIZED OFFICER. ~~(1)~~ Any authorized officer within the jurisdiction in which a vehicle is located, who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property to a garage or nearest place of safety.

~~(a)~~ Upon discovery of an abandoned vehicle ~~meeting-the-provisions of--section--49-3601(2),--Idaho-Code,~~ which is not within the class of vehicles defined under "emergency circumstances," ~~section--49-3601(7), Idaho--Code,~~ an authorized officer shall attach on the vehicle, in plain view, a notice ~~entitled-"intent--to--remove~~ that this vehicle ~~within~~ will be towed away at the expiration of forty-eight (48) hours

as an abandoned vehicle". The notice shall contain ~~the--following information:~~ the name of the officer who prepared the notice; the name of the agency employing the officer; the time and date of attaching the notice; the time and date after which the vehicle will be removed; the telephone number and address of the agency where further information can be obtained. ~~(b) The owner of any vehicle defined within this statute~~ A reasonable attempt shall be made to notify by telephone the owner of any vehicle which has current license plates and registration as shown on the records of the department ~~shall be notified~~, prior to the expiration of the forty-eight (48) hour notice period, ~~by telephone~~ of the location of the vehicle and the time and date of intent to remove the vehicle. ~~If telephone contact cannot be made, a copy of the notice of intent to remove shall be attached to--the--door of--the--owner's--residence.~~ The inability of an officer to notify the owner~~, as herein provided,~~ shall not preclude the removal of the vehicle at the expiration of the forty-eight (48) hour period.

~~(c)~~ Any vehicle ~~defined herein~~ which does not have current or any license plates attached may be immediately removed to a safe place of storage~~, the same as a vehicle defined under "emergency circumstances" section 49-3601(7), Idaho Code.~~

~~(2)--The--public agency employing the officer shall make, or cause to be made, an appraisal of any such vehicle--within--three--(3)--days after--removal--as provided in section 49-3610(4) and (5), Idaho Code.~~

~~(3)--An authorized officer who is not a sworn--peace--officer--may remove vehicles pursuant to this section only after he has delivered a written--report identifying the vehicle and its location to the office of the Idaho state police, sheriff, or chief of police nearest to--the vehicle.~~

SECTION 423. That Section 49-3609, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3609~~1805. POST-STORAGE HEARING. (1) Whenever an authorized officer directs the towing or storage of a vehicle, except vehicles impounded ~~for in~~vestigation pursuant to section 49-~~3606~~1803, Idaho Code, the agency directing or authorizing towing or storage shall provide the vehicle's registered and legal owners of record, or their agents, with the opportunity for a post-storage hearing to determine the validity of the ~~towing,~~ storage ~~and charges~~.

(2) A notice of ~~such~~ the storage shall be ~~mailed or personally delivered~~ sent by certified mail to the registered and legal owners within forty-eight (48) hours, excluding the weekends and holidays, and shall include the following information:

(a) The name, address, and telephone number of the agency providing the notice;

(b) The location of the place of storage and description of the vehicle which shall include, if available, the name or make, identification number, the license plate number, and the mileage;

(c) The authority and purpose for the removal of the vehicle; and

(d) ~~Such--notification--shall--also--specifyt--that,~~ ~~i~~In order to receive a post-storage hearing, ~~such~~ the owners, or their agents, must request the hearing in writing within ten (10) days of the

date of the notice. Any such hearing shall be conducted within forty-eight (48) hours of the request, excluding weekends and holidays. The public agency may authorize its own officer or employee to conduct the hearing, so long as ~~such~~ the hearing officer is not the same person who directed the storage of the vehicle.

(3) ~~The--agency--or--person--directing-the-towing-or-storage-of-a vehicle-shall-cause-to-be-mailed-to--the--department--a--copy--of--the notice--of--storage--at-the-same-time-the-registered-or-legal-owner-is notified.~~

~~(4)~~ Failure of either the registered or legal owner, or ~~their~~ his agent, to request or to attend a scheduled hearing shall satisfy the post-storage hearing requirement as to that person.

(5~~4~~) The provisions of this section shall not apply to vehicles removed from private property pursuant to section 49-~~3610~~1806(1), Idaho Code.

(6~~5~~) The agency employing the person who directed the storage shall be responsible for the costs incurred for towing and storage if it is determined in the hearing that probable cause for the storage cannot be established.

SECTION 424. That Section 49-3610, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3610~~1806. REMOVAL OF UNAUTHORIZED AND ABANDONED VEHICLE FROM REAL PROPERTY. (1) Any person having possession or control of real property who finds an unauthorized vehicle standing upon his property is permitted to have ~~such~~ the vehicle removed~~,--provided~~ if there is posted on or near the property in a clearly conspicuous location, in large print, a sign or notice that unauthorized vehicles will be removed at the owner's expense and designating the name ~~and-phone number~~ of the towing firm. ~~Such-u~~Unauthorized vehicles need not meet the provision of section 49-~~3601(2)~~102(2), Idaho Code, ~~defining-abandoned-motor-vehicle~~ in this instance.

(2) Any person having possession or control of real property who finds an abandoned vehicle standing on his property, where the property is not posted as set out in subsection (1) of this section, ~~must~~ may contact an authorized officer, who must in turn comply with the provisions of section 49-~~3608~~1804, Idaho Code, in accomplishing the removal of ~~such~~ the vehicle except under those circumstances set out in subsection (3) of this section.

(3) Where access into or out of private property or substantial interference with the use and enjoyment of private property is created by an unauthorized or abandoned vehicle being parked or otherwise left on private property, the person owning or controlling ~~such~~ the property ~~shall~~ may contact an authorized officer who may, without regard for the provisions of section 49-~~3608(1)~~1804, Idaho Code, immediately proceed to have ~~such~~ the vehicle removed to a garage or nearest place of safety. All other provisions of this chapter shall be complied with.

SECTION 425. That Section 49-3611, Idaho Code, be, and the same

is hereby amended to read as follows:

49-~~3611~~1807. CHARGES NOT OTHERWISE PROVIDED FOR. Every towing firm, employee or agent in the process of towing, removing or impounding a vehicle as directed by an authorized officer, except vehicles found under extraordinary circumstances~~, section 49-3601, Idaho Code,~~ or ~~vehicles~~ suspected stolen, ~~section 49-3606, Idaho Code,~~ shall upon request of the owner or his authorized agent, release the vehicle at the scene. If the vehicle is attached to the tow truck, or otherwise "in tow," the regular, scheduled tow fee may be charged. When the vehicle is not yet "in tow" at the time of request, the release must be made, and no charge may be assessed except a customary and reasonable charge for mileage one way from the towing firm's place of storage to the scene plus the usual fee for the tow truck operator. If the authorized fee is not tendered by the owner or his agent, the towing operator may complete the impoundment, towing or removal, as authorized.

SECTION 426. That Section 49-3612, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3612~~1808. STORAGE OF VEHICLES. Whenever an authorized officer removes a vehicle from a highway, or from public or private property, he shall take, or cause to be taken, the vehicle to the nearest garage or other place of safety. At the time of ~~such~~ removal, the authorized officer or employee shall record the mileage of the vehicle.

SECTION 427. That Section 49-3613, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3613~~1809. REQUEST BY POSSESSORY LIEN HOLDER FOR NAMES AND ADDRESSES OF INTERESTED PERSONS -- NOTICE OF SALE TO SATISFY LIEN. (1) After ~~acquiring possession~~ of a vehicle in any manner authorized by the provisions of this chapter, the possessory lien holder shall make a request to the ~~motor vehicle bureau~~ department for the names and addresses of all persons having an interest in the vehicle as appears in the department records. The possessory lien holder~~,~~ shall, upon receipt of this information, notify all legal or registered owners in accordance with section ~~49-3609~~1805, Idaho Code, unless otherwise already complied with. Whenever a vehicle has been removed under the provisions of this chapter and the possessory lien holder has sent the notice ~~or notices~~ as provided ~~herein~~, the possessory lien holder shall have a lien dependent upon possession for his compensation for towage and for caring for and keeping safe ~~such~~ the vehicle for a period not exceeding sixty (60) days~~or for such longer period of time as may be directed in writing by the court or authorized law enforcement agency.~~ If the vehicle is not recovered by the owner within ~~such~~ that period or the owner is unknown, the keeper of the garage may satisfy his lien in the manner prescribed in this chapter. The lien shall not be assigned.

(2) No lien shall attach to any personal property in or on the vehicle. Personal property in or on the vehicle shall be given to the

registered owner or owner's authorized agent upon demand. The lien holder shall not be responsible for property after any vehicle has been disposed of pursuant to this chapter.

SECTION 428. That Section 49-3614, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3614~~1810. NOTIFICATION TO OWNER OF SALE. (1) If the owner or a lien holder of record is known and can be located, a copy of the notice of sale shall be served on the owner and lien holder at least fifteen (15) days before the date of the sale. Service of the notice may be made by certified ~~or registered~~ mail. Notice of the sale, in addition, shall be given by advertising the abandoned vehicle for sale at least twice in a daily newspaper of general circulation where the abandoned vehicle was found and is being held. The notice of sale shall:

(a) Describe the abandoned vehicle by giving a description of the vehicle, name or make, model, year, manufacturer, license plate number (if available), mileage, serial number and any other distinguishing characteristics;

(b) Describe when and where the abandoned vehicle will be sold;

(c) State the names and addresses of the registered and legal owners (if known);

(d) State the amount of the lien and the facts concerning the claim which gave rise to the lien.

(2) Where the owner or lien holder is not known or cannot be located, notice of sale shall be given by advertising the abandoned vehicle for sale at least twice in a daily newspaper of general circulation where the abandoned vehicle was found and is being held. The notice shall contain the information required in subsection (1) of this section. If the owner is known but has not been located a notice of sale shall, in addition, be sent to him by registered or certified mail to the last known mailing address.

SECTION 429. That Section 49-3615, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3615~~1811. SALE OF UNCLAIMED VEHICLES. (1) If the owner of an abandoned vehicle does not claim the vehicle before the day of sale or ~~other~~ the owner or lien holder is unknown or cannot be located, the abandoned vehicle shall be sold, pursuant to the notice of sale. Upon ~~the~~ sale, the governmental entity conducting the sale shall apply for and the department shall issue a new certificate of title for the abandoned vehicle. The new certificate of title shall be delivered to the new purchaser by the department. The application for the new certificate of title shall state that the abandoned vehicle has been sold as abandoned and ownerless to the purchaser. The new certificate of title may thereafter be used by the purchaser to show ownership of the sold abandoned vehicle.

(2) All sales of vehicles, pursuant to the provisions of this chapter, shall be under the direction of an appropriate governmental agency which shall prior to sale be satisfied that all prerequisites

in this chapter have been satisfied.

SECTION 430. That Section 49-3616, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3616~~1812. CLAIMING OF ABANDONED VEHICLES. (1) The owner of an abandoned vehicle may take possession of the abandoned vehicle at any time prior to sale by proving ownership and paying the costs relative to towing and storing the vehicle and costs of advertising except as otherwise provided in section 49-~~3609(6)~~1805, Idaho Code.

(2) A lien holder~~, as defined in section 49-532, Idaho Code,~~ of an abandoned vehicle may take possession of the abandoned vehicle at the sale by proving the presence of the lien and by paying the costs relative to towing and storing the vehicle and costs of advertising. The lien holder may also take possession of the abandoned vehicle by purchasing the vehicle at the sale. Nothing in this chapter shall be construed to abate any cause of action that a lien holder has against the owner of an abandoned vehicle.

SECTION 431. That Section 49-3617, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3617~~1813. REMOVAL WITHOUT PAYMENT PROHIBITED. Unauthorized ~~r~~Removal of an abandoned vehicle from the custody of the department, the sheriff, state police or police department, or from the custody of any person holding the abandoned vehicle for the department, the sheriff, state police or police department without payment in full of all charges and costs that have been incurred under the provisions of this chapter shall be a misdemeanor and the abandoned vehicle may be recovered and disposed of by the department, the sheriff, state police or police department ~~or person~~.

SECTION 432. That Section 49-3618, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3618~~1814. DISPOSITION OF LOW-VALUED VEHICLES. (1) If the vehicle is appraised at a value not exceeding two hundred dollars ($200), the provisions of sections ~~49-3613, 49-3614 and 49-3615~~ 49-1809 through 49-1811, Idaho Code, shall not apply, and the person or public agency which removed the vehicle shall:

(a) Within forty-eight (48) hours after the appraisal, notify the ~~bureau of motor vehicles~~ department of the removal of ~~such~~ the vehicle;

(b) Prepare a certificate~~, forwarding a copy to the bureau of motor vehicles,~~ containing a description of the vehicle stating the appraised value of the vehicle and indicating one of the following:

1. A possessory lien holder has submitted a certified statement to the public agency that the registered and legal owners did not sign and return within ten (10) days to the ~~bureau of motor vehicles~~ department a declaration of opposition contesting the claim which gives rise to the lien.

2. The registered and legal owners have signed a certified release disclaiming any interest, which release shall be included with the certificate.

3. The vehicle is in ~~such~~ a condition that vehicle identification numbers are not available to determine owners of record.

(c) Upon completion of the certificate, execute and deliver a bill of sale, together with a copy of the certificate, either to the possessory lien holder, who shall endorse the bill of sale to an automobile parts dealer or to a scrap processor for disposal.

(2) Automobile parts dealers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees which would otherwise be due to the ~~motor--vehicle-bureau~~ department. ~~Certificates-of-title-shall-not be-issued-for-vehicles-disposed-of-pursuant-to-this-section.~~

(3) A public agency may authorize, by contract, the removal or disposal of low-valued vehicles. The contract shall be issued to the lowest responsible bidder. Bills of sale shall then be executed and delivered, pursuant to subsection (1)(c), to ~~such~~ the contractor.

(4) The following persons shall have the authority to make appraisals for purposes of this chapter:

(a) Any member of the Idaho state police~~.~~;

(b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county~~.~~;

(c) Any regularly employed and salaried ~~police~~ peace officer or other employee designated by the chief of police of any city~~.~~;

(d) Any officer or employee of the motor vehicle bureau of the department designated by the director~~.~~;

(e) Any regularly salaried employee of a city, county, or city and county designated by a board of county commissioners or by a city council~~.~~; or

(f) Any regularly employed and salaried peace officer or other employee of the department of parks and recreation designated by the director of that department.

(5) An appraiser, upon completion of an appraisal within the meaning of this chapter, shall notify the department of the appraisal and of the facts upon which the appraisal was based.

SECTION 433. That Section 49-3619, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3619~~1815. DISPOSITION OF LOW-VALUED VEHICLES -- PROCEDURE. The procedure for the disposition of low-valued vehicles is as follows:

(1) The person or agency which removes the vehicle shall, within fifteen (15) working days following the date of possession of the vehicle, make a request to the department for the names and addresses of all persons having an interest in the vehicle. No storage charge shall accrue beyond the fifteen (15) day period unless the ~~possessory~~ lien holder has made a request to the ~~bureau-of-motor-vehicles~~ department as provided in this section.

(2) The person or agency which removes the vehicle shall immediately upon receipt of this information send, by certified mail with

return receipt requested, the following prescribed forms and enclosures to the registered owner and legal owner at their addresses of record with the ~~bureau of motor vehicles~~ department, and to any other person known to have an interest in the vehicle:

(a) A completed form entitled "Notice of Intent to Dispose of a Vehicle Valued at $200 or Less~~,~~";

(b) A blank form entitled "Declaration of Opposition~~,~~"; and

(c) A return envelope preaddressed to the ~~person or agency which removed the vehicle~~ lien holder.

(3) All notice to persons having an interest in the vehicle shall be signed under penalty of perjury and shall include all of the following:

(a) A description of the vehicle, including make, year model, identification number, license number, and state of registration. For motorcycles, the engine number shall also be included~~.~~;

(b) The names and addresses of the registered and legal owners of the vehicle and any other person known to have an interest in the vehicle~~.~~;

(c) The following statements and information:

1. The amount of the lien~~.~~;

2. The facts concerning the claim which gives rise to the lien~~.~~;

3. The person has a right to a hearing in court~~.~~;

4. If a hearing in court is desired, a declaration of opposition form shall be signed under penalty of perjury and returned to the possessory lien holder within ten (10) days of the date the "notice of intent to dispose of a vehicle valued at $200 or less" form was mailed~~.~~; and

5. The declarant may be liable for court costs if a judgment is entered in favor of the possessory lien holder.

(d) A statement that the possessory lien holder may dispose of the vehicle to a certified automobile parts dealer if it is not redeemed or if a declaration of opposition form is not signed and mailed to the possessory lien holder within ten (10) days of the date the "notice of intent to dispose of a vehicle valued at $200 or less" form was mailed.

(4) If the possessory lien holder receives a completed declaration of opposition from within the time prescribed, the vehicle shall not be disposed of for an additional fifteen (15) day period during which time the individual filing the declaration of opposition must file an action with the appropriate court and cause the possessory lien holder to be served with the summons and complaint. The filing and service of the action will stay disposal of the vehicle pending decision by the court unless the declarant subsequently releases his interest in the vehicle.

SECTION 434. That Section 49-3620, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3620~~1816. DISPOSITION OF LOW-VALUED VEHICLES -- AUTOMOBILE PARTS DEALER. (1) Any vehicle determined to have a value not exceeding two hundred dollars ($200) ~~pursuant to section 49-3618, Idaho Code,~~

which was stored pursuant to this chapter, and which remains unclaimed, or for which reasonable towing and storage charges remain unpaid, shall be disposed of only to an automobile parts dealer not earlier than fifteen (15) days after the date the "notice of intent to dispose of a vehicle valued at two hundred dollars ($200) or less" form was mailed, unless a declaration of opposition form has been signed and returned to the possessory lien holder.

(2) If the vehicle has been disposed of to an automobile parts dealer, the person or agency removing the vehicle shall forward the following forms and information to the department within five (5) days:

(a) A statement, signed under penalty of perjury, that a properly executed declaration of opposition form was not received;

(b) A copy of the notice sent to all interested parties;

(c) A certification from the public agency which made the determination of value pursuant to section 49-~~3618~~1814, Idaho Code;

(d) The proof of service or a copy of the court judgment;

(e) The name, address, and telephone number of the certified automobile parts dealer who received the vehicle; and

(f) The amount the person or agency removing the vehicle received for the vehicle.

SECTION 435. That Section 49-3621, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3621~~1817. FEE TO ACCOMPANY INFORMATION REQUEST ~~OR LIEN SALE APPLICATION.~~ Upon the filing of a request for title and registration information ~~or an application to conduct a lien sale of~~ on an abandoned motor vehicle, the department shall receive a fee of ~~ten~~ two dollars ($~~10~~2.00) ~~for costs incurred in processing the application. The fee shall be recoverable as a cost by the possessory lien holder if a lien sale is conducted.~~

~~The fee shall be deposited in the abandoned vehicle trust account.~~

SECTION 436. That Section 49-3602, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3602~~1818. ABANDONED VEHICLE TRUST ACCOUNT -- APPROPRIATION AND USE. (1) ~~There is hereby created a~~An account is established, to be known and designated as the abandoned vehicle trust account. There shall be set aside, paid into and credited to ~~said~~ the account, moneys ~~for the following purposes:~~ remaining from any sale of an abandoned vehicle after satisfaction of all possessory liens and costs of conducting the sale.

~~(a) To contain fees collected for processing applications to conduct a lien sale pursuant to sections 49-3506 and 49-3621, Idaho Code;~~

~~(b) To contain certain proceeds forwarded to the department to reimburse legal owners for unpaid claims for proceeds of a lien sale.~~

(2) ~~Those funds~~ Moneys in the motor abandoned vehicle trust account are hereby continuously appropriated to the department for the

purposes of satisfying allowable claims and reimbursing the costs of administering the provisions of this chapter.

CHAPTER 19
MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT

SECTION 437. That Section 49-1913 and 49-1914, Idaho Code, be, and the same are hereby repealed.

SECTION 438. That Section 49-2801, Idaho Code, as enacted in Section 1, Chapter 51, Laws of 1975, be, and the same is hereby amended to read as follows:

49-~~2801~~1901. ENACTMENT OF MULTISTATE AGREEMENT. The Multistate Highway Transportation Agreement is hereby enacted into law and entered into with all other jurisdictions legally joining therein as follows:

MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT

Pursuant to and in conformity with the laws of their respective jurisdictions, the participating jurisdictions, acting by and through their officials lawfully authorized to execute this agreement, do mutually agree as follows:

ARTICLE I
Findings and Purposes

SECTION 1. Findings. The participating jurisdictions find that:

(a) The expanding regional economy depends on expanding transportation capacity;

(b) Highway transportation is the major mode for movement of people and goods in the western states;

(c) Uniform application in the west of more adequate vehicle size and weight standards will result in a reduction of pollution, congestion, fuel consumption and related transportation costs, which are necessary to permit increased productivity;

(d) A number of western states have already, to the fullest extent possible, adopted substantially the 1964 Bureau of Public Roads recommended vehicle size and weight standards;

(e) The 1956 provision of federal law, (23 U.S.C. 127), though long outmoded, remains in effect depriving states of interstate matching money if vehicle weights and widths are increased, even though the interstate system is more than eighty per cent (80%) complete; and

(f) The participating jurisdictions are most capable of developing vehicle size and weight standards most appropriate for the regional economy and transportation requirements, consistent with and in recognition of principles of highway safety.

SECTION 2. Purposes. The purposes of this agreement are to:

(a) Adhere to the principle that each participating jurisdiction should have the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system.

(b) Establish a system authorizing the operation of vehicles

traveling between two (2) or more participating jurisdictions at more adequate size and weight standards.

(c) Promote uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives set forth in this agreement.

(d) Secure uniformity insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards.

(e) Provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in section 1 of this article.

(f) In recognition of desire for a degree of national uniformity of size and weight regulations, it is the further objective to encourage development of broad, uniform size and weight standards on a national basis, and further that procedures adopted under this agreement be compatible with national standards.

ARTICLE II

Definitions

SECTION 1. As used in this agreement:

(a) "Designated representative" means a legislator or other person authorized to represent the jurisdiction.

(b) "Jurisdiction" means a state of the United States or the District of Columbia.

(c) "Vehicle" means any vehicle as defined by statute to be subject to size and weight standards which operates in two (2) or more participating jurisdictions.

ARTICLE III

General Provisions

SECTION 1. Qualifications for Membership. Participation in this agreement is open to jurisdictions which subscribe to the findings, purposes and objectives of this agreement and will seek legislation necessary to accomplish these objectives.

SECTION 2. Cooperation. The participating jurisdictions, working through their designated representatives, shall cooperate and assist each other in achieving the desired goals of this agreement pursuant to appropriate statutory authority.

SECTION 3. Effect of Headings. Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or section hereof.

SECTION 4. Vehicle Laws and Regulations. This agreement shall not authorize the operation of a vehicle in any participating jurisdiction contrary to the laws or regulations thereof.

SECTION 5. Interpretation. The final decision regarding interpretation of questions at issue relating to this agreement shall be reached by unanimous joint action of the participating jurisdictions, acting through the designated representatives. Results of all such actions shall be placed in writing.

SECTION 6. Amendment. This agreement may be amended by unanimous joint action of the participating jurisdictions, acting through the officials thereof authorized to enter into this agreement, subject to

the requirements of section 4, article III. Any amendment shall be placed in writing and become a part hereof.

SECTION 7. Restrictions, Conditions or Limitations. Any jurisdiction entering this agreement shall provide each other participating jurisdiction with a list of any restriction, condition or limitation on the general terms of this agreement, if any.

SECTION 8. Additional Jurisdictions. Additional jurisdictions may become members of this agreement by signing and accepting the terms of the agreement.

ARTICLE IV

Cooperating Committee

SECTION 1. Pursuant to section 2, article III, the designated representatives of the participating jurisdictions shall constitute a committee which shall have the power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in relation to vehicle size and weight related matters.

(b) Recommend and encourage the undertaking of research and testing in any aspect of vehicle size and weight or related matter when, in their collective judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Recommend changes in law or policy with emphasis on compatibility of laws and uniformity of administrative rules or regulations which would promote effective governmental action or coordination in the field of vehicle size and weight related matters.

SECTION 2. Each participating jurisdiction shall be entitled to one (1) vote only. No action of the committee shall be binding unless a majority of the total number of votes cast by participating jurisdictions are in favor thereof.

SECTION 3. The committee shall meet at least once annually and shall elect, from among its members, a chairman, a vice chairman and a secretary.

SECTION 4. The committee shall submit annually to the legislature of each participating jurisdiction, no later than November 1, a report setting forth the work of the committee during the preceding year and including recommendations developed by the committee. The committee may submit such additional reports as it deems appropriate or desirable. Copies of all such reports shall be made available to the Transportation Committee of the Western Conference, Council of State Governments, and to the Western Association of State Highway Officials.

ARTICLE V

Objectives of the Participating Jurisdictions

SECTION 1. Objectives. The participating jurisdictions hereby declare that:

(a) It is the objective of the participating jurisdictions to obtain more efficient and more economical transportation by motor vehicles between and among the participating jurisdictions by encouraging the adoption of standards that will, as minimums, allow the operation of a vehicle or combination of vehicles in regular operation on all State highways, except those determined through engineering evaluation to be inadequate, with a single-axle weight not in excess of 20,000 pounds, a tandem-axle weight not in excess of 34,000 pounds,

and a gross vehicle or combination weight not in excess of that resulting from application of the formula:

$$W = 500 ((LN/N-1) + 12N + 36)$$

where W = maximum weight in pounds carried on any group of two or more axles computed to nearest 500 pounds.

L = distance in feet between the extremes of any group of two or more consecutive axles.

N = number of axles in group under consideration.

(b) It is the further objective of the participating jurisdictions that in the event the operation of a vehicle or combination of vehicles according to the provisions of subsection (a) of this section would result in withholding or forfeiture of federal-aid funds pursuant to section 127, title 23, U.S. Code, the operation of such vehicle or combination of vehicles at axle and gross weights within the limits set forth in subsection (a) of this section will be authorized under special permit authority by each participating jurisdiction which could legally issue such permits prior to July 1, 1956, provided all regulations and procedures related to such issuance in effect as of July 1, 1956, are adhered to.

(c) The objectives of subsections (a) and (b) of this section relate to vehicles or combinations of vehicles in regular operation, and the authority of any participating jurisdiction to issue special permits for the movement of any vehicle or combinations of vehicles having dimensions and/or weights in excess of the maximum statutory limits in each participating jurisdiction will not be affected.

(d) It is the further objective of the participating jurisdictions to facilitate and expedite the operation of any vehicle or combination of vehicles between and among the participating jurisdictions under the provisions of subsection (a) or (b) of this section, and to that end the participating jurisdictions hereby agree, through their designated representatives, to meet and cooperate in the consideration of vehicle size and weight related matters including, but not limited to, the development of: uniform enforcement procedures; additional vehicle size and weight standards; operational standards; agreements or compacts to facilitate regional application and administration of vehicle size and weight standards; uniform permit procedures; uniform application forms; rules and regulations for the operation of vehicles, including equipment requirements, driver qualifications, and operating practices; and such other matters as may be pertinent.

(e) In recognition of the limited prospects of federal revision of section 127, title 23, U.S. Code, and in order to protect participating jurisdictions against any possibility of withholding or forfeiture of federal-aid highway funds, it is the further objective of the participating jurisdictions to secure congressional approval of this agreement and, specifically of the vehicle size and weight standards set forth in subsection (a) of this section.

ARTICLE VI

Entry Into Force and Withdrawal

SECTION 1. This agreement shall enter into force when enacted into law by any two (2) or more jurisdictions. Thereafter, this agreement shall become effective as to any other jurisdiction upon its enactment thereof, except as otherwise provided in section 8, article III.

SECTION 2. Any participating jurisdiction may withdraw from this agreement by cancelling the same but no such withdrawal shall take effect until thirty (30) days after the designated representative of the withdrawing jurisdiction has given notice in writing of the withdrawal to all other participating jurisdictions.

ARTICLE VII

Construction and Severability

SECTION 1. This agreement shall be liberally construed so as to effectuate the purposes thereof.

SECTION 2. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any participating jurisdiction or the applicability thereto to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement shall not be affected thereby. If this agreement shall be held contrary to the constitution of any jurisdiction participating herein, the agreement shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdictions affected as to all severable matters.

ARTICLE VIII

Filing of Documents

SECTION 1. A copy of this agreement, its amendments, and rules or regulations promulgated thereunder and interpretations thereof shall be filed in the highway department in each participating jurisdiction and shall be made available for review by interested parties.

SECTION 439. That Section 49-2802, Idaho Code, as enacted in Section 1, Chapter 51, Laws of 1975, be, and the same is hereby amended to read as follows:

49-~~2802~~1902. EXISTING STATUTES NOT REPEALED. All existing statutes prescribing weight and size standards and all existing statutes relating to special permits shall continue to be of force and effect until amended or repealed by law.

SECTION 440. That Section 49-2803, Idaho Code, as enacted in Section 1, Chapter 51, Laws of 1975, be, and the same is hereby amended to read as follows:

49-~~2803~~1903. STATE GOVERNMENT DEPARTMENTS AUTHORIZED TO COOPERATE WITH COOPERATING COMMITTEE. Within appropriations available therefor, the departments, agencies and officers of the government of this state may cooperate with and assist the cooperating committee within the scope contemplated by article IV, section 1(a) and (b) of the agreement. The departments, agencies and officers of the government of this state are authorized generally to cooperate with ~~said~~ that cooperating committee.

SECTION 441. That Section 49-2804, Idaho Code, as enacted in Section 1, Chapter 51, Laws of 1975, be, and the same is hereby amended to read as follows:

49-~~2804~~1904. FILING OF REPORTS. Filing of reports as required by article IV, section 4, of the agreement shall be with the department ~~of transportation~~. Any and all notices required by the cooperating committee by-laws shall be given to the designated representative of this state or his alternate, if any.

CHAPTER 20
DRIVER LICENSE COMPACT

SECTION 442. That Section 49-2101, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2101~~2001. ENACTMENT OF COMPACT. The driver license compact is hereby enacted into law and entered into with all other jurisdictions legally joined therein in the form substantially as follows:

DRIVER LICENSE COMPACT

ARTICLE I
Findings and Declaration of Policy

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II
Definitions

As used in this compact:

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

(b) "Home State" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfei-

ture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III

Reports of Conviction

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV

Effect of Conviction

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature, and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

ARTICLE V

Applications for New Licenses

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such

suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one (1) year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII

Compact Administrator
and Interchange of Information

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII

Entry Into Force and Withdrawal

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six (6) months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of convictions occurring prior to the withdrawal.

ARTICLE IX

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any govern-

ment, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SECTION 443. That Section 49-2103, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~21~~03~~2~~002. EXPENSES OF COMPACT ADMINISTRATOR. The compact administrator provided for in Article VII of the compact shall not be entitled to any additional compensation on account of his service as ~~such~~ the administrator, but shall be entitled to expenses incurred in connection with his duties and responsibilities as ~~such~~ administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

SECTION 444. That Section 49-2105, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~21~~05~~2~~003. JUDICIAL REVIEW OF COMPACT ENFORCEMENT. Any act or omission of any official or employee of this state done or omitted pursuant to, or in enforcing, the provisions of the driver license compact shall be subject to review by the district court of Ada County or of any other county in which the person aggrieved shall reside, upon a petition therefor filed within thirty (30) days thereafter, but any review of the validity of any conviction reported pursuant to the compact shall be limited to establishing the identity of the person so convicted.

CHAPTER 21
COMMERCIAL DRIVER SCHOOLS

SECTION 445. That Sections 49-2102 and 49-2104, Idaho Code, be, and the same are hereby repealed.

SECTION 446. That Section 49-2202, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~22~~02~~2~~101. DUTIES OF THE STATE BOARD OF EDUCATION — REGULATIONS. (~~A~~1) The state board of education shall adopt and prescribe ~~such~~ regulations concerning the administration and enforcement of this ~~act~~ chapter as are necessary to protect the public. The state board of education shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructor's licenses.

(~~B~~2) The state board of education shall administer and enforce ~~this--act--and--shall-formulate-and-promulgate-the-regulations-for-its administration-and-enforcement~~ the provisions of this chapter.

SECTION 447. That Section 49-2203, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2203~~2102. SCHOOLS -- LICENSE REQUIRED -- CONTENTS OF APPLICATION FOR LICENSE. No commercial driver training school shall be established nor shall any existing school continue to operate ~~on--or--after July--1,--1965~~, unless ~~such~~ the school ~~shall~~ applyies for and obtains from the state board of education a license in the manner and form prescribed by the state board of education.

The application for license shall include a statement of the location of the school, the equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators, insurance and such other matters as the state board of education may prescribe for the protection of the public.

SECTION 448. That Section 49-2204, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2204~~2103. INSTRUCTORS -- LICENSE REQUIRED -- CONTENTS OF APPLICATION FOR LICENSE. No person shall act as an instructor ~~on or after July 1, 1965~~, unless ~~such~~ the person applies for and obtains from the state board of education a license in the manner and form prescribed by the state board of education.

The regulations shall state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles, previous personal and employment records, and ~~such~~ other matters as the state board of education may prescribe for the protection of the public. Provided, however, that the state board of education shall not require the possession of a valid Idaho teaching certificate as a condition for the issuance of an instructor's license.

SECTION 449. That Section 49-2205, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2205~~2104. EXPIRATION AND RENEWAL OF LICENSES -- FEES. All licenses shall expire on the last day of the calendar year and may be renewed upon application to the state board of education as prescribed by its regulations. Each application for an original or renewal school license shall be accompanied by a fee of twenty-five dollars ($25.00), and each application for an original or renewal instructor's license shall be accompanied by a fee of five dollars ($5.00). Fees shall be payable to the treasurer of the state and credited to the driver training ~~fund~~ account. No license fees shall be refunded in the event any license is rejected, suspended, or revoked.

SECTION 450. That Section 49-2206, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2206~~2105. REFUSAL, SUSPENSION OR REVOCATION OF LICENSES. The state board of education may refuse to issue, or may suspend or revoke a license in any case where the board finds the applicant or licensee has violated any of the provisions of this ~~act~~ chapter or the regula-

tions adopted by the state board of education. A suspended or revoked license shall be returned to the state board of education by the licensee.

SECTION 451. That Section 49-2207, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2207~~2106. EXCLUSIONS -- FREE INSTRUCTION -- COLLEGES, UNIVERSITIES AND HIGH SCHOOLS. ~~Sections 49-2201--49-2206~~ The provisions of this chapter do not apply to any person giving driver training lessons without charge, to employers maintaining driver training schools without charge for their employees only, nor to schools or classes conducted by colleges, universities and high schools for regularly enrolled full-time students as a part of a normal program for those institutions.

CHAPTER 22
HAZARDOUS MATERIALS/HAZARDOUS WASTE
TRANSPORTATION ENFORCEMENT

SECTION 452. That Sections 49-2201 and 49-2208, Idaho Code, be, and the same are hereby repealed.

SECTION 453. That Section 49-2502, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2502~~2201. LEGISLATIVE FINDINGS AND PURPOSES. (1) The legislature of the state of Idaho finds:

(a) That the amount and number of vehicles involved in the transportation of hazardous materials/hazardous waste on the highways of this state are on the increase;

(b) That the public health and safety and the environment are jeopardized when hazardous materials/hazardous waste are transported in unsafe vehicles or in an unsafe manner;

(c) That since the state police are most likely to be in the position to enforce safety laws and also to be first responders in the event of hazardous materials/hazardous waste incidents; and

(d) That the problem of safe transportation of hazardous materials/hazardous waste has become a matter of statewide concern.

(2) Therefore, it is hereby declared that the purposes of this ~~act~~ chapter are:

(a) To protect the health and safety of the public and the environment by reducing the risk of accidents through an adequately funded safety inspection program aimed at vehicles which transport hazardous materials/hazardous waste;

(b) To provide for specialized training and equipment for state police officers to enable them to respond to hazardous materials/hazardous waste incidents on an emergency basis;

(c) To assure the safe transportation of hazardous materials/hazardous waste within this state.

SECTION 454. That Section 49-2504, Idaho Code, be, and the same

is hereby amended to read as follows:

49-~~2504~~2202. PERMIT REQUIREMENTS FOR TRANSPORTERS OF HAZARDOUS WASTES. (1) Every person, including a private carrier or a common or contract carrier, who operates a vehicle on any highway of this state transporting hazardous waste shall first procure from the department an annual or single trip permit for each vehicle so driven in which the shipment meets any one of the following qualifiers:

(a) Is required to be placarded pursuant to title 49, code of federal regulations, part 172;

(b) Is manifested on a United States environmental protection agency uniform hazardous waste manifest form 8700-22 and 8700-22a, or its equivalent;

(c) Is any waste material containing polychlorinated biphenyls (PCB) which is regulated by title 40, code of federal regulations, part 761; but in the event waste material is being transported to a disposal facility approved in compliance with 40 CFR 761.70 or 40 CFR 761.75 and is accompanied by a hazardous waste manifest form 8700-22 or 8700-22a, or its equivalent, then a permit shall be required regardless of the polychlorinated biphenyl concentration.

This permit shall be available for examination and shall be displayed in accordance with rules adopted by the department. The provisions of this section shall not apply to vehicles owned by any city, county, state or federal governmental department or agency, special purpose district created pursuant to law or rural electric cooperatives.

(2) The fee for a single trip permit for the transportation of hazardous waste shall be twenty dollars ($20.00).

(3) The fee for an annual permit for the transportation of hazardous waste shall be two hundred fifty dollars ($250).

(4) Any carrier required to pay the fees assessed pursuant to this section is authorized to pass along such fees to the shipping party. No portion of the fees shall be prorated, reduced or transferred to another vehicle.

SECTION 455. That Section 49-2505, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2505~~2203. ENDORSEMENT REQUIREMENTS FOR TRANSPORTERS OF HAZARDOUS MATERIALS. (1) Every person, including a private carrier or a common or contract carrier, who operates a vehicle on any highway of this state transporting hazardous material in such quantity and under such conditions that such vehicle is required to be placarded pursuant to title 49, code of federal regulations, part 172, or such vehicle's cargo is regulated by title 49, code of federal regulations, part 171, or is required to meet the manifest requirements as set forth under the rules of the bureau of hazardous materials, department of health and welfare, shall first procure from the department an annual vehicle registration endorsement or single trip vehicle registration endorsement for each vehicle so driven. This registration endorsement shall be available for examination and shall be displayed in accordance with rules adopted by the department. The provisions of this section shall

not apply to vehicles owned by any city, county, state or federal governmental department or agency or special purpose district created pursuant to law.

(2) The fee for an annual vehicle registration endorsement for the transportation of hazardous materials shall be three dollars ($3.00) if purchased at the time of registration or renewal, or five dollars ($5.00) if purchased at any time thereafter and the fee for a single trip vehicle registration endorsement shall be five dollars ($5.00). Any carrier required to pay the fee assessed pursuant to this section is authorized to pass along such fee to the shipping party. Vendors selling endorsements on behalf of the board shall be reimbursed at the rate of forty cents (40¢) per endorsement. No portion of the annual endorsement fee shall be prorated, reduced or transferred to another vehicle.

SECTION 456. That Section 49-2506, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2506~~2204. NOTICE OF FEDERAL INSURANCE REQUIREMENTS. A transporter granted a transporter permit or endorsement under this section shall have and maintain financial responsibility for sudden and accidental occurrences in an amount equal to the federal requirements as specified in title 49, code of federal regulations. Coverage must provide for claims arising out of injury to persons, property, or the environment, including the spillage of hazardous material or waste while such materials are transported, and including the costs of cleaning up any spillage. Such liability coverage must be maintained at all times while the permit is in force. The liability requirements may be met by liability insurance, bonding, self insurance or any other method as may be provided by department rule. ~~Provided, however, that f~~Failure to maintain the insurance required by federal law shall not constitute a civil or criminal violation of the provisions of this chapter.

SECTION 457. That Section 49-2507, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2507~~2205. HAZARDOUS MATERIAL/HAZARDOUS WASTE TRANSPORTATION ENFORCEMENT ACCOUNT. (1) For the purposes of the Idaho department of law enforcement, there is hereby created an account in the dedicated fund in the state treasury, to be designated the hazardous material/hazardous waste transportation enforcement account.

(2) The account shall consist of:

(a) Moneys appropriated to the account;

(b) Moneys as provided in sections 49-~~2504~~2202 and 49-~~2505~~2203, Idaho Code, and in subsections (1) and (2) of section 49-~~2511~~2209, 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 used by the director for reasonable costs incident to enforcement of the laws and rules related to the transportation of hazardous material or hazardous waste. Such

costs include expenditures for inspection and monitoring programs, training of law enforcement personnel to meet specialized needs of hazardous materials/hazardous waste enforcement, and other reasonable expenses necessary for the enforcement of such programs.

(4) All moneys placed in the account shall be appropriated annually by the legislature for the purposes described in subsection (3) of this section. All expenditures from the account shall be paid out in warrants drawn by the state auditor upon presentation of the proper vouchers.

(5) Pending use, surplus moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code.

(6) An amount of money equal to the actual and reasonable cost of issuing the permits and endorsements, collecting the moneys for them, and the direct administrative costs as determined by the department and certified by the state auditor, shall be paid to the state highway account established in section 40-702, Idaho Code.

SECTION 458. That Section 49-2508, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2508~~2206. ENFORCEMENT. (1) The provisions of this chapter and any rules adopted under it shall be enforced anywhere in the state by an authorized agent of the director or by any peace officer, except for conservation officers of the department of fish and game. Such officers may detain and inspect any sealed or unsealed vehicle, container, or shipment which contains or which they have reason to believe contains hazardous material or wastes while in transit or in maintenance facilities or terminals, or on other public or private property to which the public has access, to ascertain if hazardous materials or wastes are being loaded, unloaded, stored or transported, and to inspect the contents, take samples thereof, and to otherwise insure compliance with the provisions of this chapter and of all rules adopted under chapter 8, title 61, Idaho Code, or chapter 44, title 39, Idaho Code. If a seal is opened for inspection, the inspecting officer shall reseal any vehicle, container or shipment prior to further transportation. Property used in violation of the laws may be seized and used as evidence.

(2) For the purposes of this chapter and chapter 44, title 39, Idaho Code, the transporter is responsible for the clean up of any hazardous material/hazardous waste discharge in, on and outside the vehicle, or any one or more of such locations, that occurs during transportation and must take such action as may be required so that the discharge no longer presents a hazard to public health, safety, or the environment.

(3) The board is authorized to suspend or revoke any permit or endorsement issued pursuant to this chapter if it is determined that any material provision of the permit or endorsement has been violated or if the driver, owner, lessee, or custodian of a permitted vehicle has been convicted of two (2) or more violations within a calendar year of any combination of statutes or rules relative to hazardous materials or hazardous waste. In any action to suspend or revoke, the

board shall comply with the procedures specified in chapter 52, title 67, Idaho Code. ~~Provided, however, that s~~Should the board have reasonable cause to believe that there exists any immediate danger to the public health, safety or environment, it may issue an emergency order suspending any permit or endorsement granted under this chapter for a reasonable period not to exceed fourteen (14) days.

SECTION 459. That Section 49-2509, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2509~~2207. CIVIL ENFORCEMENT ACTION. The attorney general or any prosecuting attorney may commence and prosecute in district court a civil enforcement action against any person who is alleged to have violated this chapter or any permit, endorsement, standard, regulation, condition, or requirement which has become effective pursuant to this chapter. Such actions may be for appropriate relief or remedies specified in this chapter or any other applicable law. The director or department shall not be required to initiate or prosecute an administrative action before the attorney general or prosecuting attorney may commence and prosecute a civil enforcement action, but no such civil enforcement action shall be filed while an administrative action is still pending.

SECTION 460. That Section 49-2510, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2510~~2208. SUBPOENA AUTHORITY. The attorney general or any prosecuting attorney, for the purposes contemplated by this ~~act~~ chapter, upon probable cause to believe that a violation of any of the provisions of this chapter has occurred, may, after notice to the persons to whom the subpoena is to be directed, apply to any judge of the district court for the county in which such violation is believed to have occurred for a subpoena to compel the attendance of witnesses, and to compel the production of pertinent books, payrolls, accounts, papers, records, documents and testimony. Such judge shall issue a subpoena upon a finding of probable cause and shall enforce refusals to testify or to produce subpoenaed items with contempt sanctions. Subpoenas shall be served and witness fees and mileage paid as allowed in civil cases in the district courts of this state.

SECTION 461. That Section 49-2511, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2511~~2209. CIVIL REMEDIES. The remedies specified in this section are cumulative and nonexclusive.

(1) Monetary penalties.

(a) Any person who makes a materially false statement or representation in any application, label, manifest, record, report, permit, endorsement or other document filed, maintained, or used for the purpose of complying with the provisions of this chapter shall be liable for a civil penalty not less than fifty dollars ($50.00) nor to exceed ten thousand dollars ($10,000) for each

separate violation.

(b) Any person who violates this chapter or any permit, standard, regulation, condition, or requirement issued or promulgated pursuant to this chapter shall be liable for a civil penalty not less than fifty dollars ($50.00) nor to exceed ten thousand dollars ($10,000) for each separate violation.

(c) The imposition or computation of monetary penalties shall take into account the seriousness of the violation and good faith efforts to comply with the law.

(2) Assessment of costs. Any person who violates any of the provisions of this chapter or any permit, standard, regulation, condition, or requirement issued or promulgated pursuant to this chapter may be assessed for:

(a) The state's cost for any nonroutine investigations, inspections, monitoring, or surveys which lead to evidence of the violation;

(b) The state's costs, including the reasonable value of attorneys' services, for preparing and litigating the case;

(c) The state's cost for impounding, storing, and disposing of contaminated property and for the cleanup of a hazardous materials or hazardous waste discharge;

(d) Compensation for damages to publicly held resources including but not limited to land, water, recreational uses, wildlife, fish and aquatic life to restore the resource to its highest immediately previous uses. ~~Provided further, that a~~Any such suit for damages to publicly held resources may be brought only by the attorney general or prosecuting attorney for the county in which the violation occurred;

(e) Compensation for damages to privately held resources including but not limited to livestock, land, water, or other personal property, and compensation for court costs allowed by ~~statute~~ law, reasonable attorney's fees for trial preparation and trial of the case, and all other reasonable costs of trial preparation and trial of the case;

(3) Payment to hazardous materials/hazardous waste transportation enforcement account. Moneys recovered pursuant to subsections (1) and (2) (a), (c) and (d) of this section shall be paid into the hazardous material/hazardous waste transportation enforcement account created in section 49-~~2507~~2205, Idaho Code. Moneys recovered under subsection (2)(b) of this section shall not be paid into this account but shall be paid to those who rendered services and incurred costs in litigating the case.

(4) Restraining orders, injunctions and other relief. Any person who violates any provision of this chapter or any permit, standard, regulation, or requirement issued or promulgated pursuant to this chapter shall be subject to injunctive relief or other relief deemed appropriate. Upon a showing to the court that a violation is causing an imminent hazard to the public health, the public safety, or to the environment, the attorney general or prosecuting attorney need not allege or prove at any stage of the proceeding that long term irreparable damage will occur should the injunction or order not be issued or that the remedy at law is inadequate.

SECTION 462. That Section 49-2512, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2512~~2210. IMMUNITIES. (1) (a) Notwithstanding any provision of law to the contrary, no person who provides assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened leakage, seepage, or other release of hazardous material, or in preventing, cleaning up, or disposing of or in attempting to prevent, clean up or dispose of any such leakage, seepage or other release, shall be subject to civil liabilities or penalties of any type.

(b) The immunities provided in subsection (3)~~(a)~~ of ~~this~~ section ~~above~~ 49-2209, Idaho Code, shall not apply to any person:

~~(i)~~1. Whose act or omission caused in whole or in part such actual or threatened leakage, seepage or other release and would otherwise be liable therefor; or

~~(ii)~~2. Who receives compensation, or is an employee of a person who receives compensation for services rendered in connection with the emergency, from a person whose act or omission caused in whole or in part the emergency, other than reimbursement for out-of-pocket expenses for services in rendering such assistance or advice.

(c) Nothing in subsection (3)~~(a)~~ of ~~this~~ section 49-2209, Idaho Code, shall be construed to limit or otherwise affect the liability of any person for damages resulting from such person's gross negligence, or from such person's reckless, wanton, or intentional misconduct.

(2) Governmental immunity. No cause of action shall accrue against the state of Idaho or any of its political subdivisions or any agency thereof based on negligence in a performance of any of the duties or responsibilities provided under this chapter.

SECTION 463. That Section 49-2513, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2513~~2211. CRIMINAL ENFORCEMENT AND PENALTIES. (1) Any person who knowingly makes any materially false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained or used for the purpose of complying with the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than ten thousand dollars ($10,000) or to imprisonment not to exceed one (1) year, or to both, for each violation.

(2) Any person who knowingly violates any provision of this chapter or any permit, standard, regulation, condition, or requirement issued or promulgated pursuant to this chapter shall be guilty of a misdemeanor and subject to a fine of not more than ten thousand dollars ($10,000) or to imprisonment not to exceed one (1) year, or to both, for each violation.

(3) Any person found guilty of a second offense under this chapter within a period of five (5) years shall be guilty of a misdemeanor punishable by a fine not to exceed twenty-five thousand dollars

($25,000).

(4) An action may be commenced and prosecuted by the attorney general. The director or board shall not be required to initiate or prosecute an administrative action before the attorney general or prosecuting attorney may commence and prosecute a civil action.

SECTION 464. That Section 49-2514, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~2514~~2212. CHANGE OF FEDERAL RULES AND REGULATIONS. Whenever any federal rule or regulation is cited in this chapter and is amended, modified, repealed or recodified, its successor rule or regulation shall govern and be operative.

CHAPTER 23 - [RESERVED.]

SECTION 465. That Sections 49-2301, 49-2329 and 49-2330, Idaho Code, be, and the same are hereby repealed.

CHAPTER 24
MISCELLANEOUS

SECTION 466. That Sections 49-2402, 49-2422 and 49-2432, Idaho Code, be, and the same are hereby repealed.

SECTION 467. That Section 49-1901, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1901~~2401. MANUFACTURERS OR DISTRIBUTORS — FINANCING AGREEMENTS INVOLVING RETAIL SALES PROHIBITED. It shall be unlawful for any person who is engaged, either directly or indirectly, in the manufacture or wholesale distribution only of motor vehicles to sell or enter into a contract to sell motor vehicles, whether patented or unpatented, to any person who is engaged or intends to engage in the business of selling ~~such~~ those motor vehicles at retail in this state, on the condition or with an agreement or understanding, either express or implied, that ~~such~~ a person engaged in selling motor vehicles at retail shall in any manner finance the purchase or sale of any one or a number of motor vehicles only with or through a designated person or class of persons, or shall sell and assign the conditional sales contracts, chattel mortgages or leases arising from the sale of motor vehicles or any one or a number ~~thereof~~ of motor vehicles only to a designated person or class of persons, when the effect of the condition, agreement or understanding entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the person or class of persons who are designated by virtue of ~~such~~ that condition, agreement, or understanding to finance the purchase or sale of motor vehicles, or to purchase conditional sales contracts, chattel mortgages or leases.

Any such condition, agreement or understanding is hereby declared to be void and against the public policy of this state.

SECTION 468. That Section 49-1902, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1902~~2402. THREATS TO WITHDRAW AGENCY PROHIBITED. Any threat, expressed or implied, made directly or indirectly to any person engaged in the business of selling motor vehicles at retail in this state by any person engaged, either directly or indirectly in the manufacture or wholesale distribution only of motor vehicles, that ~~such~~ the person will discontinue or cease to sell, or refuse to enter into a contract to sell, or will terminate a contract to sell motor vehicles, whether patented or unpatented, to ~~such~~ a person who is ~~so~~ engaged in the business of selling motor vehicles at retail, unless ~~such~~ that person finances the purchase or sale of any one or a number of motor vehicles only with or through a designated person or class of persons, or sells and assigns the conditional sales contracts, chattel mortgages or leases arising from his retail sales of motor vehicles, or any one or a number of motor vehicles ~~thereof~~ only to a designated person or class of persons, shall be prima facie evidence of the fact that ~~such~~ a person ~~so~~ engaged in the manufacture or wholesale distribution only of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in section 49-~~1901~~2401, Idaho Code.

SECTION 469. That Section 49-1903, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1903~~2403. THREATS ON PART OF FINANCING COMPANY AFFILIATED WITH MANUFACTURER OR DEALER. Any threat, expressed or implied, made directly or indirectly, to any person engaged in the business of selling motor vehicles at retail in this state by any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles in this state, and is affiliated with or controlled by any person engaged, directly or indirectly in the manufacture or wholesale distribution only of motor vehicles, that ~~such~~ the person ~~so~~ engaged in ~~such~~ the manufacture or distribution shall terminate his contract with or cease to sell motor vehicles to ~~such~~ a person engaged in the sale of motor vehicles at retail in this state unless ~~such~~ that person finances the purchase or sale of any one or any number of vehicles only with or through a designated person or class of persons, or sells and assigns the conditional sales contracts, chattel mortgages or leases arising from his retail sale of motor vehicles, or any one or any number thereof only to ~~such~~ a person ~~so~~ engaged in financing the purchase or sale of motor vehicles, or in buying conditional sales contracts, chattel mortgages or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of ~~such~~ the person ~~so~~ engaged in ~~such~~ the manufacture or distribution of motor vehicles, and shall be prima facie evidence of the fact that ~~such~~ the person ~~so~~ engaged in the manufacture or wholesale distribution only of motor vehicles has sold or intends to sell ~~the same~~ them on the condition or with the agreement or understanding prohibited in section 49-~~1901~~2401,

Idaho Code.

SECTION 470. That Section 49-1904, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1904~~2404. PRACTICES OF MANUFACTURER OR DISTRIBUTOR LESSENING OR ELIMINATING COMPETITION PROHIBITED. It shall be unlawful for any person who is engaged, directly or indirectly in the manufacture or wholesale distribution only of motor vehicles, whether patented or unpatented, to pay or give, or contract to pay or give any thing or service of value to any person who is engaged in the business of financing the purchase or sale of motor vehicles, or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this state, if the effect of ~~any such~~ the payment or the giving of ~~any such~~ a thing or service of value may be to lessen or eliminate competition, or tend to create or create a monopoly in the person or class of persons who receive or accept such thing or service of value.

SECTION 471. That Section 49-1905, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1905~~2405. PRACTICES OF FINANCE COMPANY LESSENING OR ELIMINATING COMPETITION PROHIBITED. It shall be unlawful for any person who is engaged in the business of financing the purchase or sale of motor vehicles, or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this state, to accept or receive, or contract or agree to accept or receive, either directly or indirectly, any payment, thing, or service of value from any person who is engaged, either directly or indirectly, in the manufacture or wholesale distribution only of motor vehicles, whether patented or unpatented, if the effect of the acceptance or receipt of ~~any such~~ a payment, thing, or service of value may be to lessen or eliminate competition, or to create or tend to create a monopoly in the person who accepts or receives ~~such~~ the payment, thing, or service of value, or contracts or agrees to accept or receive ~~the same~~ that thing or service of value.

SECTION 472. That Section 49-1906, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1906~~2406. ACCEPTANCE OR PAYMENT OF THING OR SERVICE OF VALUE PROHIBITED. It shall be unlawful for any person ~~who--hereafter--so~~ to accepts or receives, either directly or indirectly, any payment, thing or service of value, as set forth in section 49-~~1905~~2405, Idaho Code, or ~~hereafter so~~ contracts, either directly or indirectly, to receive ~~any--such~~ a payment or thing or service of value to ~~thereafter~~ finance or attempt to finance the purchase or sale of any motor vehicles, or buy or attempt to buy any conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail in this state.

SECTION 473. That Section 49-1907, Idaho Code, be, and the same

is hereby amended to read as follows:

49-~~1907~~2407. VIOLATION ~~OF ACT~~ -- QUO WARRANTO PROCEEDINGS. For a violation of any of the provisions of ~~this act~~ sections 49-2401 through 49-2406, Idaho Code, by any corporation or association ~~mentioned herein~~, it shall be the duty of the attorney general of ~~this state~~ Idaho to institute proper suits of quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises or privileges and powers exercised by ~~such~~ the corporation or association, and for the dissolution of ~~the same~~ them under the general statutes of ~~the~~ this state.

SECTION 474. That Section 49-1908, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1908~~2408. FOREIGN CORPORATIONS AMENABLE -- DUTY OF SECRETARY OF STATE. Every foreign corporation, as well as every foreign association, exercising any of the powers, franchises or functions of a corporation in ~~this state~~ Idaho, violating any of the provisions of ~~this act~~ sections 49-2401 through 49-2406, Idaho Code, is hereby denied the right and prohibited from doing any business in ~~this state~~ Idaho, and it shall be the duty of the attorney general to enforce this provision by bringing proper proceedings by injunction or otherwise. The secretary of state ~~shall be~~ is authorized to revoke the license of any ~~such~~ corporation or association ~~heretofore~~ previously authorized by him to do business in ~~this state~~ Idaho.

SECTION 475. That Section 49-1909, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1909~~2409. CRIMINAL LIABILITY. Any person who shall violate any of the provisions of ~~this act~~ sections 49-2401 through 49-2406, Idaho Code, any person who is a party to any agreement or understanding, or to any contract prescribing any condition prohibited by ~~this act,~~ law and any employee, agent or officer of any ~~such~~ person who shall participate, in any manner, in making, executing, enforcing, performing or in urging, aiding, or abetting in the performance of ~~any~~ such a contract, condition, agreement or understanding, and any person who shall pay or give or contract to pay or give any thing or service of value prohibited by ~~this act~~ law, and any person who shall receive or accept or contract to receive or accept any thing or service of value prohibited by ~~this act~~ law, shall be deemed guilty of a misdemeanor and upon conviction ~~thereof~~ shall be punished by a fine of not less than ~~fifty~~ one hundred dollars ($~~50.00~~100) nor more than one thousand dollars ($1,000), or be imprisoned for not less than six (6) months nor more than one (1) year, or by both such fine and imprisonment. Each day's violation of this provision shall constitute a separate offense.

SECTION 476. That Section 49-1910, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1910~~2410. CERTAIN CONTRACTS ~~IN-VIOLATION-OF-ACT~~ VOID. Any contract or agreement in violation of the provisions of ~~this act~~ sections 49-2401 through 49-2406, Idaho Code, shall be absolutely void and shall not be enforceable either in law or equity.

SECTION 477. That Section 49-1911, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1911~~2411. PROVISIONS CUMULATIVE. The provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

SECTION 478. That Section 49-1912, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1912~~2412. PERSONS INJURED IN BUSINESS BY TRUST MAY SUE. In addition to the criminal and civil penalties ~~herein~~ provided, any person who shall be injured in his business or property by any other person ~~or--corporation--or-association-or-partnership,~~ by reason of anything forbidden or declared to be unlawful by ~~this act~~ the provisions of sections 49-2401 through 49-2406, Idaho Code, may sue therefor in any court having jurisdiction ~~thereof~~ in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover ~~twofold~~ twice the damages ~~by--him~~ sustained, and the costs of the suit. Whenever it shall appear to the court before which ~~any~~ proceedings ~~under-this-act~~ may be pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where ~~such~~ the action is pending, or not.

49-2413 -- 49-2414. [RESERVED.]

SECTION 479. That Sections 49-1401 and 49-1402, Idaho Code, be, and the same are hereby amended to read as follows:

49-~~1401~~2415. LIABILITY OF MOTOR OWNER TO GUEST. No person transported by the owner or operator of a motor vehicle as his guest without payment for such transportation shall have a cause for damages against such owner or operator for injuries, death or loss, in case of accident, unless such accident shall have been intentional on the part of the said owner or operator or caused by his intoxication or gross negligence.

~~49-1402.--LIMITATION--ON-APPLICATION-OF-PRECEDING-SECTION.-Section 49-1401~~ The provisions of this section shall not relieve a public carrier or any owner or operator of a motor vehicle while the same is being demonstrated to a prospective purchaser of responsibility for injuries sustained by a passenger being transported by such public carrier or by such owner or operator.

SECTION 480. That Section 49-1403, Idaho Code, be, and the same

is hereby amended to read as follows:

49-~~1403~~2416. OWNER LIABLE FOR NEGLIGENCE OF MINOR UNDER SIXTEEN. Every owner of a motor vehicle causing or knowingly permitting a minor under the age of sixteen (16) years to drive ~~such~~ the vehicle upon a highway, and any person who gives or furnishes a motor vehicle to ~~such~~ a minor, shall be jointly and severally liable with ~~such~~ the minor for any damage caused by the negligence of ~~such~~ the minor in driving ~~such~~ the vehicle.

SECTION 481. That Section 49-1404, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1404~~2417. 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.~~ (1) 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~~ his motor vehicle, in the business of ~~such~~ the owner or otherwise, by any person using or operating the ~~same~~ vehicle with the permission, expressed or implied, of ~~such~~ the owner, and the negligence of ~~such~~ the 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 the provisions of this section and not arising through the relationship of principal and agent or master and servant is limited to the ~~amount--of--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--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-fifteen-thousand-dollars-($15,000)-for damage-to-property-of-others-in-any-one-(1)-accident~~ amounts set forth under "proof of financial responsibility" in section 49-117, Idaho Code.

(3~~.~~) ~~Operator--to-be-made-party-defendant--Recourse-to-operator's property.~~ In any action against an owner ~~on-acount-of~~ for imputed negligence as imposed by the provisions of this section the operator of ~~said~~ the vehicle whose negligence is imputed to the owner shall be made a ~~party~~ defendant party if personal service of process can be had upon ~~said~~ that operator within ~~this-state~~ Idaho. Upon recovery of a judgment, recourse shall first be had against the property of ~~said~~ the 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~~ for imputed negligence ~~such~~ the owner is subrogated to all the rights of the person injured and may recover from ~~such~~ the operator the total amount of any judgment and costs recovered against ~~such~~ the 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~~ the bailee and ~~such~~ the driver

shall both be deemed operators of the vehicle of the owner, within the meaning of subdivisionssections (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 the payments shall diminish to the extent thereof the owners' total liability on account of such the accident; and payments. Payments so made, aggregating the full sum of fifty thousand dollars ($50,000), shall extinguish all liability of the owner hereunder to said the claimants and all other persons on account of such the accident; which liability. 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 the motor vehicle remains in the vendor, such the 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 each 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.

49-2418 -- 49-2419. [RESERVED.]

SECTION 482. That Section 49-1601, Idaho Code, be, and the same is hereby amended to read as follows:

49-1601 2420. GRANT OF PRIVILEGE OF USING HIGHWAYS. Subject to a compliance with the motor vehicle laws of this state, and the acceptance of the provisions of this act, Idaho, nonresident owners, operators of, and persons riding in motor vehicles hereby are granted the privilege of using the roads, highways, and streets of this state Idaho.

SECTION 483. That Section 49-1602, Idaho Code, be, and the same is hereby amended to read as follows:

49-1602 2421. SERVICE OF PROCESS ON RESIDENT AND NONRESIDENT MOTOR VEHICLE OPERATORS. The operation by any person, either as principal, master, agent, servant or otherwise, of any motor vehicle, whether registered or unregistered, and with or without a license to operate, on any public highway in this state, shall be deemed equivalent to an appointment by such that person of the secretary of state, or his successor in office, to be his true and lawful attorney, upon whom may be served all lawful summons and processes in any action or proceeding against him, growing out of any accident or collision in which he, either as principal, master, agent, servant, or otherwise, may be

involved while operating, causing or permitting the operation of a motor vehicle upon ~~such public ways; and such~~ a highway. The operation shall be signification of an agreement by ~~such~~ the person that any summons or process against him which is so served shall be of the same legal force and validity as if served on him personally within ~~the state of~~ Idaho. Service of ~~such~~ the processes shall be made by leaving a copy of the process, with a fee of ~~two~~ five dollars ($~~2~~5.00), in the hands of the secretary of state ~~of the state of Idaho~~ or in his office~~; and such~~. The service shall be ~~a sufficient and valid~~ personal service upon ~~said~~ that person; provided, notice of ~~such~~ the service and a copy of the process is ~~forthwith~~ sent by registered mail by the plaintiff to the defendant, and the defendant's return receipt and plaintiff's affidavit of compliance ~~herewith~~ are appended to the process and entered as a part of the return ~~thereof; provided further, that personal~~. Personal service outside of the state in accordance with the provisions of the ~~statutes~~ laws of Idaho relating to personal service of summons outside of the state shall relieve a plaintiff from mailing copies of the summons or process by registered mail as ~~hereinbefore~~ provided in this section. Service of ~~said~~ the process upon a defendant shall not be complete until ~~the same~~ it is either made by registered mail or by personal service outside of the state. The court in which the action is brought may order continuances as may be necessary to afford the defendant reasonable opportunity to defend the action.

SECTION 484. That Section 49-1603, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1603~~2422. SERVICE FEE TAXED AS COSTS. The fee of ~~two~~ five dollars ($~~2~~5.00) paid by the plaintiff to the secretary of state ~~of the state of Idaho~~ and the service shall be taxed in his costs if he prevails in the action.

SECTION 485. That Section 49-1604, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1604~~2423. RECORD OF PROCESS KEPT BY SECRETARY OF STATE. ~~Said~~ The secretary of state shall keep a record of all ~~such~~ processes, which shall show the day and hour of service.

49-2424 -- 49-2425. [RESERVED.]

SECTION 486. That Section 49-1701, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1701~~2426. ~~KIND--AND--SIZE OF LETTERS---~~ MARKING OF VEHICLES ~~IN SERVICE OF GOVERNOR EXCEPTED~~ -- CERTAIN VEHICLES EXCEPTED. (1) Every motor vehicle owned by or under control and custody of the state of Idaho, except as provided in subsection (2) of this section, or in section 49-~~1701A~~2427, Idaho Code, shall be indelibly and conspicuously lettered on each side ~~thereof~~, in plain letters not less than one and one-half (1 1/2) inches high, with the words "State of Idaho" or

"Idaho" with the name of the proper department, as defined in section 67-2402, Idaho Code, in each case inserted following either of these words. ~~Such~~ The words shall be kept clear, distinct and visible at all times~~:--provided,--however,--that--the~~. The provisions of this ~~chapter~~ section shall not be applicable to any ~~such~~ motor vehicle in the personal service of the governor ~~of this state~~, except that upon the front doors of any motor vehicle in his personal service there shall be placed the Great Seal of the state of Idaho.

(2) Motor vehicles under the custody and control of the director of the department of law enforcement and used for confidential investigative purposes when necessary to enforce the laws of this state need not be marked as provided in subsection (1) above. Any other department, agency, or entity of the state shall apply in writing to the director ~~of the department of law enforcement~~ for permission to use one or more unmarked vehicles for confidential investigative purposes. ~~Such p~~Permission shall be granted only in writing and upon a finding of good cause.

SECTION 487. That Section 49-1701A, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~1701A~~2427. IDENTIFICATION OF STATE POLICE VEHICLES USED FOR HIGHWAY PATROL. Every motor vehicle other than motorcycles, owned by the state of Idaho and used as a state police highway patrol vehicle shall be marked as provided by section 49-~~1701~~2426, Idaho Code, and shall~~,~~ in addition, be painted with a black body with a white top and shall be identified in one (1) of the following manners:

(1) ~~b~~By having a white stripe, at least six (6) inches in width, painted completely around the vehicle;

(2) ~~b~~By having a blue light mounted on the top of ~~such~~ the vehicle which must be visible from any direction; or

(3) ~~b~~By having two (2) white stripes at least one and one-half (1 1/2) inches in width painted from the center point of the hood across the hood on each side and extending diagonally down to the bottom of the doors on each side of ~~such~~ the vehicle. No other state agency, person, or local unit of government shall have any vehicle which is painted with a stripe or stripes from the center point of the hood across the hood on each side and extending diagonally down to the bottom of the doors on each side of ~~such~~ the vehicles.

49-2428 -- 49-2430. [RESERVED.]

SECTION 488. That Section 49-3203, Idaho Code, as enacted in Section 1, Chapter 371, Laws of 1980, be, and the same is hereby amended to read as follows:

49-~~3203~~2431. RIDESHARING EXEMPT FROM MOTOR CARRIER LAWS. The following laws and regulations ~~of--this--state~~ shall not apply to any ridesharing arrangement using a ~~motor vehicle~~ with a seating capacity for not more than fifteen (15) persons, including the driver:

(1) Title 61, Idaho Code, pertaining to the regulation of motor carriers of any kind or description by the public utilities commis-

sion~~.~~;

(2) Laws and regulations containing insurance requirements that are specifically applicable to motor carriers or commercial vehicles~~.~~;

(3) Laws imposing a greater standard of care on motor carriers or commercial vehicles than that imposed on other drivers or owners of motor vehicles~~.~~;

(4) Laws and regulations with equipment requirements and special accident reporting requirements that are specifically applicable to motor carriers or commercial vehicles~~.~~; and

(5) Laws imposing a tax on fuel purchased in another state by a motor carrier or ~~road-user-taxes~~ highway use fees on commercial buses.

SECTION 489. That Section 49-3204, Idaho Code, as enacted in Section 1, Chapter 371, Laws of 1980, be, and the same is hereby amended to read as follows:

49-~~3204~~2432. RIDESHARING EXEMPT FROM WORKMEN'S COMPENSATION LAW. Title 72, Idaho Code, providing compensation for workers injured during the course of their employment, shall not apply to a person injured while participating in a ridesharing arrangement between his ~~or her~~ place of residence and place of employment or termini near ~~such~~ those places, provided that if the employer owns, leases or contracts for the motor vehicle used in ~~such~~ the arrangement, the provisions of title 72, Idaho Code, shall apply.

SECTION 490. That Section 49-3205, Idaho Code, as enacted in Section 1, Chapter 371, Laws of 1980, be, and the same is hereby amended to read as follows:

49-~~3205~~2433. NO LIABILITY OF EMPLOYER. (1) An employer shall not be liable for injuries to passengers and other persons resulting from the operation or use of a motor vehicle, not owned, leased or contracted for by the employer, in a ridesharing arrangement.

(2) An employer shall not be liable for injuries to passengers and other persons because he provides information, incentives or otherwise encourages his employees to participate in ridesharing arrangements.

SECTION 491. That Section 49-3206, Idaho Code, as enacted in Section 1, Chapter 371, Laws of 1980, be, and the same is hereby amended to read as follows:

49-~~3206~~2434. INSURANCE AVAILABILITY -- RATES -- POLICY EXCLUSIONS. (1) Insurers shall not increase any premium, cancel any policy, nor refuse to insure a vehicle solely because it is used in a ridesharing arrangement.

(2) Provisions in an insurance policy which deny coverage for any motor vehicle used for commercial purposes or as a public or livery conveyance shall not apply to a vehicle used in a ridesharing arrangement.

SECTION 492. That Section 49-3207, Idaho Code, as enacted in Sec-

tion 1, Chapter 371, Laws of 1980, be, and the same is hereby amended to read as follows:

49-~~3207~~2435. RIDESHARING ARRANGEMENTS ARE NONPROFIT. Ridesharing arrangements using a motor vehicle with a seating capacity for not more than fifteen (15) persons, including the driver, shall be deemed nonprofit even though the driver, owner or lessee receives compensation for operating and maintaining the vehicle and a reasonable amount of compensation for the driver's services. No household shall operate more than one (1) vehicle with a capacity of seven (7) to fifteen (15) persons in a ridesharing arrangement at one (1) time.

SECTION 493. That Section 49-3208, Idaho Code, as enacted in Section 1, Chapter 371, Laws of 1980, be, and the same is hereby amended to read as follows:

49-~~3208~~2436. SALES TAX NOT APPLICABLE. ~~The 1~~Laws ~~of this state~~ imposing a tax on the sale of goods and services shall not apply to money received by a driver as part of a ridesharing arrangement.

SECTION 494. That Section 49-3209, Idaho Code, as enacted in Section 1, Chapter 371, Laws of 1980, be, and the same is hereby amended to read as follows:

49-~~3209~~2437. MUNICIPAL LICENSES -- TAX. No county, city, ~~town~~ or other municipal corporation may impose a tax on, or require a municipal license for a ridesharing arrangement.

SECTION 495. That Section 49-3210, Idaho Code, as enacted in Section 1, Chapter 371, Laws of 1980, be, and the same is hereby amended to read as follows:

49-~~3210~~2438. OVERTIME COMPENSATION -- MINIMUM WAGE LAWS. The mere fact that an employee participates in any kind of ridesharing arrangement shall not result in the application of chapter 15, title 44, Idaho Code, laws requiring payment of a minimum wage, overtime pay or otherwise regulating the hours a person may work.

SECTION 496. That Section 49-3211, Idaho Code, as enacted in Section 1, Chapter 371, Laws of 1980, be, and the same is hereby amended to read as follows:

49-~~3211~~2439. USE OF PUBLIC MOTOR VEHICLES. Motor vehicles owned or operated by any state or local agency may be used in ridesharing arrangements. Participants in any such ridesharing arrangement shall pay the actual total costs of using the vehicle in that arrangement.

49-2440 -- 49-2441. [RESERVED.]

SECTION 497. That Section 49-3001, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3001~~2442. IDENTIFICATION CARDS AUTHORIZED. Any person may apply to the ~~Idaho transportation~~ department for an identification card. It is prima facie evidence of age when the authorized holder of an identification card exhibits a card which contains information indicating that ~~such~~ the person has attained ~~such~~ a certain age.

SECTION 498. That Section 49-3002, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3001~~2443. APPLICATION. Application for an identification card must be made in person before an examiner authorized by the ~~Idaho transportation~~ department to issue operator and chauffeur licenses. The examiner shall obtain the following from the applicant:

(1~~.~~) The true and full name and address of the applicant;

(2~~.~~) The date of birth of the applicant as set forth in a certified copy of his ~~or her~~ birth certificate, or other satisfactory evidence of birth;

(3~~.~~) The place of birth of the applicant;

(4~~.~~) The height and weight of the applicant;

(5~~.~~) The color of eyes and hair of the applicant; and

(6~~.~~) Applicant's signature.

SECTION 499. That Section 49-3003, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3001~~2444. CARD ISSUED. The ~~Idaho--transportation~~ department shall issue an identification card which shall set forth the information contained in the application, in a form as prescribed by the department. Each card shall be issued a distinguishing number and shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The fee for an identification card shall be five dollars ($5.00), one-half (1/2) of which shall be retained by the county and credited to the current expense fund, and the other one-half (1/2) of which shall be deposited in the state treasury to the credit of the highway distribution account. Every identification card shall expire three (3) years from the date of issue.

SECTION 500. That Section 49-3004, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3004~~2445. LOST, STOLEN OR MUTILATED CARDS. Application for a duplicate identification card shall be made in the same manner as required in section 49-~~3001~~2443, Idaho Code, and the fee for ~~such~~ a duplicate shall be the same as provided for ~~in section 49-3003, Idaho Code~~ the original card.

SECTION 501. That Section 49-3005, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~3005~~2446. FRAUDULENT MISREPRESENTATION ~~A MISDEMEANOR~~. It is ~~a misdemeanor~~ unlawful for any person to fraudulently misrepresent his

or--her age to any dispenser of intoxicating or alcoholic beverages or to falsely procure an identification card, or to alter any of the statements contained in the identification card.

SECTION 502. That Sections 49-2501, 49-2503, 49-2515, 49-2601, 49-2602, 49-2614, 49-2701, 49-2702, 49-2806, 49-3101, 49-3102, 49-3103, 49-3109; 49-3201 and 49-3202, an enacted in Section 1, Chapter 371, Laws of 1980; and 49-3401, 49-3410, 49-3412, 49-3501, 49-3601, 49-3607 and 49-3622, Idaho Code, be, and the same are hereby repealed.

SECTION 503. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 45, Title 41, Idaho Code, and to read as follows:

CHAPTER 45
MOTOR CLUBS

41-4501. DEFINITIONS. As used in this chapter:

(1) "Bail bond service" means the furnishing or procuring of a cash deposit or undertaking required by law in order that a person accused of violation of any motor vehicle law may enjoy personal freedom pending court appearance.

(2) "Club agent" means a person who solicits the purchase of a service contract or membership.

(3) "Director" means the director of the department of insurance for the state of Idaho.

(4) "Discount service" means the obtaining through the auspices or assistance of the motor club of items incidental to motoring, touring, travel or things reasonably connected therewith, or any act resulting in giving special discounts, rebates or reductions to holders of memberships in motor clubs.

(5) "Emergency road service" means furnishing or reimbursing for the adjustment, repair, or replacement of equipment, tires or mechanical parts of a motor vehicle or other service to the same so as to permit it to be operated under its own power.

(6) "Insurance service" means any act of procuring or assisting in procuring, with a service contract or as a result of membership in or affiliation with a motor club, a policy of insurance.

(7) "Legal service on a reimbursement basis" means paying fees of an attorney for his advice or services rendered to holders of service contracts.

(8) "License service" means the rendering of assistance by a motor club in obtaining:

(a) Registration of a motor vehicle with the state.

(b) Operator's license.

(c) Chauffeur's license.

(d) Transfer of legal or registered ownership upon the records of the department of motor vehicles of the state of Idaho.

(9) "Map service" means furnishing without cost, road maps, tour plans or tour guides to members of motor clubs.

(10) "Motor club" means a person engaged, either as principal or agent, in furnishing or procuring motor club service to or for others, and the term motor club shall be synonymous with automobile club or automobile association.

(11) "Motor club service" shall consist of rendering, furnishing or procuring insurance service, towing service or emergency road service or reimbursement therefor, license service, theft service, bail bond service, discount service, map service, touring service, legal service on a reimbursement basis, or any one or more of those services to persons in connection with ownership, operation, use or maintenance of a motor vehicle by a person in consideration of the person being or becoming a member of an association or club rendering, procuring or furnishing that service, or being or becoming entitled to receive membership or other motor club service therefrom.

(12) "Office" means a place of business in the state operating, and open for business, a minimum of six (6) hours per day and five (5) days per week from which a motor club can and will furnish the services set forth in a service contract, which office is operated by a motor club furnishing the service or any other duly authorized motor club through which those services are furnished on a reciprocal basis. The office shall have a street number address and shall maintain a telephone.

(13) "Person" means a person, firm, partnership, company, association or corporation receiving motor club services or engaging in selling, furnishing or procuring, for consideration, motor club services, either as principal or agent.

(14) "Service contract" means an agreement or understanding whereby persons for a consideration promise to render, furnish or procure for other persons motor club service as defined in this section.

(15) "Theft service" means an act by a motor club for the purpose of locating, identifying or recovering a stolen vehicle owned or controlled by the holder of a service contract with any such club or for the purpose of detecting or apprehending the person guilty of the theft.

(16) "Touring service" means furnishing touring information without cost to holders of service contracts.

(17) "Towing service" means the drafting or moving of a motor vehicle from one place to another under power other than its own.

SECTION 504. That Section 49-2302, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2302~~41-4502. LICENSE AND REGULATION. No person shall render or agree or offer to render motor club service in ~~this state~~ Idaho without first obtaining from the ~~commissioner~~ director a certificate of authority to do so ~~and in~~. In applying for and acting under any ~~such~~ certificate of authority, ~~such~~ the person shall be subject to all of the provisions of this chapter and ~~such~~ any rules and regulations as the ~~commissioner~~ director may prescribe, and the ~~commissioner~~ director is ~~hereby~~ authorized to promulgate and prescribe ~~such~~ rules and regulations as he deems reasonably necessary to carry out the provisions of this ~~act~~ chapter.

SECTION 505. That Section 49-2303, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2303~~41-4503. DEPOSIT AND MAINTENANCE OF SECURITY -- AMOUNTS AND TYPES. ~~No~~ A certificate of authority to render motor club service in ~~this state~~ Idaho shall not be granted to any person until ~~such~~ that person shall have first deposited, and thereafter continuously maintained, with the ~~commissioner~~ director, security in one (1) of the following forms:

(1) The sum of twenty-five thousand dollars ($25,000) in cash; or~~;~~

(2) Securities of a type approved by the ~~commissioner~~ director and qualified for legal investment by an authorized insurer and having a value of no less than twenty-five thousand dollars ($25,000). Unless otherwise specifically provided in this ~~act, such~~ chapter, a deposit of securities shall be subject to the applicable provisions of chapter 8, title 41, Idaho Code; or~~;~~

(3) A ~~s~~Surety bond in the amount of twenty-five thousand dollars ($25,000) issued by a surety company admitted to do business in ~~the state of~~ Idaho.

(4) The securities or bond ~~hereinabove provided for~~ shall be applicable to motor clubs issuing one (1) year membership contracts. In event a motor club shall sell or issue a service contract for a period in excess of one (1) year, the amount of basic security requirements above provided for shall be increased by fifty ~~percent~~ per cent (50%) for each year covered by ~~such~~ the service contract in excess of one (1) year.

(5) Security posted with the ~~commissioner, as required herein,~~ director shall not be used by any motor club to fulfill the security requirements of any other state ~~of the United States~~ in which ~~said~~ the motor club is authorized to do business.

SECTION 506. That Section 49-2304, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2304~~41-4504. PURPOSE AND CONDITIONS OF SECURITIES. ~~Such~~ ~~s~~Securities shall:

(1) Be for the protection, use and benefit of any person whose application for membership in a motor club has been accepted by ~~such~~ the club or its representatives.

(2) Be subject to the following conditions and, if a bond, shall be so expressly conditioned that:

(a) The club will faithfully furnish and render to ~~such~~ persons any and all of the motor club services sold or offered for sale to ~~such~~ that person by the club.

(b) The club will pay any fines, fees or penalties imposed upon it pursuant to the provisions of this ~~act~~ chapter.

SECTION 507. That Section 49-2305, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2305~~41-4505. ACTIONS ON SURETY BONDS -- LIABILITY OF SURETY. If a surety bond is filed, any person defrauded or injured by any wrongful act, misrepresentation or failure on the part of the motor club with respect to the selling or rendering of any of its services may, after thirty (30) days' notice to the surety of his claim, bring direct suit on ~~such~~ the bond in his own name, but the aggregate liability of the surety for all ~~such~~ suits shall~~,~~ in no event~~,~~ exceed the total sum of ~~such~~ the bond, exclusive of the payment of costs or attorneys' fees permitted by other provisions of law.

SECTION 508. That Section 49-2306, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2306~~41-4506. DEPOSIT OF CASH OR SECURITIES -- APPLICABLE CONDITIONS ~~AND LIABILITY~~. A deposit of cash or securities, in lieu of ~~such~~ a bond, shall be subject to the conditions applying to the bond. If upon expiration of thirty (30) days after the judgment shall become final the motor club has failed to satisfy in full any final judgment rendered against it by a court in this state and arising out of any fraud, wrongful act, misrepresentation or failure on the part of ~~such~~ the club with respect to the selling or rendering of any of its services to a member of the club, the judgment may be enforced by levy against ~~such~~ the deposit. For the purposes of this provision, a judgment shall be deemed to have become final upon expiration of the period permitted by law for an appeal, or~~,~~ if an appeal is taken, upon dismissal thereof or affirmance of the judgment and remittitur. So far as applicable, the satisfaction of any ~~such~~ judgment out of the deposit of cash ~~or~~ and securities with ~~commissioner~~ the director shall be in accordance with the provisions of section 41-810(4) and (5), Idaho Code.

SECTION 509. That Section 49-2307, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2307~~41-4507. APPLICATION FOR CERTIFICATE OF AUTHORITY -- FILING REQUIREMENTS -- APPLICATION FEE. To apply for original certificates of authority, a motor club shall:

(1) File with the director a formal verified application ~~therefor~~ in ~~such~~ a form and detail as the director may reasonably require, executed by its president or other principal officer, showing:

(a) Its name, home office, location, organization date, state or country of its domicile;

(b) The nature and type of service it proposes to transact;

(c) ~~Such~~ Any additional information as the director may reasonably require.

(2) File with the director:

(a) A copy of its charter and amendments thereto, and~~,~~ if a foreign company, the same shall be certified by the proper public officer of the state or country of domicile;

(b) A copy or facsimile of its insignia;

(c) A copy of its by-laws, if any, certified by its proper officer;

(d) A statement of its financial condition, management and affairs;

(e) A copy of each form of service agreement, contract, and service brochure it proposes to use in ~~this state~~ Idaho;

(f) If a foreign company, a certificate from the proper public official from its state or country of domicile showing that it is duly organized and is authorized to transact the type of motor club service which it proposes to be transacted in Idaho;

(g) A certificate issued by the secretary of state showing that it has qualified to do business as a corporation in this state;

(h) Other documents or stipulations as the director may reasonably require to evidence compliance with the provisions of the laws of ~~the state of~~ Idaho.

(3) Pay to the director an initial application, filing and appointment fees of three hundred twenty dollars ($320).

(4) Appoint the director, upon ~~such~~ a form as he may prescribe, its attorney to receive service of legal process. The provisions of sections 41-333 and 41-334, Idaho Code, shall apply to ~~such~~ the appointment and proceedings thereunder.

SECTION 510. That Section 49-2308, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2308~~41-4508. NAME OF MOTOR CLUB. The ~~commissioner~~ director shall reject the name or insignia of the motor club as submitted pursuant to this ~~act~~ chapter when the proposed name or insignia is the same as or deceptively similar to that of any other motor club or other corporation lawfully doing business in ~~this state~~ Idaho.

SECTION 511. That Section 49-2309, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2309~~41-4509. CERTIFICATE OF AUTHORITY -- OWNERSHIP -- TERM -- EXPIRATION -- REINSTATEMENT. (1) A certificate of authority issued by the director to any motor club is evidence of its authority to transact in ~~this state~~ Idaho the business of ~~a~~ motor club service.

(2) Although issued to the motor club, the certificate of authority is and shall at all times be and remain the property of the state of Idaho and upon any expiration, suspension or termination ~~thereof~~, the motor club shall promptly redeliver the certificate of authority to the director.

(3) A certificate of authority shall continue in force so long as the motor club is entitled thereto under the provisions of this ~~act~~ chapter and ~~such~~ rules and regulations prescribed by the director, ~~pursuant--thereto~~ and until suspended or revoked by the director or terminated at the request of the motor club~~;--subject,--however--to--c~~. Continuance of the certificate by the motor club each year ~~by~~ is subject to:

(a) Payment prior to March 1st of a continuation fee of two hundred dollars ($200); and

(b) Due filing by the motor club of its annual statement for the preceding calendar year ~~preceding~~ as required by this ~~act~~ chapter.

(4) If not continued, ~~its~~ the certificate of authority shall expire as of midnight on the 31st day of March next following ~~such~~ a failure of the motor club to ~~continue~~ it in force or immediately upon failure to file the annual statement within any extended time granted by the director ~~as herein provided~~. The director shall promptly notify the motor club of the occurrence of any failure on its part which will or might result in the expiration of its certificate of authority.

(5) The director may, in his discretion and upon the motor club's request made within three (3) months after the expiration of a certificate of authority, reinstate ~~such~~ a certificate of authority~~, reinstate such certificate~~ after the motor club has fully cured all of its failures which resulted in ~~such~~ the expiration, and upon payment by the motor club of a reinstatement fee of one hundred dollars ($100) in addition to a regular continuation fee. Otherwise, the motor club shall be granted another certificate of authority only after filing an application ~~therefor~~ and meeting all other requirements as for an original certificate of authority.

SECTION 512. That Section 49-2310, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2310~~41-4510. REVOCATION, SUSPENSION OR REFUSAL TO CONTINUE CERTIFICATE. (1) The ~~commissioner~~ director may revoke, suspend or refuse to continue the certificate of authority of a motor club whenever, after a hearing and for cause shown, he determines that any of the following circumstances exist:

(a) The club has violated any provision of this chapter;

(b) It is found by the ~~commissioner~~ director to be in such a financial condition that its further transaction of motor club service in ~~this state~~ Idaho would be hazardous to its members and the motor club service-buying public in this state, or that it is insolvent;

(c) It refuses to remove or discharge, or terminate its relationship with a director or officer who has been convicted of any crime involving fraud, dishonesty, or like moral turpitude;

(d) It customarily or in the regular course of business compels claimants under its service contracts either to accept less than the amount due them or fewer services, or to bring suit against it to secure full payment of the amount of all services due;

(e) It conducts its business outside ~~this state~~ Idaho in ~~such~~ a manner as unjustly to discriminate against or prejudice the interests of the people of ~~this state~~ Idaho;

(f) It is affiliated with and is under the same general management of interlocking directorate or ownership as another motor club which transacts business in ~~this state~~ Idaho which does not have a certificate of authority therefor;

(g) It exceeds the charter powers of its certificate of authority;

(h) It refuses to be examined, or if its directors, managing officers, employees or representatives refuse to submit to examination or to produce its accounts, records and files for examination by the ~~commissioner~~ director when required by him, or refuses

to perform any legal obligation relative to the examination;

(i) It misrepresents or has misrepresented its business or services to the public or transacts its business fraudulently;

(j) It fails to file an annual statement or continue its certificate of authority in good standing;

(k) It has failed to pay any final judgment as ~~hereinbefore defined~~ provided by this chapter, rendered against it in ~~this state~~ Idaho arising out of any fraud, wrongful act, misrepresentation or failure on its part with respect to the selling or rendering of any of its services.

(l) It fails to establish or maintain an office in ~~this state~~ Idaho.

(2) All suspensions or revocations of, or refusals to continue, a certificate of authority shall be by the ~~commissioner's~~ director's order given to the motor club in accordance with section 41-212, Idaho Code.

(3) Upon suspending ~~or~~, revoking or refusing to continue the certificate of authority of a motor club, the ~~commissioner~~ director shall ~~forthwith~~ give notice ~~thereof~~ of his action to the motor club's agents in ~~this state of record in the department~~ Idaho and shall likewise suspend or revoke the authority of ~~such~~ those agents to represent the motor club so long as ~~such~~ the suspension or revocation shall continue.

(4) In his discretion the ~~commissioner~~ director may likewise publish notice of ~~such~~ the suspension, revocation or refusal in one or more newspapers of general circulation in this state.

SECTION 513. That Section 49-2311, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2311~~41-4511. SERVICE CONTRACTS — REQUIREMENT — FILING AND APPROVAL. Motor clubs shall be required to execute service contracts or agreements with their members. ~~Such~~ Contracts, agreements, or application form, where written application is required and is to be made a part of the agreement, or printed rider or endorsement form or form of renewal certificate, shall be filed with and approved by the ~~commissioner~~ director.

SECTION 514. That Section 49-2312, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2312~~41-4512. SERVICE CONTRACTS — REQUIRED PROVISIONS AND STATEMENTS. ~~No~~ A motor club shall not execute, issue or deliver a service contract or agreement in ~~this state~~ Idaho unless ~~such~~ the contract or agreement contains ~~the following~~:

(1) The names of the parties to the agreement.

(2) The exact location of the home office of the motor club and of its office in ~~the state of~~ Idaho, specifying city, street and telephone number.

(3) A provision that the contract may be canceled at any time by either the club or the member by giving written notice and that the member will, if the dues or membership fee has been paid thereon, be

entitled to repayment of the unused portion of the consideration paid for ~~such~~ the contract, calculated on a pro rata basis over the period of the contract, without any deductions other than a reasonable minimum charge for the services entailed with relation to a cancellation.

(4) Provisions plainly specifying:

(a) The services which the motor club promises to render.

(b) That the holder will not be required to pay any sum in addition to the amounts specified in the contract or application therefor for any of the services specified.

(c) The territory wherein ~~such~~ the services are to be rendered.

(d) The date when services will commence and the period during which the contract is to continue in force.

(e) The exact amount to be paid by the member.

(5) A statement in not less than 14 point modern type at the head of ~~said~~ the contract stating, "THIS IS NOT AN INSURANCE CONTRACT."

SECTION 515. That Section 49-2313, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2313~~41-4513. GROUNDS FOR DISAPPROVAL. The ~~commissioner~~ director shall disapprove any form of contract or agreement, rider, ~~i~~endorsement or renewal, or withdraw any previous approval ~~thereof~~, only on one or more of the following grounds:

(1) It is in any respect in violation of or does not comply with this ~~act~~ chapter.

(2) It contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which deceptively affect the services to be rendered in the general coverage of the contract.

(3) It has any title, heading or other indication of its provisions which is misleading.

(4) It is printed or otherwise reproduced in ~~such~~ a manner as to render any provision of the form substantially illegible.

(5) It contains any provision purporting to make any portion of the charter, by-laws or other constituent document of the motor club (other than a power of attorney or the member's application) a part of the contract unless ~~such~~ that portion is set forth in full therein.

SECTION 516. That Section 49-2314, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2314~~41-4514. VALIDITY AND CONSTRUCTION OF NONCOMPLYING FORMS. (1) Any contract or agreement ~~hereafter~~ delivered or issued for delivery to any person in ~~this state~~ Idaho in violation of the requirements of this ~~act~~ chapter, shall~~,~~ nevertheless, be valid and binding on the motor club.

(2) Any contract or agreement, rider, ~~i~~endorsement or renewal ~~hereafter~~ issued and otherwise valid which contains any condition, omission or provision not in compliance with the requirements of this ~~act~~ chapter shall be construed and applied in accordance with ~~such~~ those conditions as would have applied had ~~such~~ the contract or agreement, rider, ~~i~~endorsement or renewal, been in full compliance with

this ~~act~~ chapter.

SECTION 517. That Section 49-2315, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2315~~41-4515. CLUB AGENT -- LICENSE REQUIRED. No person shall act as a club agent in ~~this state~~ Idaho without first procuring a license from the ~~commissioner~~ director.

SECTION 518. That Section 49-2316, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2316~~41-4516. CLUB AGENT -- APPLICATION FOR LICENSE. (1) Application for a license as a club agent shall be made to the ~~commissioner~~ director upon forms to be prescribed and furnished by him. As a part of, or in connection with any application, the applicant shall furnish information concerning his identity, residence, personal history, experience, business record, and ~~such~~ other pertinent facts which the ~~commissioner~~ director may reasonably require.

(2) Only individuals shall be licensed as club agents.

(3) Any person wilfully misrepresenting any fact required to be disclosed in any application shall be subject to the penalties provided in this ~~act~~ chapter.

SECTION 519. That Section 49-2317, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2317~~41-4517. CLUB AGENT -- QUALIFICATIONS FOR LICENSE. The director shall license as a motor club agent only an individual who has otherwise complied with the provisions of this ~~act~~ chapter and who has furnished evidence satisfactory to the director that the applicant:

(1) Has met the qualifications for licensure as required ~~in~~ by section 41-1034, Idaho Code.

(2) Has the ~~i~~endorsement of at least two (2) reputable citizens of the community of the applicant's residence that the applicant is a trustworthy person with a good reputation.

SECTION 520. That Section 49-2318, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2318~~41-4518. CLUB AGENT -- FORM OF LICENSE. The ~~commissioner~~ director shall prescribe the form of the club agent's license but it shall contain:

(1) The name of the licensee and his business address~~,~~;

(2) The date of issuance and date of expiration~~,~~; and

(3) The name of the represented motor club.

SECTION 521. That Section 49-2319, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2319~~41-4519. CLUB AGENT -- RENEWAL OF LICENSE -- FEE. A club

agent's license shall be renewable on April 1st of each year. A fee of ten dollars ($10.00) shall be paid to the director for each original license issued and a fee of ten dollars ($10.00) shall be paid to the director for each renewal ~~thereof~~.

SECTION 522. That Section 49-2320, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2320~~41-4520. CLUB AGENT -- GROUNDS FOR SUSPENSION, REVOCATION OR REFUSAL OF LICENSE OR RENEWAL. The ~~commissioner~~ director may suspend, revoke or refuse to renew any club agent's license for any of the following causes:

(1) If the licensee has obtained or attempted to obtain any license through misrepresentation or fraud.

(2) If the licensee has, within the last five (5) years, misappropriated or converted to his own use or has illegally withheld moneys required to be held in a fiduciary ca~~pacity.~~

(3) If the licensee materially misrepresents the terms, benefits or privileges of any service contract or membership issued or to be issued by the motor club he represents.

(4) If, in the conduct of his affairs under the license, the licensee has shown himself to be incompetent, untrustworthy, or a source of injury and loss to the motor club service-buying public.

(5) If the licensee solicits or aids in the solicitation of a person to purchase a service contract or membership issued by a motor club not having a certificate of authority procured pursuant to this ~~act~~ chapter and in good standing~~,-excepting-such-motor-clubs-as-may have-until-March-1,-1966-to-comply-herewith-as--hereinafter--provided~~.

SECTION 523. That Section 49-2321, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2321~~41-4521. CLUB AGENT -- SURRENDER OF LICENSE. The holder of any club agent's license which shall be revoked or suspended shall immediately surrender the license certificate to the ~~commissioner~~ director.

SECTION 524. That Section 49-2322, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2322~~41-4522. CLUB AGENT -- HEARING BEFORE REVOCATION OR SUSPENSION OR AFTER REFUSAL TO RENEW -- EXCEPTION. No club agent's license shall be suspended or revoked by the ~~commissioner~~ director without providing an opportunity to the licensee to be heard ~~and--the.~~ The licensee may ~~likewise~~ request a hearing before the ~~commissioner~~ director in event the ~~commissioner~~ director refuses to renew his license provided, ~~however,~~ that upon conviction of a felony, a club agent's license shall be automatically forfeited and revoked without necessity of a hearing.

SECTION 525. That Section 49-2323, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-232~~41-4523. HEARINGS AND APPEALS -- APPLICABLE LAW. The provisions of sections 41-232-- through 41-246, Idaho Code, shall apply in all matters pertaining to hearings and appeals under this ~~act~~ chapter.

SECTION 526. That Section 49-2324, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-232~~41-4524. ANNUAL STATEMENT. Each authorized motor club shall annually, before the 1st day of March each year, or within any extension of time ~~therefor~~ not to exceed sixty (60) days which the ~~commissioner~~ director for good cause may have granted, file with the ~~commissioner~~ director a true statement of its financial condition, transactions and affairs for the ~~preceding~~ calendar year preceding. The statement shall contain ~~such~~ any information as may reasonably be required by the ~~commissioner~~ director and shall be verified by the oaths of at least two (2) of the motor club's principal officers.

SECTION 527. That Section 49-2325, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-232~~41-4525. REVIEW OF ANNUAL STATEMENT -- ADDITIONAL INFORMATION. (1) As soon as reasonably possible after the motor club has filed its annual statement with him, the ~~commissioner~~ director shall review the ~~same~~ statement and require correction of ~~such~~ errors or omissions in the statement as appear from ~~such~~ the review.

(2) In addition to information called for and furnished in connection with the annual statement, a motor club shall promptly furnish to the ~~commissioner~~ director any such other and further information with respect to any of its transactions or affairs as the ~~commissioner~~ director may from time to time request in writing.

SECTION 528. That Section 49-2326, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-232~~41-4526. APPLICATION OF ~~ACT~~ CHAPTER -- EXEMPTION FROM INSURANCE CODE. The provisions of this ~~act~~ chapter shall apply exclusively to motor clubs. No other provision contained in title 41, Idaho Code, generally known as the Insurance Code, and relating to insurers within ~~the state of~~ Idaho, shall apply to motor clubs except as expressly provided herein ~~or therein~~ and nothing contained in the provisions of this ~~act~~ chapter shall be construed to authorize any motor club or any motor club agent to sell or solicit insurance without compliance with the Insurance Code or to act in any capacity other than a motor club or motor club agent.

SECTION 529. That Section 49-2327, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-232~~41-4527. PENALTY FOR VIOLATIONS. Any person violating any of the provisions of this ~~act~~ chapter shall be guilty of a misde-

meanor.

SECTION 530. That Section 49-2328, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2328~~41-4528. DEPOSIT OF MONEYS COLLECTED. All moneys collected by the ~~commissioner~~ director under the provisions of this ~~act~~ chapter shall be deposited in the state treasury as provided in section 41-406, Idaho Code.

SECTION 531. That Section 49-2331, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2331~~41-4529. EXAMINATION. ~~(1)~~ If necessary to determine its financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its obligations, and compliance with the law, the director ~~of the department of insurance~~ may examine the affairs, transactions, accounts, records, and assets of each authorized motor club insofar as motor club service ~~as defined in section 49-2301, Idaho Code,~~ is concerned. The director may examine each motor club no more often than every two (2) years, unless the director has sufficient evidence to determine that the motor club to be examined is in an unstable financial condition, or is not fulfilling or cannot fulfill its service contract obligations. Any ~~such~~ examination made shall be at the expense of the motor club.

CHAPTER 71, TITLE 67
RECREATIONAL ACTIVITIES

SECTION 532. That Section 49-2603, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2603~~67-7101. DEFINITIONS. ~~As used in~~ In this chapter:

(~~9~~1) "Agent" means any person authorized by the department to sell registrations.

(~~1~~2) "All terrain vehicle ~~(ATV)~~" means any recreation vehicle with two (2) or more tires, under six hundred (600) pounds and less than forty-eight (48) inches in width, traveling on low pressure tires, less than five (5) ~~pounds~~ psi, and designed to be ridden by one (1) person.

(3) "Authorized vendor" means a retail commercial enterprise, authorized by the department to sell the parking permits as provided in section 67-7016, Idaho Code.

(4) "Board" means the park and recreation board created under authority of section 67-4221, Idaho Code.

(~~10~~5) "Bona fide snowmobile program" means services or facilities as approved by the department that will benefit snowmobilers such as snowmobile trail grooming, plowing and maintaining snowmobile parking areas and facilities, and trail signing.

(6) "Committees" mean the cross-country skiing advisory committees appointed under the provisions of section 67-7119, Idaho Code.

(7) "Dealer" means any person who engages in the retail sales of

or rental of snowmobiles or motorbikes.

(~~6~~8) "Department" means the Idaho department of parks and recreation.

(9) "Designated parking area" means an area located, constructed, maintained, and signed with the approval of the land manager or owner.

(~~1~~10) "Director" means the director of the department of parks and recreation.

(~~8~~11) "Highway." ~~means all highways as defined by law, except~~ (See section 40-109, Idaho Code, but excepting public roadway as defined ~~above:~~ in this section)

(12) "Motorbike" means any self-propelled two (2) or three (3) wheeled motorcycle or motor-driven cycle, excluding tractor, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trials bikes, motocross bikes or dual purpose motorcycles.

(~~4~~13) "Operator" means ~~each~~ any person who ~~operates or~~ is in physical control of a snowmobile.

(~~3~~14) "Owner" means every person holding record title to a snowmobile and entitled to the use or possession thereof, other than a lienholder or other person having a security interest only.

(15) "Person" means an individual, partnership, association, corporation, or any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.

(~~5~~16) "Public roadway" means all portions of any ~~road or street, improved, designed or ordinarily used for travel or parking of motor vehicles,~~ highway which ~~is~~ are controlled by an authority other than the ~~state highway~~ Idaho transportation department.

(~~2~~17) "Snowmobile" means any self-propelled vehicle under one thousand (1~~,000) pounds~~ unladened gross weight, designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners, and which is not otherwise registered or licensed under the laws of the state of Idaho.

(18) "Vendor" means a county assessor, a dealer or individual authorized by the department to sell motorbike registrations and winter recreational parking stickers.

(19) "Winter recreational parking locations" mean designated parking areas established and maintained with funds acquired from the cross-country skiing account.

SECTION 533. That Section 49-2604, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2604~~67-7102. REQUIREMENT THAT SNOWMOBILE BE NUMBERED. Except as otherwise provided, no snowmobile shall be operated within the jurisdiction of the state of Idaho unless numbered ~~by the owner~~ as provided in this ~~act~~ chapter.

SECTION 534. That Section 49-2605, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2605~~67-7103. APPLICATION FOR NUMBER -- ATTACHMENT OF NUMBER -- ~~CERTIFICATE -- APPLICATION~~ FOR TRANSFER OF CERTIFICATE -- TEMPORARY

NUMBER -- FEES. (1) On or before November 1 of each year~~, commencing with November 1, 1969,~~ the owner of each snowmobile requiring numbering by the state of Idaho shall file an application for number with the department on forms approved by it. The application shall be signed by the owner and shall, except as provided in subsection (~~7~~6) of this section, be accompanied by a fee of ten dollars ($10.00). Upon receipt of the application ~~in approved form~~ the department shall ~~enter the same upon the records of its office and~~ issue to the applicant a certificate of number stating the number ~~awarded~~ assigned to the snowmobile and the name and address of the owner. The owner shall paint on or attach to the snowmobile the identification number in ~~such~~ a manner as may be prescribed by rules and regulations of the department ~~in order that it may~~. The number shall be completely visible~~. The number~~ and shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the snowmobile for which issued, wherever ~~such~~ the snowmobile is in operation.

(2) The department may ~~award~~ issue any certificate of number directly or may authorize any persons to act as agent for the ~~awarding thereof~~ issuance. In the event a person accepts ~~such~~ the authorization, he may be assigned a block of numbers and certificates therefor which upon ~~award~~ issue, in conformity with this ~~act~~ chapter and with any rules and regulations of the department, shall be valid as if ~~awarded~~ issued directly by the department.

(3) All records of the department made or kept pursuant to this section shall be public records.

(4) The purchaser of a snowmobile shall, within fifteen (15) days immediately after ~~acquiring same~~ acquisition, make application to the department for transfer to him of the certificate of number issued to ~~such~~ the snowmobile, giving his name, address and the number of ~~such~~ the snowmobile, and shall at the same time pay to the department a fee of ten dollars ($10.00). Upon receipt of the application and fee, the department shall transfer the certificate of number issued for ~~such~~ the snowmobile to the new owner or owners. Unless ~~such~~ the application is made and fee paid within fifteen (15) days, ~~such~~ the snowmobile shall be ~~deemed~~ considered to be without a certificate of number and it shall be unlawful for any person to operate ~~such~~ that snowmobile until the certificate is issued.

(5) No number other than the number ~~awarded~~ issued to a snowmobile pursuant to this ~~act~~ chapter shall be painted, attached, or otherwise displayed on ~~such~~ the snowmobile, except a temporary number may be attached to identify a snowmobile for the purpose of racing or other sporting events.

(6) The annual fee for certificates of number issued to dealers shall be ten dollars ($10.00), whether for demonstration or rental purposes. Certificates issued to dealers shall at all times be displayed on snowmobiles being rented or demonstrated.

SECTION 535. That Section 49-2606, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2606~~67-7104. NONRESIDENT. The provisions of this ~~act~~ chapter

shall not apply to a nonresident owner who has a snowmobile which is currently numbered or licensed by his resident state. ~~Provided, i~~If a nonresident operates a snowmobile in this state for a period in excess of fifteen (15) consecutive days, the owner shall be liable for and shall pay to the ~~commissioner~~ director or his agent the fee as provided in section ~~49-2605~~ 67-7103, Idaho Code.

SECTION 536. That Section 49-2607, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2607~~67-7105. GOVERNMENT OWNERSHIP. Certificate of number and registration portions of this ~~act~~ chapter shall not apply to snowmobiles owned and operated by the federal government, a state government or a subdivision ~~thereof~~ it.

SECTION 537. That Section 49-2608, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2608~~67-7106. DISTRIBUTION OF MONEYS COLLECTED -- COUNTY SNOWMOBILE FUND -- STATE SNOWMOBILE ACCOUNT. (1) Each county assessor and authorized agent shall not later than the fifteenth day of each month remit all moneys collected under the provisions of this chapter to the state treasurer for credit to the state snowmobile account, ~~which account is hereby~~ established in the dedicated fund, to be administered by the director ~~of the department~~.

(2) Each county with a bona fide snowmobile program shall be entitled to receive from the department eighty-five percent (85%) of the moneys generated for that county during that registration period. Application for additional funds shall be made to the department by each county prior to the second Monday of August of each year. The moneys applied for shall be used solely for a bona fide snowmobile program. Counties with a bona fide snowmobile program, may use up to fifteen percent (15%) of their county snowmobile moneys upon recommendation by their county snowmobile advisory committee for snowmobile law enforcement purposes.

(3) Up to fifteen percent (15%) of the statewide snowmobile 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 state snowmobile account.

(4) Authorized agents and county assessors shall be entitled to charge an additional one dollar (1.00) handling fee per registration for the distribution of certificates of number.

(5) Counties which have not established a bona fide snowmobile program shall remit the entire balance in the county snowmobile fund to the state treasurer for credit to the state snowmobile account, and shall be available to counties with a bona fide snowmobile program. Application for ~~such~~ these moneys shall be made prior to the second Monday of August of that registration period.

SECTION 538. That Section 49-2608A, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2608A~~67-7107. COUNTY ADVISORY COMMITTEE. The county commissioners of any county may appoint snowmobile advisory committees to serve without salaries and wages in an advisory capacity relating to the establishment and maintenance of parking and unloading areas on public and private property, and the expenditure of moneys deposited in the county snowmobile fund; and to serve at the pleasure of the county commissioners.

The board of county commissioners is hereby authorized, upon advisement of the special advisory committee, to use and expend ~~said~~ the special fund created in section ~~49-2608~~ 67-7106, Idaho Code, outside the county.

SECTION 539. That Section 49-2609, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2609~~67-7108. PROHIBITION AGAINST NUMBERING BY POLITICAL SUBDIVISIONS. The provisions of this ~~act~~ chapter shall govern the numbering and registration of snowmobiles operated in this state. All political subdivisions of the state are expressly prohibited from numbering or registering snowmobiles in any respect.

SECTION 540. That Section 49-2610, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2610~~67-7109. PROHIBITION AGAINST HIGHWAY OPERATION -- EXCEPTIONS. No person shall operate a snowmobile upon any highway or public roadway in this state, with the following exceptions:

(1) Properly numbered snowmobiles may cross, as directly as possible after a full and complete stop, highways and public roadways, except controlled access highways, provided that ~~such~~ the crossing can be made in safety and that it does not interfere with the free movement of vehicular traffic approaching from either direction on ~~such~~ the highway or public roadway. It shall be the responsibility of the operator of the snowmobile to yield the right-of-way to all vehicular traffic upon any highway or public roadway before crossing.

(2) Loading or unloading shall be done without causing a hazard to vehicular traffic approaching from either direction on ~~such~~ a highway or public roadway. Loading or unloading shall be accomplished with regard to safety, at the nearest possible point to the area of operation.

(3) The prohibition against operating snowmobiles upon highways and public roadways shall not apply to any highway or public roadway drifted or covered with snow to an extent that travel ~~thereon~~ it by other motor vehicles is impractical or impossible.

(4) Snowmobiles may be operated on that portion of a highway or public roadway right-of-way that is not maintained or utilized for the operation of conventional motor vehicles.

(5) Local authorities may, by ~~resolution or~~ ordinance, specifically designate public roadways upon which snowmobiles may be operated.

SECTION 541. That Section 49-2611, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2611~~67-7110. RESTRICTIONS. It shall be unlawful for any person to drive or operate any snowmobile:

(1) At a rate of speed greater than reasonable and prudent under the existing conditions.

(2) While under the influence of intoxicating liquor or narcotics or habit-forming drugs.

(3) In a negligent manner so as to endanger the person or property of another, or to cause injury or damage to either, or to harass, chase or annoy any wild game animals or birds or domestic animals.

(4) Without a lighted headlight and taillight between the hours of dusk and dawn, or when upon or crossing any public roadway or highway, or when otherwise required for the safety of others.

(5) Without an adequate braking device which may be operated by either hand or foot.

(6) Without an adequate muffler, except when used in conjunction with public racing events.

(7) Upon a public roadway or highway without a valid motor vehicle operator's license, unless the public roadway or highway is closed to other motor vehicle travel.

SECTION 542. That Section 49-2613, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2613~~67-7111. ACCIDENT RESULTING IN PERSONAL INJURIES OR PROPERTY DAMAGE. The operator of any snowmobile involved in any accident resulting in injuries to or death to any person or property damage in the estimated amount of two hundred dollars ($200) or more, or a person acting for the operator, or the owner of the snowmobile having knowledge of the accident should the operator of the snowmobile be unknown, shall immediately notify a proper law enforcement agency of the facts relating to the accident and within five (5) days file a report of the circumstances with the department on forms prescribed by the department. For any accident occurring on a highway or public roadway the owner, the operator, or both shall be subject to the provisions of section 49-~~1404~~2417, Idaho Code.

SECTION 543. That Section 49-2616, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2616~~67-7112. GROOMED SNOWMOBILE TRAILS. Any all terrain vehicle operating on groomed snowmobile trails during the winter snowmobiling season when the trails are groomed shall be registered as provided ~~in this chapter~~ by law. Counties shall have the option to allow all terrain vehicles, if registered, to use snowmobile trails in the county.

67-7113 -- 67-7114. [RESERVED.]

SECTION 544. That Section 49-3104, Idaho Code, be, and the same

is hereby amended to read as follows:

49-~~310~~467-7115. WINTER RECREATIONAL 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 ten dollars ($10.00) 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, with the receipt of a certificate of number as provided in section ~~49-2605~~ 67-7103, 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~~. The department shall require the presentation of suitable identification to verify that the certificate was issued to the person ~~requesting the~~ permit.

(5~~4~~) No parking permit shall be required under the provisions of this chapter for~~: (a)~~ ~~A~~ a vehicle owned and operated by the United States, ~~another state or a political subdivision thereof; (b) A vehicle owned and operated by this~~ any state or ~~by any county, city or~~ a political subdivision ~~thereof;~~ a state, or ~~(c) A~~ a vehicle registered in another state, if that vehicle displays a similar cross-country skiing permit, but only to the extent that an exception or privilege is granted under the laws of that state for permit holders from this state.

(6~~5~~) The fact that a motor vehicle which is illegally parked under the provisions of this ~~act~~ chapter is registered in the name of a person shall be considered prima facie evidence that ~~such~~ the person was in control of the vehicle at the time of ~~such~~ parking.

SECTION 545. That Section 49-3105, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~310~~567-7116. 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 under agreement with and according to rules and regulations of the department. The department may require that ~~such~~ the authorized vendors ~~thereof~~ shall be bonded in accordance with ~~its~~ rules and regulations of the department. 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~~ committees, ~~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.

SECTION 546. That Section 49-3106, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-3106~~67-7117. CROSS-COUNTRY SKIING RECREATION ACCOUNT. There is ~~hereby--created and~~ established in the state treasury an account to be known as the "cross-country skiing recreation account," into which the money specified in section ~~49-3107~~ 67-7118, Idaho Code, shall be deposited. The board is charged with the administration of the account for the purposes specified in ~~subsection--(3)--of~~ section ~~49-3107~~ 67-7118(3), Idaho Code. All claims against the account shall be examined, audited and allowed in the same manner now or hereafter provided by law for claims against the state, except that the board is ~~hereby~~ empowered to enter into agreements with the counties for the disbursement of funds to them on a project by project basis.

SECTION 547. That Section 49-3107, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-3107~~67-7118. DISTRIBUTION OF FEES. The moneys collected by or for the board on the sale of each permit shall be allocated as follows:

(1) The authorized vendor shall be entitled to receive a commission of one dollar ($1.00) on each permit sold, which sum may be retained as compensation for the sale of the permit.

(2) ~~Seventy-five--cents--($.75)~~ Fifteen per cent (15%) shall be allotted to the department for the production of the permits and necessary administration expenses incurred by ~~that~~ the department in carrying out the provisions of ~~subsection--(4)--of~~ section ~~49-3104~~ 67-7115(3), Idaho Code, which moneys shall be placed in the park and recreation account.

(3) The balance shall be transmitted to the state treasurer for deposit to the credit of the cross-country skiing recreation account to be appropriated first for the reimbursement for costs incurred in the removal of snow from winter recreation parking locations. Any remaining monies may be appropriated to provide grants to public or nonprofit entities for the acquisition, lease, development and maintenance of sanitation facilities, trail marking and other facilities designed to promote the health and safety of persons engaged in cross-country skiing.

SECTION 548. That Section 49-3108, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-3108~~67-7119. CROSS-COUNTRY SKIING ADVISORY COMMITTEES. (1) In counties where cross-country skiing activities result in additional demands for roadside parking, the boards of county commissioners may appoint committees of at least three (3) persons to serve in an advisory capacity to the commissioners on matters relating to the estab-

lishment and maintenance of winter recreational parking facilities. The persons selected ~~should~~ shall be active cross-country skiers representing cross-country ski clubs or organizations, merchants engaged in the sale or rental of cross-country skiing equipment, cross-country skiing instructors, or members of the general public actively engaged in the sport. Where park and recreational committees already exist they may be used in lieu of the appointment of new committees if each group includes at least one (1) cross-country skier.

(2) Each county advisory committee shall hold a minimum of two (2) meetings during the cross-country skiing season, one (1) to be held prior to November 15 of each year and one (1) to be held prior to January 15 of the following year. All meetings of the committee shall be open to the public.

(3) Members of the advisory committees shall receive no compensation or expenses for their services.

67-7120 -- 67-7121. [RESERVED.]

SECTION 549. That Section 49-2703, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2703~~67-7122. REQUIREMENTS -- REGISTRATION -- PROCEDURE. Commencing January 2, 1987 and on or before January 2 of each subsequent year, the owner of any vehicle as defined in section~~s 49-538 and 49-2702~~ 67-7101, Idaho Code, used off public highways but excluding those vehicles used exclusively on private land for agricultural use, shall register that vehicle at any vendor authorized by the department. A fee of five dollars ($5.00) shall be charged for each registration. At the time of sale from any dealer, each motorbike must be registered before it leaves the premises. Application blanks and stickers shall be supplied by the department and ~~such~~ the registration sticker shall be issued to the person making application for registration. The vendor issuing the registration sticker shall, upon receipt of the application in approved form, issue to the applicant an off-highway motorbike sticker and shall note the number of the sticker in his records and shall supply a duplicate copy of the application form, noting the number of the sticker issued, to the department. All stickers which are issued shall be in force through January 2 of the following year. All registration stickers shall be renewed by the owner of the off-highway vehicle in the same manner provided for in the initial securing of the same. The issued sticker shall be placed upon the off-highway vehicle in such a manner that it is completely visible and shall be kept in a legible condition at all times.

SECTION 550. That Section 49-2704, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2704~~67-7123. TRANSFER OF STICKER. The purchaser of an off-highway motor vehicle, which has been previously registered, shall within fifteen (15) days after acquiring same, make application to a vendor for transfer to him of the sticker of registration issued to the off-highway vehicle, giving the same information as on the origi-

nal application and the number of the sticker, and shall at the same time pay a transfer fee of one dollar ($1.00).

SECTION 551. That Section 49-2705, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2705~~67-7124. NONRESIDENT -- EXEMPTION. The provisions of this ~~act~~ chapter regarding registration shall not apply to any nonresident owner; provided that if a nonresident owner operates the vehicle for over thirty (30) days within this state he shall be subject to the registration provisions of ~~this act~~ law.

SECTION 552. That Section 49-2706, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2706~~67-7125. NOISE ABATEMENT. All vehicles subject to registration under this ~~act~~ chapter and all nonresident vehicles operated on public lands of the state shall comply with the noise abatement provisions specified ~~in section 49-835, Idaho Code~~ by law, the same as though they were highway operated vehicles.

SECTION 553. That Section 49-2707, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2707~~67-7126. ~~CREATION~~ ESTABLISHMENT OF ACCOUNT -- DISTRIBUTION OF FEES. There is established in the state treasurer's office an account to be known and designated as the "motorbike recreation account." The five dollar ($5.00) fee collected for registration stickers shall be allocated as follows:

(1~~.~~) Authorized vendors and county assessors shall charge fifty cents (50¢) for a handling fee;

(2~~.~~) Seventy-five cents (75¢) shall be allotted to the department for administration and for the production of registration stickers, which moneys shall be placed in the motorbike recreation account; and

(3~~.~~) The remaining three dollars and seventy-five cents ($3.75) shall be transmitted to the state treasurer's office for deposit to the credit of the motorbike recreation account, all such moneys to be transmitted to the state treasurer on or before the 10th day of each month.

SECTION 554. That Section 49-2708, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2708~~67-7127. USE OF MONEYS IN ACCOUNT. The ~~state--park--and recreation~~ board shall administer the motorbike recreation account. The moneys derived from this account shall be used as follows:

(1~~.~~) For the securing of special leases or permits, or for the actual purchase of land under private, state or federal ownership to be used for recreational motorbike activity;

(2~~.~~) For the securing, maintenance, construction or development of trails and other recreational facilities for off-road motorbike use on state and federal lands;

(3~~.~~) To finance the formulation and implementation under the ~~state-park-and-recreation~~ board's direction of an ~~off-the-road~~ off the road rider education program.

(4~~.~~) To acquire applicable federal matching funds.

SECTION 555. That Section 49-2709, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2709~~67-7128. ADVISORY COMMITTEE -- ~~CREATION~~ ESTABLISHMENT -- SELECTION -- TERM OF OFFICE -- DUTY. The ~~park--and--recreation~~ board shall appoint an advisory and planning committee of six (6) members. The membership of the ~~advisory--and--planning~~ committee shall be selected from a list of three (3) nominees from each ~~park-and recreation~~ board district~~,-as-defined-in-section-67-4221,-Idaho--Code~~. The list of nominees shall be submitted by the Idaho motorcyclist association and the Idaho trail machine association. Each member of the ~~advisory--and--planning~~ committee shall be chosen by the ~~park-and recreation~~ board to serve a term of four (4) years, except that the term of the initial appointees shall commence on the date of appointment and shall be of staggered lengths. Each member of the ~~advisory and--planning--board~~ committee shall be a qualified elector of the state. The members of the advisory and planning ~~board~~ committee shall be compensated as provided by section 59-509(b), Idaho Code. Duties shall include:

~~2.~~(1) To meet with the ~~park-and-recreation~~ board at least twice each year;

~~1.~~(2) Representation of the best interests of recreational motorbike activity in the districts from which they are appointed; and

(3~~.~~) To be coresponsible with the ~~park-and-recreation~~ board to administer the motorbike recreation ~~fund~~ account.

SECTION 556. That Section 49-2710, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2710~~67-7129. PENALTIES. Any violation of the provisions of ~~this-chapter~~ sections 67-7122 through 67-7128, Idaho Code, shall be deemed a violation subject to a fine of not less than ten dollars ($10.00) and not more than two hundred dollars ($200) plus standard court costs.

67-7130 -- 67-7131. [RESERVED.]

SECTION 557. That Section 49-2615, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-2615~~67-7132. RULES AND REGULATIONS. The director ~~is-authorized to~~ shall adopt and enforce administrative rules and regulations under the provisions of chapter 52, title 67, Idaho Code, as necessary to carry out the provisions of this chapter.

SECTION 558. That Section 49-2612, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-261~~267-7133. RESPONSIBILITY FOR ENFORCEMENT. The provisions of this chapter shall be enforced by the law enforcement personnel of the department of law enforcement, the department of fish and game, employees of the department of parks and recreation authorized by the director of the department of law enforcement, the sheriffs and their deputies of the various counties in the state and ~~the--police~~ peace officers of each city.

SECTION 559. That Section 1-2208, Idaho Code, be, and the same is hereby amended to read as follows:

1-2208. ASSIGNMENT OF CASES TO MAGISTRATES. Subject to rules promulgated by the Supreme Court, the administrative judge in each judicial district or any district judge in the district designated by him may assign to magistrates, severally, or by designation of office, or by class or category of cases, or in specific instances the following matters:

(1) Civil proceedings as follows:

(a) When the amount of money or damages or the value of personal property claimed does not exceed two thousand dollars ($2,000):

(1) actions for the recovery of money only arising on contracts express or implied; actions for damages for injury to person, property or reputation or for taking or detaining personal property, or for fraud;

(2) actions for rent and distress for rent;

(3) actions for claim and delivery;

(4) proceedings in attachment, garnishment, wage deductions for the benefit of creditors, trial or right of personal property and exemptions, and supplementary proceedings;

(5) actions arising under the laws for the incorporation of cities or counties or any ordinance passed in pursuance thereof; actions for the confiscation or abatement of nuisances and the seizure, condemnation and forfeiture of personal property; proceedings in respect of estrays and lost property;

(6) actions to collect taxes.

(b) Proceedings in forcible entry, forcible detainer, and unlawful detainer; and,

(c) Proceedings for the enforcement and foreclosure of common law and statutory liens of not to exceed two thousand dollars ($2,000) on real or personal property.

(2) Proceedings in the probate of wills and administration of estates of decedents, minors and incompetents.

(3) The following criminal and quasi-criminal proceedings:

(a) Misdemeanor and quasi-criminal actions;

(b) Proceedings to prevent the commission of crimes;

(c) Proceedings pertaining to warrants for arrest or for searches and seizures; and,

(d) Proceedings for the preliminary examination to determine probable cause, commitment prior to trial or the release on bail of persons charged with criminal offenses.

(4) Any juvenile proceedings except those within the scope of the provisions of section 1-2210, Idaho Code.

(5) Proceedings under the Idaho traffic infractions act, chapter 34~~1~~5, title 49, Idaho Code.

SECTION 560. That Section 8-506A, Idaho Code, be, and the same is hereby amended to read as follows:

8-506A. ATTACHMENT OF A DEBTOR'S INTEREST IN PERSONAL PROPERTY SUBJECT TO SECURITY AGREEMENT -- ATTACHMENT OF DEFENDANT'S INTEREST IN MORTGAGE OR TRUST DEED -- ATTACHMENT OF DEFENDANT'S INTEREST IN SECURITY AGREEMENT. Personal property subject to a security interest, a defendant's equity of redemption in personal property and a defendant's interest in a real estate mortgage or deed of trust or as secured party under a security agreement may be attached by the following methods, and no other:

(a) Personal property capable of manual delivery may be attached by taking possession, provided all secured parties with a perfected security interest therein under the Idaho Uniform Commercial Code consent thereto in writing, and the attachment shall be subject to the rights of any secured party under a perfected security agreement, but otherwise would be to the same effect and in the same manner as if the property were not subject to the security agreement.

(b) If any secured party with a perfected security interest does not consent in writing that the sheriff take possession of the personal property, the attaching creditor must pay or tender to the secured party the amount due on the security agreement before the officer may take the property into possession. The attaching creditor upon so redeeming shall be subrogated to the rights of the secured party under the security agreement, and the secured party shall, upon payment or tender assign the security agreement, note or notes so paid, and any filed financing statements to the attaching creditor. Upon any sale by judicial proceedings, any amounts owing to the attaching creditor on the security agreement so redeemed, with lawful interest thereon, shall first be paid to the attaching creditor.

(c) If the attaching creditor so elects and instructs the sheriff, the equity of redemption of the defendant in the personal property subject to a perfected security agreement shall be attached. Such attachment is made by serving upon the secured party, upon the defendant, and upon the person in possession of the property, if other than the defendant or secured party, if said parties can be found within the county where the property is situated, a copy of the writ of attachment, together with a notice signed by the sheriff, describing the property attached, giving the name of the secured party, and stating the interest of the defendant in the property attached, and by causing the notice to be filed in the office where a security agreement or financing statement on said property should be filed to perfect the security according to the Idaho Uniform Commercial Code or other applicable law. The sheriff shall make the filing by mail if in an office outside his county, and shall also file with the notice in any office where a financing statement should be filed for the property, a financing statement describing the property attached, the

prior security agreement, and signed by the attaching creditor or his agent as secured party and for the defendant as debtor by the sheriff. The filing officer shall receive and file the financing statement and index the same pursuant to title 28, chapter 9, part 4, Idaho Code. Service and filing as above provided shall operate as an attachment of the property described in the notice, subject to the prior rights of the secured party under the security agreement; possession of the property shall not be taken by the sheriff. Compliance with the foregoing is constructive notice to the world of the attachment. Provided, however, that this section shall not be constructive notice to a bona fide purchaser for value of any motor vehicle who has actual or constructive possession of the vehicle and who has relied on the certificate of title for determination by said purchaser as to secured parties shown thereon; nothing in this section shall relieve any person from complying with section 49-40504, Idaho Code.

When the sale of such property attached under this subdivision (c) is made on writ of execution obtained by such creditor, the proceeds must be applied as in the case of any other execution sale. The purchaser at any such sale acquires all title and rights of the judgment debtor in the property sold, as of the time the attachment was levied, subject to the perfected security agreement including all liens if any thereunder, securing obligations to be created after the security agreement was made in cases where such obligations have actually been created, and are by law entitled to priority over attaching creditors, and is entitled to the possession of such property subject, however, to the rights of the secured party.

Any transfer of encumbrance of the attached interest of the debtor-defendant is void as against the attaching creditor, but this provision shall not be construed as forbidding or invalidating any transfer or disposition of the property lawfully made pursuant to the prior security agreement, or any other right exercised or acquired thereunder.

(d) Any interest of the defendant as mortgagee of a real estate mortgage or beneficiary of a trust deed on real estate whether held directly or as an assignee, may be attached. The sheriff must record with the county recorder where the real property is located a copy of the writ along with a notice in writing, naming the defendant, describing the real property, and identifying the recording information on the real estate mortgage or trust deed, and stating that the defendant's interest therein is attached, and by serving copies of the notice and writ upon the defendant and upon the mortgagor of the mortgage or trustor of the trust deed if they can be located within the county where the property is located. The recorder shall index the same as an assignment of the defendant's interest in the mortgage or deed of trust, and it shall be constructive notice to the world of the attachment. The attachment shall be subject to the rights of a holder in due course of a note or notes secured by the mortgage or trust deed, whether acquired before or after the attachment.

(e) Any interest of the defendant as secured party of a security agreement, whether held directly or as an assignee, shall be attached by the sheriff filing with the filing office where the security agreement or financing statement pursuant thereto is or should by law be

filed, a copy of the writ along with a notice in writing, naming the defendant, describing the property listed in the financing statement or filed security statement, identifying the parties to the security agreement, and stating that the defendant's interest therein is attached. The sheriff shall serve a copy of the notice and writ upon the defendant and upon the debtor under the security agreement, if they can be located within the county where the property is located. The sheriff may file the copy of the writ or notice by mail if the filing officer is outside the county. The filing officer shall index the same as an assignment of the defendant's interest in the security agreements, and it shall be constructive notice to the world. The attachment shall be subject to the rights of a holder in due course of a note or notes secured by the security agreement, whether acquired before or after the attachment.

SECTION 561. That Section 18-7011, Idaho Code, be, and the same is hereby amended to read as follows:

18-7011. CRIMINAL TRESPASS -- DEFINITION AND PUNISHMENT. 1. Any person who, without consent of the owner or person in charge of any lands which are inclosed by fences of any description sufficient to show the boundaries of the land inclosed, shall go upon such lands and shall leave open any gates on or about said premises, or who shall tear down or lay down any fencing, or who shall wilfully remove, mutilate, damage or destroy any "No Trespassing" signs or markers, or who shall go through cultivated crops that have not been harvested, or who shall damage any property thereon, or who without permission of the owner or the owner's agent enters the real property of another person where such real property is posted with "No Trespassing" signs or other notices of like meaning spaced at intervals of not less than one (1) notice per six hundred sixty (660) feet along such real property, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six (6) months or by a fine of not less than twenty-five dollars ($25.00) and not more than three hundred dollars ($300) or by both such fine and imprisonment. Where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs or notices are posted at such points of access.

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

2. No motor vehicle shall be willfully or intentionally driven into, upon, over or through any private land actively devoted to cultivated crops without the consent of the owner of the land or the tenant, lessee or agent of the owner of the land actively devoted to cultivated crops. Violation of the provisions of this section shall be a misdemeanor. For the purpose of this subsection, motor vehicle shall be defined as set forth in ~~subsection--(b)--of~~ sections 49-1014 and 49-123, Idaho Code. Land actively devoted to cultivated crops ~~shall be defined~~ as land that is used to produce field crops including, but not

limited to, grains, feed crops, legumes, fruits and vegetables.

SECTION 562. That Section 18-7803, Idaho Code, be, and the same is hereby amended to read as follows:

18-7803. DEFINITIONS. As used in this chapter, (a) "Racketeering" means any act which is chargeable or indictable under the following sections of the Idaho Code or which are equivalent acts chargeable or indictable as equivalent crimes under the laws of any other jurisdiction:

(1) Homicide (section 18-4001, Idaho Code);

(2) Larceny, robbery, extortion, burglary, embezzlement, forgery, counterfeiting, and related crimes (sections 18-1401, 18-1405, 18-2401, 18-2402, 18-2403, 18-2404, 18-2405, 18-2406, 18-2801, 18-2804, 18-2806, 18-2807, 18-2808, 18-3115, 18-3116, 18-3601, 18-3602, 18-3603, 18-3605, 18-3606, 18-3607, 18-3609, 18-3610, 18-3614, 18-3615, 18-3618, 18-4604, 18-4612, 18-4613, 18-4630, 18-6501, and 49-420, Idaho Code;

(3) Kidnapping (section 18-4501, Idaho Code);

(4) Prostitution (sections 18-5601, 18-5602, 18-5603, 18-5604, 18-5605, 18-5606, 18-5607, 18-5608, 18-5609, and 18-5610, Idaho Code);

(5) Arson (sections 18-801, 18-802, 18-803, 18-804, and 18-7003, Idaho Code);

(6) Assault (sections 18-908 and 18-4015, Idaho Code);

(7) Lotteries and gambling (sections 18-3801, 18-3802, 18-3809, 18-4902, 18-4903, 18-4904, 18-4905, 18-4906, and 18-4908, Idaho Code);

(8) Indecency and obscenity (sections 18-1515, 18-1518, 18-4103, 18-4103A, 18-4104, 18-4105, 18-4105A, and 18-4107, Idaho Code);

(9) Poisoning (sections 18-4014 and 18-5501, Idaho Code);

(10) Fraudulent practices, false pretenses, insurance fraud, credit card crimes and fraud generally (sections 18-2706, 18-3002, 18-3101, 18-3102, 18-3103, 18-3104, 18-3113, 18-3121, 18-3701, 18-3702, 18-3706, 41-1306, 41-1325, and 41-1326, Idaho Code);

(11) Alcoholic beverages (sections 23-602, 23-606, 23-610, 23-703, 23-905, 23-914, 23-928, 23-934 and 23-938, Idaho Code);

(12) Cigarette taxes (sections 63-2505 and 63-2512(b), Idaho Code);

(13) Securities (sections 30-1403, 30-1403A, 30-1404, 30-1405, 30-1406, 30-1438, and 30-1439, Idaho Code);

(14) Horseracing (section 54-2512, Idaho Code);

(15) Interest and usurious practices (sections 28-35-301 and 28-35-302, Idaho Code);

(16) Corporations (sections 18-1901, 18-1902, 18-1903, 18-1904, 18-1905, 18-1906, and 30-1510, Idaho Code);

(17) Perjury (sections 18-5401 and 18-5410, Idaho Code);

(18) Bribery and corrupt influence (sections 18-1352 and 18-1353, Idaho Code);

(19) Monopolies and combinations (section 18-5201, Idaho Code);

(20) Controlled substances (sections 37-2732 (a), (b), (c), (e) and (f), 37-2734 and 37-2734B, Idaho Code);

(21) Motor vehicles (sections ~~49-144, 49-225, 49-226, and 49-420~~ 49-228, 49-231, 49-232 and 49-518, Idaho Code).

(b) "Person" means any individual or entity capable of holding a legal or beneficial interest in property;

(c) "Enterprise" means any sole proprietorship, partnership, corporation, business, labor union, association or other legal entity or any group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities; and

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one (1) of such incidents occurred after the effective date of this act and that the last of such incidents occurred within five (5) years after a prior incident of racketeering conduct.

SECTION 563. That Section 18-8001, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 564. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(d) Shall have his driving privileges suspended by the court for not to exceed one hundred eighty (180) days; the defendant may request restricted driving privileges during the period of the suspension, which the court may allow, if the defendant shows by a

preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

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

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

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

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

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

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

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

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

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

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

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the

court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind.

(4) For the purposes of paragraphs (2) and (3) of this section, convictions of violation of the provisions of section ~~49-1102~~ 18-8004, Idaho Code, shall be considered by the court to determine if a later conviction is a second or subsequent conviction only if such convictions were of violations committed on or after July 1, 1983.

(5) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004 or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by a licensed physician or alcohol evaluation facility approved by the Idaho department of health and welfare. In the event the alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

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

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

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

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

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

(7) A minor may be prosecuted for a violation of the provisions

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

(8) In the event that the alcohol evaluation required in subsection (5) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

SECTION 565. That Section 18-8007, Idaho Code, be, and the same is hereby amended to read as follows:

18-8007. LEAVING SCENE OF ACCIDENT RESULTING IN INJURY OR DEATH. (1) The driver of any vehicle that has been involved in an accident, either upon public or private property open to the public, who knows or has reason to know that said accident has resulted in injury to or death of any person shall:

(a) Immediately stop the vehicle at the scene of the accident or as close thereto as possible. Every stop required under this section shall be made without obstructing traffic more than is necessary.

(b) Remain at the scene of the accident until the driver has fulfilled all the requirements under this section.

(c) Give his name, address, the name of his insurance agent or company if he has automobile liability insurance, and the motor vehicle registration number of the vehicle he is driving to the person struck, or to the driver or occupant of or person attending any vehicle collided with.

(d) If available, exhibit his operator's or chauffeur's license to the person struck, or to the driver or occupant of or person

attending any vehicle collided with.

(e) Render to any person injured in the accident reasonable assistance, including the conveying or the making of arrangements for the conveying of such person to a physician, surgeon, hospital or other medical facility, for medical or surgical treatment, if it is apparent that such treatment is necessary or if such conveying is requested by the injured person.

(2) A violation of any provision of this section shall constitute a felony and be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the state penitentiary for a period of not more than five (5) years, or by both such fine and imprisonment.

(3) The director of the transportation department ~~of---law enforcement~~ shall revoke for a period of one (1) year the license or permit to drive, or the nonresident operating privilege, of any person convicted or found guilty of violating any provision of this section. Such revocation shall preclude any type of work permit or other form of limited driving privileges.

SECTION 566. 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 45, 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 subse-

quently 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 567. That Section 36-1301, Idaho Code, be, and the same is hereby amended to read as follows:

36-1301. POWER AND DUTY OF OFFICERS -- OFFICIAL BADGE -- WHO MAY WEAR -- SEPARABILITY. (a) Authorized Officers. The director, all conservation officers and other classified department employees, and all sheriffs, deputy sheriffs, forest supervisors, marshals, police officers, state forest department officers, and national forest rangers shall have statewide jurisdiction and it is hereby made their duty to enforce the provisions of the Idaho fish and game code.

(b) Authority and Limitations as Peace Officers. All conservation officers who receive certification from the Idaho peace officer standards and training advisory council shall have all the authority given by statute to peace officers of the state of Idaho. All other classified employees appointed by the director shall have the power of peace officers limited to:

1. The enforcement of the provisions of title 36, Idaho Code, and commission regulations promulgated pursuant thereto.
2. The arrest of persons having domestic animals unlawfully in their possession.
3. The enforcement of the provisions of chapter ~~25~~70, title ~~39~~67, Idaho Code ~~(watercraft regulations)~~, provided that such authority is exercised in cooperation with sheriffs of the respective counties.
4. Responding to express requests from other law enforcement agencies for aid and assistance in enforcing other laws. For purposes of this section, such a request from a law enforcement agency shall mean only a request for assistance as to a particular and singular violation or suspicion of violation of law, and shall not constitute a continuous request for assistance outside the purview of enforcement of title 36, Idaho Code.

(c) Additional Authority and Duties. Said officers and employees shall have additional peace officer power, but not constituting an

obligation beyond their regular course of duty, relative to:

1. The enforcement of the provisions of title 38, Idaho Code~~,~~ (Idaho forestry act), as authorized by section 38-133, Idaho Code.

2. The enforcement of provisions of chapter ~~26~~71, title ~~49~~67, Idaho Code ~~(snowmobile act)~~.

3. The enforcement of the provisions of sections 18-3906 and 18-7031, Idaho Code, relating to littering.

4. The enforcement of the provisions of section 42-3811, Idaho Code, relating to the enforcement of certain provisions of chapter 38, title 42, Idaho Code.

(d) Official Badge -- Who May Wear. It is a misdemeanor for any person who is not at the time a classified employee or conservation officer, duly authorized and commissioned by the director, to wear or exhibit in public an official badge of the Department of Fish and Game of the state of Idaho.

SECTION 568. That Section 39-4410, Idaho Code, be, and the same is hereby amended to read as follows:

39-4410. TRANSPORTATION OF HAZARDOUS WASTE. (1) The board shall promulgate hazardous waste transportation rules and regulations to control the intrastate and interstate transportation of federally regulated types and quantities of hazardous waste. The rules and regulations shall be consistent with the rules and regulations issued by the United States department of transportation and the United States environmental protection agency. The rules and regulations shall also be consistent with the rules and regulations of the Idaho public utilities commission unless such consistency would impair the primacy or the effectiveness of the state's hazardous waste management program. In that case the board shall confer with the commission and endeavor to develop mutually acceptable transportation rules and regulations. If mutually acceptable rules and regulations cannot be developed, the board shall promulgate transportation rules and regulations that minimize conflict with the commission's rules and regulations while assuring the primary authority and effectiveness of the state's hazardous waste management program. Rules and regulations so promulgated by the board shall prevail over conflicting rules and regulations of the commission.

(2) The hazardous waste transportation rules and regulations shall apply to all transporters of federally regulated types and quantities of hazardous waste generated either by themselves or by others. These rules and regulations shall apply to any movement of a regulated quantity of hazardous wastes to or from a hazardous waste facility or site.

(3) The hazardous waste transportation rules and regulations shall provide for but not be limited to:

(a) Standards for the containerization and labeling of hazardous wastes;

(b) Standards for the handling and placarding of hazardous waste shipments;

(c) A hazardous waste tracking system requiring that:

(i) All transporters of federally regulated types and quan-

tities of hazardous waste obtain an identification number from the department, the environmental protection agency, or another approved state program, before accepting hazardous waste for transport;

(ii) All shipments of federally regulated types and quantities of hazardous waste to be shipped off site or received from off site be accompanied by a manifest or similar form describing the hazardous waste being shipped and its destination;

(iii) A copy of each manifest or similar form be returned to the generator and/or originator of the shipment and a copy be retained by the transporter for a minimum of three (3) years.

(4) The hazardous waste transportation rules and regulations may provide for special routing of hazardous waste shipments in this state when necessary to protect the public health, the public safety, or the environment.

(5) No commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, shall receive regulated quantities of hazardous waste as defined by federal law from a motor vehicle or trailer unless the hazardous waste is accompanied by a proper manifest and the transporter has obtained a special permit from the Idaho transportation department as provided in section 49-~~250~~433, Idaho Code. If an improperly documented shipment of hazardous waste arrives at a permitted commercial hazardous waste facility or site, the owner or operator of the facility or site shall immediately notify the Idaho transportation department and the Idaho department of law enforcement.

SECTION 569. That Section 39-4426, Idaho Code, be, and the same is hereby amended to read as follows:

39-4426. APPOINTMENT OF HEALTH INSPECTORS. (1) The department of health and welfare shall assign a sufficient number of employees and equipment to inspect hazardous waste facilities or sites permitted under section 39-4409, Idaho Code, and located in Idaho where disposal of hazardous waste occurs for the purpose of assuring the protection of the health and safety of the public by monitoring the receipt and handling of hazardous wastes which have been transported by common carrier.

(2) The employees of the department of health and welfare designated in subsection (1) of this section shall be agents of the Idaho transportation department and the public utilities commission for the purpose of collecting regulatory and registration fees pursuant to sections 61-811 and 61-812, Idaho Code, and for collecting fees and permits pursuant to chapter ~~1~~4, title 49, Idaho Code, which fees have not otherwise been lawfully paid by transporters to the public utilities commission, the Idaho transportation department or a county assessor in this state and for issuing permits pursuant to section 49-25~~04~~2202, Idaho Code. All moneys collected by the department's employees as agents of the Idaho transportation department and the public utilities commission shall be remitted to the state treasurer for deposit in the proper account as provided by law.

(3) All employees of the department designated pursuant to subsection (1) of this section shall alert proper authorities or peace officers regarding violations pursuant to this chapter, violations pursuant to title 61, Idaho Code, and violations pursuant to title 49, Idaho Code, and violations to any rules and regulations issued pursuant to any of the aforementioned code sections.

All actions brought for violations of the provisions of this chapter or rules and regulations promulgated pursuant thereto shall be brought as provided for in this chapter. All actions brought for violations of the provisions of title 61, Idaho Code, or of title 49, Idaho Code, shall be brought as provided in those titles.

SECTION 570. That Section 40-701, Idaho Code, be, and the same is hereby amended to read as follows:

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~~f)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~~ 67-2904, Idaho Code. The state auditor shall remit the moneys apportioned to local units of government not later than January 25, April 25, July 25, and October 25 of each year, and to the state highway account and the law enforcement account as the moneys become available in the highway distribution account.

SECTION 571. That Section 40-1416, Idaho Code, be, and the same is hereby amended to read as follows:

40-1416. AUTHORIZATION FOR VOTERS TO APPROVE VEHICLE REGISTRATION FEE. (1) Notwithstanding the provisions of section 49-20~~2~~7, Idaho Code, the voters of any county in which a county-wide highway district is organized pursuant to chapter 14, title 40, Idaho Code, may authorize the county-wide highway district to adopt a resolution by a majority vote of the county-wide highway district commissioners to implement and collect a motor vehicle registration fee not to exceed two (2) times the amount established in section 49-~~1~~26402, Idaho Code. The authorization to adopt, implement, and collect a vehicle registration fee may be made by the registered voters of the county only at a general election held in even-numbered years, and a simple majority of the votes cast on the question shall be necessary to authorize the

fee.

(2) In any election, the resolution submitted to the county voters shall:

(a) State the exact rate of the fee; and

(b) State the duration of the fee.

No rate shall be increased and no duration shall be extended without the approval of the voters, by the same simple majority of the votes cast.

An election to approve or disapprove the adoption of a vehicle registration fee may be called for by the adoption of a resolution by a majority vote of the county-wide highway district commissioners. Any costs incurred to conduct the election for the district shall be a charge against the district, and shall be paid by the district.

(3) Any county-wide highway district authorized to adopt a resolution for a vehicle registration fee shall contract with the department for the collection, distribution, and administration of the fee in like manner, and under the definitions, rules, and regulations for the collection and administration of other registration fees as set forth in chapter ~~1~~4, title 49, Idaho Code. Monthly, following receipt by the department of revenues from the implementation of a vehicle registration fee, the department shall remit the same to the county-wide highway district implementing such fee, less a deduction for such amount as may be agreed upon between the department and the commissioners of the county-wide highway district, for the department's actual costs for collection and administration of the fee. The vehicle registration fee shall not be remitted to the state treasury nor become part of the state highway account or state highway distribution account.

(4) The county-wide highway district must use the funds generated by a vehicle registration fee exclusively for the construction, repair, maintenance, and traffic supervision of the highways within its jurisdiction, and the payment of interest and principal of obligations incurred for said purposes.

(5) Sections 49-~~213~~405, 49-~~217~~408, 49-~~218~~416, 49-~~228~~404, 49-~~231~~409, 49-~~231A~~415, and 49-~~695~~410, Idaho Code, shall be subject to the provisions of this code section.

SECTION 572. That Section 41-2502, Idaho Code, be, and the same is hereby amended to read as follows:

41-2502. UNINSURED MOTORIST COVERAGE FOR AUTOMOBILE INSURANCE. No policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death as set forth in section 49-~~1585~~117, Idaho Code, as amended from time to time, under provisions approved by the director of the department of insurance, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily

injury, sickness or disease, including death, resulting therefrom.~~;~~ ~~provided, however, that t~~The named insured shall have the right to reject such coverage, which rejection must be in writing; and provided further, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

SECTION 573. That Section 41-3921, Idaho Code, be, and the same is hereby amended to read as follows:

41-3921. STATUTORY CONSTRUCTION AND RELATIONSHIP TO OTHER LAWS. (1) Except as stated in this act, provisions of the Insurance Code shall not be applicable to the lawful transactions and business of a health maintenance organization granted a certificate of authority as authorized pursuant to this act.

(2) The provisions of factually accurate information regarding coverage, rates, locations and hours of service, names of affiliated institutions, and credentials of participating providers by a health maintenance organization or its personnel to potential enrollees shall not constitute violation of any law relating to solicitation or advertising by health care professionals.

(3) Any health maintenance organization authorized under this act and professionals associated with it shall be exempt from the provision of section 30-1315, Idaho Code, prohibiting persons from simultaneously being shareholders of more than one (1) professional service organization.

(4) Any health maintenance organization authorized under this act which contracts with a health care facility or enters into arrangements with one or more groups of physicians organized on a group practice or individual practice basis shall not by virtue of such contracts or arrangements be deemed to have entered into a "conspiracy in restraint of trade" ~~in violation of chapter 19, title 49, Idaho Code~~.

(5) The provisions of this act shall not apply to any employer's self-insured health plan or service established and maintained solely for its members and their immediate families, or to any self-insured health plan or service established, maintained, and insured jointly by any employer and any labor organization or organizations if such health plan or service has been in existence and operation for five (5) years immediately preceding the effective date of this act.

(6) Except as expressly and specifically stated in this act, the provisions of chapter 34, title 41, Idaho Code, are not amended, repealed or otherwise affected by this act.

SECTION 574. That Section 61-801A, Idaho Code, be, and the same is hereby amended to read as follows:

61-801A. FURTHER DEFINITIONS. The term "interstate carrier" when used in title 61, chapter 8, Idaho Code, and in sections 49-~~109~~202(9) and 49-~~12~~442, Idaho Code, ~~as amended,~~ means any person who or which owns or operates any motor vehicle in the state or on the highways of the state, in commerce between the states, on either a general or limited basis, used or maintained for the transportation of persons or

property or any class or classes thereof.

SECTION 575. That Section 61-811, Idaho Code, be, and the same is hereby amended to read as follows:

61-811. ANNUAL FEE PAYABLE TO THE COMMISSION BY MOTOR CARRIERS -- IDENTIFICATION OF VEHICLES. Each motor carrier, as defined by section 61-801, Idaho Code, shall commencing with the effective date of this act, pay to the commission, in addition to all of the licenses, fees, or taxes imposed upon motor carriers in this state, a regulatory fee based upon the number of power units registered by said motor carrier under the provisions of chapter ~~1~~4, title 49, Idaho Code, for said year and operated under the provisions of this act, as provided under section 61-812, Idaho Code, as amended.

SECTION 576. That Section 61-811A, Idaho Code, be, and the same is hereby amended to read as follows:

61-811A. DESIGNATION OF AGENT. The assessors of the various counties of the state and the Idaho transportation department shall be agents of the public utilities commission for the purpose of collecting and remitting the regulatory fee provided for by section 61-811, Idaho Code, and the registration fee of interstate carriers provided for by section 61-812, Idaho Code, which have not otherwise been paid to the public utilities commission, and shall perform such duties as are prescribed by this act and by section 49-~~109~~442, Idaho Code.

SECTION 577. That Section 63-105P, Idaho Code, be, and the same is hereby amended to read as follows:

63-105P. PROPERTY EXEMPT FROM TAXATION -- MOTOR VEHICLES AND VESSELS PROPERLY REGISTERED. The following property is exempt from taxation: Motor vehicles properly registered and for which the required fee has been paid under the provisions of the laws of the state of Idaho, recreational vehicles for which the fees imposed by ~~chapter--28,--title-49,-Idaho-Code,~~ law have been paid and vessels for which the certificate of registration fees or use permit fees imposed by ~~sections--67-7008(11)--and--67-7011(8),--Idaho-Code,~~ law have been paid.

SECTION 578. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. 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 with a capacity of fifty-five (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. "Gasohol" also means a motor fuel containing a mixture of at least ten percent (10%) blend anhydrous ethanol manufactured in another state from agricultural or forest products or wastes of those products, provided that the other state extends a tax exemption, credit or preferential rate of taxation for the sale in that state of gasohol 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 fuel" means all fuel subject to tax under this chapter.

(13) "Motor vehicle" means every self-propelled vehicle designed for operation or required to be licensed for operation upon a highway.

(14) "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.

(15) "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 49-1~~0~~21, 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.

(16) "Recreational vehicle" means a snowmobile as defined in section ~~49-2603~~ 67-7101, Idaho Code; a motor~~bike~~ driven cycle or motorcycle as defined in section 49-~~2702~~114, 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.

(17) "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.

(18) "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.

(19) "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.

(20) "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.

(21) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed dis-

tributor 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 579. 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 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 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~~432, 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~~432, Idaho Code, and the revenues shall be distributed as provided by section 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 the 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 contain 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.

SECTION 580. That Section 63-2441, Idaho Code, be, and the same is hereby amended to read as follows:

63-2441. PENALTIES. It shall be unlawful for any person to consume any special fuel in the propulsion of a motor vehicle over sixteen thousand (16,000) pounds maximum gross weight on the highways of this state unless such motor vehicle displays a valid special fuel permit issued by the commission or a valid special fuel trip permit under section 63-2440(2), Idaho Code, unless such person is exempt from such requirement under section 63-2440, Idaho Code, or other provision of state or federal law. Such unlawful operation or display of any fictitious or counterfeit special fuel permit or decal or any fictitious or counterfeit special trip permit or display of a permit issued to a person other than the owner or operator of the vehicle on which it is displayed shall be a misdemeanor and any person convicted thereof may be punished in the manner provided ~~in section 49-147, Idaho Code~~ by law.

SECTION 581. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after July 1, 1965, for storage, use, or other consumption in this state at the rate of five per cent (5%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax,

it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale or rental.

The certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the amount and general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a certificate makes any storage or use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used. If the sole use of the property, other than retention, demonstration or display in the regular course of business, is the rental of property while holding it for sale, the purchaser may elect to include in his sales at retail the total amount of the rental charge rather than the sale price of the property to him.

(g) If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

(h) Any person violating any provisions of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars ($100), and each violation shall constitute a separate offense.

(i) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(j) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(k) When the tangible personal property subject to use tax has

been subjected to a general retail sales or use tax by another state of the United States at a rate equal to or greater than the rate of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the rate paid the other state was less, the property will be subject to use tax to the extent that the Idaho rate exceeds the rate of the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer ~~as defined in title 49, Idaho Code,~~ or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(l) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three (3) months, and which is not required to be registered or licensed under the laws of this state, or to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such person in another state while a bona fide resident thereof and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial.

SECTION 582. That Section 49-1301, Idaho Code, be, and the same is hereby amended to read as follows:

~~49-1301~~67-2904. IDAHO LAW ENFORCEMENT ACCOUNT ~~CREATED~~ ESTABLISHED. For the purposes of the department of law enforcement, there is ~~hereby created~~ established in the dedicated fund of the state of Idaho the Idaho law enforcement account, to which shall be deposited funds as provided by ~~section 40-701, Idaho Code~~ law.

SECTION 583. That Section 67-2927, Idaho Code, be, and the same is hereby amended to read as follows:

67-2927. STOPPING AND INSPECTION. Wherever by the laws of the state of Idaho any merchandise, product or commodity being transported within the state, within the state to without the state, or from without the state to within the state, is subject to the payment of a license or tax, a weight limitation, or is subject to inspection or grading by any department or agency of the state of Idaho, the owner or operator of either the motor vehicle or trailer, as defined in chapter 51, title 49, Idaho Code, transporting such merchandise, product or commodity is hereby required to stop at such ports of entry or checking stations established by the Idaho transportation department and submit to inspection, grading or weighing, for compliance with the laws of the state of Idaho. It shall be the duty of the owner or operator of every motor vehicle or trailer within the provisions of this act to drive the motor vehicle or trailer upon any state owned stationary or portable scale or private scale, certified by the state of

Idaho when requested to do so by any peace officer, excepting fish and game officers, or authorized employees of the Idaho transportation department.

SECTION 584. That Section 67-2929, Idaho Code, be, and the same is hereby amended to read as follows:

67-2929. HAZARDOUS WASTE. Wherever hazardous waste, as defined in section 39-4403, Idaho Code, is being transported within the state, within the state to without the state, or from without the state to within the state, the operator or owner of the motor vehicle or trailer, as defined in chapter 51, title 49, Idaho Code, transporting hazardous waste is hereby required to stop at such ports of entry or checking stations and submit to inspection or weighing for compliance with the laws of the state of Idaho. Additionally, such owner or operator of the motor vehicle or trailer transporting hazardous waste is hereby required and directed to allow employees of the department of health and welfare, the public utilities commission or the state police or any peace officer on duty to inspect and review all manifests and bills of lading to ensure that such hazardous waste is being shipped in a manner which will not endanger the health, welfare or safety of the citizens of the state of Idaho and is being shipped in compliance with the laws of the state of Idaho and any rules and regulations promulgated pursuant thereto.

SECTION 585. 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:

(a) Adopt, amend or rescind rules and regulations as may be necessary for the proper administration of 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 development 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 recre-

ational 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~~ established in section 49-~~2005~~448, 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 sections 67-4218, et. seq., Idaho Code.

(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 shall be credited to the park and recreation ~~fund created~~ account established in section 67-4225, Idaho Code, and are hereby specifically appropriated to defray the cost of 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 the excess was derived.

(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.

(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 reports and information as may be reasonably necessary to enable officials and agencies to perform their duties under such programs. In connection with obtaining the benefits of any 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.

(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 the federal official, department or agency or contrary to the provisions of federal enactment or applicable federal regulations.

(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 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 legislative intent that, to 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 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 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 the subdivision or subdivisions for public outdoor recreational use.

(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.

SECTION 586. This act shall be in full force and effect on and after January 1, 1989.

CHAPTER 266
(S.B. No. 1305)

AN ACT

RELATING TO POLITICAL CAMPAIGN CONTRIBUTIONS; AMENDING SECTION 67-6605, IDAHO CODE, TO PROVIDE THAT THE POLITICAL TREASURER SHALL FILE WITH THE SECRETARY OF STATE A COPY OF THE REQUIRED WRITTEN STATEMENT WITHIN THIRTY CALENDAR DAYS AFTER RECEIPT OF THE REPORT FROM THE NONREPORTING COMMITTEE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6605, Idaho Code, be, and the same is hereby amended to read as follows:

67-6605. CONTRIBUTIONS BY NONREPORTING COMMITTEES. (a) A political treasurer shall not accept a contribution of more than two hundred dollars ($200) from a political committee not domiciled in the state of Idaho and not otherwise required to report under this act (a "nonreporting committee"), unless the contribution is accompanied by a written statement setting forth the full name and complete address of each person who contributed more than two hundred dollars ($200) to the nonreporting committee during the preceding twelve (12) month period and certified as true and correct by an officer of the nonreporting committee. The political treasurer shall file with the secretary of state a copy of the written statement required in this subsection ~~no less than~~ within thirty (30) calendar days after receipt of the report from the nonreporting committee. The political treasurer shall attest on a form supplied by the secretary of state as to the correctness of the copy submitted to the secretary of state.

(b) All contributions of more than two hundred dollars ($200) from a nonreporting committee, unaccompanied by a written statement setting forth the full name and complete address of each person who contributed more than two hundred dollars ($200) to the nonreporting committee shall be returned to the nonreporting committee. The political treasurer shall file with the secretary of state a report of the number and amount of contributions returned to the nonreporting committee pursuant to this subsection within thirty (30) days after the contributions have been returned to the nonreporting committee.

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

Approved March 31, 1988.

CHAPTER 267
(S.B. No. 1316)

AN ACT

RELATING TO THE BOARD OF TRUSTEES OF SCHOOL DISTRICTS; AMENDING SECTION 33-513, IDAHO CODE, TO PROVIDE THAT A BOARD OF TRUSTEES OF A SCHOOL DISTRICT SHALL CONDUCT AN ANNUAL, FORMAL WRITTEN EVALUATION OF THE JOB PERFORMANCE OF THE SUPERINTENDENT OF THE DISTRICT.

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

SECTION 1. 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 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 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 33-1002(4), Idaho Code.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other

person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for.

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.

Approved March 31, 1988.

CHAPTER 268
(S.B. No. 1328)

AN ACT

RELATING TO RECIPROCAL DUTIES OF SUPPORT; AMENDING SECTION 32-1002, IDAHO CODE, TO PROVIDE THAT THE COMMISSIONERS OF A COUNTY HAVE THE DISCRETION TO FILE A LAWSUIT TO RECOVER AMOUNTS EXPENDED FOR INDIGENT ASSISTANCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 32-1002, Idaho Code, be, and the same is hereby amended to read as follows:

32-1002. RECIPROCAL DUTIES OF SUPPORT. It is the duty of the father, the mother and the child or children of any poor person who is unable to maintain himself or herself by work, to maintain such poor person to the extent of his or her ability. Whenever any person shall apply for aid to any county within this state under its indigent laws, and it shall at any time appear to the county commissioners that said poor person has a father, mother, child or children who is able to maintain him or her, but fails so to do, it shall be the duty of the said commissioners to furnish all necessary aid and ~~to~~ said commis~~sioners may~~ bring a civil suit against such father, ~~mother, child or~~ children to recover the amount so expended, in the name of the county. The promise of an adult child to pay for necessaries previously furnished to such parents is binding.

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

Approved March 31, 1988.

CHAPTER 269
(S.B. No. 1333, As Amended)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2101, IDAHO CODE, TO BROADEN THE INTENT OF THE ACT; AMENDING SECTION 36-2102, IDAHO CODE, TO FURTHER DEFINE "OUTFITTER", "GUIDE" AND "BOARD"; AMENDING SECTION 36-2104, IDAHO CODE, TO PROVIDE A PENALTY; AMENDING SECTION 36-2105, IDAHO CODE, TO RENAME THE OUTFITTERS AND GUIDES BOARD AND TO PROVIDE FOR THE APPOINTMENT OF MEMBERS TO THE BOARD; AMENDING SECTION 36-2106, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 36-2107, IDAHO CODE, TO PROVIDE AUTHORITY TO THE BOARD TO APPOINT ENFORCEMENT AGENTS AND PROVIDE FOR THE POWER OF SUCH AGENTS; AMENDING SECTION 36-2108, IDAHO CODE, TO INCREASE OUTFITTER AND GUIDE LICENSE FEES; AMENDING SECTION 36-2109, IDAHO CODE, TO FURTHER DEFINE THE FORM OF A LICENSE; AMENDING SECTION 36-2110, IDAHO CODE, TO CLARIFY THE SCOPE OF AN OUTFITTER'S LICENSE; AMENDING SECTION 36-2113, IDAHO CODE, TO BROADEN THE DEFINITION OF CONVICTION AND PROVIDE FOR AN ADMINISTRATIVE FINE; AMENDING SECTION 36-2117, IDAHO CODE, TO INCREASE THE AMOUNT OF THE CRIMINAL FINE; AMENDING SECTION 36-2117A, IDAHO CODE, TO INCREASE THE AMOUNT OF THE CIVIL PENALTY; AND AMENDING CHAPTER 21, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-2119, IDAHO CODE, TO PROVIDE FOR RULES, REGULATIONS AND ORDERS.

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

SECTION 1. That Section 36-2101, Idaho Code, be, and the same is hereby amended to read as follows:

36-2101. DECLARATION OF POLICY. The natural resources of the state of Idaho are an invaluable asset to every community in which they abound. Every year, in rapidly increasing numbers, the inhabitants of the state of Idaho and nonresidents are enjoying the ~~recreational value~~ benefits of Idaho's ~~mountains, rivers and streams, many of which are far remote and removed from ordinary auto travel~~ recreational opportunities. The tourist trade is of vital importance to the state of Idaho, and the recreational value of ~~these~~ Idaho's natural resources is such that the number of persons who are each year participating in their enjoyment is steadily increasing. The intent of this legislation is to promote and encourage residents and nonresidents alike to participate in the enjoyment and use of the deserts, mountains, rivers, ~~and~~ streams, lakes, reservoirs and other natural

resources of Idaho, and the fish and game therein, and to that end to regulate and license those persons who undertake for compensation to provide equipment ~~or~~ and personal services to such persons, for the explicit purpose of safeguarding the health, safety, welfare and freedom from injury or danger of such persons, in the exercise of the police power of this state. It is not the intent of this legislation to interfere in any way with the business of livestock operations, nor to prevent the owner of pack animals from using same to accommodate friends where no consideration is involved for the use thereof, nor is it the intent of this legislation to interfere in any way with the right of the general public to enjoy the recreational value of Idaho's deserts, mountains, rivers, ~~and~~ streams, lakes, reservoirs and other natural resources when the services of commercial outfitters and guides are not utilized, nor to interfere with the right of the United States to manage the public lands under its control.

SECTION 2. That Section 36-2102, Idaho Code, be, and the same is hereby amended to read as follows:

36-2102. DEFINITIONS. (a) "Person" includes any individual, firm, partnership, corporation or other organization or any combination thereof.

(b) "Outfitter" includes any person who, while engaging in any of the acts enumerated herein in any manner~~,~~: (1) advertises or otherwise holds himself out to the public for hire; (2) provid~~ing~~es facilities and services~~,~~ for consideration; and (3) maintains, leases, or otherwise uses equipment or accommodations for compensation for the conduct of outdoor recreational activities limited to the following: hunting animals or birds; float or power boating on Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and streams; and hazardous desert or mountain excursions ~~and-maintains, leases--or--otherwise--uses--equipment--or--accommodations--for---such purposes~~. Any firm, partnership, corporation or other organization or combination thereof operating as an outfitter shall designate one ~~(1)~~ or more individuals as agents who shall, together with the licensed outfitter, be held responsible for the conduct ~~its~~ of the licensed outfitter's operations and who shall meet all of the qualifications of a licensed outfitter.

(c) "Guide" is any natural person who~~,-for-compensation-or-other gain-or-promise-thereof,-furnishes~~ is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities ~~limited-to-the-following:--hunting-animals-or-birds;-float or-power-boating-on-Idaho-rivers-and-streams;-fishing;--and--hazardous mountain-excursions,~~ directly related to the conduct of activities for which the employing outfitter is licensed. Any such person not employed by a licensed outfitter who offers or provides facilities or services as specified in subsection (b) of this section shall be deemed in violation of the provisions of this chapter, except: (1) any employee of the state of Idaho or the United States when acting in his official capacity~~;-Any-such-person-must-be-employed--by--an--outfitter and--anyone-offering-or-providing-such-services-who-is-not-so-employed shall-be-deemed-to-be-an-outfitter~~, or (2) any natural person who is

employed by a licensed outfitter solely for the following activities: caring for, grooming or saddling of livestock, cooking, woodcutting, and transporting people, equipment and personal property on public roads shall be exempt from the provisions of this chapter.

(d) "Board" means the Idaho outfitters and guides licensing board.

(e) "Resident" means a person who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license.

(f) "Nonresident" means any person not included in subsection (e) above.

(g) "License year" means that period of time beginning on April 1 and ending with March 31 of the following year.

(h) "Big game hunting area" means department of fish and game management unit or units, or portions thereof.

(i) "Individual" means any person other than a partnership, corporation or any other organization or combination thereof.

SECTION 3. That Section 36-2104, Idaho Code, be, and the same is hereby amended to read as follows:

36-2104. LICENSE A PREREQUISITE FOR OUTFITTING AND GUIDING. (a) It is a misdemeanor for any person to engage in the business of or act in the capacity of, an outfitter or outfitting, or in the occupation of guiding, as an independent contractor or as the agent or employee of another, unless such person has first secured an outfitter's or guide's license in accordance with the provisions of this act, or for any person to knowingly and willingly conspire to violate the provisions of this chapter.

(b) Any person who shall violate the provisions of this ~~section~~ chapter shall be guilty of a misdemeanor, and upon conviction thereof, such person shall be punished as provided in section 36-2117, Idaho Code.

SECTION 4. That Section 36-2105, Idaho Code, be, and the same is hereby amended to read as follows:

36-2105. CREATION OF IDAHO OUTFITTERS AND GUIDES LICENSING BOARD. There is hereby created in the department of self-governing agencies the Idaho outfitters and guides licensing board, herein referred to as "the board," consisting of ~~five~~ four (~~5~~4) members appointed by the governor, and one (1) member appointed by the Idaho fish and game commission, as provided in section 36-2106, Idaho Code.

SECTION 5. That Section 36-2106, Idaho Code, be, and the same is hereby amended to read as follows:

36-2106. APPOINTMENT AND QUALIFICATION OF MEMBERS -- ORGANIZATION OF BOARD. One (1) member shall be a member of the Idaho fish and game commission, or a person selected by that body. Each appointment made by the fish and game commission shall be for a term of three (3) years. One (1) member shall be selected from the public. Three (3)

members of the board shall be qualified and licensed outfitters and guides who have not had less than five (5) years' experience in the business of outfitting and guiding in the state of Idaho. Each appointment shall be for the term of three (3) years and each board member shall hold office for a term of three (3) years. Upon the death, resignation or removal of any but the member representing the fish and game commission the governor shall appoint a member to fill out the unexpired term as provided in this section. Immediately upon one (1) of the positions held by an outfitter or guide, either through expiration of term, death, resignation or removal, the Idaho outfitters and guides association shall submit to the governor the names of two (2) qualified persons for each such vacancy created and the appointment to fill such vacancy shall be made by the governor from the names submitted within thirty (30) days after the receipt by the governor of the names submitted. All appointments to the ~~outfitters and guides~~ board made after July 1, 1986, shall be subject to the advice and consent of the senate. Appointments to fill any vacancy other than that created by the expiration of a term shall be made for the unexpired term. A majority of said board shall constitute a quorum. The board shall meet at least four (4) times a year, and at least two (2) meetings shall be held in Boise, Idaho. Each member of the board shall be compensated as provided by section 59-509(g), Idaho Code. The member representing the fish and game commission shall be paid by the fish and game commission.

SECTION 6. That Section 36-2107, Idaho Code, be, and the same is hereby amended to read as follows:

36-2107. POWERS AND DUTIES OF BOARD. The board which may by written agreement authorize the bureau of occupational licenses as agent to act in its interest, shall have the following duties and powers:

(a) To conduct examinations to ascertain the qualifications of applicants for outfitter's or guide's licenses, and to issue such licenses to qualified applicants, with such restrictions and limitations thereon as the board may find reasonable.

(b) To prescribe and establish rules of procedure and regulations to carry into effect the provisions of this act, including but not limited to regulations prescribing all requisite qualifications of training, experience, knowledge of rules and regulations of governmental bodies, condition and type of gear and equipment, examinations to be given applicants, whether oral, written or demonstrative, or a combination thereof.

(c) To conduct hearings and proceedings to suspend, ~~or~~ revoke or restrict the licenses of outfitters ~~and/~~or guides, and to suspend, ~~or~~ revoke or restrict said licenses for due cause in the manner hereinafter provided.

(d) The board is expressly vested with the power and the authority to enforce the provisions of this chapter and make and enforce any and all reasonable rules and regulations which shall by it be deemed necessary and which are not in conflict with the provisions of this ~~act~~ chapter, for the express purpose of safeguarding the health, safety, welfare and freedom from injury or danger of those persons

utilizing the services of outfitters and guides, and for the conservation of wildlife and range resources.

(e) The board shall have the power to cooperate with the federal and state government through its appropriate agency or instrumentality in matters of mutual concern regarding the business of outfitting and guiding in Idaho.

(f) The board shall have the power throughout the state of Idaho to request the attendance of witnesses and the production of such books, records and papers as may be required at any hearing before it, and for that purpose the board may request a district court to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers. Subpoenas shall be directed to the sheriff of any county in the state of Idaho where such witness resides or may be found. Subpoenas shall be served and returned in the same manner as subpoenas in a criminal case. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in district court criminal cases, which fees and mileage shall be paid from any funds in the state treasury available therefor in the same manner as other expenses of the board are paid. Disobedience of any subpoena issued by the district court or the refusal by any witness in failing to testify concerning any matter regarding which he may lawfully be interrogated, or the failure to produce any books, records or papers shall constitute a contempt of the district court of any county where such disobedience or refusal occurs, and said court, or any judge thereof, by proceedings for contempt in said court, may, if such contempt be found, punish said witness as in any other case of disobedience of a subpoena issued from such court or refusal to testify therein.

(g) The board shall have the power to hire enforcement agents in order to conduct investigations and enforce the provisions of this chapter. All enforcement agents appointed by the board who are certified by the Idaho peace officer standards and training advisory council, shall have the power of peace officers limited to:

1. Enforcement of the provisions of this chapter.
2. Responding to express requests from other law enforcement agencies for aid and assistance in enforcing other laws. For purposes of this section, such a request from a law enforcement agency shall mean only a request as to a particular and singular violation or suspicion of violation of law, and shall not constitute a continuous request for assistance outside the purview of enforcement of the provisions of this chapter.

SECTION 7. That Section 36-2108, Idaho Code, be, and the same is hereby amended to read as follows:

36-2108. APPLICATION FOR LICENSE -- CONTENTS -- FEE -- QUALIFICATIONS -- TERM -- BOND. (a) Each applicant for an outfitter's or guide's license shall make application for such license upon a form to be prescribed and furnished by the board.

1. All applications for an outfitter's license shall be signed by the applicant, under oath or affirmation that all information supplied by him in the application form is true and correct as he

verily believes and shall be duly notarized. Such applications shall include, but are not limited to, a worded description of the boundaries of the area in which such activity will be conducted.

2. All applications for a guide's license shall be signed by the applicant. Such application shall contain the written endorsement of the outfitter(s) by whom the applicant will be employed.

(b) Applications shall be made to and filed with the board and accompanied by a bond to the state of Idaho for the benefit of person or persons employing the licensee and in a form approved by the board in the sum of five thousand dollars ($5,000) for outfitters, executed by a qualified surety, duly authorized to do business in this state, conditioned that for the current license year said applicant, his agents and employees, if said license is issued to him, shall conduct his business as an outfitter without fraud or fraudulent representation, and will faithfully perform his contracts with and duties to his patrons; said bond shall be filed with the board before issuance of the license as provided herein.

(c) The board, in its discretion, may make such additional investigation and inquiry relative to the applicant and his qualifications as it shall deem advisable, provided that final decision by the board upon an application submitted by an applicant who has held during the preceding license year a license of the same kind for which application is made shall not be later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or thirty (30) days from the date the board receives all such materials, whichever is later; and upon an application submitted by an applicant not holding during the preceding license year a license of the same kind or embracing the same activity(ies) or area for which application is made, not later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or ninety (90) days from the date the board receives all such materials, whichever is later.

(d) After the board has acted favorably upon an application, the applicant shall pay a license fee, as hereinafter provided, to the board.

1. The license fee shall be paid prior to the issuance of a license.

2. The license fee shall be used for the investigation of applicants, for enforcement of this act, and for the administration costs of the board.

3. The license fee for resident and nonresident outfitters shall be ~~one-hundred-seventy-five-dollars-($175)-and-for-resident-guides sixty-five-dollars-($65.00)-and-the-license--fee--for--nonresident outfitters-shall-be-two-hundred-dollars-($200)-and-for-nonresident guides-seventy-five-dollars-($75.00)~~ two hundred twenty-five dollars ($225); the license fee for a designated agent as defined in section 36-2102(b), Idaho Code, shall be one hundred dollars ($100); and the license fee for resident and nonresident guides shall be seventy-five dollars ($75.00). A penalty fee in the amount of fifty dollars ($50.00) shall be charged in addition to the regular ~~resident-or-nonresident~~ outfitter's license fee for

any such renewal applicant whose application is not complete by March 31 of the year in which application for such license is made; this does not apply to a new applicant for an outfitter's license. A seventy-five dollar ($75.00) fee shall be charged for every amendment to an outfitter's license other than an incidental amendment, and a ten dollar ($10.00) fee shall be charged for every incidental amendment to an outfitter's license and every amendment to a guide's license. All such license fees shall become effective April 1, 1989.

SECTION 8. That Section 36-2109, Idaho Code, be, and the same is hereby amended to read as follows:

36-2109. FORM AND TERM OF LICENSE -- NOTICE OF DENIAL. (a) Upon concurrence of a majority, the board, in its discretion may issue a license to any applicant who has filed an application in proper form with the board, including but not limited to payment of the license fee and furnishing of bond. Said license shall be in the form prescribed by the board, and shall be valid for the licensing year in which issued from the date issued until the end of the license year in which it is issued; provided, that no outfitter's or guide's license may be assigned or otherwise transferred either by any holder thereof or by the operation of law except as provided in this chapter. The board may prescribe by rule that limitations or qualifications placed upon an outfitter's or guide's license as provided in this chapter shall be indicated on the face of the license or as an attachment to the license which shall be considered a part of the license.

(b) A license granted by the board including any attachment thereto shall specify the activities licensed and the exact territorial limits of the outfitter's area of operation and shall specify the species of game to be hunted. In so approving and/or licensing any outfitter's or guide's activity, the board shall consider the following matters, among others:

1. The length of time in which the applicant has operated in that area;
2. The extent to which the applicant is qualified by reason of experience, equipment or resources to operate in that area;
3. The applicant's previous safety record;
4. The accessibility of the area, the particular terrain, and the weather conditions normal to that area during the outfitter's or guide's season;
5. The total amount of outfitter's area requested by any applicant giving due consideration to the effect which such area license grant would have upon the environment, the amount of game which can be harvested, and the number of persons which can be adequately served in the area.

(c) The board shall refuse to issue any license to any applicant for an outfitter's or guide's license who the board finds is not a competent person of good moral character, less than eighteen (18) years of age and does not possess a working knowledge of the game and fishing laws of the state of Idaho and the regulations of the United States forest service. The board shall also refuse to issue an

outfitter's license to any applicant who the board finds does not have sufficient financial responsibility to conduct adequately the business of an outfitter. The board shall refuse to issue any license to a firm, partnership, corporation or other organization or any combination thereof which fails to have at least one (1) designated agent conducting its outfitting business who meets all of the qualifications and requirements of a licensed outfitter. The board may also refuse to grant an outfitter's or guide's license to any applicant for violation of any of the provisions hereinafter specified in this chapter as grounds for revocation or suspension of an outfitter's or guide's license. If the application is denied, the board shall notify the applicant, in writing, of the reasons for such denial within ten (10) days and if the applicant shall correct, to the satisfaction of the board, such reasons within thirty (30) days of receipt of such notice and if, thereafter, a majority of the board concur, the board may issue a license to the applicant.

(d) No license shall be issued by the board until a majority thereof has reported favorably thereon; except, an application for a license identical to a license held during the previous year may be issued on approval by one (1) board member providing there is no adverse information on file regarding the applicant.

SECTION 9. That Section 36-2110, Idaho Code, be, and the same is hereby amended to read as follows:

36-2110. OPERATIONS OF LICENSEES -- ADJUSTMENT OF AREA -- RULES AND REGULATIONS. (a) Possession of a valid license issued by the board shall be a prerequisite to acting as an outfitter or guide.

1. No more than one (1) person may operate as an outfitter or guide under one (1) license.

2. The ~~big-game-hunting~~ operating area as set forth on the outfitter's license including any attachment thereto shall be the limit of such operations for each licensee, subject to subsection (b) below.

(b) The board may adjust the territorial scope of operations of any licensed outfitter, ~~or guide~~ for reasons of game harvest, where territorial conflict exists between the big game operations of outfitters ~~and guides~~, or for the safety of persons utilizing the services of outfitters ~~and guides~~.

(c) The board shall adopt rules and regulations to carry out the provisions of this section.

SECTION 10. That Section 36-2113, Idaho Code, be, and the same is hereby amended to read as follows:

36-2113. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS. (a) Every license shall, by virtue of this chapter, be subject to suspension, ~~or~~ revocation or restriction by the board for the commission of any of the following acts:

1. For supplying false information or for failure to provide information required to be furnished by the license application form for a license currently valid or for other fraud or deception

in procuring a license under the provisions of this chapter.

2. For fraudulent, untruthful or misleading advertising.

3. For conviction for a felony.

4. For conviction of violation of regulations of the United States forest service or the bureau of land management.

5. For ~~immoral,~~ unethical or ~~dishonorable~~ unprofessional conduct as defined by rules of the board.

6. For conviction of any violation of the fish and game laws of the state.

7. For a substantial breach of any contract with any person utilizing his services.

8. For willfully (i) operating in any area for which the licensee is not licensed, or (ii) engaging in any activity for which the licensee is not licensed.

9. For the employment of an unlicensed guide by an outfitter.

10. For inhumane treatment of any animal used by the licensed outfitter or guide in the conduct of his business which endangers the health or safety of any guest or patron or which interferes with the conduct of his business.

11. For failure by any firm, partnership, corporation or other organization or any combination thereof licensed as an outfitter to have at least one (1) licensed outfitter as designated agent conducting its outfitting business who meets all of the qualifications and requirements of a licensed outfitter.

12. For the failure to provide any animal used by the licensed outfitter or guide in the conduct of his business with proper food, drink and shelter, or for the subjection of any such animal to needless abuse or cruel and inhumane treatment.

13. For failure of an outfitter to serve the public in any of the following ways: (i) by nonuse of license privileges as defined by rules and regulations of the board, (ii) by limiting services to any individual, group, corporation or club that limits its services to a membership, or (iii) by not offering services to the general public.

14. For violation of or noncompliance with any applicable provision of this act, or for violation of any lawful rule, regulation, or order of the outfitter's and guide's board.

(b) For the purposes of this section, the term "conviction" shall mean a finding of guilt, an entry of a guilty plea by a defendant and its acceptance by the court, or a forfeiture of bail bond or collateral deposited to secure a defendant's appearance, suspended sentence, probation or withheld judgment.

(c) In lieu of the penalties imposed in this section, the board may impose an administrative fine not to exceed five thousand dollars ($5,000) for each violation of the provisions of this chapter.

SECTION 11. That Section 36-2117, Idaho Code, be, and the same is hereby amended to read as follows:

36-2117. PENALTY FOR VIOLATIONS -- PROSECUTING ATTORNEY TO PROSECUTE. (a) It shall be the duty of the prosecuting attorney of each county in the state to prosecute, in the county where the violation

occurs, any person charged with violating the provisions of section 36-2104 or 36-2116, Idaho Code.

(b) Any person convicted for violating the provisions of this chapter shall be punished by a fine of not less than one hundred dollars ($100) nor more than ~~one~~ five thousand dollars ($~~1~~5,000), or by imprisonment in the county jail for a term not to exceed ninety (90) days, if other than a corporation, or by both such fine and imprisonment in the discretion of the court. All fines and penalties collected for violation of this section, under sentence or judgment of any court, shall be paid over by such court in the same manner as provided for in section 36-2116, Idaho Code. Such court shall also send to the Idaho outfitters and guides board a statement setting forth the title of the court and of the cause for which such moneys were collected, the name and residence of the defendant or defendants, the nature of the offense or offenses and the fine and the sentence or judgment imposed and such moneys so received by the board shall be deposited with the state treasurer and the state treasurer shall credit the same to the Idaho outfitters and guides board account in the dedicated fund.

SECTION 12. That Section 36-2117A, Idaho Code, be, and the same is hereby amended to read as follows:

36-2117A. CIVIL PENALTY FOR VIOLATIONS. (a) The board or its designated agent may commence and prosecute in district court a civil enforcement action against any person who is alleged to have violated this chapter or any regulation promulgated pursuant to this chapter. The board shall not be required to initiate or prosecute an administrative action before commencing and prosecuting a civil action.

(b) No civil proceeding may be brought to recover for a violation of this chapter or any regulation promulgated pursuant to this chapter more than two (2) years after the board had knowledge of the violation.

(c) The civil penalty for violation of the provisions of this chapter or any regulation promulgated pursuant to this chapter shall not be less than one hundred dollars ($100) nor more than ~~one~~ five thousand dollars ($~~1~~5,000) for each separate violation.

(d) Any person who is found to have violated any provision of this chapter or any regulation promulgated pursuant to this chapter shall be assessed the board's costs, including the reasonable value of attorneys' services, for preparing and litigating the case.

(e) Fifty percent (50%) of all moneys collected under this section shall be deposited with the state treasurer, and the state treasurer shall credit the same to the Idaho outfitters and guides board account, and fifty percent (50%) of the moneys shall go to the general account in the state operating fund.

SECTION 13. That Chapter 21, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-2119, Idaho Code, and to read as follows:

36-2119. BOARD ORDERS AND REGULATIONS. (a) All rules, regulations and orders adopted pursuant to the provisions of this chapter shall be made in accordance with chapter 52, title 67, Idaho Code.

(b) All rules, regulations and orders made as herein provided shall have full force and effect as law and any person violating any such rule, regulation, or order of the board, adopted and published as herein set forth, shall be guilty of a misdemeanor.

Approved March 31, 1988.

CHAPTER 270
(S.B. No. 1334)

AN ACT

RELATING TO WATER POLLUTION CONTROL; AMENDING SECTION 39-3603, IDAHO CODE, TO DESIGNATE THE DEPARTMENT OF HEALTH AND WELFARE AS THE BOARD'S AGENT FOR PROGRAM ADMINISTRATION AND TO AUTHORIZE USE OF FOUR PERCENT OF THE LOAN ACCOUNT FOR PROGRAM OPERATIONS; AMENDING SECTION 39-3604, IDAHO CODE, TO ALLOW FUNDING OF FACILITIES THAT TREAT WASTEWATER FROM NONDOMESTIC SOURCES, TO PROVIDE FOR LOAN REPAYMENT FUNDS, AND TO LIMIT LOAN TERMS TO TWENTY YEARS; AMENDING SECTION 39-3605, IDAHO CODE, TO ELIMINATE DEPOSIT OF FEDERAL LOAN FUNDS INTO THE WATER POLLUTION CONTROL ACCOUNT; AMENDING SECTION 39-3605B, IDAHO CODE, TO ALLOW DEPOSIT OF LOAN REPAYMENTS INTO THE WASTEWATER FACILITY LOAN ACCOUNT; AMENDING SECTION 39-3606, IDAHO CODE, TO DELETE LOAN PAYMENTS FROM THE WATER POLLUTION CONTROL ACCOUNT AND TO PROVIDE FOR USES OF MONEYS IN THE ACCOUNT; AMENDING CHAPTER 36, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3606A, IDAHO CODE, TO PROVIDE FOR APPROPRIATION OF MONEYS IN THE WASTEWATER FACILITY LOAN ACCOUNT; AND AMENDING SECTION 39-3606B, IDAHO CODE, TO DELETE REFERENCE TO LOANS FROM THE WATER POLLUTION CONTROL ACCOUNT AND TO ADD REFERENCE TO LOANS FROM THE WASTEWATER FACILITY LOAN ACCOUNT.

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

SECTION 1. That Section 39-3603, Idaho Code, be, and the same is hereby amended to read as follows:

39-3603. AUTHORIZATION OF GRANTS AND LOANS -- DESIGNATION OF ADMINISTERING AGENCY -- RESERVATION OF FUNDS FOR OPERATIONS -- CRITERIA -- PRIORITY PROJECTS -- ELIGIBLE PROJECTS. A. The state of Idaho is hereby authorized to make grants and loans at or below market interest rates, as funds are available, to any municipality or soil conservation district to assist said municipality or soil conservation district in the construction of sewage treatment works or application of best management practices and to provide for training of treatment plant operating personnel.

B. The Idaho board of health and welfare through the department

of health and welfare shall be the agency for administration of funds authorized for grants or loans under this act, and may reserve up to four percent (4%) of the moneys accruing annually to the water pollution control and wastewater facility loan accounts to be appropriated annually for the purpose of operating the water quality programs established pursuant to this chapter. The board may also reserve up to six percent (6%) of the moneys accruing annually to the water pollution control account to be appropriated annually for the purpose of conducting water quality studies including monitoring.

C. In allocating state construction grants and loans under this act, the Idaho board of health and welfare shall give consideration to water pollution control needs and protection of public health.

D. Pursuant to subsection C the Idaho board of health and welfare shall establish a list of priority municipal sewage facility projects. The Idaho board of health and welfare with the approval of the Idaho soil conservation commission shall establish a list of priority projects for control of agricultural nonpoint source pollution. These priority lists shall be used as the method for allocation of funds granted or loaned under this act.

SECTION 2. That Section 39-3604, Idaho Code, be, and the same is hereby amended to read as follows:

39-3604. PAYMENTS BY STATE BOARD OF HEALTH AND WELFARE -- CONTRACTS WITH MUNICIPALITIES, SOIL CONSERVATION DISTRICTS OR SOIL CONSERVATION COMMISSION -- RULES AND REGULATIONS -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. A. The Idaho board of health and welfare may make payments not to exceed ninety percent (90%) of the estimated reasonable cost of an eligible construction project funded by a grant payments. Payments may be made which are equal to one hundred percent (100%) of the estimated reasonable cost of an eligible construction project funded by a loan.

B. The Idaho board of health and welfare may, in the name of the state of Idaho, enter into contracts with municipalities or soil conservation districts, and any such municipality or soil conservation district may enter into a contract with the Idaho board of health and welfare, concerning eligible construction projects. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

1. An estimate of the reasonable cost of the project as determined by the Idaho board of health and welfare.

2. An agreement by the municipality, binding for the actual service life of the sewage treatment works:

a. To proceed expeditiously with, and complete, the project in accordance with plans approved pursuant to section 39-118, Idaho Code.

b. To commence operation of the sewage treatment works on completion of the project, and not to discontinue operation or dispose of the sewage treatment works without the approval of the board of health and welfare.

c. To operate and maintain the sewage treatment works in accordance with applicable provisions, rules and regulations

of the board.

d. To make available on an equitable basis the services of the sewage treatment works to the residents and commercial and industrial establishments of areas it was designed to serve.

e. To provide for the payment of the municipality's share of the cost of the project when the project is built using grant funds.

f. To develop and to secure the approval of the department of plans for the operation and maintenance of the sewage treatment works; and of plans and programs for the recovery of the capital costs and operating expenses of the works or system.

g. To allow the ~~state~~ board to make loans of up to one hundred percent (100%) and supplemental grants based upon financial capability to a municipality for the estimated reasonable cost of an eligible project, ~~provided the municipality does not have a nondomestic wastewater source which (1) contributes ten percent (10%) or more of the organic or hydraulic loading of the works or (2) requires the installation of special treatment processes which add an increment of ten percent (10%) or more to the capital cost of the works. For municipalities which have a nondomestic wastewater source meeting either criteria (1) or (2) of this subparagraph, the state may make combined loans and grants up to one hundred percent (100%) of the costs of the improvements to meet only the domestic needs~~ which may include treatment of nondomestic wastewater.

h. To provide for the accumulation of funds through the use of taxing powers, through charges made for services, through revenue bonds, or otherwise, for the purposes of (1) capital replacement, ~~and~~ (2) future improvement, betterment, and extension of such works occasioned by increased wastewater loadings on the works, and (3) establishing a fund dedicated solely to repayment of principal and interest of loans made subsequent to this chapter.

i. To commence annual principal and interest payments not later than one (1) year from the date construction is completed and to provide for full amortization of loans not later than twenty (20) years from the date project construction is completed.

3. The terms under which the Idaho board of health and welfare may unilaterally terminate the contract and/or seek repayment from the municipality or soil conservation district of sums already paid pursuant to the contract for noncompliance by the municipality or soil conservation district with the terms and conditions of the contract and the provisions of this chapter.

4. An agreement by the soil conservation district, binding for the life of the eligible project:

a. To develop water quality plans for landowners in the project areas and provide cost-share payments to landowners for installation of best management practices.

b. To determine cost-share rates in conjunction with the state soil conservation commission for best management practices.

c. In conjunction with the state soil conservation commission establish a method for project administration and provisions for technical assistance to landowners.

d. To allow the state to give grants of up to ninety percent (90%) of the estimated reasonable cost for best management practices installation, technical assistance and project administration of an eligible project.

e. To develop and to secure the approval of the department and the state soil conservation commission of plans for operation of the eligible project.

f. To ensure that the local matching share of the cost of the project is provided.

g. To assure an adequate level of landowner participation and application of best management practices to insure water quality goals are met.

C. The Idaho board of health and welfare may, in the name of the state of Idaho, enter into contracts with the soil conservation commission, and the soil conservation commission may enter into contracts with the Idaho board of health and welfare, to provide technical assistance to soil conservation districts which have entered grant agreements pursuant to this chapter. Any such contract may include such provisions agreed upon by the parties thereto, and shall include, in substance, the following provisions:

1. An estimate of the reasonable cost of technical assistance as determined by the Idaho board of health and welfare.

2. The terms under which the Idaho board of health and welfare may unilaterally terminate the contract, and/or seek repayment of sums paid pursuant to the contract, for noncompliance by the soil conservation commission with the terms and conditions of the contract, the provisions of this chapter, or regulations adopted pursuant thereto.

D. The board may adopt rules and regulations necessary for the making and enforcing of contracts hereunder and establishing procedures to be followed in applying for state construction grants or loans or training grants herein authorized as shall be necessary for the effective administration of the grants and loans program.

E. All contracts entered into pursuant to this section shall be subject to approval by the attorney general as to form. All payments by the state pursuant to such contracts shall be made after audit and upon warrant as provided by law on vouchers approved by the director.

SECTION 3. That Section 39-3605, Idaho Code, be, and the same is hereby amended to read as follows:

39-3605. WATER POLLUTION CONTROL ACCOUNT ESTABLISHED. There is hereby created and established in the state treasury a separate account to be known as the water pollution control account. The account shall have paid into it:

1. The moneys provided for in section 14-425, Idaho Code, that

are paid over to the state treasurer shall be deposited to the credit of the water pollution control account, and not to the credit of the state general account;

2. All donations and grants from any source which may be used for the provisions of this act;

3. ~~Federal funds which are received by the state to provide for wastewater facility loans. Any such funds together with required state matching funds shall be accounted for separately.~~

~~4.~~ Any other funds which may hereafter be provided by law.

SECTION 4. That Section 39-3605B, Idaho Code, be, and the same is hereby amended to read as follows:

39-3605B. WASTEWATER FACILITY LOAN ACCOUNT ESTABLISHED. There is hereby created and established in the agency asset fund in the state treasury an account to be known as the wastewater facility loan account. Surplus moneys in the wastewater facility loan account shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury under section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the wastewater facility loan account. The account shall have paid into it:

1. Federal funds which are received by the state to provide for wastewater facility loans together with required state matching funds coming from a portion of the moneys in the water pollution control account as established in section 39-3605, Idaho Code;

2. All donations and grants from any source which may be used for the provisions of this section;

3. All principal and interest repayments of loans made pursuant to this chapter;

4. Any other moneys which may hereafter be provided by law.

SECTION 5. That Section 39-3606, Idaho Code, be, and the same is hereby amended to read as follows:

39-3606. APPROPRIATION OF WATER POLLUTION CONTROL ACCOUNT -- PURPOSE OF CHAPTER. Moneys in the water pollution control account are hereby perpetually appropriated for the following purposes:

1. To provide the state's matching share of grants ~~and to provide for loans~~ made under the provisions of this chapter.

2. To provide revenue for the payment of general obligation bonds issued pursuant to section 39-3607, Idaho Code, and general obligation refunding bonds issued pursuant to chapter 115, 1973 laws of the state of Idaho.

3. To provide for the operations of the water quality programs established pursuant to this chapter.

4. To provide direct grants or contracts for the purpose of providing training for water and sewage treatment plant operating personnel.

5. To provide payments for contracts entered into pursuant to this chapter.

6. To provide ~~the state's required matching share of federal~~ funds ~~deposited in~~ to capitalize the wastewater facility loan account

established in section 39-3605B, Idaho Code, including the required matching share of federal capitalization funds.

SECTION 6. That Chapter 36, 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 39-3606A, Idaho Code, and to read as follows:

39-3606A. APPROPRIATION OF WASTEWATER FACILITY LOAN ACCOUNT -- PURPOSE OF CHAPTER. Moneys in the wastewater facility loan account are hereby perpetually appropriated for the following purposes:

1. To provide loans and other forms of financial assistance authorized under title VI of the federal water quality act of 1987, P.L. 100-4, to any municipality for construction of sewage treatment works.

2. To provide funds, subject to annual federal and state appropriation and applicable federal limitations, for operation of the wastewater facility loan program by the department of health and welfare.

SECTION 7. That Section 39-3606B, Idaho Code, be, and the same is hereby amended to read as follows:

39-3606B. GRANTS AND LOANS FOR DESIGN, PLANNING OR CONSTRUCTION -- LIMITS ON AMOUNT OF GRANTS AND LOANS. (1) The board of health and welfare may divide financial assistance for eligible construction projects into separate grants, loans or a combination of grants and loans for the design, planning, and construction stages of project development. The making of a grant or loan for early stages of a project does not obligate the state to make a grant or loans for later stages of the same project.

(2) The board may make grants ~~or loans~~ from the water pollution control account; provided, that the projected payments for such grants ~~or--loans~~ would not cause the projected balance in the account to fall below zero at any time. All grant payments shall be subject to the availability of moneys in the account.

(3) The board may make loans from the wastewater facility loan account, provided that the projected payments for such loans would not cause the projected balance in the account to fall below zero at any time. All loan payments shall be subject to the availability of moneys in the account.

Approved March 31, 1988.

CHAPTER 271
(S.B. No. 1377)

AN ACT

RELATING TO WHEN A PEACE OFFICER MAY ARREST; AMENDING SECTION 19-603, IDAHO CODE, TO PERMIT AN ARREST WHEN PROBABLE CAUSE EXISTS THAT A

CRIME WAS COMMITTED ABOARD AN AIRCRAFT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-603, Idaho Code, be, and the same is hereby amended to read as follows:

19-603. WHEN PEACE OFFICER MAY ARREST. A peace officer may make an arrest in obedience to a warrant delivered to him, or may, without a warrant, arrest a person:

1. For a public offense committed or attempted in his presence.

2. When a person arrested has committed a felony, although not in his presence.

3. When a felony has in fact been committed and he has reasonable cause for believing the person arrested to have committed it.

4. On a charge made, upon a reasonable cause, of the commission of a felony by the party arrested.

5. At night, when there is reasonable cause to believe that he has committed a felony.

6. When at the scene of a domestic disturbance there is reasonable cause to believe, based upon physical evidence observed by the officer or statements made in the presence of the officer upon immediate response to a report of a commission of such a crime, that the person arrested has committed an assault or battery.

7. When there is reasonable cause to believe, based upon physical evidence observed by the officer or statements made in the presence of the officer upon immediate response to a report of a commission of a crime aboard an aircraft, that the person arrested has committed such a crime.

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

Approved March 31, 1988.

CHAPTER 272
(S.B. No. 1378)

AN ACT

RELATING TO INDICTMENT AND TRIAL JURISDICTION; AMENDING SECTION 18-7505, IDAHO CODE, TO PROVIDE THAT TRIAL JURISDICTION TO PROSECUTE OFFENSES ABOARD AIRCRAFT SHALL BE IN ANY COUNTY OVER WHICH THE AIRCRAFT OPERATED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-7505, Idaho Code, be, and the same is

hereby amended to read as follows:

18-7505. INDICTMENT AND TRIAL JURISDICTION. ~~The~~ Any offense ~~of~~ occurring aboard an aircraft ~~hijacking~~ is declared to be a continuing offense from the point of beginning to the point of termination of the flight, and jurisdiction to ~~indict and try~~ prosecute a person accused of ~~a violation of this chapter~~ such an offense shall be in any county of Idaho over which or in which the aircraft is being operated.

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

Approved March 31, 1988.

CHAPTER 273
(S.B. No. 1379)

AN ACT

RELATING TO INTERFERENCE WITH A FLIGHT CREW OR FLIGHT ATTENDANTS; AMENDING SECTION 18-7504, IDAHO CODE, TO PROVIDE THAT IT IS A FELONY TO THREATEN AN AIRCRAFT'S FLIGHT CREW; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-7504, Idaho Code, be, and the same is hereby amended to read as follows:

18-7504. THREATS MADE AGAINST AIRLINE PASSENGERS, OTHER PERSONS, COMMERCIAL AIRLINE COMPANIES, OR AIRCRAFT -- PENALTY. (1) Every person who knowingly and wilfully threatens the safety and well-being of any passenger, flight crew member or flight attendant, aboard any aircraft by making telephone, verbal, or written threats against any airline or aircraft within the airspace jurisdiction of the state of Idaho shall be guilty of a felony.

(2) Any person who seizes, confines, or kidnaps another person against his will or without authority of law, or who threatens the safety and well-being of any person, with the intent to hold such person hostage or use such person for the purpose of aircraft hijacking shall be guilty of a felony.

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

Approved March 31, 1988.

CHAPTER 274
(S.B. No. 1386)

AN ACT

RELATING TO THE IDAHO PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1310A, IDAHO CODE, TO CLARIFY THAT EACH SEPARATE AGENCY OF THE STATE OF IDAHO SHALL BE DEEMED AN EMPLOYER FOR PURPOSES OF THE RETIREMENT INCENTIVE PLAN, TO PROVIDE FOR REFUND TO THE EMPLOYEE AS WELL AS THE EMPLOYER IF THE PARTICIPATING MEMBER DOES NOT RETIRE, TO ELIMINATE THE REQUIREMENT THAT EMPLOYEES WITH THE GREATEST MEMBERSHIP SERVICE WITH THE EMPLOYER SHALL PARTICIPATE IN THE PLAN BEFORE THOSE WITH LESSER MEMBERSHIP SERVICE, TO REQUIRE THAT REMITTANCES BE MADE BY THE EMPLOYEE AS WELL AS THE EMPLOYER, TO REQUIRE PRIOR APPROVAL OF AN AGENCY'S PLAN AND PARTICIPATION OF AN INDIVIDUAL EMPLOYEE BY THE DIVISION OF FINANCIAL MANAGEMENT AND THE STATE BOARD OF EXAMINERS; AND AMENDING SECTION 59-1332A, IDAHO CODE, TO PROVIDE THAT SCHOOL DISTRICTS SHALL FUND RETIREMENT INCENTIVE PLANS EXCLUSIVELY FROM NONSTATE APPROPRIATED FUNDS; DECLARING AN EMERGENCY, SUNSETTING SECTION 59-1310A, IDAHO CODE, AND SUBSECTION (2) OF SECTION 59-1332A, IDAHO CODE.

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

SECTION 1. That Section 59-1310A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1310A. RETIREMENT INCENTIVE PLAN. (1) An employer~~,-or-where the-employer's-payroll-is-paid-separately-by-departments,-a-department~~ may establish and announce a retirement incentive plan (plan) for its employees who are active members. ~~Thus,-the-term-employer-as-used-in this-section-refers-equally-to-a-department-as-noted-herein.~~ For purposes of this section, each agency of the state of Idaho shall be deemed a separate employer. The plan shall provide for purchase of membership service (plan service) for eligible employees who choose to participate in the plan. The plan shall specify that no more than sixty-five percent (65%) of the cost of such purchase shall be paid by the employer and each member acquiring plan service during the plan year shall pay a minimum of thirty-five percent (35%) of the cost of his own plan service accrued pursuant to this section. Each plan shall be adopted for any complete twelve (12) consecutive month period (plan year). For purposes of section 59-1310, Idaho Code, and other sections, the membership classification for plan service shall be deemed the same as the member's membership classification on the first day of the plan year.

(2) An employee who is an active member shall be eligible to participate in the employer established retirement incentive plan if he:

(a) Has attained early retirement eligibility by the first day of the plan year;

(b) Will become eligible to receive his fully accrued retirement allowance during the plan year with the addition of the plan service;

(c) Makes application before the end of the second month of the plan year; and

(d) Agrees to retire either by the end of the plan year in which he becomes eligible to receive his fully accrued retirement allowance computed with the plan service added or within ninety (90) days of the date he is notified such additional plan service is credited, whichever is later.

If the participating member does not retire within the period specified in subsection (2)(d), such plan service credited for that year will be negated and the cost of its purchase shall be refunded to the employer and employee.

(3) Participation in the plan shall be available to all eligible employees during the plan year except that the employer may limit its total cost under the plan in any plan year as announced before the beginning of the plan year. If participation is thus limited, employees with the greatest membership service accumulation with the employer shall have all their plan service purchased before employees with a lesser membership service accumulation with that employer. An exception to this seniority provision for an individual employee of a state agency may be granted by the state board of examiners in response to a request for exception filed by the employer with the board. Such a request for exception shall include the specific justification for the exception.

(4) The amount of plan service purchased for any participant shall be uniformly determined for all eligible members but shall not exceed the lesser of the following:

(a) Sixty (60) months; or

(b) The amount necessary to provide the member with eligibility to receive his fully accrued retirement allowance before the end of the plan year.

(5) For each month of plan service, the employer and employee shall remit to the retirement board an amount specified by the retirement board equal to the additional liability resulting from the purchase of that service as determined by the actuary employed by the retirement board. These remittances shall be made ~~by the employer~~ prior to the time each participating member will achieve eligibility for a fully accrued retirement allowance with the plan service added.

(6) A retirement incentive plan adopted by an agency of the state of Idaho shall not be effective until the division of financial management certifies the availability of funds and the state board of examiners approves the participation of each employee being retired on an early basis.

SECTION 2. That Section 59-1332A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1332A. TRANSFER OF MONEYS FOR SCHOOL PERSONNEL. (1) After July 1, 1984, not less than four (4) times each fiscal year, the state board of education shall, at the request of the board, direct the transfer from the appropriation made for that purpose to the public employee retirement account of an aggregate sum in lieu of and equivalent to individual employer contributions provided by section 59-1330,

Idaho Code, required with respect to employees of school districts on the basis of salaries paid such employees as certified by the retirement board to the state treasurer. Such sums of money shall be taken from legislative appropriations made for that purpose. No income from the public school fund shall ever be used for such purposes.

(2) School districts shall fund the retirement incentive plan provided by section 59-1310A, Idaho Code, exclusively from nonstate appropriated revenues.

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 section 59-1310A, Idaho Code, and subsection (2) of section 59-1332A, Idaho Code, shall be null, void and of no force and effect on and after July 1, 1990.

Approved March 31, 1988.

CHAPTER 275
(S.B. No. 1388)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1325A, IDAHO CODE, TO PROVIDE THAT THE CONFIDENTIAL NATURE OF A MEMBER'S RETIREMENT SYSTEM RECORDS BE PRESERVED AND NOT DIVULGED TO PRIVATE PARTIES.

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

SECTION 1. 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 59-1325A, Idaho Code, and to read as follows:

59-1325A. MEMBER'S RETIREMENT RECORDS CONFIDENTIAL. Except as specifically provided by law, information contained in each member's retirement system records is considered confidential and may not be divulged except as ordered by a court; or except as may be required by the employer member or by the retirement board and its staff in order to carry into effect the purposes of this act. A member may by his written authorization release specific information from his own retirement system records to a stated designee.

Approved March 31, 1988.

CHAPTER 276
(S.B. No. 1393, As Amended)

AN ACT

RELATING TO STATE EMPLOYEE RETIREMENT BENEFITS; AMENDING CHAPTER 53, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5340, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE THAT AN INDIVIDUAL RETIREMENT MEDICAL ACCOUNT BE ESTABLISHED FOR EACH QUALIFIED STATE EMPLOYEE WHO JOINS THE PLAN, TO PROVIDE A MINIMUM WITHHOLDING AMOUNT, TO PROVIDE THAT INTEREST BE EARNED ON THE ACCOUNT BALANCE, TO PROVIDE THAT UPON RETIREMENT, THE ACCOUNT BALANCE IS TO BE USED TO PURCHASE MEDICAL INSURANCE, TO PROVIDE FOR REFUNDS, TO PROTECT THE ACCOUNT FROM GARNISHMENT AND EXECUTION; AND TO PROVIDE AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 53, 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 67-5340, Idaho Code, and to read as follows:

67-5340. RETIREE MEDICAL INSURANCE COVERAGE -- LEGISLATIVE INTENT --ACCOUNT CREATED -- VOLUNTARY EMPLOYEE PARTICIPATION -- SALARY WITHHOLDING -- ADMINISTRATION OF PROGRAM. (1) It is the intent of the Idaho legislature to create a plan to protect the employees of the state of Idaho from the financially catastrophic effects of high medical bills and medical insurance premiums which they must face in their retirement years. In order to achieve this goal, the state retiree medical insurance plan (plan) is hereby established.

(2) Every active member of the Idaho public employees retirement system, as defined in chapter 13, title 59, Idaho Code, who is an employee of the state of Idaho or any other public employee retirement system employer, as defined in chapter 13, title 59, Idaho Code, or any other employee of the state or a political subdivision thereof who is establishing the right to receive benefits in any other retirement system established for Idaho public employees if the employer's participation in the program is mandated by applicable Idaho statutes other than chapter 13, title 59, Idaho Code, may become a plan participant (participant). The Idaho public employees retirement board (board) shall create an individual retirement medical insurance account (account) for each member who elects to participate in the plan. The election to participate in the plan shall be made by the eligible member in writing on a form prescribed by the board.

(3) Pursuant to the procedures set out in chapter 13, title 59, Idaho Code, not less than one per cent (1%) of each participant's salary shall be withheld and shall be credited to the participant's account. The withholding shall commence within thirty (30) days after the election to participate in the plan by the eligible member.

(4) Money in the account shall be invested and shall earn the regular interest rate as defined in section 59-1302(26), Idaho Code.

The earnings shall accrue to the participant's account except for the amount required by the board to defray administrative expenses. All moneys payable to the individual accounts are hereby perpetually appropriated to the board and shall not be included in the board's budget.

(5) When the participant retires all money in his account shall be used by the board to pay premiums for that individual for such group medical insurance programs as may be maintained by the employer for retirees. If the participant dies before the balance in the account is expended as provided in this section, the remaining balance shall be paid to the surviving beneficiary as designated pursuant to chapter 13, title 59, Idaho Code. If no designation is made, it will be paid in accordance with the laws of descent and distribution of the state of Idaho.

(6) If a participant terminates his employment with the state or other public employee retirement system employer before reaching retirement or withdraws from the plan, the funds in the account shall be paid to the participant within thirty (30) days after receipt by the board of the participant's written request for payment or notice of withdrawal from the plan.

(7) The right of a participant to any benefit under this section and the money in any account created in this section shall not be assignable or subject to execution, garnishment or attachment, or to the operation of any bankruptcy or insolvency law, except that the participant's account balance shall be subject to garnishment, execution, or wage withholding under chapter 12, title 7, Idaho Code, for the enforcement of an order for the support of a minor child. Should a court order direct distribution or partial distribution of a participant's account balance be made to the participant's spouse or former spouse, that participant's account balance shall be forwarded to the court for distribution.

SECTION 2. This act shall be in full force and effect on and after January 1, 1989.

Approved March 31, 1988.

CHAPTER 277
(S.B. No. 1407, As Amended)

AN ACT

RELATING TO USE OF SCHOOL PROPERTY OR BUILDINGS FOR SENIOR CITIZEN CENTERS; AMENDING CHAPTER 6, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-602, IDAHO CODE, TO PROVIDE POWERS AND DUTIES OF THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT TO AUTHORIZE THE USE OF SCHOOL PROPERTY OR BUILDINGS FOR A SENIOR CITIZEN CENTER.

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

SECTION 1. That Chapter 6, Title 33, Idaho Code, be, and the same

is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-602, Idaho Code, and to read as follows:

33-602. USE OF SCHOOL PROPERTY OR BUILDINGS FOR SENIOR CITIZEN CENTERS. The board of trustees of each school district shall have the power and ability to authorize the use of any school building or real property for the operation of a senior citizen center and to establish a policy of charges, if any, to be made for such use with a group of senior citizens certified by the Idaho office on aging as being representative of senior citizens and resulting from the group having received older Americans act or state of Idaho senior services act moneys.

Approved March 31, 1988.

CHAPTER 278
(S.B. No. 1434)

AN ACT

RELATING TO COUNTY BOND ELECTIONS; REPEALING SECTIONS 31-1905, 31-1906, 31-1907, 31-1908 AND 31-1909, IDAHO CODE; AMENDING CHAPTER 19, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-1905, IDAHO CODE, TO PROVIDE THAT COUNTY BOND ELECTIONS SHALL BE CONDUCTED IN CONFORMITY WITH THE GENERAL ELECTION LAWS, TO PROVIDE THAT A COUNTY BOND ELECTION MAY BE HELD IN CONJUNCTION WITH PRIMARY OR GENERAL ELECTIONS, AND TO PROVIDE A TIME WHICH THE POLLS MUST BE OPEN IF THE COUNTY BOND ELECTION IS HELD SEPARATELY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Sections 31-1905, 31-1906, 31-1907, 31-1908 and 31-1909, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 19, 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 31-1905, Idaho Code, and to read as follows:

31-1905. CONDUCT OF BOND ELECTION. If the question of bonding the county as herein provided is submitted to the voters, the election shall be conducted in all respects in conformity with title 34, Idaho Code. Such an election may be held in conjunction with a primary or general election, provided that the number of qualified electors of the county voting at such bond election shall be solely determined by the number of votes cast on the specific question of bonding the county. If the election is held separately from a primary or general election, the polls shall be open from 12 noon to 8:00 p.m.

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

Approved March 31, 1988.

CHAPTER 279
(S.B. No. 1446)

AN ACT

RELATING TO THE DISASTER EMERGENCY ACCOUNT; AMENDING SECTION 46-1005A, IDAHO CODE, TO PROVIDE FOR REIMBURSEMENT OF FUNDS, AND TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Section 46-1005A, Idaho Code, be, and the same is hereby amended to read as follows:

46-1005A. DISASTER EMERGENCY ACCOUNT. (1) There is hereby created and established in the state treasury a separate account in the state operating fund to be known as the disaster emergency account which account shall be administered by the governor or his designee. The account shall only be used to pay obligations and expenses incurred by the state of Idaho during a declared state of disaster emergency.

(2) In order to pay said obligations and expenses in coping with a declared state of disaster emergency the governor shall expend state money as follows:

(a) The governor shall use any moneys available in the disaster emergency account.

(b) In the event the disaster emergency account is inadequate to satisfy said obligations and expenses, the governor is empowered to direct, by executive order, the state auditor to transfer moneys from the general account, created pursuant to section 67-1205, Idaho Code, to the disaster emergency account, provided that in the governor's judgment sufficient general account moneys will be available to support the full general account appropriations for the current fiscal year.

(c) In addition to any purpose for which they have previously been created, all funds excluding constitutionally created funds, or funds limited in their application by the constitution of the state of Idaho, ~~delineated in sections 57-804 and 57-805, Idaho Code,~~ are hereby expressly declared to be appropriated for the purpose of effectuating the purposes of this act. If the moneys made available in paragraphs (a) and (b) above are inadequate to meet the above mentioned obligations and expenses, the governor is empowered to direct the state auditor, by executive order, to transfer to the disaster emergency account moneys from any eligible account ~~in the state operating fund created pursuant to section 57-804, Idaho Code, or dedicated fund created pursuant to~~

~~section 57-805, Idaho Code,~~ in order to pay said obligations and expenses; provided, that in the governor's judgment, the moneys transferred are not required to support the current year's appropriation of the affected accounts.

(d) In the event that restitution is made to the state from nonstate sources to reimburse the state for costs incurred in responding to a state of disaster emergency, the governor may use funds from the restitution to reimburse accounts from which funds were drawn to pay for the state's response to the emergency.

(3) In addition to any other purpose for which they might have been appropriated, all moneys made available by this act to be used in the event of a disaster emergency are hereby perpetually appropriated for the purpose set forth in this section according to the limitations established by this section and the constitution of the state of Idaho. In no event may the revenues made available by section 46-1005A (2) (b) and (c), Idaho Code, for any and all emergency purposes exceed, during any fiscal year, one percent (1%) of the annual appropriations of general account moneys for that fiscal year.

Approved March 31, 1988.

CHAPTER 280
(S.B. No. 1469)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1608, IDAHO CODE, TO REQUIRE THAT AN ADJUDICATORY HEARING BE SET NO LATER THAN THIRTY DAYS AFTER FILING OF THE PETITION.

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

SECTION 1. That Section 16-1608, Idaho Code, be, and the same is hereby amended to read as follows:

16-1608. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDATION. (a) When a petition has been filed, the court shall set an adjudicatory hearing to be held ~~within--fifteen--(15)~~ no later than thirty (30) days ~~of~~ after the filing of the petition.

(b) Proceedings under this chapter shall be dealt with by the court at a hearing separate from those for adults and without a jury. The hearing shall be conducted in an informal manner and may be adjourned from time to time. The general public shall be excluded, and only such persons shall be admitted as are found by the court to have a direct interest in the case. The child may be excluded from the hearing at any time at the discretion of the court. If the parent or guardian is without counsel, the court shall inform them of their rights to be represented by counsel and to appeal from any disposition or order of the court.

(c) At any stage of a proceeding under this chapter, in the best interests of the child or society, the court may cause the proceeding

to be expanded or altered to include full or partial consideration of the cause under the youth rehabilitation act without terminating the original proceeding.

Approved March 31, 1988.

CHAPTER 281
(S.B. No. 1474)

AN ACT

RELATING TO THE REPORTING OF MISSING CHILDREN; AMENDING CHAPTER 45, TITLE 18, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 18-4507, 18-4508, 18-4509, 18-4510 AND 18-4511, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE REPORTING DUTIES OF LAW ENFORCEMENT AGENCIES, TO PROVIDE REPORTING DUTIES OF THE STATE REGISTRAR OF VITAL STATISTICS, AND TO PROVIDE FOR DUTIES OF SCHOOL PERSONNEL REGARDING STUDENT ENROLLMENT AND RECORD REQUIREMENTS.

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

SECTION 1. That Chapter 45, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 18-4507, 18-4508, 18-4509, 18-4510 and 18-4511, Idaho Code, and to read as follows:

18-4507. SHORT TITLE. Sections 18-4507, 18-4508, 18-4509, 18-4510 and 18-4511, Idaho Code, may be cited as the "Missing Child Reporting Act."

18-4508. DEFINITIONS. As used in sections 18-4507, 18-4508, 18-4509, 18-4510, and 18-4511, Idaho Code:

1. "Law enforcement agency" means any law enforcement agency of the state or any political subdivision of the state, including the Idaho department of law enforcement and any municipal or county sheriff department.

2. "Missing child" means an individual who is less than eighteen (18) years of age who is reported to any law enforcement agency as abducted, lost or a runaway.

3. "State registrar" means the employee so designated by vital statistics, department of health and welfare.

18-4509. MISSING CHILD REPORTS -- LAW ENFORCEMENT AGENCIES -- DUTIES. 1. Upon receiving a report of a missing child, a law enforcement agency shall:

(a) Immediately enter identifying and descriptive information about the child into the national crime information center computer. Law enforcement agencies having direct access to the national crime information center computer shall enter and retrieve the data directly and shall cooperate in the entry and

retrieval of data on behalf of law enforcement agencies which do not have direct access to the system; and

(b) If the missing child was born in Idaho, notify the state registrar in writing within five (5) business days. The law enforcement agency shall make the written notification in a manner and form prescribed by the state registrar. The notification shall include the missing child's name, date of birth, county of birth, the mother's maiden name, and the name of a contact person at the law enforcement agency which submitted the report.

(c) If the missing child was born in a state other than Idaho and that information is known, notify the state registrar or other state agency responsible for vital records in the state where the child was born, within five (5) business days. The state registrar shall provide the registrar or appropriate officer with information concerning the identity of the missing child, if requested to do so.

2. If the department of law enforcement has reason to believe that a missing child is enrolled in an Idaho elementary or secondary school, it shall notify that school of the report, at which time the school shall flag the missing child's record pursuant to section 18-4511, Idaho Code.

3. Upon learning of the return of a missing child, the department of law enforcement shall so notify the state registrar of this state if the child was born in Idaho, or the appropriate officer in the state where the child was born, and the school informed under the provisions of subsection 2 of this section.

4. The department of law enforcement shall by rule determine the manner and form of notices and information required by this act.

5. Immediately after a missing child is returned, the law enforcement agency having jurisdiction over the investigation shall clear the entry from the national crime information center computer.

18-4510. BIRTH RECORDS OF MISSING CHILDREN -- STATE REGISTRAR'S DUTIES. 1. Upon notification by a law enforcement agency that a child born in the state is missing, the state registrar shall flag the child's birth certificate record in such a manner that whenever a copy of the birth certificate or information concerning the birth record is requested, the state director shall be alerted to the fact that the certificate is that of a missing child.

2. In response to any inquiry, the state registrar or any clerk appointed by him or any employee of vital statistics shall not provide a copy of a birth certificate or information concerning the birth record of any missing child whose birth record has been flagged pursuant to this section, and shall immediately notify the law enforcement agency having jurisdiction over the investigation of the missing child. Inquiries shall be handled in the following manner:

(a) When a copy of the birth certificate of a missing child whose record has been flagged is requested in person, the employee receiving the request shall immediately notify his supervisor or the state registrar. The person making the request shall complete a form supplying his name, address, telephone number and relationship to the missing child and the name, address and birth date of

the missing child. The driver's license of the person making the request, if available, shall be photocopied and returned to him. He shall be informed that the birth certificate will be mailed to him when it is released. The employee shall note the physical description of the person making the request, and, upon that person's departure from the vital statistics office, the supervisor or state registrar shall immediately notify the law enforcement agency having jurisdiction of the request and provide it with the information obtained pursuant to subsection 2(a) of this section. The state registrar shall retain the form completed by the person making the request.

(b) When a copy of the birth certificate of a missing child whose birth record has been flagged is requested in writing, the state registrar shall immediately notify the law enforcement agency having jurisdiction of the request and shall provide a copy of the written request. The state registrar shall retain the original written request.

3. Upon notification by a law enforcement agency that a missing child has been returned or when the child reaches his eighteenth birthday, the state registrar shall remove the flag from the child's birth record.

18-4511. SCHOOL DUTIES -- RECORDS OF MISSING CHILD -- IDENTIFICATION UPON ENROLLMENT -- TRANSFER OF STUDENT RECORDS. 1. Upon notification by the department of law enforcement of a missing child report, the school in which the child is currently enrolled shall flag the record of that child in such a manner that whenever a copy of or information regarding the record is requested, the school shall be alerted to the fact that the record is that of a missing child. The school shall immediately report to the department of law enforcement any request concerning flagged records or knowledge as to the whereabouts of the missing child. Upon notification by the department of law enforcement of the return of the missing child, the school shall remove the flag from the child's record.

2. Upon enrollment of a student for the first time in an elementary or secondary school, the school shall notify in writing the person enrolling the student that within thirty (30) days he must provide either a certified copy of the student's birth certificate or other reliable proof of the student's identity and birthdate, which proof shall be accompanied by an affidavit explaining the inability to produce a copy of the birth certificate. Other reliable proof of the student's identity and birthdate may include a passport, visa or other governmental documentation of the child's identity.

(a) Upon the failure of a person enrolling a student to comply with subsection 2 of this section, the school shall immediately notify the department of law enforcement or local law enforcement agency of such failure, and shall notify the person enrolling the student, in writing, that he has ten (10) additional days to comply.

(b) The school shall immediately report to the department of law enforcement any documentation or affidavit received pursuant to subsection 2 of this section which appears inaccurate or suspi-

cious in form or content.

3. Within fourteen (14) days after enrolling a transfer student, the elementary or secondary school shall request directly from the student's previous school a certified copy of his record. The requesting school shall exercise due diligence in obtaining the copy of the record requested. Any elementary or secondary school which is requested to forward a copy of a transferred student's record to the student's new school shall comply within ten (10) days of receipt of the request, unless the record has been flagged pursuant to subsection 1 of this section, in which case the copy shall not be forwarded and the school shall notify the department of law enforcement or local law enforcement authority of the request for a flagged record.

Approved March 31, 1988.

CHAPTER 282
(S.B. No. 1506, As Amended)

AN ACT

RELATING TO LEGAL NOTICES OF OWNERS OF UNCLAIMED PROPERTY; AMENDING SECTION 14-518, IDAHO CODE, TO PROVIDE THAT LEGAL NOTICE RATES DO NOT APPLY TO UNCLAIMED PROPERTY NOTICES CIRCULATED CONCURRENTLY WITH A NEWSPAPER; AND PROVIDING A SUNSET PROVISION OF JANUARY 1, 1991.

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

SECTION 1. That Section 14-518, Idaho Code, be, and the same is hereby amended to read as follows:

14-518. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY. (1) The administrator shall cause a notice to be published not later than March 1, or in the case of property reported by insurance companies, September 1, of the year immediately following the report required by section 14-517, Idaho Code, at least once a week for two (2) consecutive weeks in a newspaper of general circulation, or in a published notice distributed concurrently with a newspaper of general circulation in the county of this state in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in a newspaper of general circulation, or in a published notice distributed concurrently with a newspaper of general circulation in the county in which the holder of the property has its principal place of business within this state. In the case of a notice which is distributed concurrently with a newspaper, the provisions of section 60-105, Idaho Code, relating to rates for official notices shall not apply.

(2) The published notice must be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property" and contain:

(a) The names in alphabetical order and last known address, if

any, of persons listed in the report and entitled to notice within the county as specified in subsection (1) of this section;

(b) A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the administrator; ~~and~~

(c) A statement that if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before April 20, or, in the case of property reported by insurance companies, before October 20, the property will be placed not later than May 1, or in the case of property reported by insurance companies, not later than November 1, in the custody of the administrator and all further claims must thereafter be directed to the administrator~~.~~; and

(d) The administrator may also, in its discretion, print the names of holders of unclaimed property.

(3) The administrator is not required to publish in the notice any items of less than fifty dollars ($50.00) unless the administrator considers their publication to be in the public interest.

(4) Not later than March 1, or in the case of property reported by insurance companies, not later than September 1, of the year immediately following the report required in section 14-517, Idaho Code, the administrator shall mail a notice to each person whose last known address is listed in the report and who appears to be entitled to property of the value of fifty dollars ($50.00) or more presumed abandoned under this chapter and any beneficiary of a life or endowment insurance policy or annuity contract for whom the administrator has a last known address.

(5) The mailed notice must contain:

(a) A statement that, according to a report filed with the administrator, property is being held to which the addressee appears entitled;

(b) The name and last known address of the person holding the property and any necessary information regarding the changes of name and last known address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the administrator and all further claims must be directed to the administrator.

(6) This section is not applicable to sums payable on travelers checks, money orders, and other written instruments presumed abandoned under section 14-504, Idaho Code.

SECTION 2. The amendments to section 14-518, Idaho Code, effected by section 1 of this act, shall be repealed on and after January 1, 1991.

Approved March 31, 1988.

CHAPTER 283
(S.B. No. 1552)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1989; APPROPRIATING MONEYS TO THE STATE AUDITOR FOR THE LEGISLATIVE AUDITOR OF THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE FOR FISCAL YEAR 1989; APPROPRIATING MONEYS TO THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE FOR FISCAL YEAR 1989; EXPRESSING LEGISLATIVE INTENT; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Legislative Council the following amount to be expended according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	$474,400	$180,600	$655,000
Interagency Billing and Receipts Account		42,800	42,800
TOTAL	$474,400	$223,400	$697,800

SECTION 2. There is hereby appropriated to the State Auditor for the Legislative Auditor of the Joint Senate Finance-House Appropriations Committee for the post-audit operations of the State, the following amount to be expended from the listed accounts for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$ 580,300
Interagency Billing and Receipts Account	583,500
TOTAL	$1,163,800

SECTION 3. There is hereby appropriated to the Joint Senate Finance-House Appropriations Committee, the following amount to be expended for the designated programs from the listed account for the period July 1, 1988, through June 30, 1989:

I. LEGISLATIVE BUDGET OFFICE:

FROM:	
General Account	$414,000

II. JOINT SENATE FINANCE-HOUSE APPROPRIATIONS INTERIM COMMITTEE:

FROM:	
General Account	$ 24,000
TOTAL	$438,000

SECTION 4. It is legislative intent that the Chairmen of the

Joint Senate Finance-House Appropriations Committee appoint a subcommittee to oversee the Data Processing Project of the Idaho State Legislature.

SECTION 5. There is hereby reappropriated to the Legislative Council, the State Auditor for the Legislative Auditor of the Joint Senate Finance-House Appropriations Committee, and the Joint Senate Finance-House Appropriations Committee any unexpended and unencumbered balances of the General Account appropriated by Section 1, Section 2, Section 3 and Section 4, Chapter 357, Laws of 1987, for the period July 1, 1988, through June 30, 1989, for nonrecurring expenditures only.

Approved March 31, 1988.

CHAPTER 284
(S.B. No. 1553)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO CENTENNIAL COMMISSION FOR FISCAL YEAR 1989.

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 Idaho Centennial Commission the following amount, to be expended according to designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$70,000
Operating Expenditures	20,000
TOTAL	$90,000
FROM:	
General Account	$90,000

Approved March 31, 1988.

CHAPTER 285
(S.B. No. 1554)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1989.

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 amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$ 52,644,800
Operating Expenditures	34,910,600
Capital Outlay	140,574,800
Trustee & Benefit Payments	2,297,800
TOTAL	$230,428,000
FROM:	
State Highway Account	$227,382,800
Idaho Traffic Safety Commission Account	836,000
State Aeronautics Account	1,065,500
Interagency Billing and Receipts	1,143,700
TOTAL	$230,428,000

SECTION 2. There is hereby appropriated to the Idaho Transportation Department the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. GENERAL SUPPORT:					
FROM:					
State Highway Account	$11,897,200	$ 6,524,600	$ 972,200	$ 338,100	$ 19,732,100
B. HIGHWAYS:					
FROM:					
State Highway Account	$40,050,200	$26,908,000	$139,519,100		$206,477,300
Idaho Traffic Safety Commission Account				$ 836,000	836,000
TOTAL	$40,050,200	$26,908,000	$139,519,100	$ 836,000	$207,313,300
C. AERONAUTICS:					
FROM:					
State Aeronautics Account	$ 437,400	$ 394,600	$ 83,500	$ 150,000	$ 1,065,500
D. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Account	$ 128,800	$ 70,900		$ 973,700	$ 1,173,400
E. INTER AND INTRA-DEPARTMENTAL SERVICES:					
FROM:					
Interagency Billing and Receipts	$ 131,200	$ 1,012,500			$ 1,143,700

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	$52,644,800	$34,910,600	$140,574,800	$2,297,800	$230,428,

Approved March 31, 1988.

CHAPTER 286
(S.B. No. 1537, As Amended)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE AUDITOR FOR FISCAL YEAR 1989; 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 amount for the period July 1, 1988, through June 30, 1989:

FOR:	
Auditing and Accounting	$ 999,000
Computer Center	3,851,700
SAFIRS	400,000
TOTAL	$5,250,700
FROM:	
General Account	$2,315,000
Interagency Billing and Receipts Account	2,935,700
TOTAL	$5,250,700

SECTION 2. There is hereby appropriated to the State Auditor the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. AUDITING AND ACCOUNTING:				
FROM:				
General Account	$ 854,900	$ 138,200	$ 4,900	$ 998,000
Interagency Billing and Receipts Account			1,000	1,000
TOTAL	$ 854,900	$ 138,200	$ 5,900	$ 999,000
II. COMPUTER CENTER:				
FROM:				
General Account		$ 917,000		$ 917,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Interagency Billing and Receipts Account	$1,454,800	80,000	$1,399,900	2,934,700
TOTAL	$1,454,800	$ 997,000	$1,399,900	$3,851,700
III. SAFIRS:				
FROM:				
General Account	$ 65,000	$ 335,000		$ 400,000
GRAND TOTAL	$2,374,700	$1,470,200	$1,405,800	$5,250,700

SECTION 3. As appropriated in Section 2, this act is declared to be effective notwithstanding the provisions of Section 59-1107, Idaho Code, as such provisions restrict the use of the funds for purposes of making payments to the United States in accordance with Public Law 734.

SECTION 4. It is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 2, may be used at the discretion of the State Auditor to assist in defraying expenses relating to or resulting from the discharge of the State Auditor's 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 31, 1988.

CHAPTER 287
(S.B. No. 1560)

AN ACT

RELATING TO LICENSES TO RETAIL LIQUOR; AMENDING CHAPTER 9, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-953, IDAHO CODE, TO PROVIDE FOR LIQUOR BY THE DRINK LICENSES FOR RACING FACILITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 9, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-953, Idaho Code, and to read as follows:

23-953. RACING FACILITIES -- LICENSING. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, opera-

tor or lessee of a racing facility, even if situated outside the incorporated limits of a city. A "racing facility" means an actual, bona fide racing facility located on not less than twenty (20) contiguous acres with permanently erected seating of not less than one thousand (1,000) capacity, and which has a license to conduct pari-mutuel racing. The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this section are not transferable.

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

Approved March 31, 1988.

CHAPTER 288
(H.B. No. 411)

AN ACT

RELATING TO OUTFITTER'S OR GUIDE'S LICENSES; AMENDING SECTION 36-2108, IDAHO CODE, TO PROVIDE THAT A PENALTY FOR LATE RENEWAL APPLICATION MAY, RATHER THAN SHALL, BE CHARGED.

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

SECTION 1. That Section 36-2108, Idaho Code, be, and the same is hereby amended to read as follows:

36-2108. APPLICATION FOR LICENSE -- CONTENTS -- FEE -- QUALIFICATIONS -- TERM -- BOND. (a) Each applicant for an outfitter's or guide's license shall make application for such license upon a form to be prescribed and furnished by the board.

1. All applications for an outfitter's license shall be signed by the applicant, under oath or affirmation that all information supplied by him in the application form is true and correct as he verily believes and shall be duly notarized. Such applications shall include, but are not limited to, a worded description of the boundaries of the area in which such activity will be conducted.
2. All applications for a guide's license shall be signed by the applicant. Such application shall contain the written endorsement of the outfitter(s) by whom the applicant will be employed.

(b) Applications shall be made to and filed with the board and accompanied by a bond to the state of Idaho for the benefit of person or persons employing the licensee and in a form approved by the board in the sum of five thousand dollars ($5,000) for outfitters, executed by a qualified surety, duly authorized to do business in this state, conditioned that for the current license year said applicant, his

agents and employees, if said license is issued to him, shall conduct his business as an outfitter without fraud or fraudulent representation, and will faithfully perform his contracts with and duties to his patrons; said bond shall be filed with the board before issuance of the license as provided herein.

(c) The board, in its discretion, may make such additional investigation and inquiry relative to the applicant and his qualifications as it shall deem advisable, provided that final decision by the board upon an application submitted by an applicant who has held during the preceding license year a license of the same kind for which application is made shall not be later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or thirty (30) days from the date the board receives all such materials, whichever is later; and upon an application submitted by an applicant not holding during the preceding license year a license of the same kind or embracing the same activity(ies) or area for which application is made, not later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or ninety (90) days from the date the board receives all such materials, whichever is later.

(d) After the board has acted favorably upon an application, the applicant shall pay a license fee, as hereinafter provided, to the board.

1. The license fee shall be paid prior to the issuance of a license.

2. The license fee shall be used for the investigation of applicants, for enforcement of this act, and for the administration costs of the board.

3. The license fee for resident outfitters shall be one hundred seventy-five dollars ($175) and for resident guides sixty-five dollars ($65.00) and the license fee for nonresident outfitters shall be two hundred dollars ($200) and for nonresident guides seventy-five dollars ($75.00). A penalty fee in the amount of fifty dollars ($50.00) ~~shall~~ <u>may</u> be charged in addition to the regular resident or nonresident outfitter's license fee for any such renewal applicant whose application is not complete by March 31 of the year in which application for such license is made; this does not apply to a new applicant for an outfitter's license. A ten dollar ($10.00) fee shall be charged for every amendment to a license.

Approved March 31, 1988.

CHAPTER 289
(H.B. No. 418, As Amended in the Senate)

AN ACT
RELATING TO THE SALARY SCHEDULE FOR STATE EMPLOYEES; AMENDING SECTION 67-5309C, IDAHO CODE, TO PROVIDE ADDITIONAL STEPS IN THE HOURLY

SALARY SCHEDULE, TO PROVIDE FOR LUMP SUM BONUSES NOT EXCEEDING ONE THOUSAND DOLLARS IN A FISCAL YEAR, TO REQUIRE THE USE OF PAYROLL FORMS PRESCRIBED BY A PERFORMANCE EVALUATION TO JUSTIFY THE BONUS, AND FOR EXCEPTIONS TO THE LIMIT TO BE GRANTED BY THE STATE BOARD OF EXAMINERS.

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

SECTION 1. That Section 67-5309C, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309C. SALARY SCHEDULE AND MERIT INCREASES. (a) The following schedule is adopted as the hourly salary schedule for all positions classified pursuant to chapter 53, title 67, Idaho Code.

STATE OF IDAHO
COMPENSATION SCHEDULE
HOURLY BASE RATES

Pay Grade	Step A-	Step B-	Step C-	Step D-	Step E-	Step F-	Step G-	Pay Grade
12	$3.66	$3.84	$4.03	$4.23	$4.44	$4.66	$4.89	12
13	-3.84	-4.03	-4.23	-4.44	-4.66	-4.89	-5.13	13
14	-4.03	-4.23	-4.44	-4.66	-4.89	-5.13	-5.39	14
15	-4.23	-4.44	-4.66	-4.89	-5.13	-5.39	-5.66	15
16	-4.44	-4.66	-4.89	-5.13	-5.39	-5.66	-5.94	16
17	-4.66	-4.89	-5.13	-5.39	-5.66	-5.94	-6.24	17
18	-4.89	-5.13	-5.39	-5.66	-5.94	-6.24	-6.55	18
19	-5.13	-5.39	-5.66	-5.94	-6.24	-6.55	-6.88	19
20	-5.39	-5.66	-5.94	-6.24	-6.55	-6.88	-7.22	20
21	-5.66	-5.94	-6.24	-6.55	-6.88	-7.22	-7.58	21
22	-5.94	-6.24	-6.55	-6.88	-7.22	-7.58	-7.96	22
23	-6.24	-6.55	-6.88	-7.22	-7.58	-7.96	-8.36	23
24	-6.55	-6.88	-7.22	-7.58	-7.96	-8.36	-8.78	24
25	-6.88	-7.22	-7.58	-7.96	-8.36	-8.78	-9.22	25
26	-7.22	-7.58	-7.96	-8.36	-8.78	-9.22	-9.68	26
27	-7.58	-7.96	-8.36	-8.78	-9.22	-9.68	10.16	27
28	-7.96	-8.36	-8.78	-9.22	-9.68	10.16	10.67	28
29	-8.36	-8.78	-9.22	-9.68	10.16	10.67	11.20	29
30	-8.78	-9.22	-9.68	10.16	10.67	11.20	11.76	30
31	-9.22	-9.68	10.16	10.67	11.20	11.76	12.35	31
32	-9.68	10.16	10.67	11.20	11.76	12.35	12.97	32
33	10.16	10.67	11.20	11.76	12.35	12.97	13.62	33
34	10.67	11.20	11.76	12.35	12.97	13.62	14.30	34
35	11.20	11.76	12.35	12.97	13.62	14.30	15.02	35
36	11.76	12.35	12.97	13.62	14.30	15.02	15.77	36
37	12.35	12.97	13.62	14.30	15.02	15.77	16.56	37
38	12.97	13.62	14.30	15.02	15.77	16.56	17.39	38
39	13.62	14.30	15.02	15.77	16.56	17.39	18.26	39
40	14.30	15.02	15.77	16.56	17.39	18.26	19.17	40
41	15.02	15.77	16.56	17.39	18.26	19.17	20.13	41
42	15.77	16.56	17.39	18.26	19.17	20.13	21.14	42
43	16.56	17.39	18.26	19.17	20.13	21.14	22.20	43
44	17.39	18.26	19.17	20.13	21.14	22.20	23.31	44

~~45~~	~~18.26~~	~~19.17~~	~~20.13~~	~~21.14~~	~~22.28~~	~~23.31~~	~~24.48~~	~~45~~
~~46~~	~~19.17~~	~~20.13~~	~~21.14~~	~~22.28~~	~~23.31~~	~~24.48~~	~~25.78~~	~~46~~
~~47~~	~~20.13~~	~~21.14~~	~~22.28~~	~~23.31~~	~~24.48~~	~~25.78~~	~~26.99~~	~~47~~
~~48~~	~~21.14~~	~~22.28~~	~~23.31~~	~~24.48~~	~~25.78~~	~~26.99~~	~~28.34~~	~~48~~
~~49~~	~~22.28~~	~~23.31~~	~~24.48~~	~~25.78~~	~~26.99~~	~~28.34~~	~~29.76~~	~~49~~
~~50~~	~~23.31~~	~~24.48~~	~~25.78~~	~~26.99~~	~~28.34~~	~~29.76~~	~~31.25~~	~~50~~
~~51~~	~~24.48~~	~~25.78~~	~~26.99~~	~~28.34~~	~~29.76~~	~~31.25~~	~~32.81~~	~~51~~
~~52~~	~~25.78~~	~~26.99~~	~~28.34~~	~~29.76~~	~~31.25~~	~~32.81~~	~~34.45~~	~~52~~
~~53~~	~~26.99~~	~~28.34~~	~~29.76~~	~~31.25~~	~~32.81~~	~~34.45~~	~~36.17~~	~~53~~
~~54~~	~~28.34~~	~~29.76~~	~~31.25~~	~~32.81~~	~~34.45~~	~~36.17~~	~~37.98~~	~~54~~
~~55~~	~~29.76~~	~~31.25~~	~~32.81~~	~~34.45~~	~~36.17~~	~~37.98~~	~~39.88~~	~~55~~
~~56~~	~~31.25~~	~~32.81~~	~~34.45~~	~~36.17~~	~~37.98~~	~~39.88~~	~~41.87~~	~~56~~
~~57~~	~~32.81~~	~~34.45~~	~~36.17~~	~~37.98~~	~~39.88~~	~~41.87~~	~~43.96~~	~~57~~
~~58~~	~~34.45~~	~~36.17~~	~~37.98~~	~~39.88~~	~~41.87~~	~~43.96~~	~~46.16~~	~~58~~
~~59~~	~~36.17~~	~~37.98~~	~~39.88~~	~~41.87~~	~~43.96~~	~~46.16~~	~~48.47~~	~~59~~
~~60~~	~~37.98~~	~~39.88~~	~~41.87~~	~~43.96~~	~~46.16~~	~~48.47~~	~~50.89~~	~~60~~
Pay Grade	Step A	Step B	Step C	Step D	Step E	Step F	Pay Grade
12	$3.66	$3.75	$3.84	$3.94	$4.03	$4.13	12
13	3.84	3.94	4.03	4.13	4.23	4.34	13
14	4.03	4.13	4.23	4.34	4.44	4.55	14
15	4.23	4.34	4.44	4.55	4.66	4.78	15
16	4.44	4.55	4.66	4.78	4.89	5.01	16
17	4.66	4.78	4.89	5.01	5.13	5.26	17
18	4.89	5.01	5.13	5.26	5.39	5.52	18
19	5.13	5.26	5.39	5.52	5.66	5.80	19
20	5.39	5.52	5.66	5.80	5.94	6.09	20
21	5.66	5.80	5.94	6.09	6.24	6.40	21
22	5.94	6.09	6.24	6.40	6.55	6.71	22
23	6.24	6.40	6.55	6.71	6.88	7.05	23
24	6.55	6.71	6.88	7.05	7.22	7.40	24
25	6.88	7.05	7.22	7.40	7.58	7.77	25
26	7.22	7.40	7.58	7.77	7.96	8.16	26
27	7.58	7.77	7.96	8.16	8.36	8.57	27
28	7.96	8.16	8.36	8.57	8.78	9.00	28
29	8.36	8.57	8.78	9.00	9.22	9.45	29
30	8.78	9.00	9.22	9.45	9.68	9.92	30
31	9.22	9.45	9.68	9.92	10.16	10.41	31
32	9.68	9.92	10.16	10.41	10.67	10.94	32
33	10.16	10.41	10.67	10.94	11.20	11.48	33
34	10.67	10.94	11.20	11.48	11.76	12.05	34
35	11.20	11.48	11.76	12.05	12.35	12.66	35
36	11.76	12.05	12.35	12.66	12.97	13.29	36
37	12.35	12.66	12.97	13.29	13.62	13.96	37
38	12.97	13.29	13.62	13.96	14.30	14.66	38
39	13.62	13.96	14.30	14.66	15.02	15.40	39
40	14.30	14.66	15.02	15.40	15.77	16.16	40
41	15.02	15.40	15.77	16.16	16.56	16.97	41
42	15.77	16.16	16.56	16.97	17.39	17.82	42
43	16.56	16.97	17.39	17.82	18.26	18.72	43
44	17.39	17.82	18.26	18.72	19.17	19.65	44
45	18.26	18.72	19.17	19.65	20.13	20.63	45

46	19.17	19.65	20.13	20.63	21.14	21.67	46
47	20.13	20.63	21.14	21.67	22.20	22.76	47
48	21.14	21.67	22.20	22.76	23.31	23.89	48
49	22.20	22.76	23.31	23.89	24.48	25.09	49
50	23.31	23.89	24.48	25.09	25.70	26.34	50
51	24.48	25.09	25.70	26.34	26.99	27.66	51
52	25.70	26.34	26.99	27.66	28.34	29.05	52
53	26.99	27.66	28.34	29.05	29.76	30.50	53
54	28.34	29.05	29.76	30.50	31.25	32.03	54
55	29.76	30.50	31.25	32.03	32.81	33.63	55
56	31.25	32.03	32.81	33.63	34.45	35.31	56
57	32.81	33.63	34.45	35.31	36.17	37.07	57
58	34.45	35.31	36.17	37.07	37.98	38.93	58
59	36.17	37.07	37.98	38.93	39.88	40.88	59
60	37.98	38.93	39.88	40.88	41.87	42.92	60

Pay Grade	Step G	Step H	Step I	Step J	Step K	Step L	Step M	Pay Grade
12	$4.23	$4.34	$4.44	$4.55	$4.66	$4.78	$4.89	12
13	4.44	4.55	4.66	4.78	4.89	5.01	5.13	13
14	4.66	4.78	4.89	5.01	5.13	5.26	5.39	14
15	4.89	5.01	5.13	5.26	5.39	5.52	5.66	15
16	5.13	5.26	5.39	5.52	5.66	5.80	5.94	16
17	5.39	5.52	5.66	5.80	5.94	6.09	6.24	17
18	5.66	5.80	5.94	6.09	6.24	6.40	6.55	18
19	5.94	6.09	6.24	6.40	6.55	6.71	6.88	19
20	6.24	6.40	6.55	6.71	6.88	7.05	7.22	20
21	6.55	6.71	6.88	7.05	7.22	7.40	7.58	21
22	6.88	7.05	7.22	7.40	7.58	7.77	7.96	22
23	7.22	7.40	7.58	7.77	7.96	8.16	8.36	23
24	7.58	7.77	7.96	8.16	8.36	8.57	8.78	24
25	7.96	8.16	8.36	8.57	8.78	9.00	9.22	25
26	8.36	8.57	8.78	9.00	9.22	9.45	9.68	26
27	8.78	9.00	9.22	9.45	9.68	9.92	10.16	27
28	9.22	9.45	9.68	9.92	10.16	10.41	10.67	28
29	9.68	9.92	10.16	10.41	10.67	10.94	11.20	29
30	10.16	10.41	10.67	10.94	11.20	11.48	11.76	30
31	10.67	10.94	11.20	11.48	11.76	12.05	12.35	31
32	11.20	11.48	11.76	12.05	12.35	12.66	12.97	32
33	11.76	12.05	12.35	12.66	12.97	13.29	13.62	33
34	12.35	12.66	12.97	13.29	13.62	13.96	14.30	34
35	12.97	13.29	13.62	13.96	14.30	14.66	15.02	35
36	13.62	13.96	14.30	14.66	15.02	15.40	15.77	36
37	14.30	14.66	15.02	15.40	15.77	16.16	16.56	37
38	15.02	15.40	15.77	16.16	16.56	16.97	17.39	38
39	15.77	16.16	16.56	16.97	17.39	17.82	18.26	39
40	16.56	16.97	17.39	17.82	18.26	18.72	19.17	40
41	17.39	17.82	18.26	18.72	19.17	19.65	20.13	41
42	18.26	18.72	19.17	19.65	20.13	20.63	21.14	42
43	19.17	19.65	20.13	20.63	21.14	21.67	22.20	43
44	20.13	20.63	21.14	21.67	22.20	22.76	23.31	44
45	21.14	21.67	22.20	22.76	23.31	23.89	24.48	45

46	22.20	22.76	23.31	23.89	24.48	25.09	25.70	46
47	23.31	23.89	24.48	25.09	25.70	26.34	26.99	47
48	24.48	25.09	25.70	26.34	26.99	27.66	28.34	48
49	25.70	26.34	26.99	27.66	28.34	29.05	29.76	49
50	26.99	27.66	28.34	29.05	29.76	30.50	31.25	50
51	28.34	29.05	29.76	30.50	31.25	32.03	32.81	51
52	29.76	30.50	31.25	32.03	32.81	33.63	34.45	52
53	31.25	32.03	32.81	33.63	34.45	35.31	36.17	53
54	32.81	33.63	34.45	35.31	36.17	37.07	37.98	54
55	34.45	35.31	36.17	37.07	37.98	38.93	39.88	55
56	36.17	37.07	37.98	38.93	39.88	40.88	41.87	56
57	37.98	38.93	39.88	40.88	41.87	42.92	43.96	57
58	39.88	40.88	41.87	42.92	43.96	45.06	46.16	58
59	41.87	42.92	43.96	45.06	46.16	47.31	48.47	59
60	43.96	45.06	46.16	47.31	48.47	49.68	50.89	60

(b) Each employee in classified service shall, separate and apart from the salary schedule established by subsection (a) hereof, receive two and one-half percent (2 1/2%) of his base salary for each ten thousand four hundred (10,400) hours of service with the state. No additional longevity credit shall be awarded after the twentieth year of service. For purposes of this subsection, employees of former community college districts which have become state colleges or state universities shall be credited with one (1) year's service with the state for each year's employment with a community college district regardless of the time of that employment.

(c) It is hereby declared to be the intent of the legislature that the advancement of an employee to steps providing an increased salary within each pay grade shall be based solely on merit, including factors such as increased productivity, reliability, effectiveness, and the ability to achieve the goals and objectives of the particular position. No employee shall advance to a higher step within a pay grade without an affirmative certification for such purpose by the employee's immediate supervisor, approved by the departmental director or the director's designee, in accordance with the following schedule and criteria:

(i) Step A in the salary schedule shall normally be the rate at which an employee is paid within a grade when originally employed. However, when necessary to obtain a particularly qualified individual, the appointing authority may make an initial appointment at a higher step in the authorized pay grade. These advanced step appointments shall be accompanied by a written statement containing the appointing authority's justification for the higher than normal starting rate. When necessary to obtain qualified personnel in a particular classification, upon petition of the appointing authority to the commission containing acceptable reasons therefor, a higher temporary pay grade may be authorized by the commission which, if granted, shall be reviewed annually to determine the need for continuance.

(ii) Each employee's work performance shall be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion and after each two

thousand eighty (2,080) hours of credited state service thereafter by his or her immediate supervisor. Employees may be eligible for advancement to step B after completion of one thousand forty (1,040) hours of credited state service at step A, provided that such service is certified as meeting the merit requirement set forth in paragraph (c) above. Effective July 1, 1979, employees may advance to steps C through ~~G~~ M only if certified as meeting the merit requirements of paragraph (c) above. However, such in-grade advancement shall not be construed as a vested right. The department director shall designate, upon agreement with the employee, whether such in-grade advancement is temporary, conditional or permanent. It shall be the specific responsibility of the supervisor and the departmental director to effect the evaluation prescribed in paragraph (c) above on an evaluation form approved by the commission for that purpose.

(iii) In addition to merit increases authorized in paragraph (ii) above, the department director may grant a classified employee holding permanent status a lump sum bonus not to exceed one thousand dollars ($1,000) in any given fiscal year based upon an affirmative certification of meritorious service as outlined in this section. The department director shall use a performance evaluation as justification for the increase. Exceptions to the one thousand dollar ($1,000) limit provided in this section may be granted if approved in advance by the state board of examiners.

Approved March 31, 1988.

CHAPTER 290
(H.B. No. 468, As Amended in the Senate)

AN ACT

RELATING TO SCHOOL AGE; AMENDING SECTION 33-201, IDAHO CODE, TO CHANGE THE DEFINITION OF SCHOOL AGE.

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

SECTION 1. That Section 33-201, Idaho Code, be, and the same is hereby amended to read as follows:

33-201. SCHOOL AGE. The services of the public schools of this state are extended to any acceptable person of school age. "School age" is defined as including all persons resident of the state, between the ages of five (5) and twenty-one (21) years. For the purposes of this section, the age of five (5) years shall be attained when the fifth anniversary of birth occurs ~~anytime~~: before the beginning of the sixteenth day of ~~October~~ September for ~~that~~ the school year~~;--however,-for~~ beginning in 1990; and before the beginning of the sixteenth day of August for any school year thereafter. For a resident child who does not attend a kindergarten, "school age" shall be the age of six (6) if this age has been reached: before the beginning of

the sixteenth day of October for the school year beginning in 1990; before the sixteenth day of September for the school year beginning in 1991; and before the sixteenth day of August for each school year thereafter.

Approved March 31, 1988.

CHAPTER 291
(H.B. No. 478, As Amended)

AN ACT

RELATING TO UNLAWFUL KILLING OF WILDLIFE AND REIMBURSABLE DAMAGES; AMENDING SECTION 36-1404, IDAHO CODE, TO PROVIDE THAT THE ORDERS OF REIMBURSEMENT SHALL BE JUDGMENTS OF REIMBURSEMENT, THAT POSTJUDGMENT INTEREST BE AWARDED IN THE JUDGMENT, TO LIMIT THE AMOUNT OF TIME WITHIN WHICH THE JUDGMENT MAY BE SATISFIED, TO REQUIRE THE COURT TO RETAIN JURISDICTION OVER THE CASE, AND, IF THE DEFENDANT AT ANY TIME IS IN ARREARS NINETY DAYS OR MORE, TO PROVIDE THE COURT MAY REVOKE THE DEFENDANT'S HUNTING, FISHING, OR TRAPPING PRIVILEGES UNTIL PAYMENT IS COMPLETED.

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

SECTION 1. That Section 36-1404, Idaho Code, be, and the same is hereby amended to read as follows:

36-1404. UNLAWFUL KILLING, POSSESSION OR WASTE OF WILD ANIMALS, BIRDS AND FISH -- REIMBURSABLE DAMAGES -- SCHEDULE -- ASSESSMENT BY MAGISTRATES -- INSTALLMENT PAYMENTS -- DEFAULT JUDGMENTS -- DISPOSITION OF MONEYS. (a) In addition to the penalties provided for violating any of the provisions of title 36, Idaho Code, any person who pleads guilty, is found guilty of or is convicted of the illegal killing or the illegal possession or illegal waste of game animals or birds or fish shall reimburse the state for the value of each animal so killed or possessed or wasted as follows:

1. Elk, five hundred dollars ($500) per animal killed, possessed or wasted.
2. Caribou, bighorn sheep, mountain goat and moose, one thousand dollars ($1,000) per animal killed, possessed or wasted.
3. Deer, and pronghorn antelope, two hundred dollars ($200) per animal killed, possessed or wasted.
4. Wild turkey and whistling swan, two hundred dollars ($200) per bird killed, possessed or wasted.
5. Sturgeon, two hundred dollars ($200) per fish killed, possessed or wasted.
6. Chinook salmon, one hundred dollars ($100) per fish killed, possessed or wasted.

(b) In every case of a plea of guilty, a finding of guilt or a conviction, the court before whom such plea of guilty, finding of guilt or conviction is obtained shall enter judgment ordering the

defendant to reimburse the state in a sum or sums as hereinbefore set forth including postjudgment interest. If two (2) or more defendants are convicted of the illegal taking, killing or the illegal possession or wasting of the game animal, bird or fish, ~~the reimbursement above prescribed~~ such judgment shall be declared against them jointly and severally.

(c) ~~If a defendant fails to pay the prescribed reimbursement sum(s) for such animal(s), bird(s) or fish illegally taken, killed, possessed or wasted, upon conviction the court shall either impose a sentence of probation and, as a condition of sentence, require the defendant to satisfy the reimbursement in the amount prescribed and~~ The judgment shall fix the manner and time of payment, ~~or make a written order~~ and may permitting the defendant to pay the ~~reimbursement sum(s)~~ judgment in installments at such times and in such amounts as, in the opinion of the court, the defendant is able to pay. In no event shall any defendant be allowed more than two (2) years from the date judgment is entered to pay the judgment.

(d) A defaulted ~~reimbursement~~ judgment or any installment payment thereof may be collected by any means authorized for the enforcement of a judgment under the provisions of the Idaho Code.

(e) All courts ordering such judgments of reimbursement ~~damages~~ shall order such payments to be made to the department which shall deposit them with the state treasurer, and the treasurer shall place them in the state fish and game account.

(f) The court shall retain jurisdiction over the case. If at any time the defendant is in arrears ninety (90) days or more, the court may revoke the defendant's hunting, fishing or trapping privileges until the defendant completes payment of the judgment.

Approved March 31, 1988.

CHAPTER 292
(H.B. No. 508, As Amended in the Senate)

AN ACT

RELATING TO HEALTH CARE INSURANCE FOR RETIRED STATE EMPLOYEES; AMENDING SECTION 67-5761, IDAHO CODE, TO REQUIRE THE ADMINISTRATOR OF THE DIVISION OF INSURANCE MANAGEMENT TO FORMULATE AND NEGOTIATE HEALTH CARE INSURANCE COVERAGE FOR RETIRED STATE EMPLOYEES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-5761, Idaho Code, be, and the same is hereby amended to read as follows:

67-5761. POWERS AND DUTIES -- GROUP INSURANCE. (1) The administrator of the division of insurance management shall have the authority to:

(a) Establish an advisory committee to be comprised of program

participants. The advisory committee may include employee representatives. The administrator shall consult with the advisory committee in the performance of those duties as enumerated in subsection 2 of this section.

(b) Fix and promulgate rules for determining eligibility of personnel for participation in any group plans.

(c) Determine the nature and extent of needs for group life insurance, group annuities, group disability insurance, and group health care service coverages with respect to personnel, including elected or appointed officers and employees, of all offices, departments, divisions, boards, commissions, institutions, agencies and operations of the government of the state of Idaho and retired personnel, the premiums or prepayments for which are payable in whole or in part from funds of the state. "Disability" insurance includes all personal accident, health, hospital, surgical, and medical coverages, and "health care service" includes all services rendered for maintenance of good health, and diagnosis, relief, or treatment of any injury, ailment, or bodily condition.

(d) Determine the types, terms, conditions, and amounts of group insurance, group annuities, or group coverage by health care service organizations, as the case may be, required by such needs.

(e) Negotiate and contract for, and have placed or continued in effect all such insurance and coverages as may reasonably be obtainable from insurers and health care service organizations, as the case may be, duly authorized to transact such business in this state. The administrator may negotiate deductibles to any group plan or coverage.

(f) Prepare or otherwise obtain and make available to all personnel affected thereby, printed information concerning all such group plans currently in effect, together with the rules governing eligibility, payment of premium or prepayment where applicable, claims procedures, and other matters designed to facilitate utilization and administration of such plans.

(g) Administer all such group plans on behalf of the policyholder or contract holder, including but not limited to:

(1) Enrollment and reporting to the insurer or health care service organization of individuals eligible for coverage and covered under particular policies or contracts, and termination of such enrollment upon termination of eligibility;

(2) Payment of premiums or prepayments for such policies and contracts and accounting for the same;

(3) Establishment of reasonable procedures for handling claims arising under such policies and contracts, and rendering assistance to claimants, as may be required in the presentation and consideration of claims;

(4) Effectuation of changes in such policies and contracts and renewal or termination thereof.

(2) Nothing herein shall be deemed to prohibit any such policy or contract providing coverage also for dependents of personnel~~, or continuation of coverage as to retired personnel,~~ under terms and conditions formulated and negotiated by the administrator. The administrator shall formulate and negotiate a plan of health care service cover-

age for retired personnel which may be a modification of the existing plan. Such coverage for retired personnel shall be separate from the coverage provided to active state employees, and shall include a medicare supplement for retirees who are eligible for medicare, but the plans for retired personnel and for active employees shall be negotiated in a manner as to provide a combined rating of the health care plans for retired personnel and for active state employees, and any increased cost on the health care plan for active employees as a result of such combined rating shall be paid for by the state and by active state employees in equal shares. Retired personnel shall be responsible for paying their own premiums for any plan of health care service insurance coverage provided pursuant to this section. No policy or contract negotiated by the administrator which provides coverage or benefits for personnel, dependents of personnel, or retired personnel shall create any vested right or benefit for the retired personnel in retiree group insurance coverages.

SECTION 2. This act shall be in full force and effect on and after July 1, 1989.

Approved March 31, 1988.

CHAPTER 293
(H.B. No. 613)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-908, IDAHO CODE, TO PROVIDE THAT A MARK MAY BE PLACED AFTER THE NAME OF A WRITE-IN CANDIDATE IF THE MARK IS REQUIRED BY THE VOTE TALLY SYSTEM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-908, Idaho Code, be, and the same is hereby amended to read as follows:

34-908. EACH BALLOT TO CARRY OFFICIAL ELECTION STAMP ON OUTSIDE -- MARKING OF BALLOT BY VOTER. Every ballot used at any primary, general or special election shall be stamped on the outside with the official election stamp before it is given to the voter. At this time the election official distributing the ballots shall give the voter instructions in regard to folding the ballot after he has voted.

The voter shall mark his ballot with a cross (X) or other mark sufficient to show his intent in the place provided after the name of the candidate for whom he intends to vote for each office.

If a person votes by writing the name of a candidate on the ballot, such act shall constitute a vote for the person's name who appears without the necessity of placing a mark after the name written on the ballot, unless such a mark is required by a vote tally system.

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

Approved March 31, 1988.

CHAPTER 294
(H.B. No. 627, As Amended)

AN ACT

RELATING TO ENFORCEMENT OF CHILD SUPPORT ORDERS; AMENDING SECTION 7-1202, IDAHO CODE, TO PROVIDE DEFINITIONS; AND AMENDING SECTION 7-1204, IDAHO CODE, TO PROVIDE THAT THE OBLIGOR HAS FOURTEEN DAYS FROM THE DATE THE NOTICE WAS SENT TO MAKE A WRITTEN REQUEST FOR A HEARING FOR THE RESOLUTION OF AN ALLEGED MISTAKE OF FACT; AND AMENDING SECTION 7-1201, IDAHO CODE, TO CLARIFY THE AUTHORITY OF THE DEPARTMENT.

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

SECTION 1. That Section 7-1202, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ past-due support for a minor child or spouse which has accrued under an order, 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.

(10) "Employer" means any person, private entity, federal or state government, unit of local government, school district, or any entity created by a public act who pays income to an individual.

SECTION 2. That Section 7-1204, Idaho Code, be, and the same is hereby amended to read as follows:

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 if the notice contains a mistake of fact, which for purposes of this chapter means an error in the amount of current or overdue support or the identity of the alleged absent parent, he/she ~~may file a protest in writing requesting~~ has fourteen (14) days from the day the notice was mailed to make a written request for a hearing before the department of health and welfare to resolve that mistake of fact. 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, and the basis for contesting the withholding is a mistake of fact as defined above, 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.

SECTION 3. That Section 7-1201, Idaho Code, be, and the same is hereby amended to read as follows:

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. Although the department of health and welfare does not have the authority to establish support orders administratively, the act as amended in 1988 enables the department to give full faith and credit to all legally enforceable support orders issued by other states. The collection remedies required by federal law are enacted in section 7-1203, Idaho Code.

Approved March 31, 1988.

CHAPTER 295
(H.B. No. 633)

AN ACT

RELATING TO THE APPOINTMENT OF A PROSECUTING ATTORNEY; AMENDING SECTION 31-2603, IDAHO CODE, TO PROVIDE CONDITIONS FOR THE APPOINTMENT OF A SPECIAL PROSECUTING ATTORNEY; AND AMENDING CHAPTER 9, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-907,

IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF A PROSECUTING ATTORNEY WHEN A VACANCY IN THE OFFICE EXISTS.

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

SECTION 1. That Section 31-2603, Idaho Code, be, and the same is hereby amended to read as follows:

31-2603. SPECIAL PROSECUTOR -- APPOINTMENT. (a) When there ~~is no~~ prosecuting attorney for the county~~, or when he~~ is absent from the court, or when he has acted as counsel or attorney for a party accused in relation to the matter of which the accused stands charged, and for which he is to be tried on a criminal charge, or when he is near of kin to the party to be tried on a criminal charge, or when he has a business connection or kinship with the complainant or defendant, or when he is unable to attend to his duties, the district court may, upon petition of the prosecuting attorney or board of county commissioners, by an order entered in its minutes, stating the cause therefor, appoint some suitable person to perform for the time being, or for the trial of such accused person, the duties of such prosecuting attorney, and the person so appointed has all the powers of the prosecuting attorney, while so acting as such.

(b) The prosecuting attorney may petition the district judge of his county for the appointment of a special assistant attorney-general to assist in the prosecution of any criminal case pending in the county; and if it appears to the district judge to whom such petition is addressed that good cause appears for granting such petition, the district judge, may, with the approval of the attorney-general, appoint an assistant attorney-general to assist in such prosecution. The compensation of the person so appointed shall be fixed by agreement between the district judge and the attorney-general and shall be paid by the attorney-general out of appropriations made available for the conduct of his office.

SECTION 2. That Chapter 9, 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 59-907, Idaho Code, and to read as follows:

59-907. PROSECUTING ATTORNEY -- VACANCY -- RESIDENCY. In the event a vacancy exists and there is no resident attorney in the county who is willing or qualified to perform the functions of prosecuting attorney as set forth in chapter 26, title 31, Idaho Code, the board of county commissioners may appoint and/or contract with an attorney from outside the county to perform the duties of prosecuting attorney for the balance of the unexpired term or such shorter period as the board of county commissioners shall determine.

Approved March 31, 1988.

CHAPTER 296
(H.B. No. 650)

AN ACT

RELATING TO COMMISSIONS ON SALES OF FISH AND GAME LICENSES, TAGS AND PERMITS; AMENDING SECTION 36-306, IDAHO CODE, TO INCREASE THE COMMISSION THAT MAY BE CHARGED FOR ISSUANCE OF LICENSES, TAGS AND PERMITS FOR WHICH THERE IS A FEE, AND TO PROVIDE THAT PROCEEDS FROM DEPARTMENT ISSUED LICENSES MAY BE SET ASIDE FOR THE DEPARTMENTS'S SPECIAL OPERATIONS PROGRAM, INCLUDING CITIZENS AGAINST POACHING; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 36-306, Idaho Code, be, and the same is hereby amended to read as follows:

36-306. COMMISSION ON SALES -- WRITTEN APPLICATION OF PURCHASER. All persons authorized to sell licenses shall charge a commission of ~~fifty cents (50¢)~~ one dollar ($1.00) upon all licenses, tags and permits for which there is a fee, to be retained by them as compensation for the sale of such licenses, tags or permits; provided that such commission fee shall be charged in addition to the regular cost of the license, tag or permit. However, in the case of beaver, bobcat or lynx tags the commission fee shall be charged for each purchase of tags for each species regardless of the number of tags purchased in said transaction. Proceeds from department issued licenses may be set aside for the department's special operations program, including citizens against poaching. Be it further provided that no resident or duplicate license shall be issued without taking the written application of the purchaser in the manner prescribed by section 36-405(a), Idaho Code.

SECTION 2. This act shall be in full force and effect on and after January 1, 1989.

Approved March 31, 1988.

CHAPTER 297
(H.B. No. 668, As Amended in the Senate)

AN ACT

RELATING TO AGRICULTURAL AND HORTICULTURAL INSPECTIONS; AMENDING SECTION 22-1901, IDAHO CODE, TO REQUIRE ACTION AGAINST IMMINENT POTENTIAL THREAT OF PLANT DISEASE OR PESTS; REPEALING SECTION 22-1902, IDAHO CODE; AMENDING CHAPTER 19, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1902, IDAHO CODE, TO PROVIDE FOR ABATEMENT OF INFESTED PROPERTY AS A PUBLIC NUISANCE; AMENDING SECTION 22-1903, IDAHO CODE, TO PROVIDE FOR COLLECTION PROCEDURES IN

ADDITION TO USING THE TAX PROCESS; AMENDING CHAPTER 19, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1904, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 22-1905, IDAHO CODE, TO SPECIFY QUARANTINES TO BE AGAINST PESTS AND DISEASES AND TO STRIKE A REQUIREMENT THAT QUARANTINES BE SIGNED BY THE GOVERNOR AND ATTESTED BY THE SECRETARY OF STATE; REPEALING SECTIONS 22-1906 THROUGH 22-1912, IDAHO CODE; AMENDING CHAPTER 19, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1906, IDAHO CODE, TO PROHIBIT SALE OF INFESTED FRUIT; AMENDING SECTION 22-1913, IDAHO CODE, TO DELETE REFERENCE TO CODLING MOTH AND EXPAND THE DEFINITION OF CHERRY FRUIT FLIES; REPEALING SECTIONS 22-1914 THROUGH 22-1921, IDAHO CODE; AMENDING CHAPTER 19, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1914, IDAHO CODE, TO PROVIDE FOR ACCESS TO CONDUCT INSPECTIONS; AMENDING CHAPTER 19, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1915, IDAHO CODE, TO AUTHORIZE THE DIRECTOR TO PROMULGATE REGULATIONS, WHICH ARE SUBJECT TO LEGISLATIVE REVIEW, TO IMPLEMENT THE PROVISIONS OF THIS CHAPTER, TO PROVIDE THAT A VIOLATION IS A CIVIL OFFENSE AND TO SET LIMITS FOR PENALTIES UPON CONVICTION; AND AMENDING CHAPTER 19, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1916, IDAHO CODE, TO PROVIDE SEVERABILITY.

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

SECTION 1. That Section 22-1901, Idaho Code, be, and the same is hereby amended to read as follows:

22-1901. NOTICE TO DESTROY PESTS OR DISEASES. If, upon any inspection, there is found any disease or pests, eggs, or larvae of any pests injurious to fruits, plants, trees, shrubs or vines, or an imminent potential threat of any disease or pests, eggs, or larvae of any pests injurious to fruits, plants, trees, shrubs or vines, the ~~inspector--of--the-department-of-agriculture~~ director shall notify the owner or owners or the person or persons in charge or in possession of such places, fields, orchards, nurseries, trees, plants, shrubs, vines, fruits or other articles, as aforesaid. The ~~inspector~~ director shall require such person or persons to eradicate or destroy said injurious pests or insects or their eggs or larvae or to take such steps as may be necessary to remove the imminent potential threat of disease or pests within a reasonable time to be specified. Said notice shall be served in person or in writing on said person or persons or either of them owning or having in charge or in possession such infested places, rights-of-way, fields, orchards, nurseries, trees, shrubs, vines, plants, fruits or other articles as visited by the ~~inspector~~ director, or it may be served in the same manner as a summons in a civil action.

SECTION 2. That Section 22-1902, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 19, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 22-1902, Idaho Code, and to read as follows:

22-1902. ABATEMENT OF INFESTED PROPERTY AS PUBLIC NUISANCE. If the owner or person in charge of any property on which there are plants or other articles infested with any pest or eggs or larvae thereof, or any disease or material known to be a host of a pest or disease, after having been notified to eradicate or destroy such pests, disease or material, shall fail, neglect, or refuse to do so, then all such property, plants and materials are declared to be a public nuisance and shall be proceeded against as such. When such nuisance shall exist on any property within the state, the owner or person in charge of which cannot be found within the state, the department of agriculture shall cause such nuisance to be abated at once by disinfesting or destroying the infested articles or host material. The expense of such proceedings shall be paid by the state from appropriations made by the legislature therefor.

SECTION 4. That Section 22-1903, Idaho Code, be, and the same is hereby amended to read as follows:

22-1903. COST OF ABATEMENT A LIEN. All sums so paid for carrying out the provisions of this chapter shall be a legal charge against such property and if not paid within thirty (30) days from the time when demand therefor is first made upon the owner of such property by the department of agriculture abating such nuisance, shall be certified by the said department to the tax collector of the county wherein the property is situated and thereafter shall constitute a lien upon such property; and such sum shall be added by said tax collector to the general taxes assessed against said property which becomes due next thereafter and shall be collected by him in the same manner and with the same penalties as such other taxes. Nothing contained in this section shall be construed to require satisfaction of the obligation imposed hereby in whole or in part from the sale of property or to bar the application of any other or additional remedy otherwise available. Amounts collected under this section shall be paid into the state treasury and credited to the agricultural inspection account pursuant to section 22-104, Idaho Code, and used only to carry out the provisions of this chapter.

SECTION 5. That Chapter 19, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-1904, Idaho Code, and to read as follows:

22-1904. DEFINITIONS. As used in this chapter:

(1) "Department" means the Idaho department of agriculture.

(2) "Director" means the director of the department or his designated agent.

(3) "Pest" means any form of animal life which is or may be detrimental or injurious to plant life or plant products, including the egg, larva, pupa, or any other immature stage thereof.

(4) "Disease" means any fungus, bacteria, virus, or other organism injurious to plant life or plant products, including the spore or any other propagative stage thereof.

(5) "Person" shall include any individual, partnership, corporation, company, society, association, government agency or any other entity.

SECTION 6. That Section 22-1905, Idaho Code, be, and the same is hereby amended to read as follows:

22-1905. AUTHORITY TO ENFORCE QUARANTINE. The department of agriculture is vested with all necessary authority to enforce quarantine against any infested fields, lots, rights of way, orchards, nurseries, trees, plants, buds, scions, or any other place or articles within the state, when the same may be liable to spread ~~contagious diseases injurious to fruits or trees, or fruit crops of any kind,~~ pests or disease and to provide necessary rules and regulations to govern the same.

The department of agriculture is empowered to place quarantine upon any and all counties within the state of Idaho, and all states and territories of the United States, and foreign countries, against any and all ~~insect~~ pests and diseases ~~injurious to horticultural or agricultural plants or products~~ which are liable to be introduced into other counties of the state or into the state of Idaho from without the state; and to provide rules and regulations to govern the same. ~~All quarantine served on states or territories or foreign countries shall be signed by the director of the department of agriculture and the governor of the state of Idaho, and attested by the secretary of state of the state of Idaho.~~

SECTION 7. That Sections 22-1906 through 22-1912, Idaho Code, be, and the same are hereby repealed.

SECTION 8. That Chapter 19, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-1906, Idaho Code, and to read as follows:

22-1906. SALE OF INFESTED FRUIT PROHIBITED -- EXCEPTION. It shall be unlawful to sell, or offer to sell, or have in one's possession to sell, fruit which is infested with any pest or disease injurious to plants; except, that such fruit may be sold to a dealer, commission merchant, broker or agent licensed under section 22-1303, Idaho Code, to be conveyed to a facility where it will be processed to a product which presents no imminent threat to plants.

SECTION 9. That Section 22-1913, Idaho Code, be, and the same is hereby amended to read as follows:

22-1913. ~~CODLING MOTH AND~~ CHERRY FRUIT FLIES. ~~(1) Spraying for codling moth. All apple and pear trees of bearing age within the state of Idaho infested or known to be infested the previous season with codling moth shall be sprayed at least two (2) times each season with~~

~~arsenate-of-lead-solution-or-its-equivalent,-first-spraying-to-be-made when-petals-have-fallen-and-before-the-calyx-closes,--and--the--second application-to-be-given-on-the-date-and-in-the-manner-specified-by-the department-of-agriculture.~~

~~(2)--Spraying--for-cherry-fruit-flies.~~ Whenever the director shall find that a cherry growing or packing area, or areas, within the state is infested with Rhagoletis ~~Cingulata-or-Rhagoletis-Fausta,--(commonly known--as--the--cherry--fruit--flies),-or-both-of-these-pests,~~ species (cherry fruit fly) known to infest cherries to an extent that, in his opinion, constitutes a hazard to the commercial growing of cherries, he may by order designate such area, or areas, as he finds to be infested, as infested areas. His order in such case shall clearly define the geographic limits of such area, or areas, and copies thereof shall be mailed forthwith to the county commissioners and county agents of all counties in such infested area. Thereafter all cherry trees in any such area, or areas, must be sprayed in such a manner and with such materials as have been most recently recommended for the purpose of destroying the aforesaid species of cherry fruit flies, by the department of entomology, college of agriculture, university of Idaho. The spraying, or sprayings required by this section will be accomplished on the date or dates designated for such spraying, or sprayings, by the director, or by his duly authorized agent. The director shall when, in his opinion, a need therefor no longer exists under the terms of this section, revoke his orders designating an infested area.

SECTION 10. That Sections 22-1914 through 22-1921, Idaho Code, be, and the same are hereby repealed.

SECTION 11. That Chapter 19, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-1914, Idaho Code, and to read as follows:

22-1914. INSPECTION. For the purpose of carrying out the provisions of this chapter the director may enter on any public or private land at reasonable times. Should the director be denied access to any land where such access was sought for the purposes set forth in this chapter, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may, upon such application, issue the search warrant for the purposes requested.

SECTION 12. That Chapter 19, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-1915, Idaho Code, and to read as follows:

22-1915. REGULATIONS -- VIOLATIONS -- PENALTIES. (1) Subject to legislative review, the director is authorized to promulgate rules and regulations to implement all provisions of this chapter.

(2) Any person who shall violate or fail to comply with any pro-

visions of this chapter or any regulations promulgated thereunder shall be deemed guilty of a civil offense, and may be liable for treble the damages sustained and all costs of the suit including a reasonable attorney's fee. In addition, a civil fine of not more than three thousand dollars ($3,000) may be imposed per incident of violation. All civil offenses shall be heard in the magistrate division of the district court.

SECTION 13. That Chapter 19, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-1916, Idaho Code, and to read as follows:

22-1916. SEVERABILITY. If any clause, sentence, paragraph, or part of this act shall, for any reason, be adjudged by a competent court of jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which said judgment shall have been rendered.

Approved March 31, 1988.

CHAPTER 298
(H.B. No. 671)

AN ACT

RELATING TO ORDINANCE POWERS OF HIGHWAY DISTRICTS; AMENDING SECTION 40-1406, IDAHO CODE, TO PROVIDE THAT HIGHWAY COMMISSIONERS OF A COUNTY-WIDE HIGHWAY DISTRICT MAY PASS ORDINANCES, RULES AND MAKE REGULATIONS FOR CARRYING INTO EFFECT DUTIES CONFERRED TO A COUNTY-WIDE HIGHWAY DISTRICT.

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

SECTION 1. That Section 40-1406, Idaho Code, be, and the same is hereby amended to read as follows:

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.

The commissioners of a county-wide highway district may pass ordinances, rules, and make all regulations, not repugnant to law, as necessary, for carrying into effect or discharging all powers and duties conferred to a county-wide highway district pursuant to this chapter and chapter 13 of this title. All ordinances created or passed by the commissioners of a county-wide highway district shall require the affirmative vote of two-thirds (2/3) of the members of the full county-wide highway district commission. The style of all ordinances shall be: "BE IT ORDAINED by the board of highway district commissioners of (.....) County, Idaho." All ordinances passed shall, before they take effect and within one (1) month after they are passed, be published in at least one (1) issue of a newspaper published in the county or, if no paper be published in the county, then in some paper having general circulation therein. After such publication and before its effective date, such proposed ordinance shall not thereafter be amended in any particular wherein the amendment shall impose terms, conditions or privileges less favorable to the county-wide highway district than the proposed ordinance as published; but amendment favorable to the county-wide highway district may be made at any time and after publication. All ordinances passed pursuant to this section by the board of county-wide highway district commissioners may be proved by a certificate of the secretary of the county-wide highway district under the seal of the board of the county-wide highway district commissioners and shall be read and received in evidence in all courts and administrative proceedings without further proof. If ordinances duly passed are printed or published in book or pamphlet form by authority of the county-wide highway district commissioners, the printed or published book or pamphlet shall also be read and received in evidence in all courts and administrative proceedings without further proof. The commissioners of the county-wide highway district may enforce such ordinances by all appropriate administrative or judicial proceedings.

Approved March 31, 1988.

CHAPTER 299
(H.B. No. 676, As Amended)

AN ACT

RELATING TO THE ISSUANCE OF REVENUE BONDS BY IRRIGATION DISTRICTS FOR DOMESTIC WATER SYSTEMS; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1906, IDAHO CODE, TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1907, IDAHO CODE, TO PROVIDE A GRANT OF AUTHORITY TO IRRIGATION DISTRICTS; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1908, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1909, IDAHO CODE, TO SPECIFY POWERS OF IRRIGATION DISTRICTS UNDER THIS ACT; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1910, IDAHO CODE, TO PROVIDE THAT THE GOVERNING BODY OF THE DISTRICT SHALL HAVE AUTHORITY TO SUPERVISE WORKS UNDER THIS ACT; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1911, IDAHO CODE, TO REQUIRE THAT WORKS COMPLETED PURSUANT TO THIS ACT SHALL BE SELF-SUPPORTING; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1912, IDAHO CODE, TO SPECIFY THE USES TO WHICH REVENUE DERIVED FROM THE WORKS CONSTRUCTED PURSUANT TO THIS ACT MAY BE APPLIED; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1913, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF PRELIMINARY EXPENSES; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1914, IDAHO CODE, TO REQUIRE ADOPTION OF A RESOLUTION PRIOR TO CONSTRUCTION AND TO REQUIRE AN ELECTION; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1915, IDAHO CODE, TO SPECIFY THE FORM AND CONDITIONS WHICH SHALL BE INCORPORATED IN BONDS; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1916, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF BONDS; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1917, IDAHO CODE, TO PROVIDE FOR VALIDITY OF THE BONDS ISSUED PURSUANT TO THIS ACT; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1918, IDAHO CODE, TO PROVIDE THAT BONDS CONSTITUTE A LIEN; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1919, IDAHO CODE, TO PROVIDE THAT THE BONDS SHALL NOT BE A LIABILITY OF THE IRRIGATION DISTRICT; AMENDING CHAPTER 19, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1920, IDAHO CODE, TO PROVIDE THAT WORKS AND BONDS ARE EXEMPT FROM TAXATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 19, 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 43-1906, Idaho Code, and to read as follows:

43-1906. SHORT TITLE. Sections 43-1907 through 43-1920, Idaho Code, may be cited as the "Irrigation District Domestic Water System Revenue Bond Act."

SECTION 2. That Chapter 19, 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 43-1907, Idaho Code, and to read as follows:

43-1907. GRANT OF AUTHORITY. Any irrigation district acquiring, constructing, reconstructing, improving, bettering or extending any works pursuant to this act, shall manage the works in the most efficient manner consistent with sound economy and public advantage, to the end that the services of the works shall be furnished at the lowest possible cost. No irrigation district shall operate any works primarily as a source of revenue to the district, but shall operate all such works for the use and benefit of those served by the works and for the promotion of the welfare and for the improvement of the health, safety, comfort and convenience of the inhabitants of the irrigation district.

SECTION 3. That Chapter 19, 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 43-1908, Idaho Code, and to read as follows:

43-1908. DEFINITIONS. For the purpose of sections 43-1907 through 43-1920, Idaho Code:

(a) "District" means irrigation districts.

(b) "Qualified elector" means any person, eighteen (18) years of age or older, possessing the qualifications required of electors under the general laws of this state, who at the time of the election has resided within the district for at least thirty (30) days.

(c) "Water system" includes reservoirs, storage facilities, water mains, conduits, aqueducts, pipelines, pumping stations, filtration plants, and all appurtenances and machinery necessary or useful for obtaining, storing, treating, purifying or transporting water for domestic uses or purposes.

(d) "Works" include water systems.

SECTION 4. That Chapter 19, 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 43-1909, Idaho Code, and to read as follows:

43-1909. POWERS. In addition to the powers which it may now have, any district shall have power under and subject to the following provisions:

(a) To acquire by gift or purchase and to construct, reconstruct, improve, better or extend any works within or without the district, or partially within or partially without the district, or within any part of the district, and acquire by gift or purchase lands or rights in

lands or water rights in connection therewith, including easements, rights of way, contract rights, leases, franchises, approaches, dams and reservoirs; to lease any portion of the excess or surplus capacity of any such works to any party located within or without the district, subject to the following conditions: that the capacity shall be returned or replaced by the lessee when and as needed by the district for the purposes set forth in section 43-1907, Idaho Code, as determined by the district; that the district shall not be made subject to any debt or liability thereby; and the district shall not pledge any of its faith or credit in aid to such lessee;

(b) To exercise the right of eminent domain for any of the works, purposes or use provided by this act, in like manner and to the same extent as provided in section 7-720, Idaho Code;

(c) To operate and maintain any works within or without the boundaries of the district, or partially within or without the boundaries of the district, or within any part of the district;

(d) To issue its revenue bonds hereunder to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of any works;

(e) To prescribe and collect rates, fees, tolls or charges, including the levy or assessment of such rates, fees, tolls or charges against governmental units, departments or agencies, including the state of Idaho and its subdivisions, for the services, facilities and commodities furnished by works, and to provide methods of collections and penalties, including denial of service for nonpayment of the rates, fees, tolls or charges;

(f) To pledge an amount of revenue from works (including improvement, betterment or extensions thereto, thereafter constructed or acquired) sufficient to pay bonds and interest as the same shall become due, and to create and maintain reasonable reserves therefor. Such amount may consist of all or any part or portion of the revenues. In determining the cost, there may be included all costs and estimated costs of the issuance of bonds, all engineering, inspection, fiscal and legal expenses and interest which it is estimated will accrue during the construction period and for six (6) months thereafter on money borrowed or which it is estimated will be borrowed pursuant to the irrigation district domestic water system revenue bond act; and

(g) To issue bonds for the purpose of refunding any bonds theretofore issued under authority of the irrigation district domestic water system revenue bond act and to pay accrued interest and applicable redemption premiums on the bonds to be refunded, pursuant to and in the manner provided by section 57-504, Idaho Code.

SECTION 5. That Chapter 19, 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 43-1910, Idaho Code, and to read as follows:

43-1910. SUPERVISION OF WORKS. The construction, acquisition, improvement, equipment, custody, operation and maintenance of any works under the provisions of sections 43-1906 through 43-1920, Idaho Code, and the collection of revenues therefrom for the service ren-

dered thereby shall be under the supervision and control of the governing body of the district.

SECTION 6. That Chapter 19, 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 43-1911, Idaho Code, and to read as follows:

43-1911. WORKS TO BE SELF-SUPPORTING. The directors of the district issuing bonds pursuant to this act shall prescribe and collect reasonable rates, fees, tolls or charges for the services, facilities and commodities furnished by the works, and shall revise such rates, fees, tolls or charges from time to time, to provide that all works shall be and always remain self-supporting. The rates, fees, tolls or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due, all bonds and interest thereon for the payment of which the revenue is or shall have been pledged, charged or otherwise encumbered including reserves therefor, and (b) to provide for all expenses of operation and maintenance of the works, including reserves therefor.

SECTION 7. That Chapter 19, 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 43-1912, Idaho Code, and to read as follows:

43-1912. USE OF WORKS -- REVENUE. Any district issuing bonds under this act for the acquisition, construction, reconstruction, improvement, betterment or extension of any works, shall have the right to appropriate, apply or expend the revenue of the works for the following purposes: (a) to pay when due all bonds and interest thereon, for the payment of which the revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor; (b) to provide for all expenses of operation, maintenance, replacement and depreciation of the works, including reserves therefor; (c) to pay and discharge notes, bonds or other obligations and interest thereon, not issued under this act for the payment of which the revenue of the works may have been pledged, charged or encumbered; (d) to pay and discharge notes, bonds or other obligations and interest thereon which do not constitute a lien, charge or encumbrance on the revenue of such works, which may have been issued for the purpose of financing the acquisition, construction, reconstruction, improvement, betterment or extension of the works; and (e) provide a reserve for improvements to the works. Unless and until full and adequate provision has been made for the foregoing purposes, no district shall have the right to transfer the revenue of works to its general fund.

SECTION 8. That Chapter 19, 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 43-1913, Idaho Code, and to read as follows:

43-1913. PRELIMINARY EXPENSES. The district may provide for the payment of all necessary preliminary expenses actually incurred in the making of surveys, estimates of costs and revenues, employment of engineers and other employees, making of notices, taking of options, legal and clerical help and all other expenses necessary to be made and paid prior to the authorization for the issuance of revenue bonds, provided, that no such expenditures shall be made or paid unless an appropriation has been made therefor in the same manner as is required by law for district funds. Any funds so expended by the district shall be fully reimbursed and repaid to the district out of the sale of the revenue bonds before any other disbursements are made therefrom, and the amount so advanced by the district to pay the preliminary expenses shall be a first charge against the proceeds resulting from the sale of the revenue bonds until the same has been repaid as herein provided.

SECTION 9. That Chapter 19, 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 43-1914, Idaho Code, and to read as follows:

43-1914. RESOLUTION PRIOR TO CONSTRUCTION -- ELECTION. Before any district shall construct or acquire any works under this act, the directors of the district shall enact a resolution or resolutions which shall: (a) set forth a brief and general description of the works, and if the same are to be constructed, a reference to the preliminary report or plans and specifications which shall theretofore have been prepared and filed by an engineer chosen for that purpose; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of the works; (d) direct that revenue bonds of the district shall be issued pursuant to this act in an amount as may be necessary to pay the cost of the works; and (e) contain other provisions as may be necessary in the proposal.

The resolution shall be passed and approved as provided by law for the enactment of general resolutions, but the district shall not, without the assent of a majority of the qualified electors voting at an election to be held for that purpose, issue revenue bonds for the purpose of providing funds to own, purchase, construct, extend or equip, within and without the corporate limits of the district, any works, the principal and interest of which to be paid solely from the revenue derived from rates and charges for the use of, and the service rendered by the works.

The resolution shall provide for the holding of an election and the giving of notice thereof by publication in the official newspaper of the district, the publication to be once a week for two (2) successive weeks prior to the election. The notice of election shall set forth the purpose of the resolution, the amount of bonds authorized by it, the maturity dates of the bonds, the maximum rate of interest they shall draw, the voting places, the hours between which the polls will be open and the qualifications of voters who may vote thereat. The election shall be conducted as are other district elections, provided,

that any qualified elector shall be entitled to vote in the election, the provisions of section 43-111, Idaho Code, notwithstanding. The voting at the election must be by ballot, and the ballots used shall be worded substantially as follows:

In favor of issuing revenue bonds for the purposes provided by Resolution No.....

Against the issuance of revenue bonds for the purposes provided by Resolution No.....

If, at the election, a majority of the qualified electors, voting at the election, vote in favor of issuing the revenue bonds, then the district may issue the bonds and create indebtedness or liability in the manner and for the purpose specified in the resolution.

SECTION 10. That Chapter 19, 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 43-1915, Idaho Code, and to read as follows:

43-1915. BONDS -- FORM -- CONDITIONS. All revenue bonds issued under authority of this act shall be sold, executed and delivered in the same manner as provided by the municipal bond law for the sale of general obligation bonds, except that issues of revenue bonds may, in the discretion of the directors, be sold at a private sale without advertising the same at competitive bidding and at a price above, at, or below par. The resolution authorizing the issuance of bonds shall prescribe the form of bonds. The bonds shall bear interest at a rate or rates, payable annually, or at lesser intervals as may be prescribed by resolution; may be in one (1) or more series, bear the date or dates, mature at the time or times, and be redeemable before maturity at the option of the district; may be payable in the medium of payment, at the place or places, may carry registration privileges, may be subject to the terms of redemption, may contain the terms, covenants and conditions, and may be in the form as the resolution may provide. Pending preparation of the bonds, interim certificates in the form and with the provisions as the directors may determine may be issued. Bonds and interim certificates shall be fully negotiable within the meaning of and for all the purposes of the negotiable instruments law.

Notwithstanding the provisions of the municipal bond law, the governing body in any proceedings authorizing bonds under this act may:

(a) Provide for the initial issuance of one (1) or more bonds aggregating the amount of the entire issue;

(b) Make such provision for installment payments of the principal amount of any bond as it may consider desirable;

(c) Further make provision in any proceedings for the manner and circumstances in and under which any bond may in the future, at the request of the holder thereof, be converted into bonds of smaller denominations.

SECTION 11. That Chapter 19, 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 43-1916, Idaho Code, and to read as

follows:

43-1916. BONDS -- ISSUANCE -- TERMS AND CONDITIONS. Whenever revenue bonds are authorized to be issued, the district directors shall by resolution provide for the issuance thereof. The resolution authorizing the issuance of revenue bonds, for the purpose authorized, shall contain covenants as to:

(a) The purpose or purposes to which the proceeds of the sale of the bonds may be applied and the use and disposition thereof;

(b) The use and disposition of the revenue of the works for which the bonds are to be issued, including the creation and maintenance of reserves;

(c) The issuance of other or additional bonds payable from the revenue of the works;

(d) The operation and maintenance of works;

(e) The insurance to be carried thereon, the use and disposition of insurance moneys;

(f) Books of account and inspection and audit thereof; and

(g) The terms and conditions upon which the holders thereof or any trustee therefor shall be entitled to the appointment of a receiver which receiver may enter and take possession of works, operate and maintain the same, prescribe rates, fees, tolls or charges and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the district itself might do. The provisions of this section and of any resolution shall be a contract with the holder of the bonds and the duties of the district and its commissioners under this section and under the resolution, shall be enforceable by the holder by mandamus or other appropriate suit, action or proceedings at law or in equity.

SECTION 12. That Chapter 19, 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 43-1917, Idaho Code, and to read as follows:

43-1917. VALIDITY OF BONDS. Any resolution authorizing bonds may provide that the bonds shall contain a recital that they are issued pursuant to the irrigation district domestic water system revenue bond act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

SECTION 13. That Chapter 19, 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 43-1918, Idaho Code, and to read as follows:

43-1918. LIEN OF BONDS. All bonds of the same issue shall, subject to the prior and superior rights of outstanding bonds, claims or obligations, have prior and paramount lien on the revenue of the works for which the bonds have been issued, except that where provision is made in the resolution authorizing any issue or series of bonds for the issuance of additional bonds in the future on a parity therewith

pursuant to procedures or restrictions provided in the resolution, additional bonds may be issued in the future on a parity with the issue or series in the manner so provided in the resolution. All bonds of the same issue shall be equally and ratably secured without priority by reason of number, date of bonds, date of sale, date of execution, or date of delivery, by a lien on revenue in accordance with the provisions of the irrigation district domestic water system revenue bond act and the resolution authorizing bonds.

SECTION 14. That Chapter 19, 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 43-1919, Idaho Code, and to read as follows:

43-1919. DISTRICT NOT LIABLE ON BONDS. Bonds issued pursuant to the irrigation district domestic water system revenue bond act shall not be a debt of the district and the district shall not be liable thereon, nor shall they be payable out of any funds other than the revenue pledged to the payment thereof. Each bond issued under the irrigation district domestic water system revenue bond act shall recite, in substance, that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof. Bonds may be issued under the irrigation district domestic water system revenue bond act notwithstanding and without regard to any limitation or restriction on the amount or percentage of indebtedness, or of outstanding obligations of a district.

SECTION 15. That Chapter 19, 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 43-1920, Idaho Code, and to read as follows:

43-1920. WORKS AND BONDS EXEMPT FROM TAXATION. As long as a district shall own any works, the property and revenue of the works shall be exempt from taxation. Bonds issued under the irrigation district domestic water system revenue bond act and the income therefrom shall be exempt from taxation, except transfer and estate taxes.

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 31, 1988.

CHAPTER 300
(H.B. No. 684)

AN ACT

RELATING TO THE TRANSFER AND INHERITANCE TAX; REPEALING CHAPTER 4, TITLE 14, IDAHO CODE; AMENDING TITLE 14, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 4, TITLE 14, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO ESTABLISH A TAX IMPOSED ON RESIDENTS AND GIVING CREDIT FOR TAXES PAID OTHER STATES, TO ESTABLISH A TAX IMPOSED ON NONRESIDENTS AND SPECIFYING EXEMPTIONS, TO PROVIDE FOR THE FILING OF TAX RETURNS WITH DEADLINES AND EXTENSIONS THEREOF, TO SPECIFY A PAYMENT DUE DATE AND INTEREST, TO PROVIDE FOR AMENDED RETURNS AND FINAL DETERMINATIONS, TO ESTABLISH AUTHORIZATIONS AND LIMITATIONS ON REFUNDS, TO SPECIFY PROCEDURES AND AUTHORITY ON TAX LIENS, INSTRUMENTS AND CERTIFICATES OF TRANSFER, TO PROVIDE A DUTY FOR THE PAYMENT OF TAXES BY THE PERSONAL REPRESENTATIVE, TO AUTHORIZE SALES AND ESTABLISH LIABILITY, TO PROVIDE FOR A FINAL ACCOUNTING AND APPROVAL BY THE TAX COMMISSION, TO AUTHORIZE ADMINISTRATION AND ENFORCEMENT BY THE COMMISSION AND TO PROVIDE FOR DISTRIBUTION OF RECEIPTS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 4, Title 14, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 14, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 4, Title 14, Idaho Code, and to read as follows:

CHAPTER 4
ESTATE AND TRANSFER TAX

14-401. SHORT TITLE. This chapter shall be known and may be cited as the "Estate and Transfer Tax Reform Act of 1988."

14-402. DEFINITIONS. As used in this chapter:

(1) "Commission" means the Idaho state tax commission.

(2) "Decedent" means a deceased individual.

(3) "Federal credit" means the maximum amount of the credit for state death taxes allowed by section 2011 of the United States internal revenue code of 1986, as amended or renumbered, and the maximum amount of the credit for the generation skipping tax allowed by section 2604 of the United States internal revenue code of 1986, as amended or renumbered, in respect to a decedent's taxable estate.

(4) "Gross estate" means "gross estate" as defined and used in section 2031 of the United States internal revenue code of 1986, as amended or renumbered.

(5) "Nonresident" means a decedent who was domiciled outside Idaho at the time of death.

(6) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof.

(7) "Personal representative" means the executor or administrator of the decedent or, if no executor or administrator is appointed, qualified and acting, any person who has possession of any property.

(8) "Property" means property included in the gross estate.

(9) "Release" means a release of no tax due or a receipt for payment of the tax due under this chapter.

(10) "Resident" means a decedent who was domiciled in Idaho at the time of death.

(11) "Section 2011" means section 2011 of the United States internal revenue code of 1986, as amended or renumbered.

(12) "Section 6501" means section 6501 of the United States internal revenue code of 1986, as amended or renumbered.

(13) "Taxable estate" means "taxable estate" as defined in section 2051 of the United States internal revenue code of 1986, as amended or renumbered.

(14) "Transfer" means "transfer" as defined and used in section 2001 of the United States internal revenue code of 1986, as amended or renumbered.

14-403. RESIDENTS -- TAX IMPOSED -- CREDIT FOR TAX PAID OTHER STATE. (1) A tax in an amount equal to the federal credit is imposed on the transfer of the taxable estate of every resident.

(2) If any property of a resident is subject to a death tax imposed by another state of which a credit is allowed by section 2011 and if the tax imposed by the other state is not qualified by a reciprocal provision allowing the property to be taxed in the state of decedent's domicile, the amount of the tax due under this section shall be credited with the lesser of:

(a) The amount of the death tax paid the other state and credited against the federal estate tax; or

(b) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the death tax imposed by the other state and the denominator of which is the value of the decedent's gross estate.

(3) Property of a resident includes:

(a) Real property located in this state;

(b) Tangible personal property having actual situs in this state; and

(c) Intangible personal property owned by a resident regardless of where it is located.

14-404. NONRESIDENTS -- TAX IMPOSED -- EXEMPTION. (1) A tax in an amount computed as provided in this section is imposed on the transfer of the taxable estate located in Idaho of every nonresident.

(2) The tax is the amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in Idaho and the denominator of which is the value of the

decedent's gross estate.

(3) The transfer of the property of a nonresident is exempt from the tax imposed in this section to the extent that the same types of property of a resident are exempt from taxation under the laws of the state in which the nonresident resides.

14-405. TAX RETURNS -- DATE TO BE FILED -- EXTENSIONS. (1) The personal representative of every estate subject to the tax imposed in this chapter who is required by the laws of the United States to file a federal estate tax return shall file with the commission on or before the date the federal estate tax return is required to be filed, including any extension of time for filing the federal estate tax return:

(a) A return for the taxes due under this chapter; and

(b) A copy of the federal estate tax return.

(2) If the personal representative has obtained an extension of time for filing the federal estate tax return, the filing required by subsection (1) of this section shall be similarly extended until the end of the time period granted in the extension of time for the federal estate tax return. A copy of the extension shall be filed with the commission within thirty (30) days of issuance.

(3) In addition to the extension of time for filing the return for the tax due under this chapter provided for under subsection (2) of this section, the commission, upon good cause shown, may extend the time for filing this return for any further period of time determined by the commission to be proper.

(4) No Idaho return need be filed if the estate is not subject to the tax imposed in this chapter.

14-406. DATE PAYMENT DUE -- DATE DEEMED RECEIVED -- INTEREST. (1) Any tax due under this chapter shall be paid by the personal representative to the commission on or before the date the return for the taxes is required to be filed under section 14-405, Idaho Code.

(2) For the purposes of this chapter, a return or payment delivered to the commission by United States mail shall be considered to have been received by the commission on the date of the United States postmark stamped on the cover in which the payment or the request for release of nonliability is mailed, if the postmark date is within the time allowed for filing the return or making the payment, including any extensions.

(3) The commission, for good cause shown, may extend the time for payment of the tax due under this chapter beyond the date of payment provided for in subsection (1) of this section, but no extension for payment of this tax may be granted in excess of fourteen (14) years from the date the tax was due.

(4) Any tax due under this chapter which is not paid by the time prescribed for the filing of the return as provided in section 14-405, Idaho Code, not including any extensions in respect to the filing of the return or the payment of the tax, shall bear interest at the rate provided for in section 63-3045, Idaho Code, from the date any tax is due until paid.

14-407. AMENDED RETURNS -- FINAL DETERMINATION. (1) If the personal representative files an amended federal estate tax return, the personal representative shall immediately file with the commission an amended return covering the tax imposed by this chapter together with a copy of the amended federal estate tax return. If the personal representative is required to pay an additional tax under this chapter pursuant to the amended return, the personal representative shall pay the additional tax, together with interest as provided in section 14-406, Idaho Code, at the same time the personal representative files the amended return.

(2) Upon final determination of the federal tax due with respect to any transfer, the personal representative shall, within sixty (60) days after the determination, give written notice of it to the commission in such form as may be prescribed by rule. If any additional tax is due under this chapter by reason of the determination, the personal representative shall pay the same, together with interest as provided in section 14-406, Idaho Code, at the same time he files the notice.

14-408. REFUND FOR OVERPAYMENTS -- LIMITATION. If the commission determines that a personal representative has overpaid the tax due under this chapter, the commission is authorized to refund the amount of the overpayment, together with interest at the then existing statutory rate of interest. No claim for refund may be initiated more than three (3) years after the date of a federal estate tax closing letter or an amended federal estate tax closing letter.

14-409. TAX AS LIEN -- INSTRUMENTS ISSUED UPON PAYMENT -- CERTIFICATE OF TRANSFER. (1) The tax provided for in this chapter, together with applicable interest and penalties, shall be and remain a lien on the decedent's estate from the time of the death of the decedent until paid.

(2) Upon payment of the tax, together with applicable interest and penalties, the commission shall issue to the personal representative a receipt reflecting payment, a certificate of transfer and any other appropriate instruments reflecting payment.

14-410. PERSONAL REPRESENTATIVE -- PAYMENT OF TAX -- SALE OF PROPERTY -- LIABILITY. (1) The personal representative has the duty to pay the tax, together with applicable interest and penalties, imposed on property under this chapter. The personal representative may sell so much of the property regardless of whether any portion of the property is included in a specific bequest or devise, as is necessary to pay the proportionate amount of the tax due under this chapter, together with applicable interest and penalties, and the fees and expenses of the sale, unless the legatee or devisee pays the personal representative the proportionate part of the tax due.

(2) Any personal representative who distributes any portion of the property without first paying the tax imposed by this chapter on that property, including applicable interest and penalties, or having another make the payment, is personally liable for the tax, including applicable interest and penalties.

14-411. PERSONAL REPRESENTATIVE -- FINAL ACCOUNT -- APPROVAL BY COMMISSION. (1) No final account of a personal representative in any probate proceeding who is required to file a federal estate tax return may be allowed and approved by the court before whom the proceeding is pending unless it is shown by evidence satisfactory to the commission and the court finds that the tax imposed on the property in this chapter, including applicable interest and penalties, has been paid in full, that an agreement for the payment of the tax on an installment basis has been entered into, or that no tax is due.

(2) The commission shall have the authority to determine the fair market value of property subject to tax under this chapter and in making such determination, the commission may require that appraisals or other necessary information be supplied by the personal representative. Any deficiencies must be asserted and assessments made within the time limitations as set forth under section 6501 and the regulations thereunder.

14-412. ADMINISTRATION AND ENFORCEMENT BY COMMISSION. (1) The commission is charged with the administration and enforcement of the provisions of this chapter and may adopt such rules as may be necessary to effectuate the purposes of this chapter.

(2) The commission shall collect the tax provided for under this chapter, including applicable interest and penalties, and shall represent this state in all matters pertaining to collection, either before courts or otherwise. Provisions set forth in sections 63-3038, 63-3039, 63-3042 through 63-3065A, 63-3069, 63-3071, 63-3072, 63-3075, 63-3076 and 63-3077, Idaho Code, which deal with deficiency, collection, enforcement, refund and review procedures, shall apply and be available to the commission and personal representative, to the extent they are not in conflict with the provisions of this chapter. Said sections shall be considered a part of this chapter and wherever proceedings are defined as income tax proceedings, they shall, as applied to this chapter, be described as estate tax proceedings.

14-413. DISTRIBUTION OF RECEIPTS. The commission shall collect all taxes and moneys that may be due under this act, and remit such moneys to the state treasurer. Such moneys shall be distributed as follows:

(1) Ten percent (10%) of such moneys shall be distributed into a suspense account for payment to the county treasurer of the county in which venue for probate and administration lies, pursuant to section 15-3-201, Idaho Code, regardless of whether such probate or administration was, in fact, instituted. Such moneys shall be paid by the commission to the appropriate counties not less than quarterly, and shall be credited to the county current expense fund.

(2) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid through the state refund account, and those moneys are hereby continuously appropriated for that purpose. Such refunds shall be authorized for the purpose of repaying overpayments made under the transfer and inheritance tax act, for the purpose of repaying any other erroneous receipts under such

tax, for the purpose of repaying any tax, penalty, or interest illegally assessed or collected, or for the purpose of paying any judgment rendered against the commission under the terms and provisions of this act.

(3) The balance remaining after distributing the amounts in subsections (1) and (2) of this section shall be distributed as follows:

(a) Ten percent (10%) shall be distributed to the resource conservation and rangeland development loan account created in section 22-2730, Idaho Code; and

(b) The remainder shall be distributed to the water pollution control account.

SECTION 3. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

SECTION 4. This act shall be in full force and effect on and after January 1, 1989.

Approved March 31, 1988.

CHAPTER 301
(H.B. No. 690)

AN ACT

RELATING TO BEER; AMENDING SECTION 23-1002, IDAHO CODE, TO PROVIDE A DEFINITION FOR THE ALCOHOLIC CONTENT OF BEER, AND TO PROVIDE FOR TAXATION OF CERTAIN BEER AS WINE.

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

SECTION 1. That Section 23-1002, Idaho Code, be, and the same is hereby amended to read as follows:

23-1002. ALCOHOLIC CONTENT. (1) Beer containing not more than ~~four~~ <u>six</u> per cent (~~4~~6%) of alcohol by weight may be manufactured, imported and/or sold and distrib~~uted in~~ and into this state or possessed therein in the manner and under the conditions prescribed in this act and not otherwise.

<u>(2) Beer containing more than four per cent (4%) of alcohol by weight shall be considered and taxed as wine.</u>

Approved March 31, 1988.

CHAPTER 302
(H.B. No. 696, As Amended)

AN ACT

RELATING TO RECREATIONAL WATER AND SEWER DISTRICTS; AMENDING CHAPTER 32, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3202C, IDAHO CODE, TO PROVIDE A PROCESS BY WHICH A WATER AND SEWER DISTRICT MAY BE CHANGED TO A RECREATIONAL WATER AND SEWER DISTRICT.

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

SECTION 1. That Chapter 32, 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 42-3202C, Idaho Code, and to read as follows:

42-3202C. CHANGING STATUS OF DISTRICT. The board of directors of a water and/or sewer district may, at any time after the formation of such district, determine that the district qualifies as a recreational water and/or sewer district as defined under section 42-3202A, Idaho Code, and that it is in the best interest of the district to petition the court to change the district's status to a recreational water and/or sewer district. Said petition must be filed in the office of the clerk of the court vested with jurisdiction, in a county in which the major part of the real property in the existing district is situated. The petition must be signed by the chairman of the district's board of directors and shall set forth the following:

(1) The name of the existing district, date on which said district was formed and a general description of the district's boundaries.

(2) That the petition was initiated after a majority vote of the board of directors that it is in the best interest of the district to change its status to a recreational water and/or sewer district.

(3) The criteria the district meets under section 42-3202A, Idaho Code, thereby qualifying it as a recreational water and/or sewer district.

(4) A prayer for changing the status of the existing district to that of a recreational water and/or sewer district.

Upon filing of the petition, the court shall by order fix a time and place for hearing as provided in section 42-3206, Idaho Code. Upon the hearing of said petition any interested persons or corporations may appear before said court and make objections to the proposed status change. Further, if it then shall appear that the petition for a change in status has been signed and presented as hereinabove provided and the allegations of the petition are true, the court shall by order duly entered of record, grant the prayed for change of status of the existing district.

Approved March 31, 1988.

CHAPTER 303
(H.B. No. 705)

AN ACT

RELATING TO THE IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT; AMENDING SECTIONS 50-2801, 50-2802, 50-2803 AND 50-2804, IDAHO CODE, TO DELETE REFERENCES TO THE INTERNAL REVENUE CODE OF 1954 AND TO SUBSTITUTE THEREFOR REFERENCES TO THE INTERNAL REVENUE CODE OF 1986.

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

SECTION 1. That Section 50-2801, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ any obligation for which an allocation of the volume cap is required by the code.

(2) "Certificates" mean mortgage credit certificates described in section 25 of the code.

(3) "Code" means the Internal Revenue Code of 195~~4~~86, as amended, and any related treasury regulations.

(3~~4~~) "Executive order" means ~~an~~ the executive order or other administrative action of the governor pursuant to section 50-2804, Idaho Code, and any amendments thereto.

(4~~5~~) "Governmental unit" means (i) any county, city or port district, (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~~6~~) "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~~7~~) "State" means the state of Idaho, any of its agencies, and any of its institutions of higher education.

(7~~8~~) "State ceiling" means the ceiling for the state as computed under section ~~103(n)(4)~~ 146(d) of the code.

(9) "Volume cap" means the volume cap for the state as computed under section 146 of the code.

(8~~10~~) ~~"Year" means each~~ calendar year beginning calendar year 1986~~7~~.

SECTION 2. That Section 50-2802, Idaho Code, be, and the same is hereby amended to read as follows:

50-2802. FINDING AND DECLARATION OF NECESSITY. The legislature hereby finds and declares that the Tax Reform Act of 1984~~6 enacted by~~

~~the United States congress, P.L. 98-369,~~ imposes an annual state ceiling on the amount of bonds or certificates that may be issued, the interest on which is ~~exempt from~~ excludable from gross income for purposes of federal income taxation; that section ~~103(n)(6)~~ 146(e)(1) 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.

SECTION 3. That Section 50-2803, Idaho Code, be, and the same is hereby amended to read as follows:

50-2803. ALLOCATION FORMULA. The entire state ceiling for the year, including any carry-forward under section ~~103(n)(10)~~ 146(f) 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.

SECTION 4. That Section 50-2804, Idaho Code, be, and the same is hereby amended to read as follows:

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)~~ 146(f) 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 or certificates 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.

Approved March 31, 1988.

CHAPTER 304
(H.B. No. 758)

AN ACT
APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Office of the State Board of Education the following amount to be expended for the designated programs from the listed account for the period July 1, 1988, through June 30, 1989:

A. STATE BOARD OF EDUCATION:

FROM:	
General Account	$ 53,400
B. GENERAL ADMINISTRATION:	
FROM:	
General Account	$587,400
GRAND TOTAL	$640,800

SECTION 2. There is hereby reappropriated to the State Board of Education for the State Board of Education and General Administration Programs, any unexpended and unencumbered balances of the General Account moneys appropriated for the State Board of Education and General Administration Programs by Section 2, Chapter 270, Laws of 1987, to be used for nonrecurring expenditures only, for the period of July 1, 1988 through June 30, 1989.

Approved March 31, 1988.

CHAPTER 305
(H.B. No. 759)

AN ACT
APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 1989.

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

SECTION 1. There is hereby appropriated to the State Board of Education for Community College Support the following amount, from the listed account to be expended for the period July 1, 1988, through June 30, 1989:

FROM:
General Account $6,107,300

Approved March 31, 1988.

CHAPTER 306
(H.B. No. 760)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1989.

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

SECTION 1. There is hereby appropriated to the Department of Correction the following amount, to be expended for designated programs from the listed account for the period July 1, 1988, through June 30, 1989:

A. IDAHO CORRECTIONAL INSTITUTION - OROFINO
FROM:
General Account $310,000

B. MAXIMUM SECURITY INSTITUTION - BOISE
FROM:
General Account $367,500

GRAND TOTAL $677,500

Approved March 31, 1988.

CHAPTER 307
(S.B. No. 1559)

AN ACT
RELATING TO LIQUOR BY THE DRINK LICENSES; AMENDING CHAPTER 9, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-954, IDAHO CODE, TO PROVIDE FOR LIQUOR BY THE DRINK LICENSES FOR THEME PARKS.

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

SECTION 1. That Chapter 9, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-954, Idaho Code, and to read as follows:

23-954. THEME PARKS -- LICENSING. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a theme park, even if situated outside the incorporated lim-

its of a city. A "theme park" means a facility located on not less than forty (40) contiguous acres, and permanently constructed for the purpose of conducting, presenting or providing activities and services normally related to family oriented entertainment and recreational programs, which is open to the public and which provides meeting facilities. The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

Approved March 31, 1988.

CHAPTER 308
(S.B. No. 1546)

AN ACT

RELATING TO DAM SAFETY; AMENDING SECTION 42-1711, IDAHO CODE, TO PROVIDE THAT LEVEES SHALL NOT BE INCLUDED AS REGULATED DAMS OR ARE NOT CONSIDERED DAMS FOR THE PURPOSE OF THE DAM SAFETY ACT AND TO DEFINE THE TERM LEVEE.

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

SECTION 1. That Section 42-1711, Idaho Code, be, and the same is hereby amended to read as follows:

42-1711. DEFINITIONS. Unless the context otherwise requires, the following definitions govern the construction of this act.

(a) "Department" means the department of water resources.

(b) "Dam" means any artificial barrier, together with appurtenant works, constructed for the purpose of storing water or that stores water, which is ten (10) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation, or has or will have an impounding capacity at maximum storage elevation of fifty (50) acre feet or more. The following are not included as regulated dams or are not considered dams for the purposes of sections 42-1710 through 42-1721, Idaho Code:

(1) Barriers constructed in low risk areas as determined by the director, which are six (6) feet or less in height, regardless of storage capacity.

(2) Barriers constructed in low risk areas as determined by the director, which impound ten (10) acre-feet or less at maximum water storage elevation, regardless of height.

(3) Barriers in a canal used to raise or lower water therein or divert water therefrom.

(4) Fills or structures determined by the director to be designed

primarily for highway or railroad traffic.

(5) Fills, retaining dikes or structures, which are under jurisdiction of the division of environment, department of health and welfare, designed primarily for retention and treatment of municipal, livestock, or domestic wastes, or sediment and wastes from produce washing or food processing plants.

(6) Levees that store water regardless of storage capacity.

(c) "Levee" means a retaining structure alongside a natural lake which has a length that is two hundred (200) times or more greater than its greatest height measured from the lowest elevation of the toe to the maximum crest elevation of the retaining structure.

(d) "Reservoir" means any basin which contains or will contain the water impounded by a dam.

(~~d~~e) "Owner" includes any of the following who own, control, operate, maintain, manage, or propose to construct a dam, reservoir or mine tailings impoundment structure:

(1) The state of Idaho and its departments, agencies, institutions and political subdivisions;

(2) The United States of America and any of its departments, bureaus, agencies and institutions; provided that the United States of America shall not be required to pay any of the fees required by section 42-1713, Idaho Code, and shall submit plans, drawings and specifications as required by section 42-1712, Idaho Code, for information purposes only;

(3) Every municipal or quasi-municipal corporation;

(4) Every public utility;

(5) Every person, firm, association, organization, partnership, business trust, corporation or company;

(6) The duly authorized agents, lessees, or trustees of any of the foregoing; or

(7) Receivers or trustees appointed by any court for any of the foregoing.

(~~e~~f) "Alterations," "repairs," or either of them, mean only such alterations or repairs as may directly affect the safety of the dam, reservoir or mine tailings impoundment structure, as determined by the department.

(~~f~~g) "Enlargement" means any change in or addition to an existing dam, reservoir or mine tailings impoundment structure, which raises or may raise the water storage elevation of the water impounded by the dam or mine tailings slurry impounded by the mine tailings impoundment structure.

(~~g~~h) "Water storage elevation" means the maximum elevation of water surface which can be obtained by the dam or reservoir.

(~~h~~i) "Storage capacity" means the total storage at the maximum storage elevation.

(~~i~~j) "Days" used in establishing deadlines means calendar days including Sundays and holidays.

(~~j~~k) "Certificate of approval" means a certificate issued by the director for all dams or mine tailings impoundment structures listing restrictions imposed by the director, and without which no new dams shall be allowed to impound water or mine tailings impoundment structures shall be allowed to impound mine tailings slurry.

(kl) "Mine tailings impoundment structure" means any artificial embankment which is or will be more than thirty (30) feet in height measured from the lowest elevation of the toe to the maximum crest elevation constructed for the purpose of storing mine tailings slurry.

(lm) "Lift construction" means mine tailings impoundment structure enlargement by raising the elevation of the structure on a continuous or recurring basis. Such practice will be considered under construction until the structure reaches its final crest elevation.

(mn) "Mine tailings impoundment elevation" means the maximum elevation of stored mine tailings which can be obtained by the impounding structure.

(no) "Mine tailings slurry" means all slurry wastes from a mineral processing or mining operation.

(op) "Mine tailings storage capacity" means the total storage volume of the impounding area when filled with tailings to the maximum designed storage elevation.

Approved April 1, 1988.

CHAPTER 309
(H.B. No. 666, As Amended in the Senate)

AN ACT

RELATING TO EDUCATION INCENTIVES; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3722, IDAHO CODE, TO ENCOURAGE AND ASSIST POTENTIAL TEACHERS AMONG CERTAIN GRADUATES OF IDAHO SECONDARY SCHOOLS TO ENROLL IN IDAHO POSTSECONDARY INSTITUTIONS, TO PROVIDE CONTRACTUAL CONDITIONS FOR WAIVING FEES ASSESSED AT REGISTRATION, TO PROVIDE FOR A LIMITED NUMBER OF CONTRACTS, TO DIRECT THE STUDENT LOAN OFFICE OF EACH INSTITUTION TO ADMINISTER THE PROVISIONS OF THIS SECTION, TO PROVIDE FOR DEFAULT ON THE CONTRACT, AND TO DIRECT AFFECTED INSTITUTIONS TO ADJUST BUDGETS FOR REIMBURSEMENT OF COSTS.

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

SECTION 1. That Chapter 37, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-3722, Idaho Code, and to read as follows:

33-3722. STUDENT EDUCATION INCENTIVE CONTRACT. (1) It is hereby declared that it is in the public interest to encourage and assist talented graduates of Idaho secondary schools who wish to pursue a teaching career within this state to enroll in an Idaho postsecondary institution.

(2) Any student may sign a contract to waive all full-time undergraduate education, facility and activity fees at any Idaho institution of higher learning who:

(a) Has graduated from a secondary school in Idaho within the

previous two (2) years; and

(b) Is academically situated within the upper fifteen per cent (15%) of his graduating class based on a ranking of all students in that class according to grade point average or has earned a cumulative grade point average of 3.0 or higher; and

(c) Will maintain full-time student status and shall maintain a grade point average of 3.0 or better in the first two (2) semesters and shall maintain a grade point average of 3.0 or better for the remaining semesters; and

(d) Will pursue a program of study which will qualify the student to receive an Idaho teaching certificate upon completion of his studies; and

(e) Will pursue a career of teaching school within the state of Idaho for a minimum of two (2) years, which time requirement will commence upon obtaining a teaching position.

(3) Availability of student education incentive contracts will be limited to sixteen (16) each year, with three (3) to be let by the University of Idaho, three (3) by Boise State University, three (3) by Idaho State University, three (3) by Lewis Clark State College, two (2) by North Idaho College and two (2) by College of Southern Idaho.

(a) Priority for awarding contracts will be based on the applicant's academic rank within his graduating class and upon his financial need, in that order.

(b) The length of each contract shall not exceed a maximum of eight (8) years, and the beginning date and expiration date shall be specified in each contract.

(4) The student loan office of each institution of higher learning is directed to administer the provisions of this section, including the supplying of all necessary forms and the verifying, before each registration and at the expiration of the contract, of each person's compliance with the terms of the contract.

(5) Any violation of the terms of the contract shall obligate the person to repay all fees which the person as a student was allowed to waive, as determined by the affected institution.

(6) Each affected institution shall in its preparation of future budgets include therein costs resultant from fee loss for reimbursement from appropriations of state funds.

Approved April 4, 1988.

CHAPTER 310
(S.B. No. 1527, As Amended in the House)

AN ACT

RELATING TO THE LEASING OF HOSPITAL PROPERTY; AMENDING SECTION 31-836, IDAHO CODE, TO PROVIDE FOR THE LEASING OF PORTIONS OF A HOSPITAL, OR LAND CONTIGUOUS TO THE HOSPITAL, AND TO PROVIDE THAT A LEASE MAY EXTEND FOR UP TO TWENTY YEARS.

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

SECTION 1. That Section 31-836, Idaho Code, be, and the same is hereby amended to read as follows:

31-836. LEASE OF COUNTY PROPERTY. Except as otherwise provided by law, the board of county commissioners may lease any property belonging to the county for a term not exceeding five (5) years at such rental as may be determined upon by the unanimous vote of such board, or said board may in its discretion lease any property belonging to the county at public auction to the highest bidder, and may enter into such leasing contracts as may be provided for by order of the board, and as herein limited; such rents shall be paid annually in advance provided, however, that the provision requiring the payment of rent in advance shall not apply to a lease to the federal or state government, a municipal corporation of this state, or any governmental agency or department; provid~~i~~nged, however, that any hospital or hospital grounds or portions thereof to be used in conjunction with hospital operations or hospital equipment belonging to the county may be leased for a term not exceeding twenty (20) years; and, provided further, that the county, either as lessor or lessee, may enter into any lease or other transaction concerning any property with the Idaho health facilities authority for any term not to exceed ninety-nine (99) years. Provided that the board of county commissioners may lease any property belonging to the county and not necessary for its use to any nonprofit corporation or association organized for the purpose of erecting and maintaining thereon any play field, recreation park or stadium to serve as a memorial to the deceased soldiers, sailors and marines of World War II, or to any hospital district organized under title 39, chapter 13, Idaho Code, for use in furthering the purposes of said district. Such lease may be for any term not to exceed ninety-nine (99) years, may provide for only a nominal rental to the county and will, by its provisions, terminate when the property so leased ceases to be used as a play field, recreation park or stadium serving as a memorial, or by the hospital district for its purposes.

Approved April 4, 1988.

CHAPTER 311
(S.B. No. 1541)

AN ACT

RELATING TO THE CONSTRUCTION AND MAINTENANCE OF WELLS; AMENDING SECTION 42-233, IDAHO CODE, TO PROVIDE THAT SURETY OR CASH BONDS SHALL REMAIN IN EFFECT FOR ONE YEAR AFTER A WELL IS DRILLED, REDRILLED, MODIFIED OR DEEPENED OR UNTIL RELEASED IN WRITING BY THE DIRECTOR, WHICHEVER OCCURS FIRST, AND TO PROVIDE THAT THE BONDING PROVISIONS ARE NOT REQUIRED FOR CERTAIN LOW TEMPERATURE GEOTHERMAL WELLS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-233, Idaho Code, be, and the same is hereby amended to read as follows:

42-233. LOW TEMPERATURE GEOTHERMAL RESOURCE. (1) The right to the use of low temperature geothermal resources of this state shall be acquired by appropriation. The appropriation may be perfected by means of the application, permit and license procedure as provided in this chapter for ground water, provided that low temperature geothermal resources shall be utilized primarily for heat value and secondarily for the value as water. Usage of a low temperature geothermal resource primarily for reasons other than heat value is not a beneficial use of the resource, unless the director of the department of water resources exempts the proposed use. The director may exempt a proposed use if the director finds that the proposed use satisfies the following criteria: (i) there is no feasible alternative use of the resource; (ii) there is no economically viable source of water having a bottom hole temperature of eighty-five (85) degrees or less in a well available; and (iii) the exemption is in the public interest.

(2) Any owner of a well who engages in the drilling, redrilling, modifying or deepening~~, maintaining or abandoning~~ of any low temperature geothermal well shall file with the director of the department of water resources a surety bond or cash bond in the penal sum of not less than five thousand dollars ($5,000) or more than twenty thousand dollars ($20,000) as determined by the director of the department of water resources based on the temperature, depth and pressure of the resource, the size and depth of the well, and any other relevant factors. The surety or cash bond shall be conditioned upon the proper compliance with the provisions of this chapter and chapter 40, title 42, Idaho Code, and rules and regulations promulgated pursuant thereto. The bond shall remain in effect ~~until the well is properly abandoned by the owner~~ for one (1) year following completion of drilling, redrilling, modifying or deepening of the well or until released in writing by the director, whichever occurs first.

(3) All permits, licenses, decreed rights and valid claims to a right to the use of ground water which would be classified as a low temperature geothermal resource having a priority date prior to July 1, 1987, remain valid and the bond provisions of subsection (2) of this section are not applicable unless the well from which the right diverts water is modified or deepened. The provisions of this section shall not be applicable to all permits, licenses and rights to the use of geothermal resources as defined in chapter 40, title 42, Idaho Code, which would be classified as a low temperature geothermal resource under this section, issued or proclaimed prior to July 1, 1987, and the bond provisions of subsection (2) of this section are not applicable to such wells.

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

Approved April 4, 1988.

CHAPTER 312
(S.B. No. 1556)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH/COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 1989; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho to be expended for the Agricultural Research/Cooperative Extension Service Program the following amount from the listed accounts, for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$11,914,300
Hatch Account	1,351,100
Regional Research Account	531,700
Farm Safety Account	20,000
Smith-Lever Account	2,234,700
Interagency Billing and Receipts Account	186,600
TOTAL	$16,238,400

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Agricultural Research/Cooperative Extension Service Program, any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 269, Laws of 1987, to be used for nonrecurring expenditures only for the period of July 1, 1988, through June 30, 1989.

Approved April 4, 1988.

CHAPTER 313
(S.B. No. 1558)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING ACCOUNT TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSES SPECIFIED; APPROPRIATING MONEYS FROM THE PUBLIC BUILDING ACCOUNT TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSE SPECIFIED; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED BY THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AUTHORIZING THE USE OF TAX ANTICIPATION NOTES; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the Permanent Building Account to the Permanent Building Fund Advisory Council and the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of the following buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, named and listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Account for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

A. PREVENTIVE MAINTENANCE PROJECTS:	
Office of the Governor:	
Commission for the Blind	$ 55,000
Military Division	152,000
Department of Agriculture	37,000
Department of Correction	459,700
State Board of Education	2,004,700
Department of Health and Welfare	1,756,500
Department of Parks and Recreation	153,000
Department of Lands	72,000
Department of Administration:	
Asbestos Abatement	750,000
Contingency	100,000
SUBTOTAL	$5,539,900
B. CONTINUE PROJECTS APPROVED IN SECTION 2, CHAPTER 335, LAWS OF 1986.	$ 488,200
C. DEPARTMENT OF CORRECTION:	
South Idaho Correctional Institution - Boise, Kitchen Renovation	$ 300,000
D. STATE BOARD OF EDUCATION:	
School for the Deaf and Blind, Bond Payment	$1,150,000
Idaho State University, College of Pharmacy Remodel	2,290,000
Lewis-Clark State College, Library Construction Documents	125,000
North Idaho College, Library	150,000
College of Southern Idaho, Development Center	300,000
Office of the State Board of Education, Statewide Telecommunications System	935,000
E. DEPARTMENT OF HEALTH AND WELFARE:	
State Hospital South, Remodel Treatment Units	$ 300,000
State Youth Services Center, Completion of Serious	

Juvenile Offender Building	230,000
GRAND TOTAL	$11,808,100

SECTION 2. There is hereby appropriated from the Public Building Account $15,000, or so much thereof as may be necessary, to the Permanent Building Fund Advisory Council and the Division of Public Works for Capitol Building Handicap Access.

SECTION 3. 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 4. 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 5. 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 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1988.

CHAPTER 314
(H.B. No. 553, As Amended in the Senate)

AN ACT

RELATING TO SALES TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3634A, IDAHO CODE, TO PROVIDE FOR AGREEMENTS FOR EXCHANGE OF INFORMATION BETWEEN THE STATE TAX COMMISSION AND THE IDAHO TRANSPORTATION DEPARTMENT.

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 63-3634A, Idaho Code, and to read as follows:

63-3634A. AUTHORITY TO ENTER AGREEMENTS. Notwithstanding the provisions of section 63-3634 or 63-3076, Idaho Code, relating to confidentiality, the state tax commission may enter into a written agreement with the Idaho transportation department providing for exchange of information as both the commission and the department may find necessary to implement the letter and intent of this chapter or the laws relating to the registration of motor vehicles in this state. The state tax commission is not authorized by this section to disclose any financial information from any tax return filed with the tax commission other than whether or not an individual filed a resident or nonresident return.

Approved April 4, 1988.

CHAPTER 315
(H.B. No. 574)

AN ACT

RELATING TO THE CIRCUIT BREAKER TAX REDUCTION; AMENDING SECTION 63-117, IDAHO CODE, TO DEFINE "NONHOUSEHOLD MEMBER" FOR PURPOSES OF EXCLUDING CERTAIN PERSONS FROM DETERMINATION OF THE HOUSEHOLD INCOME; AND AMENDING SECTION 63-119, IDAHO CODE, TO PROVIDE FOR VERIFICATION OF NONHOUSEHOLD MEMBER STATUS.

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

SECTION 1. That Section 63-117, Idaho Code, be, and the same is hereby amended to read as follows:

63-117. DEFINITIONS. As used in sections 63-117 through and including 63-125, Idaho Code:

(a) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code (as defined by section 63-3004, Idaho Code), alimony, support money, income from inheritances, nontaxable strike benefits, the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, state unemployment insurance laws, and veterans' disability pensions and compensation), nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities, workmen's compensation and the gross amount of "loss of earnings" insurance. It does not include capital gains, gifts from nongovernmental sources, inheritances, or medical expenses as defined by section

213(e)(1)(A)(B) of the Internal Revenue Code, incurred by the household. Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed.

(b) "Household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, and accommodations and expenses. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(c) "Nonhousehold member" means any nonspouse who lives in the claimant's dwelling for the purpose of providing protective oversight, caregiving, or personal care services to the claimant.

(d) "Household income" means all income received by all persons of a household in a calendar year while members of the household.

(de) "Homestead" means the dwelling, owned by the claimant and occupied by the persons of a household ats their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multi-dwelling or multi-purpose building and part of the land upon which it is built. ("Owned" includes a vendee in possession under a land contract and of one or more tenants in common). It does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(ef) "Claimant" means a person who has filed a claim under the provisions of sections 63-117 through and including 63-125, Idaho Code. To be eligible to file a claim, a person must have been domiciled in this state during the calendar year immediately preceding the year in which his claim was filed, and must have owned a homestead, evidenced by proof of taxes levied, in this state during the calendar year immediately preceding the year in which his claim was filed, and:

(i) must be not less than sixty-five (65) years old on January 1 of the year in which his claim was filed, or

(ii) a fatherless child under the age of eighteen (18) years of age, or

(iii) a widow or widower, or

(iv) a disabled person who is receiving disability benefits pursuant to 42 USCA 423, 45 USCA 228, 45 USCA 231, or 5 USCA 8337, or

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

(vi) a person as specified in 42 USCA 1701 who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage, or otherwise, or

(vii) blind.

SECTION 2. That Section 63-119, Idaho Code, be, and the same is hereby amended to read as follows:

63-119. PROCEDURE FOR FILING CLAIMS. (1) Any claim filed shall be

signed by the claimant. By signing such claim, the claimant shall attest to the truth of such claim, and shall be subject to the penalties provided by section 18-5401, Idaho Code, for stating as true any material fact known to be false. All claims shall be made on forms prescribed by the tax commission and shall be in triplicate. One (1) copy of the form shall be provided to the claimant, one (1) copy shall be kept for all county purposes, and one (1) copy shall be forwarded to the tax commission with the property tax reduction roll.

(2) By filing a claim under the provisions of sections 63-117 through and including 63-125, Idaho Code, a claimant does not relinquish any right he or any member of his household may have to tax exemption under section 63-105BB, Idaho Code. A county board of equalization may grant any such claimant, or any member of his household, an exemption under such section, if a claim has been filed under the provisions of sections 63-117 through and including 63-125, Idaho Code.

(3) If two (2) or more individuals of a household are able to meet the qualifications of a claimant, they may decide between themselves who may obtain a reduction in taxes under the provisions of sections 63-117 through and including 63-125, Idaho Code, but if they do not decide between themselves, then the reduction shall be divided equally among or between the claimants in the household.

(4) A claimant who requests nonhousehold member status for any nonspouse residing in the dwelling must provide a statement from the attending physician, verifying that the claimant would not be able to maintain residency in the dwelling in the absence of the nonhousehold member.

Approved April 4, 1988.

CHAPTER 316
(H.B. No. 603)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1420, IDAHO CODE, TO COORDINATE BUDGET REQUESTS AND LEVY LIMITATIONS OF FIRE PROTECTION DISTRICTS WITH THE REQUIREMENTS OF SECTION 63-2220, IDAHO CODE.

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

SECTION 1. That Section 31-1420, Idaho Code, be, and the same is hereby amended to read as follows:

31-1420. LEVY. Each year, immediately prior to the annual county levy of taxes, the board of commissioners of each fire protection district, organized and existing under this act, may levy a tax upon all the taxable property within the boundaries of such district sufficient to defray the cost of equipping and maintaining the district, not

exceeding sixteen hundredths percent (.16%) of market value for assessment purposes, provided, districts having a population in excess of two thousand five hundred (2,500) may levy a total tax of twenty-four hundredths percent (.24%) of market value for assessment purposes, to be used for the purposes of this act and for no other purpose. The levy shall be made by resolution entered upon the minutes of the board of commissioners of the fire protection district, and it shall be the duty of the secretary of the district, immediately after entry of the resolution in the minutes, to transmit to the county auditor, county assessor and state board of equalization certified copies of the resolution providing for such levy. Said taxes shall be collected as provided by section 63-918, Idaho Code.

If two (2) or more fire protection districts consolidate into one (1) district, the provisions of section 63-2220, Idaho Code, shall not apply to the consolidated district's budget request during the first tax year following consolidation, and ~~the budget request of the fire protection district resulting from such consolidation for the first fiscal year following such consolidation shall not exceed the greater of:~~

~~(a) The sum of the dollar amount of ad valorem taxes certified by each of the districts for the current fiscal year, which combined amounts may be increased by a growth factor of not to exceed five percent (5%); or~~

~~(b) The dollar amount of ad valorem taxes certified for the current fiscal year by the fire protection district with the higher levy, to which may be added an amount determined by applying~~ the current year tax rate of the district with the higher levy ~~to the market value for assessment purposes~~ of any other fire protection district being consolidated~~, which combined amounts may be increased by a growth factor of not to exceed five percent (5%)~~ shall be the rate used for the purposes of section 63-2220(1)(i), Idaho Code.

If a fire protection district annexes territory, the provisions of section 63-2220, Idaho Code, shall not apply to that fire protection district's budget request during the first tax year following annexation, and the ~~budget request of that fire protection district for the first fiscal year following such annexation shall not exceed the dollar amount of ad valorem taxes certified for the current fiscal year by that district, to which may be added an amount determined by applying the~~ current year tax rate of the annexing district ~~to the market value for assessment purposes of the annexed territory, which combined amounts may be increased by a growth factor of not to exceed five percent (5%)~~ shall be the rate used for the purposes of section 63-2220(1)(i), Idaho Code.

Approved April 4, 1988.

CHAPTER 317
(H.B. No. 679)

AN ACT

RELATING TO THE STATE FIRE MARSHAL; AMENDING SECTION 41-256, IDAHO CODE, TO EXPAND THE DEFINITION OF ASSISTANTS TO STATE FIRE MARSHAL TO INCLUDE THE COUNTY FIRE CHIEF OR HIS DEPUTY.

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

SECTION 1. That Section 41-256, Idaho Code, be, and the same is hereby amended to read as follows:

41-256. ASSISTANTS TO STATE FIRE MARSHAL. The chief of the fire department, or his deputy, of every city or county, or fire protection district organized under state law in which a fire department is established, and in areas where no organized fire department exists the county sheriff, or his deputy, shall be assistants to the state fire marshal in carrying out the provisions of the uniform fire code and such other regulations as set forth by the fire marshal.

Approved April 4, 1988.

CHAPTER 318
(H.B. No. 704)

AN ACT

RELATING TO RESIDENTIAL IMPROVEMENTS EXEMPT FROM AD VALOREM TAXATION; AMENDING SECTION 63-105DD, IDAHO CODE, TO PROVIDE CONDITIONS WHEN AN OWNER OF REAL PROPERTY WITH RESIDENTIAL IMPROVEMENTS NEEDS TO MAKE ONE APPLICATION FOR THE TAX EXEMPTION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-105DD, Idaho Code, be, and the same is hereby amended to read as follows:

63-105DD. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS. (1) During the tax year 1983 and each year thereafter, the first fifty thousand dollars ($50,000) of the market value for assessment purposes of residential improvements, or fifty percent (50%) of the market value for assessment purposes of residential improvements, whichever is the lesser, shall be exempt from ad valorem taxation.

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

(a) The residential improvements are owner-occupied and used as the primary dwelling place of the owner as of January 1;

(b) The tax commission has certified to the board of county commissioners that all properties in the county which are subject to

appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) That the residential improvements are his primary dwelling place; and

(iii) That he has not made application in any other county for the exemption, and has not made application for the exemption on any other residential improvements in the county.

(3) ~~The requirement for an owner to apply for the exemption is waived if that owner received the exemption during the previous year, and the county assessor is reasonably assured that the owner still occupies the same residential improvements. In all other situations, the owner must apply for the exemption as otherwise required by this section.~~ An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.

(b) The owner still occupies the same residential improvements for which he made application.

(c) The residential improvements described in subsection (3)(b) of this section are owner-occupied and used as the primary dwelling place of the owner as of January 1.

(4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-117 through 63-125, Idaho Code, is applied.

(5) The legislature declares that this exemption is necessary and just.

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, 1988.

Approved April 4, 1988.

CHAPTER 319
(H.B. No. 724)

AN ACT

RELATING TO CIGARETTE TAX; AMENDING SECTION 63-2512, IDAHO CODE, TO DELETE A CIVIL PENALTY IN THE AMOUNT OF FIFTY TIMES THE AMOUNT OF CIGARETTE TAX FOUND DUE IF A WHOLESALER OR RETAILER HAS LESSENED THE TAX DUE ON CIGARETTES HANDLED BY SUCH PERSON, CLARIFYING OTHER

PENALTY PROVISIONS, AND PROVIDING THAT THE PROVISIONS OF THIS ACT SHALL BE APPLICABLE TO MATTERS PENDING BEFORE THE STATE TAX COMMISSION OR THE COURTS OF THIS STATE ON THE EFFECTIVE DATE OF THIS ACT.

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

SECTION 1. That Section 63-2512, Idaho Code, be, and the same is hereby amended to read as follows:

63-2512. PENALTIES. The penalties herein prescribed are not intended as exclusive, but are in addition and supplemental to any and all other existing remedies and procedures prescribed by law for the enforcement of the revenue laws of this state.

(a) ~~Any wholesaler or retailer who shall, by any device or method, lessen the tax due on the cigarettes handled by him, shall, in addition to the tax found due, be assessed as a civil penalty, by the state tax commission, fifty (50) times the amount of the tax found due.~~

~~(b)~~ Any person who shall forge or counterfeit an Idaho cigarette stamp shall be guilty of a felony and upon conviction thereof shall be punished in accordance with the provisions of the criminal code, and additionally shall be ineligible to have issued him or to hold any state license or permit to sell or vend goods or merchandise of any kind or type, or to be employed by or work in any manner for any person who sells cigarettes for a period of five (5) years thereafter.

(~~c~~b) The possession by any person of more than ten (10) packages of cigarettes without Idaho cigarette stamps is a misdemeanor. Any person upon conviction shall be subject to a fine of five dollars ($5.00) for each full or partial package of unstamped cigarettes in his possession in excess of ten (10), but the maximum punishment for each offense shall not exceed a fine of three hundred dollars ($300) or imprisonment in the county jail or both.

(~~d~~c) ~~All violations of the provisions of this chapter, including~~ ~~f~~Failure to possess a valid permit, as required by section 63-2503, Idaho Code, shall be punishable by the imposition of civil penalties at the rate of twenty-five dollars ($25.00) per day, per violation, and such penalty shall be assessed and collected, as provided in section 63-2516, Idaho Code.

(~~e~~d) ~~In addition to the sanctions imposed elsewhere in this chapter, a~~All violations of the provisions of this chapter for which criminal penalties are not otherwise imposed shall be misdemeanors and punishable in accordance with the provisions of the criminal code.

(e) The provisions of this act shall be applicable to all proceedings pending before the state tax commission, the board of tax appeals, or the courts of this state on the effective date of this act.

Approved April 4, 1988.

CHAPTER 320
(H.B. No. 730)

AN ACT

RELATING TO NOXIOUS WEEDS; AMENDING SECTION 22-2453, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO PROVIDE A PROPER REFERENCE FOR TAX PURPOSES.

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

SECTION 1. That Section 22-2453, Idaho Code, be, and the same is hereby amended to read as follows:

22-2453. SOURCE OF FUNDS OF COUNTY CONTROL AUTHORITIES. (1) The board of county commissioners of each county in this state may levy annually upon all taxable property of said county a tax for the control of noxious weeds to be collected and apportioned to the county noxious weed fund, which levy shall not exceed ~~.0006 on each one hundred dollars ($100)~~ six hundredths per cent (.06%) of the market value for assessment purposes of said property in said county, and which levy shall be exempt from the provisions of sections 63-923 and 63-2220, Idaho Code.

(2) The board of county commissioners may utilize any other methods or local options that may be available to them for the purpose of funding a coordinated noxious weed control program on the county level.

(3) Any monies received by the county control authority under this chapter shall be apportioned to the county noxious weed fund and shall be accounted for as prescribed by the county auditor.

Approved April 4, 1988.

CHAPTER 321
(H.B. No. 745)

AN ACT

RELATING TO DAMAGES TO PROPERTY CAUSED BY WILD ANIMALS AND BIRDS; AMENDING SECTION 36-1107, IDAHO CODE, AS AMENDED BY SECTION 1, SENATE BILL NO. 1338, SECOND REGULAR SESSION, FORTY-NINTH IDAHO LEGISLATURE, TO PROVIDE THAT THE DIRECTOR MAY DELEGATE THE AUTHORITY CONFERRED BY THE SECTION, TO PROVIDE THAT THE DIRECTOR MAY MAKE A DESIGNATION, TO PROVIDE THAT THE DIRECTOR MAY MAKE AN AGREEMENT FOR COMPENSATION AND TO PROVIDE A LIMITATION ON COMPENSATION, TO PROVIDE FOR APPLICABILITY OF THE SECTION, TO PROVIDE FOR NOTIFICATION OF DAMAGES, TO PROVIDE FOR ISSUANCE OF A PERMIT, TO PROVIDE FOR ALTERNATE SOLUTIONS, AND TO PROVIDE FOR REVIEW OF DISAGREEMENTS AND PAYMENT OF COSTS.

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

SECTION 1. That Section 36-1107, Idaho Code, as amended by Section 1, Senate Bill No. 1338, Second Regular Session, Forty-ninth Idaho Legislature, be, and the same is hereby amended to read as follows:

36-1107. WILD ANIMALS AND BIRDS DAMAGING PROPERTY. Other provisions of this title notwithstanding, any person may control, trap, and/or remove any wild animals or birds or may destroy the houses, dams, or other structures of furbearing animals for the purpose of protecting property from the depredations thereof as hereinafter provided.

The director may delegate any of the authority conferred by this section to any other employee of the department.

(a) Director to Authorize Removal of Wildlife Causing Damage. When any wildlife, protected by this title, is doing damage to or is destroying any property or is likely to do so, the owner or lessee thereof may make complaint and report the facts to the director or his designee who shall investigate the conditions complained of. If it appears that the complaint is well-founded and the property of such complainant is being or is likely to be damaged or destroyed by any such wildlife protected under this title, the director may:

1. Send a representative onto the premises to control, trap, and/or remove such protected wildlife as will stop the damage to said property. Any animals or birds so taken shall remain the property of the state and shall be turned over to the director.
2. Grant properly safeguarded permission to the complainant to control, trap and/or remove such protected wildlife or to destroy any houses, dams, or other structures erected by said animals or birds. Any protected wildlife so taken shall remain the property of the state and shall be turned over to the director.
3. Whenever deemed to be in the public interest, authorize or cause the removal or destruction of any dam, house, structure or obstruction erected by any furbearing animals, provided that no liability whatever shall accrue to the department or the director by reason of any direct or indirect damage arising from such destruction or removal.
4. Issue a permit to any bona fide owner or lessee of property which is being actually and materially damaged by furbearing animals, to trap or kill or to have trapped or killed such animals on his own or leased premises. Such permit may be issued without cost to a landholder applicant and shall designate therein the number of furbearing animals that may be trapped or killed, the name of the person who the landowner has designated to take such furbearers and the valid trapping license number of the taker. Furbearers so taken shall be the property of the taker. Beaver so taken shall be handled in the manner provided in section 36-1104, Idaho Code. The term "premises" shall be construed to include any irrigation ditch or right-of-way appurtenant to the land for which said permit is issued.
5. Make an agreement with the landowner or lessee to allow continued use by wildlife where damage by deer or elk has occurred on

privately owned crops to be mechanically harvested. This agreement may be transacted only after department attempts to resolve the problem by other means have proven unsuccessful. Financial compensation to any landowner or lessee shall not exceed two thousand dollars ($2,000) annually and shall not be in addition to any payments for crop losses from any other sources.

The provisions of this section are not applicable on privately owned lands that were closed to public hunting during the previous hunting season, except for land closures which were coordinated with the department to protect property and livestock. Damages considered under this section shall be only damages caused by wildlife.

Persons suffering crop damages on privately owned land caused by deer or elk must notify the department regional office within seventy-two (72) hours after noticing such damage and shall cooperate fully with the department in solving such problems.

If no action is initiated by regional personnel within ten (10) days of receiving a written complaint, the director shall issue a permit under the provisions of subsection (a)2. of this section to the landowner or lessee to assist in alleviating the damage. If the depredation problem persists, the complainant may request an alternate solution.

If there is disagreement as to whether the complaint is well founded, it shall be reviewed by a committee consisting of one (1) member of the fish and game department, the landowner, and a third member agreed to by the other two (2) members. Costs of necessary inspection shall be borne by the fish and game department.

(b) Control of Depredation of Bear, Mountain Lion, and Predators. Bear, mountain lion, and predators may be disposed of by livestock owners or their employees when same are molesting livestock and it shall not be necessary to obtain any permit from the department. Mountain lion so taken shall be reported to the director. Livestock owners may take steps they deem necessary to protect their livestock.

(c) Taking of Muskrats in Irrigation Systems Authorized. Muskrats may be taken at any time in or along the banks of irrigation ditches, canals, reservoirs or dams, by the owners, their employees, or those in charge of said irrigation ditches or canals.

Approved April 4, 1988.

CHAPTER 322
(S.B. No. 1450)

AN ACT

RELATING TO FOREST SABOTAGE; AMENDING CHAPTER 46, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-4631, IDAHO CODE, TO PROVIDE THAT MALICIOUSLY DRIVING OR PLACING IRON, STEEL, CERAMIC, OR OTHER HARD SUBSTANCES INTO TREES OR OTHER LOGGING MATERIAL WHILE KNOWING THAT THE TREE IS TO BE HARVESTED OR MANUFACTURING OF LUMBER OR WOOD PRODUCTS IS INTENDED, IS A FELONY.

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

SECTION 1. That Chapter 46, 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 18-4631, Idaho Code, and to read as follows:

18-4631. FOREST SABOTAGE -- PENALTY. (1) Every person who maliciously drives or places, in any tree, saw-log, shingle-bolt or other wood, any iron, steel, ceramic, or other substance sufficiently hard to injure saws, knowing that the tree is intended to be harvested or that the saw-log, shingle-bolt, or other wood is intended to be manufactured into any kind of lumber or other wood product, is guilty of a felony.

(2) Any person who violates the provisons of subsection (1) of this section and causes great bodily injury to another person other than an accomplice shall be sentenced to an extended term of imprisonment pursuant to section 19-2520B, Idaho Code.

Approved April 4, 1988.

CHAPTER 323
(S.B. No. 1468)

AN ACT

RELATING TO THE POWER TO GRANT RESPITES, REPRIEVES, COMMUTATIONS AND PARDONS; AMENDING SECTION 20-240, IDAHO CODE, TO PROVIDE ADDITIONAL CONDITIONS FOR GRANTING COMMUTATIONS AND PARDONS.

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

SECTION 1. That Section 20-240, Idaho Code, be, and the same is hereby amended to read as follows:

20-240. RESPITES, REPRIEVES, COMMUTATIONS AND PARDONS — TREASON OR IMPEACHMENT. The governor shall have power to grant respites or reprieves in all cases of convictions for offenses against the state, except treason or imprisonment on impeachment, but such respites or reprieves shall not extend beyond the next session of the commission; and such commission shall at such session continue or determine such respite or reprieve, or may commute or pardon the offense as herein provided. In cases of conviction of treason, the governor shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence, direct its execution or grant a further reprieve. The commission shall have full and final authority to grant commutations and pardons except with respect to sentences for murder, voluntary manslaughter, rape, kidnapping, lewd and lascivious conduct with a minor child, and manufacture or delivery of controlled substances. The commission shall conduct

commutation and pardon proceedings pursuant to rules and regulations adopted in accordance with law and may attach such conditions as it deems appropriate in granting pardons or commutations. With respect to commutations and pardons for the offenses named above, the commission's determination shall only constitute a recommendation subject to approval or disapproval by the governor. No commutation or pardon for such named offenses shall be effective until presented to and approved by the governor. Any commutation or pardon recommendation not so approved within thirty (30) days of the commission's recommendation shall be deemed denied.

Approved April 4, 1988.

CHAPTER 324
(S.B. No. 1524)

AN ACT

RELATING TO TORT CLAIMS; AMENDING SECTION 6-904, IDAHO CODE, TO STRIKE CERTAIN EXCEPTIONS TO GOVERNMENTAL LIABILITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 9, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-904A, IDAHO CODE, TO PROVIDE FOR EXCEPTIONS TO GOVERNMENTAL LIABILITY; AMENDING CHAPTER 9, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-904B, IDAHO CODE, TO PROVIDE EXCEPTIONS TO GOVERNMENTAL LIABILITY; AND AMENDING CHAPTER 9, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-904C, IDAHO CODE, TO PROVIDE DEFINITIONS.

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

SECTION 1. That Section 6-904, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

2. ~~Arises--out-of-the-assessment-or-collection-of-any-tax-or-fee, or-the-detention-of-any-goods-or-merchandise-by--any--law--enforcement officer.~~

~~3.~~ Arises out of the imposition or establishment of a quarantine by a governmental entity, whether such quarantine relates to persons or property.

~~4~~3. Arises out of assault, battery, false imprisonment, false

arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

~~5~~4. Arises out of the activities of the Idaho national guard when engaged in training or duty under sections 316, 502, 503, 504, 505 or 709, title 32, United States Code.

~~6~~5. Arises out of the activities of the Idaho national guard when engaged in combatant activities during a time of war.

~~7~~6. Arises out of or results from riots, unlawful assemblies, public demonstrations, mob violence or civil disturbances.

~~8~~7. Arises out of a plan or design for construction or improvement to the highways, roads, streets, bridges, or other public property where such plan or design is prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design~~,~~ or approved in advance of the construction ~~or approved~~ by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.

~~9.--Arises out of the cancellation or recision, or the failure--to cancel--or--rescind, any motor vehicle registration and license plates for failure of the owner to verify or maintain motor vehicle liability insurance coverage.~~

SECTION 2. 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 6-904A, Idaho Code, and to read as follows:

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

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

2. Arises out of injury to a person or property by a person under supervision, custody or care of a governmental entity or by or to a person who is on probation or parole or any work-release program, or by or to a person receiving services from a mental health center, hospital or similar facility.

SECTION 3. That Chapter 9, Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 6-904B, Idaho Code, and to read as follows:

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

1. Arises out of the detention of any goods or merchandise by any law enforcement officer.

2. Arises out of the cancellation or recision, or the failure to

cancel or rescind, any motor vehicle registration and license plates for failure of the owner to verify or maintain motor vehicle liability insurance coverage.

3. Arises out of the issuance, denial, suspension or revocation of, or failure or refusal to issue, deny, suspend, or revoke a permit, license, certificate, approval, order or similar authorization.

4. Arises out of the failure to make an inspection, or the making of an inadequate inspection of any property, real or personal, other than the property of the governmental entity performing the inspection.

5. Arises out of any act or omission providing or failing to provide medical care to a prisoner, inmate or person in the custody of any city, county or state jail, detention center or correctional facility.

SECTION 4. 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 6-904C, Idaho Code, and to read as follows:

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

1. "Gross negligence" is the doing or failing to do an act which a reasonable person in a similar situation and of similar responsibility would, with a minimum of contemplation, be inescapably drawn to recognize his or her duty to do or not do such act and that failing that duty shows deliberate indifference to the harmful consequences to others.

2. "Reckless, willful and wanton conduct" is present only when a person intentionally and knowingly does or fails to do an act creating unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result.

Approved April 4, 1988.

CHAPTER 325
(S.B. No. 1283, As Amended)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING CHAPTER 2, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-204A, IDAHO CODE, BY SETTING OUT THE RIGHT TO INDEMNIFICATION AND THE REIMBURSEMENT OF EXPENSES, INCLUDING ATTORNEYS' FEES, FOR PAST AND PRESENT DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, AND THEIR HEIRS AND PERSONAL REPRESENTATIVES, IN CIVIL, CRIMINAL, ADMINISTRATIVE OR INVESTIGATIVE ACTIONS BROUGHT BY THIRD PARTIES WHEN SUCH PERSONS ACTED IN GOOD FAITH AND REASONABLY BELIEVED SUCH ACTION WAS IN THE BEST INTERESTS OF THE CORPORATION AS DETERMINED BY THE BOARD OF DIRECTORS, TO PROHIBIT INDEMNIFICATION IF NEGLIGENCE OR MISCONDUCT IS

FOUND UNLESS THE COURT DETERMINES OTHERWISE, TO PROVIDE THAT THE INDEMNIFICATION DECISION CAN BE MADE BY THE BOARD OR BY THE QUALIFIED ELECTORS, TO PROVIDE THAT EXPENSES MAY BE PAID IN ADVANCE, TO PROVIDE THAT THE INDEMNIFICATION PROVIDED BY THIS SECTION IS NOT EXCLUSIVE, TO ALLOW A DISTRICT TO MAINTAIN INSURANCE FOR THE DIRECTORS, OFFICERS AND EMPLOYEES OF THE DISTRICT, AND TO PROVIDE CONTINUATION OF INDEMNIFICATION FOR PAST DIRECTORS OR EMPLOYEES AND THEIR HEIRS AND ASSIGNS; AND AMENDING CHAPTER 2, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-204B, IDAHO CODE, TO PROVIDE THAT A DISTRICT MAY INCLUDE IN ITS BYLAWS A PROVISION LIMITING THE PERSONAL LIABILITY OF A DIRECTOR UNDER CERTAIN CIRCUMSTANCES .

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

SECTION 1. That Chapter 2, 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 43-204A, Idaho Code, and to read as follows:

43-204A. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS. (a) A district shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the district) by reason of the fact that he is or was a director, officer, employee or agent of the district, or is or was serving at the request of the district as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the district, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the district, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) A district shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the district to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the district, or is or was serving at the request of the district as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense

or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the district and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the district unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) To the extent that a director, officer, employee or agent of a district has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsection (a) or (b) hereof, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(d) Any indemnification under subsection (a) or (b) of this section (unless ordered by a court) shall be made by the district only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subsection (a) or (b). Such determination shall be made (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the qualified electors of the district.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal action, suit or proceeding may be paid by the district in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the district as authorized in this section.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to the other subsections of this section shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of qualified electors of the district or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office.

(g) A district shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the district, or is or was serving at the request of the district as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the district would have the power to indemnify him against such liability under the provisions of this section.

(h) The indemnification and advancement of expenses provided by, or granted pursuant to, this section shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, and personal representatives of such a person.

SECTION 2. That Chapter 2, 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 43-204B, Idaho Code, and to read as follows:

43-204B. BYLAW LIMITING DIRECTOR LIABILITY AUTHORIZED. The bylaws of the district may set forth a provision eliminating or limiting the personal liability of a director to the district or its qualified electors for monetary damages for breach of fiduciary duty as a director, provided that such provision shall not eliminate or limit the liability of a director:

(a) For any breach of the director's duty of loyalty to the district or its qualified electors.

(b) For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law.

(c) For any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective.

Approved April 6, 1988.

CHAPTER 326
(S.B. No. 1330, As Amended
As Amended in the House)

AN ACT

RELATING TO LOCAL IMPROVEMENT DISTRICTS; AMENDING CHAPTER 17, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1771, IDAHO CODE, TO PROVIDE FOR THE CREATION AND FUNDING OF A RESERVE FUND.

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

SECTION 1. That Chapter 17, 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 50-1771, Idaho Code, and to read as follows:

50-1771. RESERVE FUND AUTHORIZED. For the purpose of securing the payment of the principal of and interest on an issue of local improvement bonds, notes, warrants, or other short-term obligations, the council or other governing body of a governmental entity may create a

reserve fund for each obligation in addition to or in lieu of a guarantee fund. The reserve fund shall be separate and apart from any guarantee fund and in an amount not exceeding ten per cent (10%) of the principal amount of the bonds, notes, or warrants issued. The cost of a reserve fund may be included in the cost and expense of any local improvement for assessment against the property in the local improvement district to pay the cost, or any part thereof. The reserve fund may be funded from the proceeds of the bonds, notes, warrants, or other short-term obligations, from special assessment payments, or from any other money legally available therefor. Reserve fund balances in excess of ten per cent (10%) of the principal amount of the bonds outstanding shall be used to reduce the annual assessments of those participants in the respective local improvement district whose prior assessments have been paid. Whenever the reserve fund is insufficient to meet claims for payment of principal and interest against the reserve fund, the governmental entity may appropriate funds from such other legally available sources as may be determined by the council or governing body of such governmental entity.

Approved April 6, 1988.

CHAPTER 327
(S.B. No. 1345, As Amended in the House)

AN ACT

RELATING TO INSTRUCTIONS ON INCLUDED OFFENSES IN CRIMINAL CASES; AMENDING SECTION 19-2132, IDAHO CODE, TO SPECIFY WHEN A COURT IS REQUIRED TO INSTRUCT THE JURY ON LESSER INCLUDED OFFENSES, AND THE MANNER IN WHICH THE JURY SHALL CONSIDER THE CHARGED AND LESSER INCLUDED OFFENSES.

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

SECTION 1. That Section 19-2132, Idaho Code, be, and the same is hereby amended to read as follows:

19-2132. INSTRUCTIONS TO JURY -- REQUESTS -- INSTRUCTIONS ON INCLUDED OFFENSES. (a) In charging the jury, the court must state to them all matters of law necessary for their information. Either party may present to the court any written charge and request that it be given. If the court thinks it correct and pertinent, it must be given; if not, it must be refused. Upon each charge presented and given or refused, the court must indorse and sign its decision. If part be given and part refused, the court must distinguish, showing by the indorsement what part of the charge was given and what part refused.

(b) The court shall instruct the jury ~~on~~ with respect to a lesser included offenses~~--when--they are supported by any reasonable view of the evidence~~ if:

(1) Either party requests such an instruction; and

(2) There is a reasonable view of the evidence presented in the

case that would support a finding that the defendant committed such lesser included offense but did not commit the greater offense.

(c) If a lesser included offense is submitted to the jury for consideration, the court shall instruct the jury that it may not consider the lesser included offense unless it has first considered each of the greater offenses within which it is included, and has concluded in its deliberations that the defendant is not guilty of each of such greater offenses.

Approved April 6, 1988.

CHAPTER 328
(S.B. No. 1439)

AN ACT

RELATING TO EXTENDED SENTENCES; AMENDING SECTION 19-2520, IDAHO CODE, TO PROVIDE ADDITIONAL CRIMES WHICH ARE SUBJECT TO EXTENDED SENTENCES.

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

SECTION 1. That Section 19-2520, Idaho Code, be, and the same is hereby amended to read as follows:

19-2520. EXTENDED SENTENCE FOR USE OF FIREARM OR DEADLY WEAPON. Any person convicted of a violation of sections 18-905 (aggravated assault defined), 18-907 (aggravated battery defined), 18-909 (assault with intent to commit a serious felony defined), 18-911 (battery with intent to commit a serious felony defined), 18-1401 (burglary defined), 18-1508(3), 18-1508(4), 18-1508(5), 18-1508(6) (lewd conduct with minor or child under sixteen), 18-2501 (rescuing prisoners), 18-2505 (escape by one charged with or convicted of a felony), 18-2506 (escape by one charged with or convicted of a misdemeanor), 18-4003 (degrees of murder), 18-4006 (manslaughter), 18-4015 (assault with intent to murder), 18-4501 (kidnapping defined), 18-5001 (mayhem defined), 18-6101 (rape defined), or 18-6501 (robbery defined), Idaho Code, who displayed, used, threatened, or attempted to use a firearm or other deadly weapon while committing the crime, shall, be sentenced to an extended term of imprisonment. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by fifteen (15) years.

For the purposes of this section, "firearm" means any deadly weapon capable of ejecting or propelling one or more projectiles by the action of any explosive or combustible propellant, and includes unloaded firearms and firearms which are inoperable but which can readily be rendered operable.

The additional terms provided in this section shall not be imposed unless the fact of displaying, using, threatening, or attempting to

use a firearm or other deadly weapon while committing the crime is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at the trial of the substantive crime; provided, however, that the prosecutor shall give notice to the defendant of intent to seek an enhanced penalty at or before the preliminary hearing or before a waiver of the preliminary hearing, if any.

This section shall apply even in those cases where the use of a firearm is an element of the offense.

Approved April 6, 1988.

CHAPTER 329
(S.B. No. 1441)

AN ACT

RELATING TO SEXUAL ABUSE OF A CHILD; AMENDING SECTION 18-1506, IDAHO CODE, TO PROVIDE AN INCREASED MAXIMUM PENALTY.

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

SECTION 1. That Section 18-1506, Idaho Code, be, and the same is hereby amended to read as follows:

18-1506. SEXUAL ABUSE OF A CHILD UNDER THE AGE OF SIXTEEN YEARS. (1) Any person eighteen (18) years of age or older who shall:

(a) solicit a minor child under the age of sixteen (16) years to participate in a sexual act, or

(b) who shall cause or have sexual contact with such a child, not amounting to lewd conduct as defined by section 18-1508, Idaho Code, or

(c) make any photographic or electronic recording of the child, and where any of the acts are done with the intent to gratify the sexual desire of either party or a third party, shall be guilty of a felony and shall be imprisoned in the state prison for a period not to exceed fifteen (15) years.

(2) For the purposes of this section "solicit" means any offensive written, verbal, or physical act which is intended to communicate to the child the actor's desire to participate in a sexual act or participate in sexual foreplay, or the actor's desire to gratify lust by the means of photographing or observing the child engaged in sexual contact.

(3) For the purposes of this section "sexual contact" means any physical contact between the child and the actor, or between children which is caused by the actor, or the actor causing the child to have self contact, any of which is intended to gratify the lust or sexual desire of the actor or a third party.

Approved April 6, 1988

CHAPTER 330
(S.B. No. 1449, As Amended)

AN ACT

RELATING TO SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1307A, IDAHO CODE, TO LIMIT RULES, REGULATIONS AND MINIMUM STANDARDS WHICH MAY BE ADOPTED RELATING TO FOOD PURCHASING AND STORAGE; AND AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1307B, IDAHO CODE, TO LIMIT THE RULES, REGULATIONS AND MINIMUM STANDARDS WHICH MAY BE ADOPTED RELATING TO MINIMUM STAFFING REQUIREMENTS.

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

SECTION 1. That Chapter 13, 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 39-1307A, Idaho Code, and to read as follows:

39-1307A. FOOD PURCHASING AND STORAGE. Rules, regulations and minimum standards adopted by the board governing skilled nursing facilities or intermediate care facilities may provide requirements for food purchasing and storage, except that no rule, regulation or minimum standard may limit the maximum size of a container in which milk for drinking purposes may be purchased.

SECTION 2. That Chapter 13, 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 39-1307B, Idaho Code, and to read as follows:

39-1307B. MINIMUM STAFFING REQUIREMENTS. The board shall make no rule designed to limit the work activities of any person regularly assigned to duty as nursing or auxiliary personnel preceding the assignment within the facility governed by the rules, regulations and minimum standards of the board.

Approved April 6, 1988.

CHAPTER 331
(S.B. No. 1485)

AN ACT

RELATING TO COMMERCIAL FISHING; AMENDING SECTION 36-801, IDAHO CODE, TO DELETE REFERENCE TO WHITEFISH AND BLUEBACK SALMON AND TO ADD CRUSTACEA; AMENDING SECTION 36-802, IDAHO CODE, TO PROVIDE THAT THE COMMISSION MAY AUTHORIZE COMMERCIAL FISHING IN ALL WATERS OF THE STATE, TO DEFINE COMMERCIAL FISHING, TO REQUIRE A LICENSED

OPERATOR OR A LICENSED EMPLOYEE BE PRESENT WHENEVER COMMERCIAL GEAR IS OPERATED, LIFTED OR FISHED, AND TO INCREASE THE FEES FOR LICENSES AND TO PROVIDE FOR TAGS AND FEES FOR COMMERCIAL GEAR; AND AMENDING SECTION 36-803, IDAHO CODE, TO PROVIDE THAT NO PERSON MAY PURCHASE FISH OR CRUSTACEA COMMERCIALLY TAKEN FROM THE WATERS OF THE STATE EXCEPT FROM PERSONS LICENSED UNDER SECTION 36-802 OR 36-501(f), IDAHO CODE.

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

SECTION 1. That Section 36-801, Idaho Code, be, and the same is hereby amended to read as follows:

36-801. COMMERCIAL FISHING~~----WHITEFISH----BLUEBACK-SALMON~~. The taking of ~~whitefish and blueback-salmon-(kokanee)~~ crustacea for commercial purposes from any of the waters of the state of Idaho shall be unlawful except as hereinafter provided.

SECTION 2. That Section 36-802, Idaho Code, be, and the same is hereby amended to read as follows:

36-802. COMMERCIAL FISHING AUTHORIZED ~~ON-PEND-D'OREILLE-LAKE--AND RIVER-AND-CLARK-FORK-RIVER~~. The commission shall at such times and in such amounts as, through investigations it deems proper, allow commercial fishing for fish or crustacea in the waters under the jurisdiction of ~~Pend-d'Oreille-Lake,-Clark-Fork--River--below--Cabinet Gorge--Dam,-and-Pend-d'Oreille-River-above-Albeni-Falls-Dam~~ the state. Commercial fishing shall mean the taking or attempting to take fish or crustacea for the purpose of selling, bartering, exchanging, offering, or exposing for sale. ~~Any~~ No person~~,-before-engaging-in-such--commercial--fishing,~~ shall conduct, operate or manage a commercial fishing operation without obtaining a commercial fishing license and commercial gear tags from the director ~~a-commercial-whitefish-and-blueback salmon-license;-the~~ prior to engaging in such commercial fishing operation. Either the licensed commercial operator or a licensed employee must be present whenever the commercial gear is operated, lifted, or fished. The director shall charge for such license the sum of ~~ten~~ one hundred dollars ($100~~.00~~). Said license shall expire on June 30 next following date of issuance. Only persons who are residents of the state of Idaho shall be entitled to receive such license. The director shall charge the following fees for the commercial gear tags: for each crayfish or minnow trap, one dollar ($1.00); for each seine net one hundred (100) feet long or less, twenty-five dollars ($25.00); for each seine net longer than one hundred (100) feet, fifty dollars ($50.00); for each trawl net, fifty dollars ($50.00); and for each item of experimental gear approved by the commission, ten dollars ($10.00).

SECTION 3. That Section 36-803, Idaho Code, be, and the same is hereby amended to read as follows:

36-803. PURCHASE FROM OTHER THAN LICENSED FISHERMAN PROHIBITED.

No person shall purchase ~~whitefish~~ or ~~blueback salmon~~ crustacea taken from the waters of ~~Pend d'Oreille Lake and Pend d'Oreille and Clark Fork Rivers~~ the state except from a fisherman licensed as provided in either section 36-802 or section 36-501(f), Idaho Code.

Approved April 6, 1988.

CHAPTER 332
(S.B. No. 1526, As Amended)

AN ACT

RELATING TO MEDICAL INDIGENCY; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-874, IDAHO CODE, TO PROVIDE FOR CONFIDENTIALITY OF RECORDS AND PROCEEDINGS OF MEDICAL INDIGENTS; AMENDING SECTION 31-3502, IDAHO CODE, TO DEFINE "RESIDENCY" AND "RESIDENCE"; AMENDING SECTION 31-3506, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR DETERMINING AN OBLIGATED COUNTY FOR MEDICAL INDIGENCY; AMENDING SECTIONS 31-3404, 31-3405, 31-3406, 31-3407, 31-3504 AND 31-3505, IDAHO CODE, TO PROVIDE CODE REFERENCES; AND DECLARING AN EMERGENCY.

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 31-874, Idaho Code, and to read as follows:

31-874. CONFIDENTIALITY -- PROCEEDINGS AND RECORDS OF MEDICAL INDIGENTS. All proceedings and records related to medical indigency pursuant to the provisions of section 31-873, Idaho Code, and chapters 34 and 35, title 31, Idaho Code, shall be confidential and not subject to disclosure or to the provisions of sections 67-2340 through 67-2347, Idaho Code. All records containing patient identification shall be used only by county officials for a determination of medical indigency. Any person who wilfully or maliciously discloses the content of any record or the nature of any proceedings as described herein to any third party, except pursuant to a written authorization by the person who is the subject of the record or proceeding or by his or her guardian or conservator, or as otherwise authorized by law or order of a court of competent jurisdiction, shall be guilty of a misdemeanor.

SECTION 2. That Section 31-3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-3502. DEFINITIONS. As used in this chapter, and chapter 34, title 31, Idaho Code, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) "Medically indigent" means any person who is in need of hospitalization and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor, does not have income and other resources available to him from whatever source which shall be sufficient to enable the person to pay for necessary medical services. Nothing in this definition shall preclude the board of county commissioners from requiring medically indigent persons to reimburse the county for a portion of their medical expenses, when investigation of their application pursuant to chapters 34 and 35, title 31, Idaho Code, determines their ability to do so.

(2) "Hospital" means a facility licensed as such in Idaho providing community service for in-patient, medical and/or surgical care of acute illness or injury and/or obstetrics, and excluding state institutions.

(3) "Dependent" means any person whom a taxpayer could claim as a dependent under the income tax laws of the state of Idaho.

(4) "Reimbursement rates" mean the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended. For long-term care facilities, maximum "reimbursement rates" mean the unadjusted medicaid rate of reimbursement allowed pursuant to the medical assistance program as determined by chapter 1, title 56, Idaho Code, or the unadjusted medicare rate of reimbursement established under title XVIII of the social security act, as amended, whichever is greater.

(5) "Board" means the board of county commissioners.

(6) "Sick" means any person affected with disease or who is unable to care for himself and who does not have the means to provide for his own support, but who does not necessarily require the services of a hospital as defined in subsection (2) of this section.

(7) "Indigent" means any person who is destitute of property and unable to provide for the necessities of life.

(8) "County hospital" means any county approved institution or facility for the care of sick persons.

(9) "Administrator" means the administrator appointed by the counties, collectively, by a valid agreement under the joint exercise of powers act, sections 67-2326 through 67-2333, Idaho Code.

(10) "Catastrophic health care costs" mean all medical expenses for which an applicant for relief under this chapter or any third party are not liable and which are incurred by a recipient, and not paid for or reimbursed by third party payers, during any twelve (12) month period, which exceed in aggregate the sum of ten thousand dollars ($10,000), or a lesser amount as determined by the negotiated catastrophic insurance policy.

(11) "Recipient" means an individual determined eligible for county medical assistance under uniform county guidelines on indigent eligibility adopted by the administrator pursuant to law.

(12) "Residency" or "residence", as used in this chapter, means a physical presence with a domicile.

SECTION 3. That Section 31-3506, Idaho Code, be, and the same is hereby amended to read as follows:

31-3506. ~~DETERMINATION OF~~ OBLIGATED COUNTY. ~~Payment for hospitalization of a medically indigent individual shall be provided by the county in which such individual maintained a residence immediately preceding hospitalization or institutionalization. If such individual has not resided in any county of Idaho for a period of six (6) months within the five (5) years preceding hospitalization, then the county where the individual maintains a residence immediately preceding hospitalization shall be the obligated county. A husband's place of residence shall be deemed the place of residence of his wife and children, unless the husband's residence is out of state, in which case the place of residence of the wife in Idaho shall control. If a man maintains a family residence in one (1) county and maintains another residence in a different county for purposes of employment, the county where the family residence is maintained shall be deemed the man's place of residence.~~ Persons are not required to establish a time duration of residency in Idaho to become eligible for county medical assistance. The county obligated for payment shall be determined as follows:

(1) The obligated county for payment of pharmaceuticals for noninstitutionalized individuals shall be the county where the applicant currently resides.

(2) The obligated county for payment for individuals institutionalized in a shelter home, nursing home, hospital, or other medical facility, shall be as follows:

(a) The last county in which the applicant or head of household has maintained a residence for six (6) consecutive months or longer within the past five (5) years preceding application shall be obligated. If the applicant or head of household maintains another residence in a different county or state for purposes of employment, the county where the family residence is maintained shall be deemed the applicant's or head of household's place of residence.

(b) If an individual has not resided in any county for a period of six (6) months within the five (5) years preceding incurrence of medical costs for which counties have a responsibility in whole or in part, then the county where the applicant maintained a residence immediately preceding such incurrence shall be the obligated county.

(c) Active military duty, attendance at institutions of higher learning, or being admitted as a patient in a hospital, shelter home, nursing home, other medical facility or institution, shall not change the obligated county. The county obligated shall remain the same county that would have been obligated prior to institutionalization as above described.

SECTION 4. That Section 31-3404, Idaho Code, be, and the same is hereby amended to read as follows:

31-3404. APPLICATION FOR COUNTY AID. Except as provided in sections 31-873 and 31-3504, Idaho Code, any medically indigent, sick or otherwise indigent person desiring aid from any county of this state, shall before such aid can be given, make a written application to the

clerk of the board of county commissioners of the county where such applicant may reside, setting forth and describing all resources of the applicant; which application must be signed by the party or parties making such application and sworn to before some officer authorized by the laws of this state to administer oaths, and filed in the office of the clerk of the board of county commissioners not less than ten (10) days prior to admission to any health care facility or hospital: provided however, except in the case of an emergency or extreme necessity no person shall receive the benefit of this chapter who shall not have been a resident of the state of Idaho for at least one (1) year and of the county at least six (6) months next preceding the application for county aid.

An application for hospitalization for a medically indigent person shall be on a standard form provided by the board of county commissioners.

SECTION 5. That Section 31-3405, Idaho Code, be, and the same is hereby amended to read as follows:

31-3405. INVESTIGATION OF APPLICATION. Except as provided in section 31-873, Idaho Code, i~~t~~ is the duty of the clerk of the board of county commissioners, to whom such application is made, to immediately investigate, or cause to be investigated, the grounds of such application, and for such purpose he may require the person to submit to physical and mental examination to be performed by the county physician or by someone else approved by the county commissioners at the expense of the county, and require the person, and such other persons as may be deemed necessary, to testify under oath, and he shall file a statement of his findings with the board of county commissioners of such county. If said board of county commissioners is not to meet in regular session within ten (10) days of the date on which the application is filed, the clerk to whom said application is made may authorize the person to be hospitalized or placed in the county hospital or, if the county is not provided with a hospital, he may authorize said person to be placed in some other suitable institution, and he may authorize the expenditure of sums not exceeding two hundred dollars ($200) in the aggregate as may be necessary to provide for the hospitalization or immediate necessities of such person, and the bill for such hospitalization or expenditure shall be presented to the board of county commissioners, duly verified under oath, and the board must audit and pay such bill out of the proper fund of such county at their next regular session.

SECTION 6. That Section 31-3406, Idaho Code, be, and the same is hereby amended to read as follows:

31-3406. PROVISION FOR RELIEF. Except as provided in section 31-873, Idaho Code, t~~T~~he county commissioners of such county shall, after the filing of the application and findings of the clerk as aforesaid, if in their judgment the applicant is medically indigent make such provisions for his relief, or pay for his hospitalization, as may be necessary under the circumstances.

SECTION 7. That Section 31-3407, Idaho Code, be, and the same is hereby amended to read as follows:

31-3407. APPROVED CLAIMS ONLY TO BE ALLOWED. Except as provided in section 31-873, Idaho Code, ~~T~~the county commissioners shall not allow any claim or demand against the county for services rendered to any medically indigent, sick, or otherwise indigent person until the filing and approval of the application; provided, that the board of county commissioners, or, if such board be not then in session, any member thereof, by written order to be filed with the clerk of said board, may authorize the expenditure of not to exceed two hundred dollars ($200), in the aggregate, to provide for the immediate necessities of any indigent person where, in the opinion of said board of commissioners, or the member so making said order, it is proper so to do rather than send such person to the county hospital; provided further that a claim against the county shall be allowed for services rendered prior to approval of the application heretofore mentioned where a hospital renders the services to a medically indigent person in an emergency and subsequently there is obtained said approval heretofore mentioned. Services rendered in an emergency are defined as those reasonably necessary to alleviate illness or injury which if untreated is likely to cause death or serious disability. Such services shall be paid for by the county of residence of the sick or otherwise indigent person. Bills for such expenditures, duly verified under oath, shall be presented to said board and the board shall audit and pay such bills out of the proper fund of such county. Payment for hospitalization of medically indigent persons shall be controlled and determined by the provisions of chapter 35, title 31, Idaho Code.

SECTION 8. That Section 31-3504, Idaho Code, be, and the same is hereby amended to read as follows:

31-3504. TIME FOR FILING APPLICATIONS -- NOTICE TO COUNTIES. Except as provided in section 31-873, Idaho Code, a~~A~~n application for or on behalf of a medically indigent person receiving emergency medical services may be made any time within forty-five (45) days following the admission of said person to the hospital furnishing said care. If a person becomes medically indigent subsequent to admission to a hospital or subsequent to receiving treatment by a hospital, an application for the person, or on his behalf, shall be made within thirty (30) days of the time the person becomes medically indigent. The chargeable county or counties shall be notified as soon as practicable upon the hospital's obtaining information disclosing that a patient is medically indigent.

SECTION 9. That Section 31-3505, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505. DENIAL OF APPLICATION -- APPEAL. Except as provided in section 31-873, Idaho Code, i~~I~~f the board of county commissioners fails to act upon an application within sixty (60) days from the

receipt of said application, it shall notify the applicant in writing, or upon its failure to give notice within said time, the application shall be deemed approved, and the applicant entitled to payment as if said application had been approved.

If the application is denied, the applicant may request a hearing before the board of county commissioners. The applicant shall be entitled to judicial review of the decision of the board, in substantially the manner provided in the administrative procedures act, chapter 52, title 67, Idaho Code.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 6, 1988.

CHAPTER 333
(S.B. No. 1528)

AN ACT

RELATING TO LIQUOR LICENSES FOR WATERFRONT RESORTS; AMENDING SECTION 23-948, IDAHO CODE, TO PROVIDE A REQUIREMENT FOR ISSUANCE OF A LIQUOR LICENSE TO A WATERFRONT RESORT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 23-948, Idaho Code, be, and the same is hereby amended to read as follows:

23-948. WATERFRONT RESORTS -- LICENSING EVEN IF OUTSIDE CORPORATE LIMITS OF CITY. (a) Nothing contained in section 23-903, Idaho Code, shall prohibit the issuance of a license to the owner, operator or lessee of a waterfront resort, even if situated outside the incorporated limits of a city. The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. For the purpose of this section, a waterfront resort shall comprise real property with not less than two hundred (200) feet of lake frontage upon a lake or reservoir as defined by the army corps of engineers of not less than one hundred and sixty (160) acres, or river frontage upon a river with at least an ~~annual~~ average ~~daily~~ six (6) months' flow of eleven thousand (11,000) cubic feet per second, and shall be open to the public, where people assemble for the purpose of vacationing, boating or fishing, and each waterfront resort must have suitable docks or permanent improved boat launching facilities not less than sixteen (16) feet in width on property owned or leased by the resort operator or on property contiguous thereto owned by this state or the federal government open to the public for recreational uses for the purpose of caring for vacationers, or other recreational users and either of the following:

(1) Hotel or motel accommodations for not less than fifty (50) persons, including a full service restaurant which serves regularly at least two (2) meals per day to the public during a continuous period of at least four (4) months per year; or

(2) A building of not less than three thousand (3,000) square feet of public use floor space, including a full service restaurant which serves regularly at least two (2) meals per day to the public during a continuous period of at least four (4) months per year and paved or gravelled parking for fifty (50) automobiles on the operator's owned or leased property and any contiguous property upon which are the docks or boat launching facilities described above.

(b) The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code, unless said resort be located within the corporate limits of a city or village, in which case the license fee shall be the same as for other licensees within such corporate limits.

(c) The provisions of this section shall not be construed to interfere with the privileges of the holder of a lake resort license issued under section 23-948, Idaho Code, prior to the effective date of this section.

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

Approved April 6, 1988.

CHAPTER 334
(S.B. No. 1529, As Amended in the House)

AN ACT

RELATING TO WINE DONATIONS, USE AND SALE; AMENDING CHAPTER 13, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1336, IDAHO CODE, TO PROVIDE THAT VINTNERS, WINERIES, DISTRIBUTORS, RETAILERS AND PRIVATE PERSONS MAY DONATE WINE TO NONPROFIT ENTITIES WHICH MAY BE DISPENSED OR SOLD BY SUCH NONPROFIT ENTITY FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES, OR THROUGH A LICENSED WINE RETAILER, WITHOUT VIOLATING LAWS UPON APPROVAL BY THE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT.

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

SECTION 1. That Chapter 13, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1336, Idaho Code, and to read as follows:

23-1336. WINE DONATED TO NONPROFIT ENTITIES FOR BENEVOLENT, CHAR-

ITABLE OR PUBLIC PURPOSES. Notwithstanding any other provision of law to the contrary, nothing shall prohibit a vintner, winery, distributor, retailer or private person from donating wine directly to a nonprofit entity which has not been issued any license for the sale of alcoholic beverages in this state for benevolent, charitable or public purposes. Such nonprofit entity may dispense or sell such wine for its benevolent, charitable or public purpose only after having been issued by the director of the department of law enforcement a permit, which may be issued upon application on a form to be specified by the director which may require disclosure of names of sponsors, donors, quantities and types of wine products donated, and retailers designated by such nonprofit entity to receive, store or dispense donated wine and upon payment to the director of a twenty dollar ($20.00) application fee. Should the director determine that the nonprofit entity, or its representatives, is violating, or has violated in the past, any law pertaining to the dispensing or sale of wine by a licensed retailer relating to hours of sale, section 23-1332, Idaho Code, and relating to minors, section 23-1334, Idaho Code, such permit may be summarily suspended by the director, prior to hearing, or may be denied or cancelled, pending hearing. Any wine retailer may receive, store, or dispense wine so donated on behalf of such nonprofit entity to attendees of a bona fide benevolent, charitable or public purpose event sponsored by the nonprofit entity, without violating the provisions of chapter 13, title 23, Idaho Code. Licensed importers and distributors may import, distribute, store and deliver such donated wine to a retailer designated by and acting on behalf of such nonprofit entity for purposes contemplated in this section, without violating the provisions of chapter 13, title 23, Idaho Code.

Approved April 6, 1988.

CHAPTER 335
(S.B. No. 1557)

AN ACT
APPROPRIATING MONEYS TO THE BARLEY COMMISSION FOR FISCAL YEAR 1988; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Barley Commission the following amount from the listed account for the period July 1, 1987, through June 30, 1988:

FROM:

General Account	$10,000

SECTION 2. An emergency existing therefor, which emergency is

hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 6, 1988.

CHAPTER 336
(S.B. No. 1562)

AN ACT

RELATING TO THE LIMITATION OF LIABILITY OF LANDOWNERS; AMENDING SECTION 36-1604, IDAHO CODE, TO PROVIDE THE EFFECT ON LIABILITY OF A LANDOWNER FOR CERTAIN ACTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 36-1604, Idaho Code, be, and the same is hereby amended to read as follows:

36-1604. LIMITATION OF LIABILITY OF LANDOWNER. (a) Statement of Purpose. The purpose of this section is to encourage owners of land to make land and water areas available to the public without charge for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(b) Definitions. As used in this section:

1. "Land" means private or public land, roads, trails, water, watercourses, private or public ways and buildings, structures, and machinery or equipment when attached to or used on the realty.

2. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

3. "Recreational Purposes" includes, but is not limited to, any of the following or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, animal riding, motorcycling, snowmobiling, recreational vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, or scientific sites, when done without charge of the owner.

(c) Owner Exempt from Warning. An owner of land owes no duty of care to keep the premises safe for entry by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes. Neither the installation of a sign or other form of warning of a dangerous condition, use, structure, or activity, nor any modification made for the purpose of improving the safety of others, nor the failure to maintain or keep in place any sign, other form of warning, or modification made to improve safety, shall create liability on the part of an owner of land where there is no other basis for such liability.

(d) Owner Assumes No Liability. An owner of land or equipment who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not

thereby:

1. Extend any assurance that the premises are safe for any purpose.
2. Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.
3. Assume responsibility for or incur liability for any injury to person or property caused by an act of omission of such persons.

(e) Provisions Apply to Leased Public Land. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(f) Owner Not Required to Keep Land Safe. Nothing in this section shall be construed to:

1. Create a duty of care or ground of liability for injury to persons or property.
2. Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of such land and in his activities thereon, or from legal consequences or failure to employ such care.
3. Apply to any person or persons who for compensation permits the land to be used for recreational purposes.

(g) User Liable for Damages. Any person using the land of another for recreational purposes, with or without permission, shall be liable for any damage to property, livestock or crops which he may cause while on said property.

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

Approved April 6, 1988.

CHAPTER 337
(S.B. No. 1564)

AN ACT

RELATING TO THE REGISTRATION OF COMMERCIAL VEHICLES; AMENDING SECTION 49-127, IDAHO CODE, TO PROVIDE THAT LOG JAMMERS AND LOG LOADERS ARE CLASSIFIED AS COMMERCIAL VEHICLES FOR REGISTRATION PURPOSES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-127, Idaho Code, be, and the same is hereby amended to read as follows:

49-127. OPERATING FEES. (a) For the purpose of this section, the following definitions shall be applicable:

1. A commercial vehicle means a vehicle or combination of vehi-

cles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 9, title 49, Idaho Code, and shall include drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to section 49-126, Idaho Code, or exempted by section 49-108, Idaho Code.

2. A farm vehicle means a vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of that vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to section 49-126, Idaho Code.

3. A noncommercial vehicle shall not include those vehicles required to be registered under section 49-126, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles as defined in this section. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

4. When a vehicle against which the registration or use fee is assessed is a combination of vehicles, the term maximum gross weight means the combined maximum gross weights of all vehicles in the combination.

(b) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule. Upon payment of the registration fee, the department shall issue an identification plate, to be attached to individual self-propelled motor vehicles, and to the self-propelled motor vehicle in any combination of vehicles.

Maximum Gross Weight (Pounds)	Annual Registration Fee Noncommercial and Farm Vehicles	Commercial Vehicles
8,001-16,000 inc.	$ 31.08	$ 30.60
16,001-26,000 inc.	61.08	143.40

26,001-30,000 inc.	91.68	223.80
30,001-40,000 inc.	130.08	291.90
40,001-50,000 inc.	188.28	360.00
50,001-60,000 inc.	311.68	515.40

(c) There shall be paid on all commercial vehicles, irrespective of body type, and on all noncommercial vehicles, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount of one hundred twenty dollars ($120). Upon payment of the registration fee, the department shall issue an identification plate, to be attached to individual self-propelled motor vehicles, and to the self-propelled motor vehicle in any combination of vehicles.

1. In addition, an annual license fee shall be required for each trailer or semitrailer in a combination of vehicles in the amount of fifteen dollars ($15.00). Upon payment of the license fees, the department shall issue license plates for the appropriate year; or

2. For a fee of seventy-five dollars ($75.00) the department may issue a trailer or semitrailer license plate that shall remain valid for a period of fifteen (15) years. The license plate shall become void if the owner's interest in the trailer or semitrailer changes during the fifteen (15) year period. If the owner fails to enter the licensed trailer or semitrailer on the annual renewal application during the fifteen (15) year period, the registration record shall be carried forward for one (1) year and then the record shall be purged.

(d) In addition to the registration and license fees provided by subsections (b) and (c), there shall be paid on all commercial vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee in accordance with the following schedule. The use fees shall be based on mills per mile of operation, subject to the provisions of subsection (g) of this section.

Maximum Gross Weight of Vehicle (Pounds)	Mills per Mile
60,001-62,000	30.05
62,001-64,000	31.35
64,001-66,000	32.60
66,001-68,000	33.90
68,001-70,000	35.15
70,001-72,000	36.40
72,001-74,000	38.55
74,001-76,000	40.65
76,001-78,000	42.75
78,001-80,000	44.90

(e) In addition to the registration and license fees of this section, there shall be paid on all noncommercial vehicles, farm vehicles, and any commercial vehicle exclusively engaged in the transportation of logs, pulp wood, stull, poles, piling, rough lumber, ores, ore concentrates, sand and gravel aggregates in bulk, livestock and vehicles domiciled in Idaho used for the sole purpose of transporting milk from the farm to processing plant, having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee of 22.45 mills

per mile.

(f) If any motor vehicle, trailer or semitrailer, or combinations thereof, is authorized under the provisions of section 49-916, Idaho Code, to move on the highways of the state, and the vehicle exceeds the maximum gross weight of eighty thousand (80,000) pounds, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the permitted excess weight.

(g) An applicant for registration of a commercial vehicle, a non-commercial vehicle or a farm vehicle shall set forth the maximum gross weight of the vehicle or combination of vehicles and the applicant shall pay any annual registration fees and any annual license fees on trailers and semitrailers required at the time he makes application for registration subject to the provisions of subsections (b) and (c). No part of the registration or license fees shall be subject to refund. The use fee payment required shall be computed according to the schedule in either subsection (d) or (e) on the mileage operated over the highways of the state of Idaho and the owner of any vehicle against which a use fee is assessed, shall at the time of making his next quarterly report pay the use fee, if any, for the three (3) calendar months immediately prior. In determining the mileage subject to the use fee, there shall be deducted the miles traveled on roadways maintained with private funds by agreement with the public agency or agencies having jurisdiction over them. In no event shall the total money credited to the owner for the mileage exceed the actual cost of maintenance expended by him.

(h) The license, registration and use fees of this section shall not be applicable to trailers registered pursuant to section 49-126, Idaho Code.

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

Approved April 6, 1988.

CHAPTER 338
(S.B. No. 1566)

AN ACT

APPROPRIATING MONEYS FOR THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1989.

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

SECTION 1. There is hereby appropriated to the Department of Water Resources the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. MANAGEMENT AND SUPPORT SERVICES:				
FROM:				
General Account	$ 3,200	$12,800		$ 16,000
B. RESOURCE ANALYSIS:				
FROM:				
General Account	$103,500	$30,000		$133,500
Water Pollution Control Account			$84,500	84,500
TOTAL	$103,500	$30,000	$84,500	$218,000
GRAND TOTAL	$106,700	$42,800	$84,500	$234,000

Approved April 6, 1988.

CHAPTER 339
(H.B. No. 605)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 80, TITLE 18, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 18-8008, 18-8009 AND 18-8010, IDAHO CODE, TO PROVIDE WHEN A COURT MAY MANDATE THAT A PERSON UTILIZE IGNITION INTERLOCK DEVICES OR ELECTRONIC MONITORING DEVICES, TO PROVIDE FEES, TO PROVIDE CRIMINAL SANCTIONS FOR A PERSON TO KNOWINGLY ASSIST ANOTHER PERSON WHO IS RESTRICTED TO THE USE OF AN IGNITION INTERLOCK DEVICE TO START AND OPERATE THE VEHICLE IN VIOLATION OF A COURT ORDER, TO PROVIDE DEFENSES, TO ADD A SURCHARGE TO ALL FINES FOR PERSONS VIOLATING THE STATE'S LAW AGAINST DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER INTOXICATING SUBSTANCES, AND TO CREATE THE COURT INTERLOCK DEVICE AND ELECTRONIC MONITORING DEVICE FUND IN EACH COUNTY.

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

SECTION 1. LEGISLATIVE INTENT. The legislature finds and declares:

(1) There is a need to reduce the incidence of drivers on the highways and roads of this state who, because of their use or consumption of alcohol, pose a danger to the health and safety of other drivers;

(2) There are some innovative alternatives adopted by other states in an attempt to discourage the drinking driver from operating a motor vehicle which include the use of interlock devices when the driver has been convicted, found guilty or received a withheld judgment for driving under the influence of alcohol or drugs;

(3) The installation of an ignition interlock breath alcohol device will provide a means of deterring the use of motor vehicles by

persons who have consumed alcoholic beverages;

(4) Ignition interlock devices are designed to supplement other methods of punishment that prevent drivers from using a motor vehicle after using, possessing or consuming alcohol;

(5) It is economically and technically feasible to have an ignition interlock device installed in a motor vehicle in such a manner that the vehicle will not start if the operator has recently consumed alcohol.

SECTION 2. That Chapter 80, 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 18-8008, Idaho Code, and to read as follows:

18-8008. IGNITION INTERLOCKS -- ELECTRONIC MONITORING DEVICES. (1) If a person is convicted, is found guilty, pleads guilty or receives a withheld judgment for violating any of the provisions of this chapter and has had any or all of a sentence or fine suspended for the violation, the court, in its discretion, may impose any, some, or all of the sanctions proved in this section in addition to any other penalty or fine imposed pursuant to this chapter.

(2) The court may order the person while operating a motor vehicle to drive only a motor vehicle equipped with a functioning ignition interlock device, and the restriction shall be for a period not in excess of the time the person is on probation for the offense. The court shall establish a specific calibration setting at which the ignition interlock device will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction. As used in this section, the term "ignition interlock device" means breath alcohol analyzed ignition equipment, certified by the transportation department, designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage. The transportation department shall by rule and regulation provide standards for the certification, installation, repair and removal of the devices. If the court imposes a sanction pursuant to this subsection, it shall notify the transportation department of its order. The department shall attach or imprint a notation on the driver's license or other document granting the person restricted driving privileges of any person restricted under this subsection that the person may operate only a motor vehicle equipped with an ignition interlock device.

(3) The court may order the person to use electronic monitoring devices to record the person's movements if as a condition of probation the person has been given restricted driving privileges between certain times, has been placed under a curfew or has been ordered confined to his residence during times certain. Nothing in this subsection shall restrict the court's usage of electronic monitoring devices to supervise a defendant on probation for other offenses.

(4) If a court orders a defendant to use an ignition interlock device or electronic monitoring device pursuant to this section, and the court, or its probation department, furnishes the defendant with the device, the court may order the defendant to pay a reasonable fee

for utilizing the equipment. All fees collected pursuant to this section shall be in addition to any other fines or penalty provided by law and shall be deposited in the court interlock device and electronic monitoring device fund created in section 18-8010, Idaho Code.

SECTION 3. That Chapter 80, 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 18-8009, Idaho Code, and to read as follows:

18-8009. IGNITION INTERLOCKS -- ASSISTING ANOTHER IN STARTING OR OPERATING -- PENALTY. A person who knowingly assists another person who is restricted to the use of an ignition interlock device to start and operate that vehicle in violation of a court order shall be guilty of a misdemeanor. The provisions of this section do not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle and person subject to the court order does not operate the vehicle.

SECTION 4. That Chapter 80, 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 18-8010, Idaho Code, and to read as follows:

18-8010. SURCHARGE ADDED TO ALL FINES. Every person who is convicted, found guilty, pleads guilty or receives a withheld judgment for violating the provisions of this chapter shall be required to pay an additional fifteen dollars ($15.00) in addition to any other fine, penalty or costs the court may assess. Moneys received pursuant to this section shall be remitted to the county treasurer in the county where the person was adjudicated for deposit in the "court interlock device and electronic monitoring device fund" which is hereby created in each county. Moneys in this fund may be utilized for the purchase of ignition interlock devices and electronic monitoring devices required pursuant to section 18-8008, Idaho Code. Additionally, any moneys a court charges a defendant for using an ignition interlock device or electronic monitoring devices shall be placed in this fund. The court may also utilize moneys in this fund to assist an indigent defendant to procure an ignition interlock device or electronic monitoring devices.

Approved April 6, 1988.

CHAPTER 340
(H.B. No. 612, As Amended in the Senate)

AN ACT

RELATING TO MOTOR VEHICLE WARRANTIES; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 9, TITLE 48, IDAHO CODE, TO PRO-

VIDE DUTIES OF MOTOR VEHICLE MANUFACTURERS SELLING VEHICLES IN THIS STATE WITH EXPRESS WARRANTIES REGARDING SERVICE AND REPAIR FACILITIES, TO DEFINE TERMS, TO PROVIDE A MOTOR VEHICLE MANUFACTURER'S DUTY TO REPAIR AND TO PERFORM REPAIRS IN CONFORMITY WITH THE EXPRESS WARRANTY, TO PROVIDE INABILITY TO CONFORM TO EXPRESS WARRANTIES AND TO PROVIDE FOR REIMBURSEMENT TO THE BUYER, TO PROVIDE WHAT CONSTITUTES A REASONABLE NUMBER OF ATTEMPTS TO CONFORM TO THE EXPRESS WARRANTY, TO PROVIDE A DISPUTE RESOLUTION PROCEDURE, TO PROVIDE DEALER LIABILITY, TO PROVIDE FOR AWARD OF DAMAGES, AND TO PROVIDE CUMULATIVE REMEDIES.

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

SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 9, Title 48, Idaho Code, and to read as follows:

CHAPTER 9
MOTOR VEHICLE EXPRESS WARRANTIES

48-901. MOTOR VEHICLE MANUFACTURERS -- EXPRESS WARRANTIES -- SERVICE AND REPAIR FACILITIES. Every manufacturer of motor vehicles sold in this state and for which the manufacturer has made an express warranty shall maintain in this state sufficient service and repair facilities reasonably close to all areas in which its motor vehicles are sold to carry out the terms of the warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas in which its motor vehicles are sold to carry out the terms of the warranties. As a means of complying with the provisions of this section, a manufacturer may, in a town or city where there is not a franchise market representative, enter into warranty service contracts with independent service and repair facilities.

48-902. DEFINITIONS. As used in this chapter:

(1) "Buyer" means the purchaser, other than for purposes of resale, of a new motor vehicle normally used for personal, family or household purposes, or any person to whom the motor vehicle is transferred during an express warranty applicable to the motor vehicle and any other person entitled by the terms of the warranty to enforce the obligations of the warranty.

(2) (a) "Express warranty" means:

(i) A written statement arising out of a sale to the buyer of a motor vehicle pursuant to which the manufacturer undertakes to preserve or maintain the utility or performance of the motor vehicle as provided in the warranty; or

(ii) In the event of any sample or model, that the whole of the goods conforms to such sample or model.

(b) It is not necessary to the creation of an express warranty that formal words such as "warrant" or "guarantee" be used, but if such words are used then an express warranty is created. An affirmation merely of the value of the vehicle or a statement pur-

porting to be merely an opinion or commendation of the vehicle does not create a warranty.

(c) Statements or representations such as expressions of general policy concerning buyer satisfaction which are not subject to any limitation do not create an express warranty.

(3) "Manufacturer" means a manufacturer, importer, distributor, or anyone who is named as the warrantor on an express written warranty on a motor vehicle.

(4) "Motor vehicle" means a motor vehicle as defined in section 49-101, Idaho Code, which is sold in this state, but does not include: (a) motorcycle or farm tractor, as defined in section 49-101, Idaho Code; or (b) house trailer as defined in section 49-101, Idaho Code; or (c) any motor vehicle with a gross laden weight of over twelve thousand (12,000) pounds.

(5) "Nonconformity" means a failure to conform with an express warranty in a manner which substantially impairs the use, value, or safety of the item.

48-903. MANUFACTURER'S DUTY TO REPAIR -- CONFORMITY WITH EXPRESS WARRANTIES -- REPLACEMENT OR REFUND. If the manufacturer, its agent, or its authorized dealer is unable to conform the motor vehicle to any applicable warranty by repairing or correcting any defect or condition which substantially impairs the use, market value, or safety of the motor vehicle after a reasonable number of attempts, at the option of the buyer the manufacturer shall either replace the motor vehicle with a comparable new motor vehicle or accept return of the vehicle from the buyer and refund to the buyer the full purchase price including all collateral charges, less a reasonable allowance for the buyer's use of the vehicle. Refunds shall be made to the buyer, and any lienholders as their interest may appear. A reasonable allowance for use is that amount directly attributable to use by the buyer prior to his first report of the nonconformity to the manufacturer, its agent, or its authorized dealer and during any subsequent period when the vehicle is not out of service because of repair. It shall be presumed that a reasonable allowance for use shall equal the amount allowed by the Internal Revenue Service, during the period in which such use occurred, as a deduction for the business use of an automobile. The subtraction of a reasonable allowance for use shall apply when either a replacement or a refund of the new motor vehicle occurs. It is an affirmative defense to any claim under this chapter:

(1) That an alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a buyer; or

(2) A claim by a buyer was not filed in good faith; or

(3) Any other affirmative defense allowed by law.

48-904. INABILITY TO CONFORM TO EXPRESS WARRANTIES -- BUYER'S REIMBURSEMENT. If the manufacturer or its representative or its authorized dealer is unable to service or repair the motor vehicle to conform to the applicable express warranties after a reasonable number of attempts and the buyer has notified the manufacturer or dealer in writing, the manufacturer shall reimburse the buyer in an amount equal

to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer.

48-905. REASONABLE NUMBER OF ATTEMPTS TO CONFORM TO EXPRESS WARRANTY -- WHAT CONSTITUTES. (1) It is presumed that a reasonable number of attempts has been undertaken to conform a motor vehicle to the applicable express warranties if during the period of one (1) year following the date of original delivery of the motor vehicle to a buyer or during the period ending with the date on which the mileage on the motor vehicle reaches twelve thousand (12,000) miles, whichever period ends earlier:

(a) The same nonconformity has been subject to repair four (4) or more times by the manufacturer or its agents, but the nonconformity continues to exist; or

(b) The vehicle is out of service to the buyer because of repair for a cumulative total of thirty (30) or more business days.

(2) The term of the one (1) year period and the thirty (30) day period shall be extended by any period of time during which repair services are not available to the buyer because of a war, invasion, strike, fire, flood, or other natural disaster, and by any period of time during which the vehicle is in the possession of the manufacturer, its agent or authorized dealer for routine maintenance as prescribed by the manufacturer and does not include periods during which the buyer has been provided with a manufacturer's replacement vehicle.

48-906. DISPUTE RESOLUTION PROCEDURE -- ALTERNATIVE TO BUYER'S REIMBURSEMENT. If a manufacturer has established an informal dispute resolution settlement procedure which substantially complies with the applicable provision of title 16, code of federal regulations, part 703, as from time to time amended, the provisions of section 48-904, Idaho Code, concerning reimbursements do not apply unless the buyer has resorted to such procedure.

48-907. DEALER LIABILITY. Nothing in this chapter shall be construed as imposing any liability on an authorized dealer or creating a cause of action by a buyer against a dealer under this chapter, except regarding any written express warranties made by the dealer apart from the manufacturer's own warranties.

48-908. DAMAGE AWARD. If a buyer pursues an action against a manufacturer pursuant to this chapter because a manufacturer refuses or fails to replace or refund as provided in section 48-904, Idaho Code, and a court finds in favor of the buyer, the manufacturer shall be liable for treble the amount of the full purchase price including all collateral charges less a reasonable allowance for the buyer's use of the vehicle.

48-909. REMEDIES. The remedies provided under this chapter are cumulative and are in addition to any other remedies provided by law.

Approved April 6, 1988.

CHAPTER 341
(H.B. No. 766)

AN ACT

RELATING TO DOMESTIC VIOLENCE; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 63, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF PURPOSE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR AN ACTION FOR A PROTECTION ORDER, TO PROVIDE FOR HEARINGS, TO PROVIDE FOR THE SETTING OF A SECURITY AMOUNT, TO PROVIDE FOR AN EX PARTE TEMPORARY PROTECTION ORDER IN CASES WHERE IRREPARABLE INJURY MAY OCCUR, TO PROVIDE FOR ASSISTANCE OF LAW ENFORCEMENT AGENCIES IN EXECUTION OF THE PROTECTION ORDER, TO PROVIDE FOR SERVICE OR PROTECTION ORDERS, TO PROVIDE FOR RECORDING OF PROTECTION ORDERS ON THE IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM, TO PROVIDE FOR PENALTIES FOR VIOLATIONS OF THE ORDER AND FOR MANDATORY ARREST OF THOSE IN VIOLATION OF PROTECTION ORDERS, TO PROVIDE FOR MODIFICATION OF THE PROTECTION ORDER, TO PROVIDE FOR CIVIL AND CRIMINAL IMMUNITY FOR OFFICERS CARRYING OUT THEIR DUTIES UNDER THIS CHAPTER, TO PROVIDE FOR ADDITIONAL PROCEEDINGS, TO PROVIDE FOR TRAINING OF LAW ENFORCEMENT OFFICERS, AND TO PROVIDE SEVERABILITY.

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 63, Title 39, Idaho Code, and to read as follows:

CHAPTER 63
DOMESTIC VIOLENCE CRIME PREVENTION

39-6301. SHORT TITLE. This chapter shall be known and may be cited as the "Domestic Violence Crime Prevention Act."

39-6302. STATEMENT OF PURPOSE. For purposes of this chapter, the legislature adopts by reference the declaration of policy in section 39-5201, Idaho Code. Additionally, the legislature finds that a significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families. Furthermore, research shows that domestic violence is a crime which can be deterred, prevented or reduced by legal intervention. Domestic violence can also be deterred, prevented or reduced by vigorous prosecution by law enforcement agencies, prosecutors and the courts whenever reasonable cause exists for arrest and prosecution.

The purpose of this act is to address domestic violence as a serious crime against society and to assure the victims of domestic violence the protection from abuse which the law and those who enforce the law can provide.

It is the intent of the legislature to expand the ability of the courts to assist victims by providing a legal means for victims of domestic violence to seek protection orders to prevent such further

incidents of abuse. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. The provisions of this chapter are to be construed liberally to promote these purposes.

39-6303. DEFINITIONS. (1) "Domestic violence" means the physical injury, sexual abuse or forced imprisonment or threat thereof of a family or household member.

(2) "Family or household member" means spouses, former spouses, adult persons related by blood or marriage, persons who reside or have resided together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

(3) "Family dwelling" is any premises in which the petitioner resides.

(4) "Judicial day" means any day upon which court business may be transacted as provided in sections 1-1606 and 1-1607, Idaho Code.

39-6304. ACTION FOR PROTECTION. (1) There shall exist an action known as a "petition for a protection order" in cases of domestic violence.

(2) A person may seek relief from domestic violence by filing a petition based on a sworn affidavit with the magistrates division of the district court, alleging that the person or a family or household member is the victim of domestic violence. Any petition properly filed under this chapter may seek protection for any additional persons covered by this chapter.

(3) A person's right to petition for relief under this chapter shall not be affected by that person's having left the residence or household to avoid abuse.

(4) The petition shall disclose the existence of any custody or any marital annulment, dissolution or separation proceedings pending between the parties, the existence of any other custody order affecting the children of the parties, and the existence of child protection or adoption proceedings affecting the children of any party.

(5) When the petitioner requests custody of any child, the petition shall disclose:

(a) The county and state where the child has resided for six (6) months immediately prior to the filing of the petition;

(b) The party or other responsible person with whom the child is presently residing; and

(c) The party or other responsible person with whom the child has resided for six (6) months immediately prior to the filing of the petition.

39-6305. FEES WAIVED. No filing fee, service fee, hearing fee or bond shall be charged for proceedings seeking only the relief provided under this chapter.

39-6306. HEARING ON PETITION FOR PROTECTION ORDER -- RELIEF PROVIDED AND REALIGNMENT OF DESIGNATION OF PARTIES. (1) Upon filing of a

petition based upon a sworn affidavit for a protection order, the court shall hold a hearing to determine whether the relief sought shall be granted within fourteen (14) days. Upon a showing that there is an immediate and present danger of domestic violence to the petitioner the court may, if requested, order for a period not to exceed three (3) months that:

(a) Temporary custody of the minor children of the petitioner or of the parties be awarded to the petitioner or respondent if exercise of such jurisdiction is consistent with the provisions of section 32-1103, Idaho Code, and consistent with prior custody orders entered by a court of competent jurisdiction unless grounds exist pursuant to section 32-717, Idaho Code;

(b) A party be restrained from committing acts of domestic violence;

(c) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

(d) The respondent be ordered to participate in treatment or counseling services;

(e) Other relief be ordered as the court deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter;

(f) The respondent be required to pay service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee;

(g) The respondent be restrained from contacting, molesting, interfering with or menacing the minor children whose custody is awarded to the petitioner; and/or

(h) The respondent be restrained from entering any premises when it appears to the court that such restraint is necessary to prevent the respondent from contacting, molesting, interfering with or menacing the petitioner or the minor children whose custody is awarded to the petitioner.

(2) Immediate and present danger under this section includes, but is not limited to, situations in which the respondent has recently threatened the petitioner with bodily harm or engaged in domestic violence against the petitioner.

(3) No order made under this chapter shall in any manner affect title to real property.

(4) Relief shall not be denied because petitioner used reasonable force in self-defense against respondent, or because petitioner or respondent was a minor at the time of the incident of domestic violence.

(5) Any relief granted by the protection order, other than a judgment for costs, shall be for a fixed period not to exceed three (3) months.

(6) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

39-6307. SECURITY. Whenever a protection order is issued under this chapter, the issuing court may set a security amount for a viola-

tion of the order.

39-6308. EX PARTE TEMPORARY PROTECTION ORDER. (1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court shall hold a hearing which may be ex parte on the day a petition is filed or on the following judicial day to determine whether the court should grant an ex parte temporary protection order, pending a full hearing, and grant such other relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court; and

(c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court.

(d) Ordering other relief as the court deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter;

(e) Restraining the respondent from contacting, molesting, interfering with or menacing the minor children whose custody is awarded to the petitioner; and/or

(f) Restraining the respondent from entering any premises when it appears to the court that such restraint is necessary to prevent the respondent from contacting, molesting, interfering with or menacing the petitioner or the minor children whose custody is awarded to the petitioner.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened the petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary protection order shall be effective for a fixed period not to exceed fourteen (14) days, but may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen (14) days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

39-6309. ISSUANCE OF ORDER -- ASSISTANCE OF PEACE OFFICER -- DESIGNATION OF APPROPRIATE LAW ENFORCEMENT AGENCY. When an order is issued under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the protection order. A certified copy of the order shall be prepared by the clerk for transmittal to the appropriate law enforcement agency as specified in section 39-6311, Idaho Code. Orders issued under this chapter shall include a designation fo the appropriate law enforcement agency to execute,

serve, or enforce the order.

39-6310. ORDER AND SERVICE. (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6) of this section.

(2) A peace officer of the jurisdiction in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party at the petitioner's own expense.

(3) If service by a peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the peace officer cannot complete service upon the respondent within ten (10) days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court and receives a copy of the order, the necessity for further service is waived and proof of service of that order is not necessary.

39-6311. ORDER -- TRANSMITTAL TO LAW ENFORCEMENT AGENCY -- RECORD IN IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM -- ENFORCEABILITY. (1) (a) A copy of a protection order granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

(b) Upon receipt of the order, the law enforcement agency shall forthwith enter the order and its expiration date into the Idaho law enforcement telecommunications system available in this state used by law enforcement agencies to list outstanding warrants. Notification of service as required in section 39-6310(c), Idaho Code, shall also be entered into the Idaho law enforcement telecommunications system upon receipt. Entry into the Idaho law enforcement telecommunications system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state. Renewals of the order shall be recorded in the same manner as original orders. The information entered shall specifically state that the protection order is civil in nature.

(2) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the scene of an incident of domestic violence may be informed of the existence and terms of such protection order.

(3) A protection order shall remain in effect for three (3) months from date of entry or until terminated by the court. If the petitioner voluntarily and without duress consents to the waiver of any portion of the protection order vis-a-vis the respondent pursuant

to section 39-6313, Idaho Code, the order may be modified by the court.

39-6312. VIOLATION OF ORDER -- PENALTIES. (1) Whenever a protection order is granted under this chapter and the respondent or person to be restrained had notice of the order, a violation of the restraint provisions or of a provision excluding the person from a residence shall be a violation of section 18-1801, Idaho Code.

(2) A peace officer may arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, if the person restrained had notice of the order.

(3) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order for protection granted under this chapter, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen (14) days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

39-6313. ORDER -- MODIFICATION -- TRANSMITTAL. Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing protection order. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modification or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the Idaho law enforcement telecommunications system.

39-6314. PEACE OFFICERS -- IMMUNITY. No peace officer may be held criminally or civilly liable for actions or omissions in the performance of the duties of his office under this chapter, if the peace officer acts in good faith and without malice.

39-6315. PROCEEDINGS ADDITIONAL. Any proceedings under this chapter are in addition to other civil or criminal remedies.

39-6316. LAW ENFORCEMENT OFFICERS -- TRAINING, POWERS, DUTIES. (1) All training provided by the peace officers standards and training academy relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) When a peace officer responds to a domestic violence call, the officer may give a written statement to victims which alert the victim to the availability of a shelter or other resources in the com-

munity, and give the victim a written notice provided by the department of law enforcement substantially stating the following:

IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in magistrate court requesting an order for protection from domestic abuse which could include any of the following: (a) an order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available from the clerk of the district court.

(3) The peace officer may arrange, offer, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(4) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten (10) days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

39-6317. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved April 6, 1988.

CHAPTER 342
(H.B. No. 424)

AN ACT

RELATING TO PUBLIC DEFENDERS; AMENDING SECTION 19-860, IDAHO CODE, TO ALLOW PUBLIC DEFENDERS TO PRACTICE CRIMINAL LAW AS WELL AS CIVIL LAW IN ADDITION TO THEIR PUBLIC DEFENDER PRACTICE WHEN PERMITTED BY THE BOARD OF COUNTY COMMISSIONERS.

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

SECTION 1. That Section 19-860, Idaho Code, be, and the same is hereby amended to read as follows:

19-860. PUBLIC DEFENDER -- TERM -- COMPENSATION -- APPOINTMENT -- QUALIFICATIONS -- COURT APPOINTED ATTORNEYS -- COMPENSATION. (a) If the board of county commissioners of a county elects to establish and

maintain an office of public defender and/or juvenile public defender, the board shall:

(1) ~~p~~Prescribe the qualifications of such public defender, his term of office (which may not be less than two (2) years), and his rate of annual compensation, and, if so desired by the board, a rate of compensation for extraordinary services not recurring on a regular basis. So ~~f~~far as is possible, the compensation paid to such public defender shall not be less than the compensation paid to the county prosecutor for that portion of his practice devoted to criminal law.

(2) ~~p~~Provide for the establishment, maintenance and support of his office. The board of county commissioners shall appoint a public defender and/or juvenile public defender from a panel of not more than five (5) and not fewer than three (3) persons (if that many are available) designated by a committee of lawyers appointed by the senior district judge having resident chambers within the county, or if there be no resident district judge, then by the senior district judge of the judicial district encompassing the county. To be a candidate, a person must be licensed to practice law in this state and must be competent to counsel and defend a person charged with a crime. During his incumbency, such public defender may ~~not~~ engage in the practice of civil law and criminal law other than in the discharge of the duties of his office~~;-however;-he-may-engage-in-civil-practice~~, unless he is prohibited from doing so by the board of county commissioners.

(b) If a court before whom a person appears upon a formal charge assigns an attorney other than a public defender to represent a needy person, the appropriate district court, upon application, shall prescribe a reasonable rate of compensation for his services and shall determine the direct expenses necessary to representation for which he should be reimbursed. The county shall pay the attorney the amounts so prescribed. The attorney shall be compensated for his services with regard to the complexity of the issues, the time involved, and other relevant considerations.

Approved April 6, 1988.

CHAPTER 343
(H.B. No. 441)

AN ACT
RELATING TO ATTORNEY FEES IN CIVIL ACTIONS; AMENDING SECTION 12-120, IDAHO CODE, TO CORRECT A REFERENCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 12-120, Idaho Code, be, and the same is hereby amended to read as follows:

12-120. ATTORNEY FEES IN CIVIL ACTIONS. (1) Except as provided in subsection (~~2~~3) of this section, in any action where the amount pleaded is twenty-five thousand dollars ($25,000) or less, there shall

be taxed and allowed to the prevailing party, as part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees. For the plaintiff to be awarded attorney fees, for the prosecution of the action, written demand for the payment of such claim must have been made on the defendant not less than ten (10) days before the commencement of the action; provided, that no attorney fees shall be allowed to the plaintiff if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the action, an amount at least equal to ninety-five per cent (95%) of the amount awarded to the plaintiff.

(2) The provisions of subsection (1) of this section shall also apply to any counterclaims, cross-claims or third party claims which may be filed after the initiation of the original action. Except that a ten (10) day written demand letter shall not be required in the case of a counterclaim.

(3) In any civil action to recover on an open account, account stated, note, bill, negotiable instrument, guaranty, or contract relating to the purchase or sale of goods, wares, merchandise, or services and in any commercial transaction unless otherwise provided by law, the prevailing party shall be allowed a reasonable attorney fee to be set by the court, to be taxed and collected as costs.

The term "commercial transaction" is defined to mean all transactions except transactions for personal or household purposes. The term "party" is defined to mean any person, partnership, corporation, association, private organization, the state of Idaho or political subdivision thereof.

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

Approved April 6, 1988.

CHAPTER 344
(H.B. No. 469)

AN ACT

RELATING TO SCHOOL DISTRICT LEVIES; AMENDING SECTION 33-802, IDAHO CODE, TO PROVIDE CLARIFYING NOMENCLATURE, TO STRIKE REDUNDANT MATERIAL, TO PROVIDE FOR AN AUTHORIZED SCHOOL MAINTENANCE AND OPERATION LEVY PURSUANT TO AN ELECTION, AND TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTION 63-2220, IDAHO CODE, TO PROVIDE ADDITIONAL CODE REFERENCES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 33-802, Idaho Code, be, and the same is hereby amended to read as follows:

33-802. ~~GENERAL~~ SCHOOL LEVIES. Any tax levied for school purposes shall be a lien on the property against which the tax is levied. The board of trustees shall determine the levies upon each dollar of taxable property in the district for the ensuing fiscal year as follows:

1. Bond, Interest and Judgment Obligations Levies. Such levies as shall be required to satisfy all maturing bond, bond interest, and judgment obligations, which levies shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.

2. ~~General~~ Maximum School Maintenance and Operation Levies. Such levies~~,~~ for maintaining and operating the schools of the district and for the payment of tuition and transportation, that do not exceed~~ing the greater of:~~

~~(a)--An~~ an amount equal to four-tenths of one percent (.4%) applied to the actual or adjusted market value for assessment purposes of the district as such valuation existed on December 31 of the previous year, but allowances necessary as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, shall not be included in such four-tenths of one percent (.4%)~~,--or~~

~~(b)--Four-tenths-of-one-percent-(.4%)-applied-to-the-actual-market value--for--assessment--purposes-of-the-district-as-such-valuation existed-on-December-31-of-the-previous-year,-but-allowances-necessary-as-a--credit--for--prepaid--taxes,--as--provided--in--section 63-1607,--Idaho-Code,-shall-not-be-included-in-such-four-tenths-of one-percent-(.4%),-as-shall-be-necessary-to-pay-all--other--lawful expense--of--maintaining-and-operating-the-schools-of-the-district and-for-the-payment-of-tuition-and-transportation.~~

3. Authorized School Maintenance and Operation Levies. Such levies for maintaining and operating the schools of the district and for the payment of tuition and transportation that do not exceed one hundred eleven percent (111%) of the local district's contribution levy authorized in subsection 2 of section 33-1002, Idaho Code. Implementation of the provisions of this subsection shall be authorized only after approval by a majority of the district's electors voting on the question; if so authorized, all levies made thereafter under this subsection shall be exempt from the provisions of section 63-2220, Idaho Code. Levies otherwise authorized by law shall not require an election.

4. Supplemental Maintenance and Operation Levies. No levy in excess of the levy permitted by ~~paragraph~~ subsection 2 or 3 of this section shall be made ~~for-the-purposes-of-paragraph-2-of-this--section~~ by a noncharter school district unless such a supplemental levy in a specified amount and for a specified time not to exceed two (2) years be first authorized through an election held pursuant to ~~sections 33-401--33-406~~ chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election, which supplemental levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and from the provisions of section 63-2220, Idaho Code. A levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees in the second year.

~~4~~5. Charter District Supplemental Maintenance and Operation. The privilege of a charter notwithstanding, all charter districts shall limit the ad valorem portion of the budget request for operating pur-

poses to the limitation required by section 63-2220, Idaho Code, unless levies pursuant to the respective charter of any such charter district are first authorized through an election held pursuant to ~~sections 33-401--33-406~~ chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election. If so authorized, and if not in conflict with any provision of its charter, all levies made thereafter by such charter district in excess of the levies authorized in ~~paragraph~~ subsection 2 of this section shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and from the provisions of section 63-2220, Idaho Code.

~~5~~6. General School Maintenance and Operation Limitations. All noncharter school districts shall limit the budget request for operating purposes to the limitation required by section 63-2220, Idaho Code, subject to the provisions of ~~paragraph 3 of~~ this section.

~~6~~7. The Local District Contribution. The local school district contribution levy is the amount utilized for calculating local district participation in the educational foundation program, which is applied to the adjusted market value for assessment purposes, as such valuation existed on December 31 of the previous year. ~~Such~~ The contribution levy and the authorized levy provided in subsection 3 of this section shall be exempt from the limitation imposed in section 63-923(1), Idaho Code, and from the provisions of section 63-2220, Idaho Code.

SECTION 2. That Section 63-2220, Idaho Code, be, and the same is hereby amended to read as follows:

63-2220. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (2), for its fiscal year commencing in 1986 and each year thereafter, no taxing district shall certify a budget request to finance the ad valorem portion of its operating budget that exceeds:

(i) the greater of (a) or (b):

(a) the dollar amount of ad valorem taxes certified for its operating budget in 1978, 1979, 1980, or the year preceding the current tax year, whichever is greater, which amount may be increased by a growth factor of not to exceed five percent (5%), except that for school districts, the budget request shall not include the dollar amount made available to that school district under the provisions of section 33-1009 4., Idaho Code, during the previous year, and except that a school district shall not use the dollar amount of ad valorem taxes certified in 1978; or

(b) an amount determined by applying the lesser of one hundred five percent (105%) of the current year tax rate or the statutory maximum tax rate to the market value for assessment purposes; or

(ii) the dollar amount of ad valorem taxes certified for its operating budget during the last year in which a levy was made, if no levy was made during 1978 or 1979 or 1980; or

(iii) the dollar amount of the actual budget request, if the taxing district is newly created; or

(iv) in the case of school districts, the amount of the district contribution calculation or the levy authorized by section 33-802(3), Idaho Code, applied to the current year's market value for assessment purposes.

(2) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for operating budget purposes which exceeds the limitation imposed by subsection (1), unless authority to exceed such limitation has been approved by a two-thirds (2/3) majority of the taxing district's electors voting on the question at an election called for that purpose, and the dollar amount of ad valorem taxes certified pursuant to such voter approval shall be used in applying the limitations imposed by subsection (1)(i) above for a period not to exceed five (5) years after such voter approval, provided such election was held after November 7, 1978.

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, 1988.

Approved April 6, 1988.

CHAPTER 345
(H.B. No. 472, As Amended in the Senate)

AN ACT

RELATING TO THE SERVICE OF PROCESS FEE AGAINST AN INSURER; AMENDING SECTION 41-334, IDAHO CODE, TO PROVIDE FOR SETTING THE FEE BY RULE AND REGULATION WITH A CAP ON THE AMOUNT OF THE FEE.

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

SECTION 1. That Section 41-334, Idaho Code, be, and the same is hereby amended to read as follows:

41-334. SERVING PROCESS -- TIME TO PLEAD. (1) Duplicate copies of legal process against an insurer for whom the director is attorney, shall be served upon him either by a person competent to serve a summons or by registered or certified mail. At the time of service the plaintiff shall pay to the director ~~ten dollars ($10.00), taxable as costs in the action~~ an appropriate fee not in excess of thirty dollars ($30.00) which fee shall be determined by rule and regulation.

(2) The director shall forthwith send one (1) of the copies of the process, by registered or certified mail with return receipt requested, to the person designated for the purpose by the insurer in its most recent such designation filed with the director.

(3) The director shall keep a record of the day of service upon him of all legal process. No proceedings shall be had against the insurer, and the insurer shall not be required to appear, plead, or answer until the expiration of thirty (30) days after the date of ser-

vice upon the director.

(4) Process served upon the director and copy thereof forwarded as in this section provided shall for all purposes constitute valid and binding service thereof upon the insurer.

Approved April 6, 1988.

CHAPTER 346
(H.B. No. 521, As Amended, As Amended in the Senate)

AN ACT
RELATING TO SALES TAX; AMENDING SECTION 63-3612, IDAHO CODE, TO FURTHER DEFINE THE SALE OF FOOD, MEALS OR DRINK, AND TO FURTHER DEFINE THE SALE OF HOTEL AND MOTEL ACCOMMODATIONS.

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

SECTION 1. That Section 63-3612, Idaho Code, be, and the same is hereby amended to read as follows:

63-3612. SALE. The term "sale" means and includes any transfer of title, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration and shall include any transfer of possession through incorporation or any other artifice found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, an exchange or barter. "Sale" shall also include:

(a) Producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(b) Furnishing, preparing, or serving for a consideration food, meals, or drinks and nondepreciable goods and services directly consumed by customers included in the charge thereof.

(c) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(d) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(e) Admission charges.

(f) Receipts from the use of or the privilege of using tangible personal property or other facilities for recreational purposes.

(g) Providing hotel, motel, tourist home or trailer court accommodations and nondepreciable goods and services directly consumed by customers included in the charge thereof, except where residence is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days.

(h) Receipts from the lease or rental of tangible personal property.

(i) As used in subsections (b) and (g) of this section, goods "directly consumed by customers" shall not be interpreted to mean any linens, bedding, cloth napkins or similar nondisposable property.

Approved April 6, 1988.

CHAPTER 347
(H.B. No. 529, As Amended)

AN ACT

RELATING TO DESTRUCTION OF PROPERTY BY MEANS OF EXPLOSIVES; REPEALING SECTIONS 18-7006 AND 18-7007, IDAHO CODE; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7006, IDAHO CODE, TO PROVIDE ELEMENTS OF THE CRIME OF DESTRUCTION OF PROPERTY BY MEANS OF EXPLOSIVES; AND AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7007, IDAHO CODE, TO PROVIDE DEGREES OF THE CRIME OF DESTRUCTION OF PROPERTY BY MEANS OF EXPLOSIVES, AND TO PROVIDE PENALTIES.

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

SECTION 1. That Sections 18-7006 and 18-7007, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7006, Idaho Code, and to read as follows:

18-7006. DESTRUCTION OF PROPERTY BY MEANS OF EXPLOSIVES. Every person who maliciously injures or destroys any property belonging to another, without authorization and without having reasonable grounds to believe that he has such authorization, by means of explosives, shall be guilty of a felony and shall be punished as provided in section 18-7007, Idaho Code.

SECTION 3. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7007, Idaho Code, and to read as follows:

18-7007. DEGREES AND PENALTIES -- DESTRUCTION OF PROPERTY BY MEANS OF EXPLOSIVES. (1) Every person who commits the crime of destruction of property by means of explosives, as defined in section 18-7006, Idaho Code, and who, in so doing, causes injury to another person, or creates a grave risk of death or great bodily harm to another person, shall be guilty of destruction of property by means of explosives in the first degree, and shall be punished by a term of imprisonment in the state penitentiary for up to twenty-five (25) years or by a fine of not more than twenty-five thousand dollars

($25,000), or by both such fine and imprisonment.

(2) A person who commits the crime of destruction of property by means of explosives, as defined in section 18-7006, Idaho Code, shall be guilty of destruction of property by means of explosives in the second degree, and shall be punished by a term of imprisonment in the state penitentiary of not more than ten (10) years or by a fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment.

Approved April 6, 1988.

CHAPTER 348
(H.B. No. 577, As Amended in the Senate)

AN ACT

RELATING TO COUNTY-WIDE CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEMS; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 31, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE, TO PROVIDE A DEFINITION, TO PROVIDE AUTHORIZATION BY COUNTY COMMISSIONERS TO ESTABLISH A CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEM SUBJECT TO FUNDING APPROVAL OF THE ELECTORS OF THE COUNTY, TO PROVIDE FOR A TELEPHONE LINE USER FEE, TO ESTABLISH A JOINT POWERS BOARD OR ADMINISTRATOR FOR OPERATION OF AN EMERGENCY COMMUNICATIONS SYSTEM, TO PROVIDE FOR APPOINTMENT OF AN OFFICIAL IN ABSENCE OF JOINT POWERS BOARD, TO PROVIDE THAT THE RIGHT TO THE FEE IS NOT AFFECTED BY NONSERVICE, TO PROVIDE FOR TERMINATION OF THE SYSTEM, TO PROVIDE FOR A FUND AND APPROPRIATIONS THEREFROM, TO PROVIDE THAT EXISTING SYSTEMS ARE NOT AFFECTED, AND TO PROVIDE THAT PAY PHONES SHALL BE CONVERTED; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 48, Title 31, Idaho Code, and to read as follows:

CHAPTER 48
EMERGENCY COMMUNICATIONS ACT

31-4801. PURPOSE. The legislature recognizes that providing consolidated county-wide emergency communications systems is vital in enhancing the public health, safety, and welfare of the residents of the state of Idaho. The legislature further finds that there is an obvious need for providing a means to finance the initiation, maintenance, and enhancement of consolidated emergency communications systems.

31-4802. DEFINITION. As used in this chapter "consolidated emergency communications system" means facilities, equipment and dispatch-

ing services directly related to establishing, maintaining, or enhancing a county-wide 911 emergency communications service.

31-4803. AUTHORITY TO ESTABLISH AND FOR VOTERS TO APPROVE FUNDING FOR A CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEM. (1) The board of commissioners of any county may establish a consolidated emergency communications system by virtue of authority granted by this chapter or by chapter 23, title 67, Idaho Code.

(2) The voters of any county may authorize funding to support implementation of a consolidated emergency communication system pursuant to the provisions of this chapter. The authorization to provide such funding must be made by the registered voters of the county at either a primary or general election held in even-numbered years. A sixty percent (60%) majority of the votes cast in favor of the question shall be necessary to authorize the telephone line user fee.

(3) If the board of commissioners desires to finance a consolidated emergency communications system by implementation of a telephone line user fee, the commissioners shall submit the question to the electors of the county in substantially the following form:

"Shall the Board of Commissioners of ..... County be authorized to institute a telephone line user fee in an amount no greater than one dollar ($1.00) per month to be used to fund a consolidated emergency communication system?"

(4) No telephone line user fee for a consolidated emergency communication system shall be charged without voter approval as provided in subsection (2) of this section.

(5) Any net savings in operating expenditures realized by any taxing district utilizing a consolidated emergency communication system shall be used by that taxing district for a reduction in the ad valorem tax charges of that taxing district.

31-4804. TELEPHONE LINE USER FEE. The telephone line user fee provided pursuant to the provisions of this chapter shall be a uniform amount not to exceed one dollar ($1.00) per month per exchange access line, trunk line, network access register, or equivalent, and such fee shall be used exclusively to finance the initiation, maintenance, or enhancement of a consolidated emergency communications system within the boundaries of one (1) county. The fee shall be collected from customers on a monthly basis by all telecommunications entities which provide local telephone line service within the county, and may be listed as a separate item on customers' monthly bills. The telephone companies shall remit such fee to the county treasurer's office. From every remittance to the governing body made on or before the date when the same becomes due, the telephone company required to remit the same shall be entitled to deduct and retain three-fourths of one percent (.75%) of the collected amount as the cost of administration for collecting the charge. Local exchange companies will be allowed to list the surcharge as a separate item on the telephone subscriber's bill, and shall have no obligation to take any legal action to enforce the collection of any charge, nor be held liable for such uncollected amounts.

31-4805. ESTABLISHMENT OF JOINT POWERS BOARD FOR OPERATION OF EMERGENCY COMMUNICATIONS SERVICE. Within one hundred eighty (180) days following voter approval of a telephone line user fee as provided in section 31-4803, Idaho Code, a governing board or administrator may be established under a joint powers agreement pursuant to sections 67-2326 through 67-2332, Idaho Code. Such joint powers board or administrator shall be responsible for establishing, maintaining and governing a consolidated emergency communications system. Providing an emergency communications service shall be considered a governmental function.

31-4806. AUTHORIZATION FOR COUNTY COMMISSIONERS TO APPOINT OFFICIAL TO SUPERVISE EMERGENCY COMMUNICATIONS SERVICE IN THE ABSENCE OF JOINT POWERS AGREEMENT. Whenever the electors approve imposing the telephone line user fee as provided in this chapter, but in the absence of an agreement to form a joint powers board or administrator as provided in this chapter, the board of county commissioners is hereby authorized to appoint an official to maintain and govern a consolidated emergency communications system.

31-4807. RIGHT TO FEE NOT AFFECTED BY NONSERVICE. All governmental entities within the county that have an already established emergency communications system using 911 call access, upon resolution duly adopted and approved and presented to the joint powers board or in their absence to the board of county commissioners, may ask that their existing emergency communication system area be excluded and such area shall be excluded from the county-wide emergency communications service but such exclusion shall not affect the right of the board of county commissioners to levy the fees as herein provided. No city or other agency shall establish an individual emergency communication system once a county-wide system as provided in this chapter has been adopted by the board of county commissioners. Whenever an area is excluded pursuant to this section, the board of county commissioners shall remit to the excluded entity one hundred percent (100%) of the fees collected in the excluded area as provided pursuant to this chapter. Any area excluded pursuant to this section may be subsequently included upon resolution duly adopted and approved and presented to the joint powers board or, in their absence, to the board of county commissioners.

31-4808. TERMINATION. Any county or joint powers board having adopted and established an emergency communications system as provided in this chapter may terminate the same for good cause.

31-4809. FUND AND APPROPRIATIONS. The county treasurer of each county in which an emergency communications system has been established pursuant to this chapter shall establish a fund to be designated the emergency communications fund in which all fees collected pursuant to this chapter shall be deposited and such fund shall be used exclusively for the purposes of this chapter. The moneys collected and the interest earned in this fund shall be appropriated by the county commissioners for expenses incurred by the emergency commu-

nications system as set forth in an annual budget prepared by the joint powers board, or in their absence, the county commissioners and incorporated into the annual county budget.

31-4810. EXISTING JOINT COUNTY-WIDE EMERGENCY DISPATCH SYSTEMS NOT AFFECTED. Joint county-wide emergency dispatch systems that are in existence prior to July 1, 1987, shall not be affected by the provisions of this chapter. These emergency dispatch systems may continue to function as they have and shall be eligible to receive revenues generated by this chapter.

31-4811. PAY PHONES TO BE CONVERTED TO ALLOW EMERGENCY CALLS WITHOUT CHARGE. Every provider of telephone service or other owner of a pay station telephone in an area served by an emergency telephone system established pursuant to this chapter must convert every pay station telephone to permit dialing 911 or the telephone company operator without deposit of a coin or other charge to the caller. Conversion must be completed by or before the time the emergency telephone system is operational. If modification of telephone service switching equipment is necessary to implement the provisions of this section, such modification shall be considered a cost of the emergency communications program and the provider of telephone service shall be compensated from the user fees authorized for this chapter upon application to the county, providing that such costs are approved by the public utilities commission.

SECTION 2. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

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

Approved April 6, 1988.

CHAPTER 349
(H.B. No. 583)

AN ACT

RELATING TO INVESTMENT ADVISERS; AMENDING SECTION 30-1405, IDAHO CODE, TO PROVIDE THAT AN INVESTMENT ADVISER SHALL NOT ENTER INTO A CONTRACT UNLESS IT PROVIDES THAT HE WILL NOT HAVE CUSTODY OF OR DISCRETIONARY AUTHORITY OVER CLIENT FUNDS OR SECURITIES; AND AMENDING SECTION 30-1407, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR MAY WAIVE THE SURETY BOND REQUIREMENT IF AN INVESTMENT ADVISER DOES NOT HOLD OR ACCEPT CLIENT ASSETS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 30-1405, Idaho Code, be, and the same is hereby amended to read as follows:

30-1405. UNLAWFUL ACTS OF INVESTMENT ADVISER. (1) It is unlawful for any investment adviser to enter into, extend or renew any investment advisory contract unless it provides:

(~~1~~a) that the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client~~,~~;

(~~2~~b) that no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(~~3~~c) that the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change. ~~Subsection (1)~~ Paragraph (a) of this subsection does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period or as of definite dates or taken as of a definite date. "Assignment" as used in paragraph (a) of this subsection ~~(2) of this section~~ includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

(2) If the investment adviser has qualified under section 30-1407(2)(c), Idaho Code, for a waiver of the surety bond requirement it is unlawful for the investment adviser to enter into, extend, or renew any investment advisory contract unless the contract provides that the investment adviser will not have custody of or discretionary authority over client funds or securities.

SECTION 2. That Section 30-1407, Idaho Code, be, and the same is hereby amended to read as follows:

30-1407. APPLICATION FOR REGISTRATION -- PHOTOGRAPH, FINGERPRINTS, WRITTEN EXAMINATION, BOND, WAIVER, MINIMUM CAPITAL REQUIRED -- EFFECT OF BROKER-DEALER REGISTRATION ~~ON~~ PARTNERS' OFFICES. (1) A broker-dealer, salesman or investment adviser shall apply for registration by filing with the director or an organization which the director by rule designates an application in such form as the director shall prescribe and payment of the fee prescribed in section 30-1437, Idaho Code. Such application shall be accompanied by the fingerprints and a photograph of the applicant, unless waived by the

director.

(2) (a) A registered broker-dealer or investment adviser shall file with the director a bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of twenty-five thousand dollars ($25,000) and conditioned upon faithful compliance with the provisions of this act by the broker-dealer or investment adviser, its salesmen and agents, such that upon failure to so comply by the broker-dealer or investment adviser, its salesmen and agents, the surety company shall be liable to any and all persons who may suffer loss by reason thereof.

(b) Any salesman acting as agent for an issuer or issuers shall file with the director a bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of ten thousand dollars ($10,000) and conditioned upon faithful compliance with the provisions of this act by the salesman, such that upon failure to so comply by the salesman the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Provided, however, that the obligation of the surety bond must be maintained at all times in the amount therein provided; and provided further, that a certificate of deposit issued by any bank in the state of Idaho and assigned to the director in an amount equal to the bond which would otherwise be required may be accepted by the director in lieu of a bond, if the certificate of deposit is maintained at all times in the amount and manner herein provided during the term for which the registration is effective and for three (3) years thereafter.

(c) Upon a proper showing, the director, in his discretion, may waive the surety bond requirement of an investment adviser or an investment adviser applicant who satisfies both of the following conditions:

(i) The investment adviser will not have custody of or discretionary authority over client funds or securities; and

(ii) The investment adviser includes a provision in all investment advisory contracts which states that the investment adviser will not have custody of or discretionary authority over client funds or securities, as required by section 30-1405(2), Idaho Code.

(3) The director may by rule require a minimum capital for registered broker-dealers and investment advisers or may prescribe a ratio between net capital and aggregate indebtedness by type or classification.

(4) The director shall require as a condition of registration that the applicant (and, if the applicant is a corporation or partnership, all officers, directors or partners doing securities business in this state) pass a written examination in such form as the director shall prescribe as evidence of knowledge of the securities business: Provided, that not more than two (2) officers of an issuer may be registered as salesmen for a particular original offering of the issuer's securities without being required to pass such written examination or file a salesman's bond as required by section 30-1407(2), Idaho Code; and provided further, that no such officer may again register within five (5) years as such salesman for this or any other issuer without

passing the written examination. Such examination shall be given twice a year or at such more frequent intervals as the director shall direct.

(5) Any person who is licensed to sell securities or conduct a securities business in this state and (a) is a member or registered representative of a member of the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Coast Stock Exchange, or the National Association of Securities Dealers or any other exchange registered with the Securities and Exchange Commission and approved by the director; or, (b) has successfully completed the general examination for nonmembers of the National Association of Securities Dealers, commonly known as the SECO examination, shall not be required to pass an examination given by the director as a condition of registration.

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

Approved April 6, 1988.

CHAPTER 350
(H.B. No. 599, As Amended, As Amended in the Senate)

AN ACT

RELATING TO BONDED WAREHOUSES; AMENDING SECTION 69-202, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 2, TITLE 69, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 69-256, 69-257, 69-258, 69-259, 69-260, 69-261, 69-262, 69-263, 69-264, 69-265, 69-266 AND 69-267, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A PROCEDURE FOR THE CREATION OF A COMMODITY INDEMNITY ACCOUNT PROGRAM, TO CREATE A COMMODITY INDEMNITY ACCOUNT, TO PROVIDE AN ASSESSMENT RATE, TO PROVIDE A MAXIMUM BALANCE FOR THE ACCOUNT, TO REQUIRE FINANCIALLY TROUBLED LICENSEES TO PROVIDE ADDITIONAL SECURITY, TO PROVIDE A COMMODITY INDEMNITY ACCOUNT ADVISORY COMMITTEE, TO PROVIDE A PROCEDURE FOR PROOF OF CLAIMS, TO PROVIDE THAT A FAILURE TO FILE RESULTS IS A LOSS OF CLAIM, TO PROVIDE A MAXIMUM PAYMENT AMOUNT IF THE ACCOUNT IS NOT AT A MAXIMUM BALANCE, TO PROVIDE A PAYMENT PRIORITY IF THE ACCOUNT IS NOT AT A MAXIMUM BALANCE, TO PROVIDE THAT A PAYMENT FROM THE ACCOUNT CONSTITUTES A DEBT OF THE WAREHOUSEMAN, AND TO PROVIDE THE DIRECTOR WITH REMEDIES IF A WAREHOUSEMAN IS THE CAUSE OF A CLAIM AGAINST THE ACCOUNT; AMENDING SECTIONS 69-205, 69-206, 69-208, 69-208A, 69-212, 69-213, 69-215, 69-218, 69-219, 69-220, 69-222, 69-223, 69-224, 69-225, 69-227, 69-236, 69-237, 69-238, 69-239, 69-248 AND 69-249, IDAHO CODE, TO REMOVE THE TERMS "AGRICULTURAL PRODUCT" AND INSERT "AGRICULTURAL COMMODITY"; AND AMENDING SECTION 69-506, IDAHO CODE, TO PROVIDE A REFERENCE.

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~~ commodity" means any grain, dry peas, dry beans, leguminous or other small seeds and feeds (not including minerals).

(2) "Commodity dealer or dealer" means any person who solicits, contracts for, negotiates the consignment or purchase, or obtains from an Idaho producer or producers, title, possession or control of any agricultural commodity for the purposes of sale or resale or who buys, during a calendar year, at least ten thousand dollars ($10,000) worth of agricultural commodities from an Idaho producer or producers of the commodities. Commodity dealer or dealer shall not mean any person who purchases agricultural commodities for his own use as seed or feed.

~~(3)~~ "Contract" means a written agreement between two (2) or more parties for the sale of an agricultural ~~product~~ commodity 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)~~(4) "Department" means the Idaho department of agriculture.

~~(4)~~(5) "Depositor" means any person who deposits an agricultural ~~product~~ commodity 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 person whose agricultural ~~product~~ commodity has been sold to or is under control of a warehouseman for selling, processing, reconditioning or handling whether or not such agricultural ~~product~~ commodity is within the warehouse, or any producer whose agricultural commodity has been sold to a dealer through the dealer's place of business located in the state of Idaho, or any producer whose agricultural commodity has been sold to or is under the control of a dealer, which dealer has negotiated the sale of the commodity or has control of the commodity in the state of Idaho.

~~(5)~~(6) "Director" means the director of the department of agriculture.

~~(6)~~(7) "Failure" means:

(a) An inability to financially satisfy claimants in accordance with this chapter and the time limits provided for in it;

(b) A public declaration of insolvency;

(c) A revocation of license and the leaving of an outstanding indebtedness to a depositor;

(d) A failure to redeliver any commodity to a depositor or to pay depositors for commodities purchased by a licensee in the ordinary course of business and where a bona fide dispute does not exist between the licensee and the depositor;

(e) A failure to make application for license renewal within sixty (60) days after the annual license renewal date; or

(f) A denial of the application for a license renewal.

~~(8)~~ "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~~9) "Person" means any individual, firm, association, corporation or partnership.

(~~8~~10) "Producer" means any person who is the owner, tenant or operator of land who has an interest in and receives all or part of the proceeds from the sale of agricultural ~~products~~ commodities produced on that land.

(~~9~~11) "Public warehouse" or "warehouse" means any elevator, mill, warehouse, subterminal ~~grain~~ commodity warehouse, public warehouse or other structure or facility in which agricultural ~~products~~ commodities are received for storage, shipment, processing, reconditioning or handling.

(~~10~~2) "Receipt" means a warehouse receipt.

(~~11~~3) "Revocation" means the permanent removal of a warehouse license following a hearing on violations of this ~~act~~ chapter by the hearing officer or director.

(~~12~~4) "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~~5) "Subterminal warehouse" means any warehouse at which an intermediate function is performed in which agricultural ~~products~~ commodities are customarily received from dealers rather than producers and where the commodities are accumulated prior to shipment.

(~~14~~6) "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~~7) "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 violation of any provision of this chapter.

(~~16~~8) "Warehouse receipt" means every receipt, whether negotiable or nonnegotiable, issued by a warehouseman, except scale weight tickets.

(~~17~~9) "Warehouseman" means a person operating or controlling a public warehouse.

SECTION 2. That Chapter 2, Title 69, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 69-255, 69-256, 69-257, 69-258, 69-259, 69-260, 69,261, 69-262, 69-263, 69-264, 69-265, 69-266, 69-267 and 69-268, Idaho Code, and to read as follows:

69-255. SHORT TITLE -- INDEMNITY ACCOUNT PROGRAM -- START-UP PROCEDURE. The provisions of this section and sections 69-256 through

69-268, Idaho Code, constitute the "Commodity Indemnity Account Program" (program) and shall take effect within ninety (90) days after a determination by the director following a public hearing that a program is in the interest of the agricultural industry of this state. At least sixty (60) days in advance, the director shall notify each licensed warehouse and dealer of the effective date of the program provisions. Except as provided in section 69-258, Idaho Code, the program, if activated by the director, shall be in lieu of the bonding and security provisions of this chapter and chapter 5, title 69, Idaho Code.

69-256. CREATION OF INDEMNITY ACCOUNT -- USES. (1) There is hereby established within the dedicated fund an account to be known as the commodity indemnity account. The commodity indemnity account shall consist of assessments remitted by depositors pursuant to the provisions of this chapter and any interest or earnings on the account balance.

(2) All assessments shall be paid to the department and shall be deposited in the commodity indemnity account. The state treasurer shall be the custodian of the commodity indemnity account. Disbursements shall be on authorization of the director. No appropriation is required for disbursements from this account.

(3) The commodity indemnity account shall be used exclusively for purposes of paying claimants pursuant to this chapter, and paying necessary expenses of administering the commodity indemnity account, provided however, that up to one-half (1/2) of the interest accumulated by the account may be paid to the department and to the state treasurer to defray costs of administering the warehouse and dealer indemnity program and the commodity indemnity account. The state of Idaho shall not be liable for any claims presented against the account.

69-257. ASSESSMENT -- RATE -- MINIMUM AND MAXIMUM ASSESSMENT. (1) Every depositor shall pay an assessment to the department for deposit in the commodity indemnity account according to the provisions of this chapter and rules and regulations promulgated by the department to implement the provisions of this chapter.

(2) Except as provided in this subsection and subsection (3) of this section, the rate of the assessment shall be established by rules promulgated by the department. The depositor's annual assessment shall not exceed two-tenths of one per cent (.2%) of the total value, as determined at the time of sale, of the commodities.

(3) No producer shall pay an assessment of more than ten thousand dollars ($10,000) per calendar year.

69-258. PAYMENT OF ASSESSMENT -- RELEASE OF BOND OR OTHER SECURITY. (1) The department shall promulgate a rule establishing the assessment within sixty (60) days of the activation of the program pursuant to section 69-255, Idaho Code. The department shall promulgate rules to provide a procedure for the collection of the depositor's assessment provided, that warehousemen and/or commodity dealers shall be responsible for the collection of depositor's assessment payments and the transmission of same to the department.

(2) The surety bond or other security posted by a licensed warehouse or dealer in effect immediately preceding the effective date of the program, shall remain in full force and effect and shall not be released until two (2) years after the effective date of the program. A certificate of deposit or other security in effect immediately preceding the effective date of the program shall remain on deposit until two (2) years after the effective date of the program. After the two (2) year period has elapsed, such certificate of deposit or other security shall be released by the department if the department determines that no outstanding claims are pending against the security.

(3) If a licensed warehouse or dealer is established subsequent to the effective date of the program, it shall comply with the bonding and security provisions of this chapter or chapter 5, title 69, Idaho Code, for a period of two (2) years from the date of licensure pursuant to this chapter or chapter 5, title 69, Idaho Code.

69-259. MAXIMUM ACCOUNT BALANCE -- CESSATION OF ASSESSMENTS. The assessments imposed pursuant to section 69-257, Idaho Code, shall be imposed annually, under rules promulgated by the department, until such time as the commodity indemnity account balance, less any outstanding claims, reaches five million dollars ($5,000,000). For any year in which the commodity indemnity account balance, less any outstanding claims, exceeds five million dollars ($5,000,000) on the annual assessment date, no assessment shall be imposed by the department, except as provided in section 69-258, Idaho Code. For the two (2) fiscal years immediately following the effective date of the program, an amount not exceeding one hundred thousand dollars ($100,000) per year may be paid to the department to defray costs of administering the warehouse audit program.

69-260. FINANCIAL DIFFICULTIES -- ADDITIONAL ASSESSMENT OR SECURITY REQUIRED. The department may, when it has reason to believe that a licensee does not have the ability to pay depositors for commodities purchased, or when it determines that the licensee does not have a sufficient net worth to outstanding financial obligations ratio, require from the licensee the posting of a bond or other additional security in an amount to be prescribed by rule. The additional security may exceed the maximum amount set forth in this chapter. Failure of the licensee to timely post the additional bond or other security constitutes grounds for suspension or revocation of a license issued under this chapter. The licensee may request a hearing regarding the decision to increase the amount of security required or the revocation or suspension of a license pursuant to this section and may appeal such decisions pursuant to the procedure set out in section 69-246, Idaho Code.

69-261. ADVISORY COMMITTEE -- TERMS -- COMPENSATION. (1) There is hereby created a commodity indemnity account advisory committee consisting of five (5) members to be appointed by the director. The director shall make appointments to the committee no later than the effective date of the program as determined by the director pursuant to section 69-255, Idaho Code. Of the initial appointments, two (2)

shall be for two (2) year terms and three (3) shall be for three (3) year terms. Thereafter, appointments shall be for three (3) year terms, each term ending on the same day of the same month as did the term preceding it. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term.

(2) The committee shall be composed of three (3) producers primarily engaged in the production of commodities, and two (2) licensed commodity warehousemen or licensed commodity dealers.

(3) The committee shall meet at such places and times as it shall determine and as often as necessary to discharge the duties imposed upon it, provided, it shall meet not less than once per year. Each committee member shall be compensated in accordance with section 59-509(g), Idaho Code, for travel and subsistence expense. The expenses of the committee and its operation shall be paid from the commodity indemnity account.

(4) The committee shall have the power and duty to advise the director concerning assessments, administration of the commodity indemnity account, and payment of claims from the account.

69-262. PROOF OF CLAIMS -- PROCEDURE -- HEARING -- INSPECTION OF WAREHOUSE. In the event a warehouse or dealer fails, as defined in section 69-202(6), Idaho Code, or otherwise fails to comply with the provisions of this chapter or rules promulgated hereunder, the department shall process the claims of depositors producing written evidence of ownership disclosing a storage obligation or written evidence of a sale of commodities for damages caused by the failure, in the following manner:

(1) The department shall give notice and provide a reasonable time of not less than thirty (30) days and not more than sixty (60) days to depositors possessing written evidence of ownership disclosing a storage obligation or written evidence of sale of commodities to file their written verified claims with the department.

(2) The department may investigate each claim and determine whether the claimant's commodities are under a storage obligation or whether a sale of commodities has occurred. The department shall notify each claimant, the commodity warehouseman or dealer, and the committee of the department's determination as to the validity and amount of each claimant's claim. A claimant or warehouseman or dealer may request a hearing on the department's determination within twenty (20) days of receipt of written notification and a hearing shall be held by the department pursuant to title 67, chapter 52, Idaho Code. Upon determining the amount and validity of the claim, the director shall pay the claim from the commodity indemnity account. For the purpose of determining the amount of the producer's claim, the value of a producer's commodity shall be the value of the commodity on the date the director declared the warehouse or dealer to have failed or to have failed to comply with the provisions of this chapter or rules promulgated thereunder.

(3) The department may inspect and audit a failed warehouseman to determine whether the warehouseman has in his possession sufficient

quantities of commodities to cover his storage obligations. In the event of a shortage, the department shall determine each depositor's pro rata share of available commodities and the deficiency shall be considered as a claim of the depositor. Each type of commodity shall be treated separately for the purpose of determining shortages.

(4) The director shall not approve or pay any claim made on the commodity indemnity account if the claim is based on losses resulting from the deposit, sale or storage of commodities in an unlicensed warehouse or dealer.

69-263. FAILURE TO FILE -- LOSS OF CLAIM ON ACCOUNT. If a depositor creditor, after notification, refuses or neglects to file in the office of the director his verified claim against a warehouseman or dealer as requested by the director within sixty (60) days from the date of the request, the director shall thereupon be relieved of responsibility for taking action with respect to such claim later asserted and no such claim shall be paid from the commodity indemnity account.

69-264. INSUFFICIENT ACCOUNT BALANCE -- MAXIMUM PAYMENTS. Payment of any claim approved before the commodity indemnity account first reaches a balance of one million two hundred fifty thousand dollars ($1,250,000), shall be limited to the following amounts:

(1) For claims against a licensed commodity warehouse, payment shall not exceed the lesser of seven hundred fifty thousand dollars ($750,000) or an amount equal to the licensee's total bushels of licensed storage space multiplied by the rate of eighteen cents (18¢).

(2) For claims against a dealer, payment shall not exceed the lesser of seven hundred fifty thousand dollars ($750,000) or an amount equal to six per cent (6%) of the gross purchases of the licensee during the licensee's immediately preceding fiscal year.

(3) The unpaid balance of any claim subject to this section shall be paid when the commodity indemnity account first reaches a balance of one million two hundred fifty thousand dollars ($1,250,000).

69-265. INSUFFICIENT ACCOUNT BALANCE -- PAYMENT PRIORITY. In the event that the amount in the commodity indemnity account is insufficient to pay all approved claims in the amount provided for under section 69-264, Idaho Code, the claims shall be paid in the order in which they were filed with the department, until such time as sufficient moneys are available in the commodity indemnity account to pay all of the claims.

69-266. PAYMENT FROM ACCOUNT -- DEBT OF WAREHOUSEMAN OR DEALER. Amounts paid from the commodity indemnity account in satisfaction of any approved claim shall constitute a debt and obligation of the warehouseman or dealer against whom the claim was made. The director may bring suit on behalf of the commodity indemnity account in the district court of Ada county to recover from the warehouseman or dealer the amount of the payment made from the commodity indemnity account, together with costs and attorneys' fees incurred in maintaining the suit.

69-267. CLAIM AGAINST WAREHOUSEMAN OR DEALER -- DIRECTOR'S REMEDIES. The department may deny, suspend, or revoke the license of any warehouseman or dealer against whom a claim has been made, approved, and paid from the commodity indemnity account. Proceedings for the denial, suspension, or revocation shall be subject to the provisions of title 67, chapter 52, Idaho Code.

SECTION 3. That Sections 69-205, 69-206, 69-208, 69-208A, 69-212, 69-213, 69-215, 69-218, 69-219, 69-220, 69-222, 69-223, 69-224, 69-225, 69-227, 69-236, 69-237, 69-238, 69-239, 69-248, and 69-249, Idaho Code, be, and the same are hereby amended to read as follows:

69-205. INSPECTION AND CLASSIFICATION OF WAREHOUSES, STORAGE, WAREHOUSING, WEIGHING AND CERTIFICATION OF ~~PRODUCTS~~ COMMODITIES -- DUTIES OF WAREHOUSEMEN. Upon application by any person for license to conduct a warehouse under this chapter, the department of agriculture is authorized to investigate and determine whether the warehouse for which licenses are applied, or have been previously issued, under this chapter, are suitable for the proper storage of agricultural ~~products~~ commodities, and the department of agriculture is authorized with or without application, to wit:

To inspect any warehouse licensed under this chapter; to investigate the storage, warehousing, classifying according to grade, and otherwise weighing and certification of agricultural ~~products~~ commodities therein conducted; to classify warehouses, licensed or applying for license, in accordance with their capacity and to prescribe, within the limitations of this chapter, the duties of the warehousemen conducting warehouses licensed under this chapter with respect to their care of and responsibility for agricultural ~~products~~ commodities.

69-206. LICENSES TO WAREHOUSEMEN -- ISSUE -- RENEWAL -- CONDITIONS PRECEDENT. The department of agriculture is authorized, upon application to it, to issue or renew to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this chapter and such rules and regulations as may be made hereunder, providing the following conditions are met:

(1) Each person, as a condition precedent to operating a warehouse in this state, shall file and maintain satisfactory evidence with the director of the department of agriculture of the existence of an effective policy of insurance issued by an insurance company authorized to do business in this state, insuring all agricultural ~~products~~ commodities that may be stored or accepted for storage on the premises, including ~~products~~ commodities owned by the warehouseman, for which such license is sought for the full market value of such agricultural ~~products~~ commodities against loss by fire, internal explosion, lightning or tornado;

(2) That each warehouse be found suitable for the proper storage of the particular agricultural ~~product~~ commodity or ~~products~~ commodities for which a license is requested;

(3) A license fee is submitted to the department as prescribed by

section 69-211, Idaho Code;

(4) A current drawing of the warehouse which shows storage facilities and the capacity of the warehouse is submitted to and approved by the department;

(5) A sufficient and valid bond is filed and maintained as required by section 69-208, Idaho Code;

(6) The applicant has submitted to the department a current financial statement prepared by a licensed accountant according to generally accepted accounting principles showing that the applicant has and does maintain current assets equal to or greater than current liabilities;

(7) The applicant has complied with and abided by all the terms of this chapter and the rules and regulations prescribed hereunder;

(8) That all materials required for renewal of a license shall be received by the department prior to the expiration date of the warehouse license. A warehouse license which has expired may be reinstated by the department upon receipt of all necessary licensing materials required by the provisions of this chapter and a penalty fee in the amount of fifty dollars ($50.00), providing that this material is filed within thirty (30) days from the date of expiration of the warehouse license. At the end of the thirty (30) day penalty period, a warehouse license shall be terminated by the department. All license applications completed and received after the thirty (30) day penalty period shall be considered original applications and license fees shall be assessed according to section 69-211, Idaho Code.

69-208. BOND OF APPLICANT FOR LICENSE -- ADDITIONAL BOND -- ADDITIONAL OBLIGATIONS -- CERTIFICATE OF DEPOSIT OR IRREVOCABLE LETTER OF CREDIT 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 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~~ commodities 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 may prescribe to carry out the purposes of this chapter. Whenever the department 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~~ commodity delivered and to deliver the agricultural ~~product~~ commodity ~~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 warehouseman 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.

At the discretion of the director, 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 or an irrevocable letter of credit payable to the director as trustee in lieu of the bond required herein. The principal amount of the certificate or letter of credit 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 or letter of credit 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 or letter of credit given in lieu of such bond.

Under provisions of this chapter, an irrevocable letter of credit shall not be acceptable unless it is issued by a national bank in Idaho or by an Idaho state-chartered bank insured by the federal deposit insurance corporation.

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~~ commodities 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 written 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.

69-212. SCHEDULE OF CHARGES -- POSTING. Every licensed warehouseman shall annually, during the first week of July, publish by posting in a conspicuous place in his warehouse, a schedule of storage and handling charges for the ensuing year, which schedule shall be kept posted in a conspicuous place in said warehouse. Further, the warehouseman shall annually, during the first week in July, mail to the department of agriculture, a copy of such charges. All charges made by any public warehouseman hereunder for the handling and storage of agricultural ~~products~~ commodities shall be just, fair and reasonable; and the director of the department of agriculture of the state of Idaho is hereby vested with the power and authority upon the complaint of any person interested or upon his own motion, after a full hearing, to declare any existing charge for the handling or storage of any

agricultural ~~product~~ commodity to be unreasonable or unjust and to determine and order what shall be a just and reasonable charge to be imposed or enforced in place of that found to be unreasonable or unjust. Failure to file and post scheduled charges for the current year will keep in full force and effect the latest previously posted and filed schedule of rates.

69-213. PRIVILEGE OF EXAMINING ~~PRODUCTS~~ COMMODITIES STORED. Every depositor having an interest in any agricultural ~~product~~ commodity stored in any such warehouse, and every state inspector authorized by the director, shall have the right to examine at any reasonable time during ordinary business hours any ~~product~~ commodity so stored, and all parts of such warehouses, provided the warehouse or the agricultural ~~products~~ commodities stored therein is not endangered by such inspection; and every warehouseman, his agents and servants shall furnish safe and reasonable access and facilities for such examination.

69-215. LICENSES TO WEIGH ~~PRODUCTS~~ COMMODITIES FOR STORAGE. Every warehouse licensed under this chapter shall have a weighmaster licensed pursuant to the provisions of the Weighmaster's Licensing Act; provided, however, that if agricultural ~~products~~ commodities are not received or delivered by a warehouse over scales, a weighmaster's license shall not be required.

69-218. WAREHOUSEMEN TO RECEIVE ~~PRODUCTS~~ COMMODITIES ACCORDING TO CAPACITY. Every warehouseman conducting a warehouse licensed under this chapter shall receive for storage therein, so far as its capacity permits, any agricultural ~~product~~ commodity of the kind customarily stored therein by him which may be tendered to him by historical depositors, bearing certificate, when required, of an official inspector showing suitable condition, for warehousing, in the usual manner in the ordinary and usual course of business. A warehouseman may accept agricultural ~~products~~ commodities from new depositors who qualify to the extent of the capacity of the warehouse.

69-219. ~~PRODUCTS~~ COMMODITIES FOR STORAGE DEEMED DEPOSITED SUBJECT TO LAW. Any person who deposits agricultural ~~products~~ commodities for storage in a warehouse licensed under this chapter shall be deemed to have deposited the same subject to the terms of this chapter and the rules and regulations prescribed hereunder.

69-220. INSPECTION AND GRADING OF DISEASED OR INSECT INFESTED ~~PRODUCTS~~ COMMODITIES. Any diseased or insect infected agricultural ~~product~~ commodity complained of by the department or any person having interest in the warehouse or agricultural ~~products~~ commodities stored in a warehouse licensed under this chapter shall be inspected and graded by a representative of the department of agriculture or a person duly licensed to grade the same under this chapter, and if such inspection or grading shows such agricultural ~~product~~ commodity to be in condition that its continued storing or retention would injure or damage the warehouse or other ~~products~~ commodities stored therein the owner shall, by order of the director, forthwith remove and dispose of

such agricultural ~~product~~ commodity as directed. If the owner of such ~~product~~ commodity is unknown to the inspector or warehouseman, the warehouseman shall proceed to remove or make disposition of such ~~product~~ commodity in a manner that will tend to save and realize the values contained in such ~~product~~ commodity by the owner, under such rules and regulations as may be promulgated under this chapter or the uniform commercial code.

69-222. RECEIPTS -- SCALE WEIGHT TICKETS. For all agricultural ~~products~~ commodities stored in a warehouse licensed under this chapter original negotiable or nonnegotiable warehouse receipts, or scale weight tickets, shall be issued by the warehouseman conducting the same, but no receipts, or scale weight tickets, shall be issued except for agricultural ~~products~~ commodities actually stored in the warehouse at the time of the issuance thereof; provided, however, that no negotiable receipt need be issued except when requested by the depositor.

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

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

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

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

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

(d) A statement that the negotiable warehouse receipt is issued subject to the provisions of this chapter and the rules and regu-

lations prescribed hereunder.

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

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

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

69-224. STANDARDS FOR AGRICULTURAL ~~PRODUCTS~~ COMMODITIES. The department of agriculture is authorized, from time to time, to establish and promulgate standards for agricultural ~~products~~ commodities by which their quality or value may be judged or determined.

So far as practicable such standards shall conform to the official standards of the United States or the state of Idaho applicable to such agricultural ~~products~~ commodities as the same may from time to time be fixed and promulgated.

No warehouseman in this state shall insert in any receipt issued by him any language in anywise limiting or modifying his liabilities, or responsibilities, as imposed by the laws of this state.

69-225. LOSS OF RECEIPTS -- CONDITIONS OF REISSUE. While an original receipt issued under this chapter is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural ~~product~~ commodity covered thereby or for any part thereof. In order to issue a new warehouse receipt supplementing one that has been lost or destroyed or to cancel an outstanding warehouse receipt that has been lost or destroyed, the licensed warehouseman shall require the depositor or other applicant to submit to the warehouseman: (1) an affidavit stating that he is lawfully entitled to possession of the original receipt, that he has not negotiated or assigned it and how the original receipt was lost or destroyed, and (2) a bond in an amount double the market value of the agricultural ~~product~~ commodity represented by the lost or destroyed receipt. The market value shall be determined at the time this bond is submitted for the lost receipt. A warehouse receipt issued in lieu of a lost or destroyed receipt shall duplicate the original and bear a statement that it is issued in lieu of the lost or destroyed receipt. A duplicate receipt must clearly state on its face that it is a duplicate receipt, the number of the receipt it is replacing and the license number under which the original receipt was issued.

69-227. EXAMINATION OF ~~PRODUCTS~~ COMMODITIES -- RECORDS -- PUBLICATION OF FINDINGS. The department of agriculture is authorized to cause examination to be made of any agricultural ~~product~~ commodity stored, or any record pertaining to ~~products~~ commodities stored therein, in any warehouse licensed under the provisions of this chapter. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this chapter and the rules and regulations made hereunder, the department may publish its findings in a local daily or weekly newspaper in the area where the warehouse is located.

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~~ commodities to cover the outstanding warehouse receipts, scale weight tickets, or other evidence of storage liability issued or assumed by him, or when ~~this~~ the 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~~ commodities 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~~ commodities, 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~~ commodities 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~~ commodities 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 department 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~~ commodities, 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~~ commodities, 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 section 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.

69-237. PARTIAL WITHDRAWAL OF COMMODITIES -- ADJUSTMENT OR SUBSTITUTION OF RECEIPT -- DUTIES OF WAREHOUSEMAN. When partial withdrawal of an agricultural ~~product~~ commodity is made by a depositor, the warehouseman shall make appropriate notation thereof on the depositor's nonnegotiable receipt or on other records. If the warehouseman has issued a negotiable receipt to the depositor he shall claim, cancel, and replace it with a negotiable receipt showing the amount of the depositor's agricultural ~~product~~ commodity remaining in the warehouse. For failure to claim and cancel a negotiable receipt which has been issued by him, a warehouseman shall be liable to anyone who purchases such receipt for value and in good faith, for failure to deliver all the agricultural ~~product~~ commodity specified in the receipt, whether such purchaser acquired title to the negotiable receipt before or after delivery of any part of the agricultural ~~product~~ commodity by the warehouseman.

69-238. WAREHOUSEMAN'S OBLIGATIONS -- DUTY TO DELIVER STORED COMMODITIES -- DAMAGES. (1) The duty of the warehouseman to deliver agricultural ~~products~~ commodities stored shall be governed by the provisions of this chapter and the requirements of the uniform commercial code. Upon the return of a properly endorsed negotiable warehouse receipt to the warehouseman, and upon payment or tender of all advances and legal charges, agricultural ~~products~~ commodities of the grade and quantity named therein shall be delivered to the holder of the negotiable warehouse receipt, except as provided by the uniform commercial code.

(2) A warehouseman's duty to deliver any agricultural ~~product~~ commodity is fulfilled if delivery is made pursuant to the contract with the depositor, or if no contract exists, then to the several owners in the order of demand as rapidly as it can be done by ordinary diligence. When delivery is made within thirty (30) days from date of demand, or as agreed upon in writing by all parties concerned, such delivery is deemed to comply with the provisions of this section. An extension of the delivery period may be granted by the department upon written request.

(3) A warehouseman shall not fail to deliver an agricultural ~~product~~ commodity as provided in this section, and delivery shall be made at the warehouse or station where the agricultural ~~product~~ commodity was received, unless otherwise agreed.

(4) In addition to being subject to penalties provided in this chapter for a violation of the provisions of this section, any warehouseman failing to deliver agricultural ~~products~~ commodities within the time provided in this section is subject to suit by the person entitled to delivery of the agricultural ~~products~~ commodities and may be ordered by a court of competent jurisdiction to pay actual damage or liquidated damages of one-half (1/2) of one percent (1%) of the value for each day's delay.

69-239. DUTIES OF WAREHOUSEMAN -- CONTENTS OF RECORDS. (1) The warehouseman shall maintain current and complete records at all times with respect to all agricultural ~~products~~ commodities handled, stored, shipped or merchandised by him, including agricultural ~~products~~ commodities owned by him. Such records shall include, but are not limited to, a daily position record showing the total quantity of each kind and class of agricultural ~~product~~ commodity received and loaded out and the amount remaining in storage at the close of each business day, and the warehouseman's total storage obligation for each kind and class of agricultural ~~product~~ commodity at the close of each business day.

(2) Every warehouseman purchasing any agricultural ~~product~~ commodity from a depositor thereof shall promptly make and keep for five (5) years a correct record showing in detail the following information:

(a) The name and address of the depositor;

(b) The date purchased;

(c) The terms of the sale; and

(d) The quality and quantity purchased by the warehouseman and,

where applicable, the dockage, tare, grade, size and net weight.

69-248. DRAWING CHECKS INSUFFICIENTLY COVERED A VIOLATION. Any person engaged in business as a 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~~ commodity 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.

69-249. CREDIT-SALE CONTRACTS. (1) A warehouseman who purchases agricultural ~~products~~ commodities by credit-sale contracts shall maintain books, records and other documents as required by the department to establish compliance with the provisions of this section.

(2) In addition to other information as may be required, a credit-sale contract shall contain or provide for all of the following:

(a) The seller's name and address;

(b) The conditions of delivery;

(c) The amount and kind of agricultural ~~products~~ commodities delivered;

(d) The price per unit or basis of value; and

(e) The date payment is to be made.

(3) Title to all agricultural ~~products~~ commodities sold by credit-sale contract is in the purchaser as of the time the contract is executed, unless the contract provides otherwise. The contract must be signed by both parties and executed in duplicate. One (1) copy shall be retained by the warehouseman and one (1) copy shall be delivered to the seller. Upon revocation or termination of a warehouseman's license, the payment date for all credit-sale contracts shall be advanced to a date not later than thirty (30) days following the effective date of the revocation or termination and the purchase price for all agricultural ~~products~~ commodities without a price shall be determined as of the effective date of revocation or termination in accordance with all other provisions of the contract. However, if the business of the warehouseman is sold to another licensed warehouseman, credit-sale contracts may be assigned to the purchaser of the business.

SECTION 4. 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. Except as provided in chapter 2, title 69, Idaho Code, ~~an~~ applicant for a license to operate as a commodity dealer shall, before a license will be issued, file with the depart-

ment 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). 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 lieu of such bond.

Approved April 6, 1988.

CHAPTER 351
(H.B. No. 649)

AN ACT

RELATING TO WORKMEN'S COMPENSATION; AMENDING SECTION 72-327, IDAHO CODE, TO EXPLAIN THE APPLICATION OF THE EXISTING EXCISE LEVY TO CLAIMS RESOLVED THROUGH STRUCTURED SETTLEMENT; DECLARING LEGISLATIVE INTENT; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 72-327, Idaho Code, be, and the same is hereby amended to read as follows:

72-327. SOURCE OF FUND -- EXCISE LEVY. (1) Except as otherwise provided in section 72-328, Idaho Code, and subsection (24) of this section, in addition to any benefits paid to an employee, the employer shall forthwith pay to the industrial commission, for deposit in the industrial special indemnity fund, a lump sum without discount, equal to five per cent (5%) of all benefits or other considerations speci-

fied in any summary and award payment, commission order, compensation agreement, award or approved settlement, whether specified in percentage ratings, specific dollar amounts or in some other form which may be converted to a specific dollar amount, and including credits for previously paid or advanced permanent disability income benefits, but specifically excluding amounts paid or owing by an employer for total temporary or partial temporary disability income benefits and previously paid or incurred medical benefits.

(2) Except as otherwise provided in subsection (3) of this section, in cases involving the approved settlement of any claim, involving less than total and permanent disability, where future payments are to be made, in whole or in part, on a periodic annuity or installment basis, the excise levy provided for in subsection (1) of this section shall apply as follows:

(a) To all amounts paid in lump sum at the time of or contemporaneous to the approved settlement, however designated, excluding amounts actually intended for and specifically identified as payment for total or partial temporary disability income benefits and previously paid or incurred medical benefits; and

(b) To the cost of all future periodic, annuity or installments payments, which cost shall either be the actual, established cost to the employer or its surety or, absent proof thereof, the present cash value of such payments calculated at the time of settlement pursuant to regulations promulgated and approved by the industrial commission for these purposes.

(3) The provisions of subsection (2) of this section shall not apply, and no levy shall be assessed against benefits or payments on an approved settlement involving future payments on a periodic annuity or installment basis where, based upon the record and evidence before it the commission finds that the employee suffers total and permanent disability, and that the parties have entered into settlement as an alternative means of paying income benefits and medical and related expenses which the employee would otherwise be entitled to receive pursuant to section 72-408 or 72-432, Idaho Code, provided that nothing contained in this subsection shall relieve an employer from levy on the amount of its agreed payment or apportioned share of total and permanent disability compensation in settled or adjudicated claims arising under section 72-332, Idaho Code.

(~~2~~4) Whenever the cash balance of the industrial special indemnity fund shall exceed two million dollars ($2,000,000), upon notification of that fact by the manager, supported by statements of the treasurer and director of the department of administration, the levy of excise provided for in subsection (1) of this section shall be reduced to four per cent (4%), and shall remain at that level until:

(a) The cash balance of the fund shall again be reduced below two million dollars ($2,000,000), at which time the levy of excise shall increase to five per cent (5%); or

(b) The cash balance of the fund shall reach the limitations of section 72-328, Idaho Code, at which time the provisions of that section shall apply. During any period when the four per cent (4%) levy specified in paragraph (a) above is in effect, the manager shall furnish the commission such periodic financial informa-

tion as it may require to assist it in providing notice of and implementing increases and reductions in levies.

(35) Any notice from the commission temporarily increasing or reducing the percentage of excise levy shall be made by the commission at least thirty (30) days prior to the application of the notice and a certified copy of such notice shall be filed in the office of the state treasurer and the office of the state auditor, with a copy thereof to the manager.

(46) As applied in this act, the terms "cash balance" and "cash balance of the fund" mean all money deposited or invested by the state treasurer to the credit of the industrial special indemnity fund, pursuant to sections 72-325 and 72-326, Idaho Code, and all interest earned thereon.

SECTION 2. LEGISLATIVE INTENT. The legislature hereby finds and declares that it is the intent of this act to clarify the original meaning and purpose of section 72-327, Idaho Code, as enacted by section 2, chapter 93, Laws of 1986. The legislature does not intend, by enactment of this act, to create any implication or inference that the intent of this section, prior to this amendment, was to provide a different treatment for structured settlements than is provided herein. This legislation is meant only to clarify the treatment mandated for such settlements under section 72-327, Idaho Code, as enacted in 1986.

SECTION 3. An emergency existing because of disputes which have arisen regarding the interpretation and application of section 72-327, Idaho Code, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to March 22, 1986.

Approved April 6, 1988.

CHAPTER 352
(H.B. No. 659)

AN ACT

RELATING TO SALES TAX ON AIRCRAFT AND CHARTER FLYING; AMENDING SECTION 63-3612, IDAHO CODE, TO INCLUDE IN THE DEFINITION OF THE TERM "SALE" FOR SALES TAX PURPOSES, RECEIPTS FROM INTRASTATE TRANSPORTATION FOR HIRE BY AIR OF FREIGHT OR PASSENGERS, EXCEPT AS PART OF A REGULARLY SCHEDULED FLIGHT BY A CERTIFIED AIR CARRIER; AND AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION THERETO OF A NEW SECTION 63-3622GG, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR SALES AND USE TAX FOR AIRCRAFT USED TO TRANSPORT PASSENGERS OR FREIGHT FOR HIRE, BUT EXCLUDING PARTS AND OTHER PROPERTY USED TO REPAIR OR MAINTAIN SUCH AIRCRAFT; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3612, Idaho Code, be, and the same is hereby amended to read as follows:

63-3612. SALE. The term "sale" means and includes any transfer of title, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration and shall include any transfer of possession through incorporation or any other artifice found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, an exchange or barter. "Sale" shall also include:

(a) Producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(b) Furnishing, preparing, or serving for a consideration food, meals, or drinks.

(c) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(d) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(e) Admission charges.

(f) Receipts from the use of or the privilege of using tangible personal property or other facilities for recreational purposes.

(g) Providing hotel, motel, tourist home or trailer court accommodations and services, except where residence is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days.

(h) Receipts from the lease or rental of tangible personal property.

(i) Receipts from intrastate transportation for hire by air of freight or passengers, except as part of a regularly scheduled flight by a certified air carrier, under authority of the United States.

SECTION 2. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622GG, Idaho Code, and to read as follows:

63-3622GG. AIRCRAFT. There is exempted from the taxes imposed by this chapter, the sale, lease, purchase, or use of aircraft primarily used to transport passengers or freight for hire. This exemption does not include parts or other tangible personal property used to repair or maintain such aircraft, whether or not such parts or property become a component part of any aircraft.

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 April 1, 1988.

Approved April 6, 1988.

CHAPTER 353
(H.B. No. 673)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION FEES; AMENDING CHAPTER 8, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-827, IDAHO CODE, TO AUTHORIZE VOTERS IN A COUNTY TO AUTHORIZE THE COUNTY TO IMPOSE AND COLLECT MOTOR VEHICLE REGISTRATION FEES, TO PROVIDE FOR SUBMITTING THE QUESTION TO THE VOTERS, TO PROVIDE FOR COLLECTION AND ADMINISTRATION OF FEES, TO PROVIDE FOR THE USE OF FEES RECEIVED, AND TO PROVIDE FOR DISTRIBUTION OF THE FEES.

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

SECTION 1. That Chapter 8, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-827, Idaho Code, and to read as follows:

40-827. AUTHORIZATION FOR VOTERS TO APPROVE VEHICLE REGISTRATION FEE. (1) Notwithstanding the provisions of section 49-202, Idaho Code, the voters of any county may authorize the board of county commissioners to adopt an ordinance by majority vote of the board of county commissioners to implement and collect a motor vehicle registration fee not to exceed two (2) times the amount established in section 49-126, Idaho Code. The authorization to adopt, implement, and collect a vehicle registration fee may be made by the registered voters of the county only at a general election and a simple majority of the votes cast on the question shall be necessary to authorize the fee.

(2) In any election, the ordinance submitted to the county voters shall: (a) state the exact rate of the fee; and (b) state the duration of the fee.

No rate shall be increased and no duration shall be extended without the approval of the voters, by a simple majority of the votes cast.

An election to approve or disapprove the adoption of a vehicle registration fee increase may be called for by the adoption of an ordinance by majority vote of the board of county commissioners or shall be called upon a request in writing from ten per cent (10%) or more of the qualified voters residing in each county commissioner subdistrict.

(3) Any county adopting an ordinance for a vehicle registration fee increase shall contract with the department for the collection, distribution, and administration of the fee in a like manner, and under the definitions, rules, and regulations for the collection and administration of other registration fees as set forth in chapter 1, title 49, Idaho Code. Each month, following receipt by the department of revenues from the implementation of a vehicle registration fee increase, the department shall remit the same to the county implementing such fee, less a deduction for such amount for the department's

actual costs for collection and administration of the fee, but not to exceed one and one-half per cent (1 1/2%). The increased vehicle registration fee shall not be remitted to the state treasurer nor become part of the state highway account or the state highway distribution account.

(4) The local governmental units, with highway jurisdictions, in the county shall use the funds generated by the increased vehicle registration fee exclusively for the construction, repair, maintenance, and traffic supervision of the highways within their respective jurisdictions and the payment of interest and principal of obligations incurred for said purposes.

(5) Sections 49-213, 49-217, 49-218, 49-228, 49-231, 49-231A and 49-695, Idaho Code, shall be subject to the provisions of this code section.

(6) Such funds generated from the optional vehicle registration fee increase shall be distributed as follows:

(a) Thirty per cent (30%) shall be apportioned among the cities, incorporated and specially chartered, in the county, in the same proportion as the population of the city bears to the total population of all the cities in the county, as shown by the last regular or special federal census.

(b) Seventy per cent (70%) shall be apportioned as follows:

(i) Twenty per cent (20%) shall be divided equally between the county highway department, where applicable, and each highway district in the county, where applicable;

(ii) Eighty per cent (80%) shall be divided between the county highway department where applicable, and each highway district in the county, where applicable, in the proportion that the number of miles of improved highways in each highway system of the county bears to the total number of improved miles of highways in the county.

Approved April 6, 1988.

CHAPTER 354
(H.B. No. 677, As Amended)

AN ACT

RELATING TO THEFT OF TELECOMMUNICATION SERVICES; AMENDING SECTION 18-6713, IDAHO CODE, TO SPECIFY A CONDITION WHICH SHALL NOT BE A DEFENSE TO THE CRIME OF THEFT.

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 intentionally to:

(a) Make 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) 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~~ (a) Actual knowledge by the supplier of the telecommunication services that a person is or has been using, receiving or controlling the services shall not be a defense to the crime of theft of telecommunication services.

~~(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.

(6) In a prosecution for 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) 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 April 6, 1988.

CHAPTER 355
(H.B. No. 706)

AN ACT

RELATING TO CREDITS FOR PREPAID TAXES; AMENDING SECTION 63-1607, IDAHO CODE, TO PROVIDE FOR AN EXTENSION OF THE TIME PERIOD DURING WHICH CREDITS FOR PREPAID TAXES MAY BE ALLOWED; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-1607, Idaho Code, be, and the same is

hereby amended to read as follows:

63-1607. CREDIT FOR PREPAID TAXES. During the last one-half (1/2) of the impact period and for not to exceed three (3) years thereafter, each taxpayer who has prepaid taxes shall be allowed a credit for such taxes paid during the first one-half (1/2) of the impact period. The credit shall be allowed against the actual taxes assessed to the taxpayer by the taxing district whi~~ch received~~ prepaid taxes from the local impact fund, and shall be calculated to provide an approximately equal credit during each year that the credit is allowed. Allowances necessary as a credit for prepaid taxes shall not be included as a part of the dollar limitations required by section 63-2220, Idaho Code. Any extension of time during which the credit may be allowed shall require the approval of the local impact committee.

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, 1988.

Approved April 6, 1988.

CHAPTER 356
(H.B. No. 709, As Amended)

AN ACT

RELATING TO LAND ACTIVELY DEVOTED TO AGRICULTURE; AMENDING SECTION 63-112, IDAHO CODE, TO CLARIFY THE DEFINITION OF WHAT CONSTITUTES LAND ACTIVELY DEVOTED TO AGRICULTURE; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-112, Idaho Code, be, and the same is hereby amended to read as follows:

63-112. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED. (1) For ad valorem tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:

(i) It is used to produce field crops, including, but not limited to, grains, feed crops, fruits, and vegetables; or

(ii) It is used by the owner for the grazing of livestock to be sold as part of a net profit making enterprise, or is leased by the owner to a bona fide lessee for grazing purposes; or

(iii) It is in a crop-land retirement or rotation program.

(b) The area of such land is five (5) acres or less and such land has been actively devoted to agriculture within the meaning of subsection (1)(a) of this section during the last three (3) growing seasons; and

(i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owners' or lessees' annual gross income; or

(ii) It agriculturally produced gross revenues in the immediately preceding year of one thousand dollars ($1,000) or more. When the area of land is five (5) acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this subsection have been met.

(2) Land shall not be classified or valued as agricultural land which is part of a platted subdivision with stated restrictions prohibiting its use for agricultural purposes, whether within or without a city.

(3) Land utilized for the grazing of a horse or other animals kept primarily for personal use or pleasure rather than as part of a bona fide profit making agricultural enterprise shall not be considered to be land which is actively devoted to agriculture.

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, 1988.

Approved April 6, 1988.

CHAPTER 357
(H.B. No. 722)

AN ACT

RELATING TO WORKMEN'S COMPENSATION CLAIMS THAT ARE LITIGATED; AMENDING CHAPTER 5, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-528, IDAHO CODE, TO PROVIDE FOR ADDITIONAL STATISTICAL INFORMATION THAT IS NECESSARY FOR COMPUTING THE ADMINISTRATIVE COST OF THE WORKMEN'S COMPENSATION LAW TO THE EMPLOYERS AND THE PEOPLE OF THE STATE OF IDAHO.

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

SECTION 1. That Chapter 5, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-528, Idaho Code, ~~and to read~~ as follows:

72-528. STATISTICAL INFORMATION REQUIRED. (1) Statistical information now provided to the industrial commission is inadequate and

incomplete, making it impossible to compute the total cost of the workmen's compensation system, both to employers and the people of the state of Idaho.

(2) In addition to all information that sureties, self-insurers, the state insurance fund, the industrial special indemnity fund and noninsured employers now supply to the industrial commission, they shall be required to report to the industrial commission all litigation expenses paid by them in any case litigated before the industrial commission, and if appealed to a higher court, all costs expended on appeal. This reporting requirement shall include all fees paid to attorneys, all expenses charged by attorneys, charges for reports or testimony of witnesses, costs of any depositions taken, any costs for investigation made before or during the hearing, costs of research or legal briefs, and all filing fees paid on account of the litigation.

(3) All attorneys engaged in representing any claimant in any litigated workmen's compensation claim must report to the industrial commission all attorney fees and all expenses which were incurred in the litigation and charged to the claimant. This requirement shall extend to any appeal or appeals that may be taken to a higher court by or on behalf of the claimant.

(4) The industrial commission may expand the forms presently used by sureties or employers providing workmen's compensation coverage under the law by adding appropriate space or spaces to provide the additional information required in this section.

(5) The industrial commission shall supply all attorneys representing claimants with a form upon which a report in compliance with this section can be made.

(6) Reports required hereunder must be filed with the industrial commission not later than thirty (30) days following the time of entry of an award by the industrial commission; in the event of an appeal to a higher court, not later than thirty (30) days following a final ruling by the court.

(7) The industrial commission may make such rules as are necessary to require compliance with the provisions of this section, including refusing to allow attorneys who fail to comply with the provisions of this section the right to appear before the industrial commission.

(8) The provisions of this section shall apply to all cases in which an application for hearing is filed with the industrial commission on or after July 1, 1988.

Approved April 6, 1988.

CHAPTER 358
(H.B. No. 731)

AN ACT

RELATING TO RETIREMENT BENEFITS BEING EXEMPT FROM FORFEITURE PURSUANT TO LEGAL PROCESS; AMENDING CHAPTER 12, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1201A, IDAHO CODE, TO PROVIDE

CONDITIONS WHEN PENSION AND RETIREMENT OR PROFIT-SHARING BENEFITS SHALL BE EXEMPT FROM CLAIMS OF JUDGMENT CREDITORS, TO PROVIDE EXCEPTIONS AND TO PROVIDE APPLICATION.

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

SECTION 1. That Chapter 12, 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 55-1201A, Idaho Code, and to read as follows:

55-1201A. EXEMPTION OF PENSION MONEY AND RETIREMENT OR PROFIT-SHARING BENEFITS FROM LEGAL PROCESSES. (1) Except as provided in subsection (2) of this section, any money or other assets payable to a participant or beneficiary from or any interest of any participant or beneficiary in, a retirement or profit-sharing plan that is qualified under sections 401(a), 403(a), 403(b), 408 or 409 of the internal revenue code, as amended, is exempt from all claims of judgment creditors of the beneficiary or participant arising out of a negligent or otherwise wrongful act or omission of the beneficiary or participant resulting in monetary damages to the judgment creditor. The exemption provided by this subsection shall be in addition to that provided in section 55-1201, Idaho Code.

(2) Any plan or arrangement described in subsection (1) of this section is not exempt from the claims of an alternate payee under a qualified domestic relations order. However, the interest of any alternate payee under a qualified domestic relations order is exempt from all claims of any creditor, other than the department of health and welfare, or the alternate payee. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" have the meanings ascribed to them in section 414(p) of the internal revenue code of 1986.

(3) The provisions of subsection (1) of this section apply to any proceeding that is filed on or after July 1, 1988.

Approved April 6, 1988.

CHAPTER 359
(H.B. No. 736)

AN ACT

RELATING TO LIMITED INSURANCE AGENTS' QUALIFICATION LICENSES; AMENDING SECTION 41-1046, IDAHO CODE, TO EXEMPT A LIMITED AGENT WHOSE QUALIFICATION LICENSE COVERS CREDIT LIFE INSURANCE OR CREDIT DISABILITY INSURANCE FROM THE EDUCATIONAL REQUIREMENTS FOR GENERAL AGENTS, BROKERS OR SOLICITORS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-1046, Idaho Code, be, and the same is

hereby amended to read as follows:

41-1046. CONTINUATION, EXPIRATION OF LICENSE. (1) All agent, broker, solicitor, consultant, limited, adjuster, and surplus line broker licenses issued under this code shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment of the applicable continuation fee to the director at his office in Boise no less often than biennially on or before the expiration date referred to in subsection (2) below, accompanied by written request for such continuation. The continuation fees as stated in section 41-401, Idaho Code (fee schedule), are for a one (1) year continuation; and licenses continued for two (2) years shall be subject to payment of a two (2) year continuation fee. Request for continuation shall be made as follows:

(a) As to broker, consultant, adjuster, and surplus line broker licenses, request for continuation shall be made and signed by the licensee.

(b) As to solicitor licenses, request for continuation shall be made and signed by the appointing general lines agent or broker.

(c) As to agent licenses, request for continuation shall be made and signed by the licensee.

(2) The director may, in his discretion, fix the dates of expiration of respective licenses and appointments in such manner as is deemed by him to be advisable for an efficient distribution of the work load of his office. If as to a particular license or appointment the expiration date so fixed would upon first occurrence shorten the period for which license or appointment continuation fee has theretofore been paid, no refund of unearned fee shall be made; and if the expiration date so fixed as to a particular license or appointment would upon first occurrence lengthen the period for which license or appointment continuation fee had theretofore been paid, the director shall charge no additional fee for such lengthened period. If another date is not so fixed by the director, each such license shall, unless continued as hereinabove provided, expire at midnight on March 31.

(3) Any license referred to in subsection (1) above as to which request for continuation and fee is not so received by the director shall be deemed to have expired at midnight on the applicable expiration date. Request for continuation of any such license or payment of the continuation fee therefor which is received by the director within thirty (30) days after such expiration date may be accepted and effectuated by the director, in his discretion, if accompanied by a continuation fee of two (2) times the amount otherwise required.

(4) Subject to continuation as above provided, the license of an agent shall continue in force as long as there is in effect as to such agent, as shown by the director's records, an appointment or appointments as agent of authorized insurers covering collectively all of the kinds of insurance or classifications thereof included in the agent's license. Upon termination of all of such licensee's agency appointments as to a particular kind of insurance or classification thereof and failure to replace such appointment within sixty (60) days thereafter, the licensee's license as agent shall automatically thereupon expire and terminate as to such kind of insurance or classification

and the licensee shall promptly deliver his license to the director for reissuance, without fee or charge, as to the kinds of insurance or classifications thereof, if any, covered by the licensee's remaining agency appointments. Upon termination of all of the licensee's agency appointments and the license shall forthwith terminate.

(5) As a condition to or in connection with the continuation of any agent, broker or solicitor license the director may require the licensee to file with him information relative to use made of the license during the next preceding two (2) calendar years, and especially showing whether the license has been used principally for the writing of controlled business, as defined in section 41-1033, Idaho Code.

(6) All sums tendered as fee for continuation of license as agent, broker, solicitor, consultant, limited agent, adjuster and surplus line broker shall be deemed earned when paid and shall not be subject to refund; except that the director shall refund any duplicate payment of any such fee.

(7) (a) For the protection of the people of this state the director shall, by rule and regulation, establish additional educational requirements designed to maintain and improve the insurance skills and knowledge of agents, brokers, solicitors, and consultants after being duly licensed by the department of insurance. The director shall also, by rule and regulation, establish an advisory committee, comprised of representatives from each segment of the insurance industry, to assist the director in prescribing additional educational requirements and fulfilling the purposes of this legislation.

(b) The director shall not permit to be continued the license of any agent, broker, solicitor, or consultant who is licensed pursuant to section 41-1030, Idaho Code, and who is a resident of this state, unless such person has demonstrated to the satisfaction of the director that in addition to meeting the standards contained in section 41-1034, Idaho Code (qualifications for agents, brokers, and solicitors), or section 41-1035, Idaho Code (qualifications for consultants), as may be applicable, all the additional educational requirements as the director may prescribe by regulation adopted pursuant to this subsection have been met. The provisions of this paragraph shall not apply to a limited agent whose qualification license covers credit life insurance or credit disability insurance pursuant to chapter 23, title 41, Idaho Code, or to persons regulated or licensed by the department of finance pursuant to chapter 46, title 28, Idaho Code, national or state chartered banks, federal or state chartered savings and loan associations, or federal or state chartered credit unions dealing with insurance licensed pursuant to section 41-1045(1)(b), (c) and (d), Idaho Code (limited agent's license).

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

Approved April 6, 1988.

CHAPTER 360
(H.B. No. 765)

AN ACT

RELATING TO MEDICAL ASSISTANCE; AMENDING SECTION 2, HOUSE BILL NO. 451, SECOND REGULAR SESSION OF THE FORTY-NINTH IDAHO LEGISLATURE, TO CORRECT A CODE CITATION.

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

SECTION 1. That Section 2, House Bill No. 451, Second Regular Session of the Forty-ninth Idaho Legislature, be, and the same is hereby amended to read as follows:

SECTION 2. That Section 56-2424c, Idaho Code, be, and the same is hereby repealed.

Approved April 6, 1988.

CHAPTER 361
(H.B. No. 768)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE SPECIAL PROGRAMS FOR FISCAL YEAR 1989; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. It is legislative intent that the expenditures for the Special Programs not exceed the following amount from the listed accounts for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$1,280,100
Paul L. Fowler Scholarship Account	10,600
State Student Incentive Grant Account	253,100
Interagency Billing and Receipts Account	40,500
TOTAL	$1,584,300

SECTION 2. There is hereby appropriated to the State Board of Education for the Special Programs the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WICHE-UNIVERSITY OF UTAH MEDICAL EDUCATION PROGRAM:					
FROM:					
General Account				$ 528,600	$ 528,600
II. IDEP-IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General Account	$ 72,100	$5,900	$800	$ 226,000	$ 304,800
Interagency Billing and Receipts Account	40,500				40,500
TOTAL	$112,600	$5,900	$800	$ 226,000	$ 345,300
III. FAMILY PRACTICE RESIDENCY PROGRAM:					
FROM:					
General Account				$ 85,000	$ 85,000
IV. SCHOLARSHIPS AND GRANTS:					
FROM:					
General Account				$ 361,700	$ 361,700
Paul L. Fowler Scholarship Account		$ 800		9,800	10,600
State Student Incentive Grant Account				253,100	253,100
TOTAL		$ 800		$ 624,600	$ 625,400
GRAND TOTAL	$112,600	$6,700	$800	$1,464,200	$1,584,300

SECTION 3. There is hereby reappropriated to the State Board of Education for the Scholarships and Grants Program any unexpended and unencumbered balances of the General Account moneys appropriated for the Scholarships and Grants Program by Section 2, Chapter 270, Laws of 1987, to be used for nonrecurring expenditures only for the period July 1, 1988, through June 30, 1989.

SECTION 4. There is hereby reappropriated to the State Board of Education for the WICHE-University of Utah Medical Education Program any unexpended and unencumbered balances of the General Account moneys appropriated for the PSEP-WICHE-University of Utah Medical Education Program by Section 2, Chapter 308, Laws of 1987, to be used for nonrecurring expenditures only for the period July 1, 1988, through June 30, 1989.

Approved April 6, 1988.

CHAPTER 362
(H.B. No. 769)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE POLICE AND THE RACING COMMISSION FOR FISCAL YEAR 1989; AND DESIGNATING AN AMOUNT FOR MERIT INCREASES CONTINGENT UPON THE FUEL TAX INCREASE.

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

SECTION 1. There is hereby appropriated to the Department of Law Enforcement the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. IDAHO STATE POLICE:					
FROM:					
Idaho Law Enforcement Account	$6,102,600	$1,937,300	$718,700		$ 8,758,600
Hazardous Material/ Waste Enforcement Account	35,800	21,300	27,600		84,700
Federal Motor Carrier Safety Account	739,100	218,100			957,200
Federal Highway Safety Account	382,900	27,700			410,600
TOTAL	$7,260,400	$2,204,400	$746,300		$10,211,100
II. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Account	$181,100	$168,800			$349,900
Small Track Fund Account				$ 25,000	25,000
Breeder Fund Account				25,000	25,000
County Dog Racing Fund Account				140,000	140,000
TOTAL	$181,100	$168,800		$190,000	$539,900

SECTION 2. The appropriation for personnel costs made in Section 1 of this act for the Idaho State Police includes $150,000 from the Idaho Law Enforcement Account to be used for the purpose of granting merit increases only, and is contingent upon an increase in Idaho's fuel tax to eighteen cents per gallon.

Approved April 6, 1988.

CHAPTER 363
(H.B. No. 770)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE OFFICE ON AGING FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR AGRICULTURAL RESEARCH/COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SERVICE FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1989; PROVIDING THAT THE STATE AUDITOR SHALL MAKE A TRANSFER FROM THE GENERAL ACCOUNT; APPROPRIATING MONEYS FOR DEPOSIT IN THE PUBLIC HEALTH TRUST ACCOUNT; APPROPRIATING MONEYS FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE ATTORNEY GENERAL FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE STATE TREASURER FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE STATE AUDITOR FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE SECRETARY OF STATE FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1989; APPROPRIATING MONEYS FOR THE LEGISLATIVE AUDITOR FOR FISCAL YEAR 1989; AND APPROPRIATING MONEYS FOR THE SUPREME COURT FOR FISCAL YEAR 1989.

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 amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account $4,500

SECTION 2. There is hereby appropriated to the Office of the Governor for the Office on Aging the following amount, to be expended for

the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $2,100

SECTION 3. There is hereby appropriated to the Office of the Governor for the Military Division the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $800

SECTION 4. There is hereby appropriated to the Department of Administration the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $1,800

SECTION 5. There is hereby appropriated to the Department of Labor and Industrial Services the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $1,400

SECTION 6. There is hereby appropriated to the Department of Agriculture the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $3,000

SECTION 7. There is hereby appropriated to the Department of Law Enforcement the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $22,900

SECTION 8. There is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $8,200

SECTION 9. There is hereby appropriated to the State Board of Education for the Idaho State School for the Deaf and the Blind the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:
General Account $13,000

SECTION 10. There is hereby appropriated to the State Board of Education for Vocational Education the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $63,800

SECTION 11. There is hereby appropriated to the Board of Regents of the University of Idaho for Agricultural Research/Cooperative Extension Service the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $49,500

SECTION 12. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $3,000

SECTION 13. There is hereby appropriated to the State Board of Education for the State Library Board the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $2,600

SECTION 14. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $3,800

SECTION 15. There is hereby appropriated to the Department of Health and Welfare the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:
FROM:
General Account $25,000

SECTION 16. The State Auditor shall transfer the General Account moneys appropriated in Section 15 of this act to the Cooperative Welfare Account, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the

amount provided herein.

SECTION 17. There is hereby appropriated from the listed account the following amount, to be deposited in the Public Health Trust Account for the designated program for the period July 1, 1988, through June 30, 1989:

FOR:

Public Health District Programs	$10,300

FROM:

General Account	$10,300

SECTION 18. There is hereby appropriated for the Public Health District Programs the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

Public Health Trust Account	$10,300

SECTION 19. There is hereby appropriated to the Department of Parks and Recreation the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account	$4,300

SECTION 20. There is hereby appropriated to the Department of Lands the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account	$13,200

SECTION 21. There is hereby appropriated to the Department of Water Resources the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account	$10,200

SECTION 22. There is hereby appropriated to the Attorney General the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account	$5,300

SECTION 23. There is hereby appropriated to the State Treasurer the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account	$800

SECTION 24. There is hereby appropriated to the State Auditor the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account $3,300

SECTION 25. There is hereby appropriated to the Secretary of State the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account $1,200

SECTION 26. There is hereby appropriated to the Legislative Council the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account $1,600

SECTION 27. There is hereby appropriated to the State Auditor for the Legislative Auditor the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account $3,000

SECTION 28. There is hereby appropriated to the Supreme Court the following amount, to be expended for the purpose of granting merit increases, from the listed account for the period of July 1, 1988, through June 30, 1989:

FROM:

General Account $10,400

Approved April 6, 1988.

CHAPTER 364
(H.B. No. 773)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1989; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE APPROPRIATION FOR THE WATER QUALITY AND HAZARDOUS MATERIALS PROGRAM; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE DISTRIBUTION OF FUNDS FOR COMMUNITY SUPPORTED EMPLOYMENT; DESIGNATING AN AMOUNT FOR MERIT INCREASES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED

OR MANDATED SERVICES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. It is legislative intent that the appropriation for the Department of Health and Welfare not exceed the following amount for the period July 1, 1988, through June 30, 1989:

FROM:	
General Account	$ 83,999,400
Cooperative Welfare Account	185,683,400
Alcoholism Treatment Account	2,119,800
Cancer Control Account	375,000
Central Tumor Registry Account	100,000
Emergency Medical Services Account	769,900
Emergency Medical Services Account II	420,100
Medical Assistance Account	18,500
Liquor Account	650,000
Water Pollution Control Account	10,313,500
Idaho Veterans Home Income Account	216,400
State Hospital North Income Account	347,900
State Hospital South Income Account	697,300
Hazardous Waste Monitoring Account	747,800
State Agricultural Smoke Management Account	20,000
State Youth Training Center Income Account	344,500
County Medical Indigency Suspense Account	2,532,100
TOTAL	$289,355,600

SECTION 2. There is hereby appropriated to the Department of Health and Welfare the following amount to be expended for the designated programs according to designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. PHYSICAL HEALTH SERVICES:					
FROM:					
General Account	$ 862,200	$1,034,400	$ 1,700	$ 795,000	$ 2,693,3
Cooperative Welfare Account	1,681,100	1,351,700	57,000	12,297,500	15,387,3
Cancer Control Account	19,000	356,000			375,0
Central Tumor Registry Account				100,000	100,0
County Medical Indigency Suspense Account	7,000	2,200			9,2
TOTAL	$ 2,569,300	$2,744,300	$ 58,700	$13,192,500	$ 18,564,8

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. EMERGENCY MEDICAL SERVICES:					
FROM:					
Emergency Medical Services Account	$ 197,500	$ 289,100	$ 53,800	$ 229,500	$ 769,900
Emergency Medical Service Account II	300,600	75,900	37,500	6,100	420,100
Cooperative Welfare Account		167,000		23,000	190,000
TOTAL	$ 498,100	$ 532,000	$ 91,300	$ 258,600	$ 1,380,000
C. LABORATORY SERVICES:					
FROM:					
General Account	$ 775,600	$ 473,400	$103,300	$ 2,400	$ 1,354,700
Cooperative Welfare Account	614,500	142,900	5,000	119,600	882,000
Hazardous Waste Monitoring Account	63,900	39,900	82,900		186,700
TOTAL	$ 1,454,000	$ 656,200	$191,200	$ 122,000	$ 2,423,400
D. SUBSTANCE ABUSE SERVICES:					
FROM:					
Alcoholism Treatment Account	$ 118,000	$ 90,900	$ 7,400	$ 1,587,200	$ 1,803,500
Cooperative Welfare Account	64,400	151,300		1,262,400	1,478,100
TOTAL	$ 182,400	$ 242,200	$ 7,400	$ 2,849,600	$ 3,281,600
E. ELIGIBILITY SERVICES:					
FROM:					
General Account	$ 4,535,700	$1,865,300	$ 56,300		$ 6,457,300
Cooperative Welfare Account	4,262,800	2,551,800	71,500		6,886,100
County Medical Indigency Suspense Account		28,200			28,200
TOTAL	$ 8,798,500	$4,445,300	$127,800		$ 13,371,600
F. MEDICAL ASSISTANCE PAYMENTS:					
FROM:					
General Account	$ 342,700	$ 414,800		$27,089,700	$ 27,847,200
Medical Assistance Account				15,000	15,000
Liquor Account				650,000	650,000
Cooperative Welfare Account	846,400	1,246,800	$ 7,500	79,298,000	81,398,700
County Medical Indigency Suspense Account	67,500	46,200		2,328,800	2,442,500
TOTAL	$ 1,256,600	$1,707,800	$ 7,500	$109,381,500	$112,353,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
G. ADULT AND A.D.C. ASSISTANCE PAYMENTS:					
FROM:					
General Account		$ 92,400		$ 9,726,300	$ 9,818,7
Cooperative Welfare Account	$ 2,309,700	1,207,900	$264,400	24,753,800	28,535,8
TOTAL	$ 2,309,700	$1,300,300	$264,400	$34,480,100	$ 38,354,5
H. SOCIAL SERVICES:					
FROM:					
General Account	$ 2,414,100	$ 359,800		$ 1,868,900	$ 4,642,8
Cooperative Welfare Account	8,648,500	2,078,400	$234,300	9,832,500	20,793,7
County Medical Indigency Suspense Account		5,400			5,4
TOTAL	$11,062,600	$2,443,600	$234,300	$11,701,400	$ 25,441,9
I. AIR QUALITY:					
FROM:					
General Account	$ 267,500	$ 72,300	$ 10,700		$ 350,5
Cooperative Welfare Account	380,100	173,600	900	$ 15,600	570,2
Hazardous Waste Monitoring Account		70,000			70,0
State Agricultural Smoke Management Account		8,000	12,000		20,0
TOTAL	$ 647,600	$ 323,900	$ 23,600	$ 15,600	$ 1,010,7
J. WATER QUALITY AND HAZARDOUS MATERIALS:					
FROM:					
Cooperative Welfare Account	$ 1,574,600	$1,119,300	$ 8,900	$ 133,800	$ 2,836,6
Water Pollution Control Account	1,733,100	709,300	95,400	7,775,700	10,313,5
Hazardous Waste Monitoring Account	323,500	77,900	56,500	33,200	491,1
TOTAL	$ 3,631,200	$1,906,500	$160,800	$ 7,942,700	$ 13,641,2
K. INDIRECT SUPPORT SERVICES:					
FROM:					
General Account	$ 2,285,400	$2,130,000	$ 24,800		$ 4,440,2
Cooperative Welfare Account	2,187,600	1,968,800	31,800		4,188,2
County Medical Indigency Suspense Account		46,800			46,8
TOTAL	$ 4,473,000	$4,145,600	$ 56,600		$ 8,675,2
L. COMMUNITY MENTAL HEALTH SERVICES:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$ 3,627,700	$ 642,900	$ 60,500	$ 363,400	$ 4,694,500
Cooperative Welfare Account	1,336,300	742,400		195,300	2,274,000
TOTAL	$ 4,964,000	$1,385,300	$ 60,500	$ 558,700	$ 6,968,500
M. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:					
FROM:					
General Account	$ 3,525,200	$1,144,800	$106,400	$ 896,400	$ 5,672,800
Cooperative Welfare Account	1,507,400	175,800		1,710,000	3,393,200
TOTAL	$ 5,032,600	$1,320,600	$106,400	$ 2,606,400	$ 9,066,000
N. STATE YOUTH SERVICES CENTER:					
FROM:					
General Account	$ 3,308,200	$ 307,100	$ 62,400	$ 106,300	$ 3,784,000
Cooperative Welfare Account	362,200	225,800	11,600	5,300	604,900
State Youth Training Center Income Account		344,500			344,500
TOTAL	$ 3,670,400	$ 877,400	$ 74,000	$ 111,600	$ 4,733,400

O. VETERANS SERVICES:	
FROM:	
General Account	$ 520,200
Cooperative Welfare Account	2,115,500
Idaho Veterans Home Income Account	216,400
TOTAL	$ 2,852,100
P. STATE HOSPITAL NORTH	
FROM:	
General Account	$ 1,755,600
Cooperative Welfare Account	1,110,300
Alcoholism Treatment Account	316,300
State Hospital North Income Account	347,900
TOTAL	$ 3,530,100
Q. STATE HOSPITAL SOUTH	
FROM:	
General Account	$ 5,699,900
Cooperative Welfare Account	1,093,100
State Hospital South Income Account	697,300
TOTAL	$ 7,490,300
R. IDAHO STATE SCHOOL AND HOSPITAL	
FROM:	
General Account	$ 4,267,700
Medical Assistance Account	3,500
Cooperative Welfare Account	11,945,700
TOTAL	$ 16,216,900
GRAND TOTAL	$289,355,600

SECTION 3. The State Auditor shall make transfers of the General Account, the Water Pollution Control Account, and the Hazardous Waste Training, Emergency and Monitoring 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 amount provided herein.

SECTION 4. It is legislative intent that the appropriation for the Water Quality and Hazardous Materials Program specifically supersede the provisions of Section 39-3606, Idaho Code.

SECTION 5. It is legislative intent that the $263,600 appropriated for community supported employment in the Community Developmental Disabilities Program is for the fourteen rehabilitation facilities currently providing this service. The funds shall be divided equally among the seven Health and Welfare Regions.

SECTION 6. The appropriation for personnel costs made in Section 2 of this act for the Indirect Support Services Program includes $150,000 from the General Account to be used for the purpose of granting merit increases only.

SECTION 7. Notwithstanding any other provision of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for that program by this act.

SECTION 8. There is hereby reappropriated to the Department of Health and Welfare, any unexpended and unencumbered balances of the Cooperative Welfare Account moneys appropriated by Section 2, Chapter 339, Laws of 1987 to be used for nonrecurring expenditures only, for the period July 1, 1988, through June 30, 1989.

Approved April 6, 1988.

CHAPTER 365
(H.B. No. 775)

AN ACT

APPROPRIATING MONEYS FOR THE MICROELECTRONICS RESEARCH CENTER FOR FISCAL YEAR 1989.

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

SECTION 1. There is hereby appropriated to the State Board of Education the following amount for the designated program from the listed account for the period from July 1, 1988, through June 30,

1989:
FOR:
Microelectronics Research Center $100,000
FROM:
General Account $100,000

Approved April 6, 1988.

CHAPTER 366
(H.B. No. 777, As Amended)

AN ACT

RELATING TO THE INSURANCE PREMIUM TAX; AMENDING SECTION 41-402, IDAHO CODE, TO CHANGE THE RATE OF THE INSURANCE PREMIUM TAX; AMENDING SECTION 41-403, IDAHO CODE, TO STRIKE OBSOLETE PROVISIONS, TO STRIKE REFERENCE TO CERTAIN INVESTMENT REQUIREMENTS, TO INCREASE THE RATE OF THE ALTERNATE PREMIUM TAX, AND TO PROVIDE ADDITIONAL DESIGNATED INVESTMENTS; REPEALING SECTION 41-403A, IDAHO CODE; AMENDING SECTION 41-1229, IDAHO CODE, TO ESTABLISH TAX RATES FOR SURPLUS LINES INSURANCE; AMENDING SECTION 41-1233, IDAHO CODE, TO PROVIDE CONSISTENT FLAT RATE TAXING FOR UNAUTHORIZED INSURERS; AMENDING SECTION 41-3715, IDAHO CODE, TO ELIMINATE REFERENCE TO THE QUALIFYING CODE SECTION AND DEPOSIT REQUIREMENTS; AND AMENDING SECTION 41-404, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 41-402, Idaho Code, be, and the same is hereby amended to read as follows:

41-402. PREMIUM TAX. (1) Each authorized insurer, and each formerly authorized insurer with respect to insurance transacted while an authorized insurer, shall file with the director on or before the dates in each year set forth in subsections (3) and (4) of this section, a statement (on forms as prescribed and furnished by the director) under oath for the period set forth in subsections (3) and (4) of this section, and pay the director a tax at the rate set forth in subsection (2) of this section, on the following amounts:

(a) As to life insurers, the amount of all gross premiums received by the insurer on direct risks resident in this state, and also, if a domestic insurer, on direct risks resident in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned coupons and dividends paid to or credited to policy holders.

(b) As to all insurers other than life insurers, the amount of gross direct premiums written on policies covering subjects of insurance resident, located or performed in this state, and also, if a domestic insurer, on such premiums in any other jurisdiction

or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned premiums, premiums on policies not taken and dividends paid or credited to policy holders. As to title insurance "gross premium" means the insurance risk portion of the amount charged for title insurance.

(2) Subject to section 41-403, Idaho Code, the rate of tax shall be as follows:

(a) As to title insurance, the rate of tax shall be one and ~~one~~ five-tenths per cent (1.~~1~~5%).

(b) As to all other kinds of insurance, the rate of tax shall be three ~~and three tenths~~ per cent (3.30%).

(3) (a) Every insurer with a tax obligation under this section shall make prepayment of the tax obligations for the current calendar year's business, if the sum of the tax obligations for the preceding calendar year's business is four hundred dollars ($400) or more.

(b) The director shall credit the prepayments toward the appropriate tax obligations of the insurer for the current calendar year.

(c) The minimum amounts of the prepayments shall be percentages of the insurer's tax obligation based on the preceding calendar year's business and the current year's rate, and shall be paid to the director's office by the due dates and in the following amounts:

(i) On or before June 15, sixty per cent (60%);

(ii) On or before September 15, twenty per cent (20%); and

(iii) On or before December 15, fifteen per cent (15%).

(4) On or before March 1, any balance of tax due for the preceding calendar year shall be paid to the director.

(5) The effect of transferring policies of insurance from one insurer to another insurer is to transfer the tax prepayment obligation with respect to the policies.

(6) This section shall not apply as to any domestic reciprocal insurer doing exclusively a workmen's compensation business and complying with the provisions of the workmen's compensation law of this state and writing workmen's compensation only for members under that law, if its representatives or agents or the attorney in fact executing such contracts are not compensated on a commission basis.

(7) This section shall not apply as to life insurance policies issued under pension plans or profit-sharing plans exempt or qualified under sections 401(a), 403, 404, 408, or 501(a) of the United States internal revenue code, as hereafter amended or renumbered from time to time, nor to annuity contracts in general.

(8) This section shall not apply to any domestic reciprocal insurer which exclusively insures members who are governmental entities, as defined by section 6-902(1), (2) and (3), Idaho Code.

(9) The amount of tax due for the current year shall be paid in full in the manner and at the times required in this section without any credit or offset for refunds or other amounts due or claimed to be due by the insurer.

SECTION 2. 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, ~~and provided the conditions of section 41-403A, Idaho Code, are met,~~ 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 and ~~one~~ six-tenths per cent (1.~~1~~6%) 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 and ~~one~~ six-tenths per cent (1.~~1~~6%) 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 ~~seventy~~ twenty-five per cent (~~7~~25%) 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.

SECTION 3. That Section 41-403A, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 41-1229, Idaho Code, be, and the same is hereby amended to read as follows:

41-1229. TAX ON SURPLUS LINES. (1) On or before the first day of March of each year each broker shall remit to the ~~state treasurer~~

~~through the~~ director a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by him with unauthorized insurers during the preceding calendar year as shown by his annual statement filed with the director, and at the ~~same~~ following rates: ~~as is--applicable--to--the--premiums-of-authorized-foreign-insurers-under chapter-4-of-this-code.~~

BEGINNING EFFECTIVE DATE OF POLICY	RATE
January 1, 1987 through July 31, 1987	3%
August 1, 1987 through July 31, 1988	3.663%
August 1, 1988 and thereafter	3%

Such tax shall be in lieu of all other taxes upon such insurers with respect to the business so reported. ~~When-collected-the-tax-shall-be credited-to-the-general-fund.~~

(2) If a surplus line policy covers risks or exposures only partially in this state, the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

SECTION 5. That Section 41-1233, Idaho Code, be, and the same is hereby amended to read as follows:

41-1233. REPORT AND TAX OF INDEPENDENTLY PROCURED COVERAGES. (1) Every insured who in this state procures or causes to be procured or continues or renews insurance in an unauthorized foreign insurer, or any self-insurer who in this state so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this state, other than insurance procured through a surplus line broker pursuant to the ~~S~~surplus ~~l~~line ~~l~~law of this state or exempted from tax pursuant to section 41-1212, Idaho Code, shall within thirty (30) days after the date such insurance was so procured, continued or renewed file a written report of the same with the director on forms designated by the director and furnished to the insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as the director reasonably requests. If the insurance covers also a subject of insurance resident, located or to be performed outside this state a proper pro rata portion of the entire premium payable for all such insurance shall be allocated to this state for the purposes of this section.

(2) Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured or continued or renewed in this state within the intent of subsection (1) above.

(3) ~~For-the-general-support-of-the-government-of-this-state-there is-levied-upon-t~~The insured with respect to the obligation, chose in action, or right represented by such insurance~~,-a-tax-at-the-rate-of~~

~~three-percent-(3%)-of-the-gross-amount-of-the-premium-charged-for--the insurance~~ shall be subject to chapter 4, title 41, Idaho Code, as it pertains to premium tax. Within thirty (30) days after the insurance was so procured, continued or renewed, and coincidentally with the filing with the director of the report provided for in subsection (1) above, the insured shall pay the amount of the tax to the director.

(4) The tax imposed hereunder if delinquent shall bear interest at the rate of six percent (6%) per annum, compounded annually.

(5) The tax shall be collectible from the insured by civil action brought by the director, or by distraint.

(6) ~~The-director-shall-promptly-deposit-all--taxes--and--interest collected-under-this-section-with-the-state-treasurer-to-the-credit-of the-state's-general-fund.~~

~~(7)~~ This section does not abrogate or modify any provision of sections 41-1201 (representing or aiding unauthorized insurer prohibited), 41-1202 (representing or aiding unauthorized insurer prohibited—penalty), or 41-1203 (suits by unauthorized insurer prohibited), Idaho Code.

(~~8~~7) This section does not apply as to life or disability insurances.

SECTION 6. That Section 41-3715, Idaho Code, be, and the same is hereby amended to read as follows:

41-3715. TAXES. (1) Each hospital trust shall be subject to chapter 4, title 41, Idaho Code, as it pertains to premium tax; provided that, for this purpose, total contributions paid by a member into the trust fund shall be deemed to be premiums; and further provided that, for the purposes of sections ~~41-403 and~~ 41-404, Idaho Code, a hospital trust shall be deemed to be an insurer other than a life insurance company.

(2) The state of Idaho hereby preempts the field of imposing excise, privilege, franchise, income, license and similar taxes, licenses and fees upon hospital trust funds; and no county, city, municipality, district, school district, or other political subdivision or agency of Idaho shall levy upon hospital trust funds any such tax, license or fee additional to such as are levied by the legislature of Idaho in this act.

(3) The tax levied herein, together with the fees provided for in this act shall be in lieu of any and all income taxes and other excise taxes, licenses and fees payable to the state of Idaho.

~~(4)--The--director--shall--promptly--remit--all--such-tax-payments received-by-him-to-the-state-treasurer-for-credit-to-the-general--fund of-the-state.~~

SECTION 7. That Section 41-404, Idaho Code, be, and the same is hereby amended to read as follows:

41-404. PENALTY FOR FAILURE TO PAY TAX. Any insurer failing to render the statement and pay the tax required under sections 41-402 ~~and-41-403~~, Idaho Code, on or before the date due, including any extension of time granted by the director pursuant to section 41-335

(1), Idaho Code, shall be liable to a fine of twenty-five dollars ($25.00) for each additional day of delinquency; and the taxes may be collected by distraint and recovered by an action to be instituted by the attorney general in the name of the state in any court of competent jurisdiction. The director shall suspend or revoke the certificate of authority of the delinquent insurer until the statement is filed and the taxes and fine, if any, are fully paid.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 5, 6 and 7 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1988; and Section 4 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1987.

Approved April 6, 1988.

CHAPTER 367
(H.B. No. 786)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622HH, IDAHO CODE, TO PROVIDE THAT THE PRODUCTION EXEMPTION SHALL NOT APPLY TO SALES OF OR REPAIRS TO CERTAIN RECREATION-RELATED VEHICLES AND THAT SALES OF OR REPAIRS TO THESE VEHICLES ARE SUBJECT TO THE STATE SALES AND USE TAX AND TO DEFINE TERMS; AND AMENDING SECTION 63-3622K, IDAHO CODE, TO PROVIDE THAT THE SALES TAX EXEMPTION FOR OCCASIONAL SALES OF CERTAIN TANGIBLE PERSONAL PROPERTY DOES NOT APPLY TO THE OCCASIONAL SALE OF AIRCRAFT, BOATS, SNOWMOBILES, RECREATIONAL VEHICLES OR OFF-HIGHWAY MOTORBIKES.

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 63-3622HH, Idaho Code, and to read as follows:

63-3622HH. PRODUCTION EXEMPTION SHALL NOT APPLY TO SALES REGARDING RECREATION-RELATED VEHICLES. (1) Notwithstanding any other provision of law to the contrary, the production exemption provided in section 63-3622D, Idaho Code, shall not apply to sales of or repairs to snowmobiles, off-highway motorbikes, recreational vehicles, or motorcycles and all sales of snowmobiles, off-highway motorbikes, recreational vehicles or motorcycles are subject to the sales and use taxes imposed by this chapter. All repairs to snowmobiles, off-highway motorbikes, recreational vehicles or motorcycles are subject to the sales and use taxes imposed by this chapter.

(2) As used in this section, the term "snowmobile" means any

self-propelled vehicle under one thousand (1,000) pounds unladened gross weight designed primarily for travel on snow or ice or over natural terrain which may be steered by tracks, skis or runners, and which is not otherwise registered or licensed under the laws of the state of Idaho.

(3) As used in this section, the term "off-highway motorbike" means any self-propelled two (2), three (3), four (4) or five (5) wheeled motorcycle or motor-driven cycle, excluding tractor, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trail bikes, motorcross bikes or dual purpose motorcycles.

(4) As used in this section, the term "recreational vehicle" means a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. The term recreational vehicle shall not include pickup hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles. Specific classes of recreational vehicles are defined as follows:

(a) The term "motor home" shall mean a vehicular unit designed to provide temporary living quarters, built into an integral part of or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the american national standards institute (ANSI) A119.7 standard for recreational vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, a portable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(b) The term "travel trailer" shall mean a vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(c) The term "fifth wheel trailer" shall mean a vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(d) The term "park trailer" shall mean a trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) The term "fold down camping trailer" shall mean a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and

unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(f) The term "truck camper" shall mean a portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

(5) As used in this section, the term "motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor. A motorcycle also is every motor scooter or motorized bicycle having an engine with less than one hundred fifty (150) cubic centimeters displacement or with five (5) brake horsepower or less.

(6) As used in this section, the term "repairs" shall include the costs of parts and labor utilized on the snowmobile, off-highway motorbike, recreational vehicle or motorcycle.

SECTION 2. That Section 63-3622K, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622K. OCCASIONAL SALES. There are exempted from the taxes imposed by this chapter occasional sales of tangible personal property, including sales of animals by any 4-H Club or FFA Club held in conjunction with a fair or the western Idaho spring lamb sale; providing, however, that this exemption shall not apply to the sale, purchase, or use of self-propelled motor vehicles unless they are transferred in a transaction falling within the scope of section 63-3612A(b), Idaho Code, a change in the form of doing business, or section 63-3612A(c), Idaho Code, the sale of a going business, or section 63-3612A(f), Idaho Code, the sale of motor vehicles between family members; and provided further, that this exemption shall not apply to the sale, purchase or use of aircraft, as defined in section 21-201, Idaho Code, nor shall it apply to the sale, purchase or use of boats or vessels, as defined in section 67-7003, Idaho Code, nor shall it apply to the sale, purchase or use of snowmobiles, recreational vehicles or off-highway motorbikes, as defined in section 63-3622HH, Idaho Code.

Approved April 6, 1988.

CHAPTER 368
(H.B. No. 675, As Amended)

AN ACT

RELATING TO THE OPERATION OF BOATS; AMENDING SECTION 67-7003, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING CHAPTER 70, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7034, IDAHO CODE, TO PROHIBIT PERSONS UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR ANY OTHER INTOXICATING SUBSTANCES FROM OPERATING OR BEING IN ACTUAL

PHYSICAL CONTROL OF A VESSEL UNDER CERTAIN CIRCUMSTANCES; AMENDING CHAPTER 70, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7035, IDAHO CODE, TO PROVIDE FOR AGGRAVATED OPERATING OF A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR ANY OTHER INTOXICATING SUBSTANCES; AMENDING CHAPTER 70, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7036, IDAHO CODE, TO REQUIRE THE TESTING OF BLOOD OF PERSONS KILLED IN VESSEL ACCIDENTS TO DETERMINE IF ALCOHOL OR DRUGS ARE PRESENT, AND TO PROHIBIT RELEASE OF THE RESULTS EXCEPT FOR STATISTICAL PURPOSES; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-7003, Idaho Code, be, and the same is hereby amended to read as follows:

67-7003. DEFINITIONS. In this chapter:

(1) "Actual physical control" means being in the operator's position of the vessel with the motor running or with the vessel moving.

(2) "Aids to navigation" mean such buoys, batons, markers or other fixed objects in the water which are established and used to mark obstructions or to direct navigation through separate channels.

(~~2~~3) "Authorized vendor" means a retail/commercial enterprise or government office authorized by the department to sell certificates of registration and use permits as provided in sections 67-7008 and 67-7011, Idaho Code.

(~~3~~4) "Commercial vessel" means any vessel used in the carriage of any person, persons or property for a valuable consideration, whether directly or indirectly flowing to the owner, partner, agent or any other person interested in the vessel.

(~~4~~5) "Department" means the Idaho department of parks and recreation.

(~~5~~6) "Director" means the director of the Idaho department of parks and recreation.

(~~6~~7) "Length of vessel" means the distance measured at the centerline at the highest point above the waterline from the fore-part of the outer hull at the bow to the aft-part of the outer hull at the stern, excepting any bowsprits, railings or extraneous or additional equipment.

(~~7~~8) "Manufacturer" means any person who is engaged in the business of manufacturing or importing new and unused vessels for the purpose of sale or trade.

(~~8~~9) "Operate" means to navigate or otherwise use a vessel on the water of this state.

(~~9~~10) "Operator" means any person who controls the direction or propulsion of any vessel on the water of this state.

(~~10~~11) "Owner" means any person having a property interest in or entitled to the use or possession of a vessel, including a person entitled to use or possession subject to the interest in another person reserved or created by agreement and securing payment of performance of an obligation, but not including a lessee under lease not intended as security.

(1~~1~~2) "Passenger" means every person carried aboard a vessel other than:

(a) The owner or his representative;

(b) The operator;

(c) A bona fide member of the crew engaged in the business of the vessel who has contributed no consideration for carriage and who is paid for his services; or

(d) Any guest on board a vessel which is used exclusively for pleasure purposes who has not contributed any consideration directly or indirectly for his carriage.

(1~~2~~3) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, except the United States and the state of Idaho, and includes any agent, trustee, executor, reserve assignee or similar representative of any of the above.

(1~~3~~4) "Private label merchandiser" means any person engaged in the business of selling or distributing, under his own trade name, vessels manufactured by another.

(1~~4~~5) "Regatta," "Race," "Marine Event," "Tournament," or "Exhibition" means an organized water event of limited duration which is conducted according to a prearranged schedule.

(1~~5~~6) "Regulatory markers" mean any fixed or anchored aid to navigation which is established and used, but is not limited to, the bathing beach markers, speed zone markers, information markers, swimming or diving markers, floating mooring buoys, fishing buoys or markers for ski courses or jumps.

(1~~6~~7) "Rules of the road" mean the statutory and regulatory rules governing the navigation of vessels as published by the United States Coast Guard in Navigational Rules International -- Inland.

(1~~7~~8) "Vessel" means every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include diver's aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices including inflatable air mattresses, single inner tubes, and beach and water toys not designed as a means of transportation on water.

(1~~8~~9) "Water of this state" means any waters in the state of Idaho over which the state has jurisdiction.

SECTION 2. That Chapter 70, 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 67-7034, Idaho Code, and to read as follows:

67-7034. 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 an alcohol concentration of 0.10, as defined in subsection (5) of this section, or more, as shown by analysis of his blood, urine, breath, or other bodily substance, to operate or be in actual physical control of a vessel on the waters of the state of Idaho if the person in the operation of the vessel operates the vessel

carelessly and heedlessly or without due caution and circumspection or at a speed or in a manner so as to endanger or be likely to endanger any person or property.

(2) Any person having an alcohol concentration of less than 0.10, as defined in subsection (5) of this section, as shown by analysis of his blood, urine, breath, or other bodily substance, by a test requested by an authorized law enforcement officer shall not be prosecuted for operating 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 operating or being in actual physical control of a vessel 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 an authorized law enforcement officer show a person's alcohol concentration of less than 0.10, as defined in subsection (5) of this section, 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) Persons authorized to withdraw blood for the purposes of determining content of alcohol or other intoxicating substances are those persons authorized in section 18-8003, Idaho Code.

(5) 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 law enforcement or by a laboratory approved by the Idaho department of law enforcement 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 law enforcement. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated or approved by the Idaho department of law enforcement or by any other method approved by the Idaho department of law enforcement shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(6) 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 operating a vessel to operate or be in actual physical control of a vessel on the waters of the state of Idaho. 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.

(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 or withheld judgment.

SECTION 3. That Chapter 70, 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 67-7035, Idaho Code, and to read as follows:

67-7035. AGGRAVATED OPERATING WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES. (1) Any person causing great bodily harm, permanent disability or permanent disfigurement to any person other than himself in committing a violation of the provisions of section 67-7034, Idaho Code, is guilty of a felony, and upon conviction:

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

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

(c) Shall have his privileges to operate a vessel suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his privileges to operate a vessel suspended by the court for not to exceed two (2) years after release from imprisonment, during which time he shall have absolutely no privileges of any kind to operate a vessel; and

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

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

SECTION 4. That Chapter 70, 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 67-7036, Idaho Code, and to read as follows:

67-7036. TESTING BLOOD OF PERSONS KILLED IN VESSEL ACCIDENTS. The director of the department of law enforcement, jointly with the various county coroners, shall provide a system and procedure whereby all morticians in the state of Idaho shall obtain blood samples from all vessel operators who have died as a result of and contemporaneously

with an accident involving a vessel.

All investigating sheriffs, deputy sheriffs, or police officers shall report such fatalities to the county coroner or follow the procedure established by the joint action of the director of the department of law enforcement and the various coroners.

The blood sample, with such information as may be required, will be delivered to the director of the department of law enforcement or his designee. Upon receipt of such sample the director will cause such tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs contained in such sample.

The results of such tests shall be used exclusively for statistical purposes and the sample shall never be identified with the name of the deceased. Any person releasing or making public such information other than as herein prescribed, shall be guilty of a misdemeanor.

SECTION 5. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 6, 1988.

CHAPTER 369
(H.B. No. 774, As Amended in the Senate)

AN ACT

RELATING TO THE CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR OF PUBLIC BUILDINGS AND WORKS; AMENDING SECTION 67-5711, IDAHO CODE, TO EXEMPT CERTAIN CONSTRUCTION PROJECTS OF THE IDAHO TRANSPORTATION DEPARTMENT, THE DEPARTMENT OF FISH AND GAME, AND THE DEPARTMENT OF PARKS AND RECREATION FROM OVERSIGHT OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION OR HIS DESIGNEE AND THE PERMANENT BUILDING FUND ADVISORY COUNCIL, AND TO PROVIDE PROCEDURES IN THE LETTING OF CONTRACTS FOR ADVERTISING AND BIDDING FOR CONTRACTS.

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

SECTION 1. That Section 67-5711, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR OF PUBLIC BUILDINGS AND WORKS. The director of the department of administration, or his designee, of the state of Idaho, is authorized and empowered, subject to the approval of the permanent building

fund council, to provide or secure all plans and specifications for, to let all contracts for, and to have charge of and supervision of the construction, alteration, equipping and furnishing and repair of any and all buildings, improvements of public works of the state of Idaho, the cost of which construction, alteration, equipping and furnishing or repair exceeds the sum of five thousand dollars ($5,000) provided, that the director or his designee, and permanent building fund council shall, in the letting of contracts under this section, comply with the procedure for the calling of bids provided in section 67-5718, Idaho Code; provided, however, that this section shall not apply to the construction, alteration, equipping or furnishing or repair of public buildings under the jurisdiction and control of the board of regents of the University of Idaho; provided further, that public works for the Idaho transportation department, the department of fish and game, and the department of parks and recreation, except for administrative office buildings and all associated improvements, are exempt from the provisions of this section that relate to the administration and review of such projects by the director of the department of administration or his designee and by the permanent building fund advisory council. This exemption shall not relieve the Idaho transportation department, the department of fish and game, and the department of parks and recreation, in the letting of contracts for public works, from complying with the procedures of section 67-5718, Idaho Code, related to the advertising and bidding for contracts. The permanent building fund council may adopt rules and regulations consistent with existing law including rules and regulations for a program of inspection and preventive maintenance, to carry out the provisions of this act.

Approved April 6, 1988.

CHAPTER 370
(H.B. No. 780)

AN ACT

RELATING TO A COMPREHENSIVE STATE WATER PLAN; PROVIDING LEGISLATIVE INTENT; REPEALING SECTION 42-1731, IDAHO CODE; AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 42-1730 AND 42-1731, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT AND TO DEFINE TERMS; AMENDING SECTION 42-1734, IDAHO CODE, TO DELETE PROVISIONS RELATING TO A STATE WATER PLAN; AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 42-1734A, 42-1734B, 42-1734C, 42-1734D, 42-1734E, 42-1734F, 42-1734G, 42-1734H AND 42-1734I, IDAHO CODE, TO PROVIDE THAT THE WATER RESOURCE BOARD SHALL FORMULATE, ADOPT AND IMPLEMENT A COMPREHENSIVE STATE WATER PLAN AND TO PROVIDE WHAT THE PLAN SHALL CONTAIN; TO PROVIDE WATER RESOURCE BOARD PROCEDURES FOR ADOPTING A COMPREHENSIVE STATE WATER PLAN; TO PROVIDE THAT THE COMPREHENSIVE STATE WATER PLAN SHALL BE SUBMITTED TO VARIOUS FEDERAL AGENCIES AND ENTITIES AS THE STATEMENT OF POLICY REGARDING THE DEVELOPMENT

OF WATER RESOURCES IN THE STATE OF IDAHO; TO PROVIDE FOR DESIGNATION OF INTERIM PROTECTED RIVERS; TO PROVIDE REMEDIES; TO PROVIDE THE EFFECT OF THE PLAN ON VESTED AND NONVESTED PROPERTY RIGHTS ON DIVERSION STRUCTURES AND ON THE RELICENSING OF CERTAIN EXISTING HYDROPOWER PROJECTS; TO PROVIDE THE EFFECT OF THE PLAN ON ESTABLISHING A WATER RIGHT; TO PROVIDE THE DESIGNATION OF INTERIM PROTECTED RIVERS AND TO PROVIDE THE STATUS OF A WATERWAY REGARDING THE NATIONAL WILD AND SCENIC RIVERS SYSTEM WHEN IT HAS BEEN DESIGNATED AS A PROTECTED RIVER.

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

SECTION 1. The legislature finds and declares that a central component of state sovereignty is the inherent right of the state to regulate and to control the natural resources of this state. In a state such as Idaho, it is essential that the state exercise its full authority to manage its water. To that end, it is the purpose of this act to provide for the full exercise of all the state's rights and responsibilities to manage its water resource.

The legislature is aware of the proposed protected areas program being considered by the pacific northwest electric power and conservation planning council regarding Idaho's rivers and streams. The legislature believes that water resource planning is a state function and therefore requests the Idaho representatives to the pacific northwest electric power and conservation planning council seek to limit the scope of the council's protected areas program in a manner not to conflict with, preempt or limit the efforts of the state of Idaho in water resource or land use planning.

SECTION 2. That Section 42-1731, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 17, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 42-1730 and 42-1731, Idaho Code, and to read as follows:

42-1730. STATEMENT OF PURPOSE. The legislature finds and declares that:

(1) The water resources and waterways of Idaho constitute a valuable renewable resource;

(2) The welfare of the people of Idaho is dependent upon conservation, development and optimum use of our water resources and waterways;

(3) State regulation of development and use of our water resources and waterways is necessary to ensure water is available to meet the present and future needs of the people of Idaho;

(4) The development of Idaho's water resources for hydropower, irrigation, domestic, commercial, municipal, industrial and other uses in a manner that considers competing uses and values provides important benefits to the people of Idaho;

(5) Comprehensive planning is necessary to minimize conflicts

between competing uses and to ensure optimal protection of all beneficial uses of water;

(6) A single state agency should formulate a comprehensive state water plan;

(7) Selected rivers possessing outstanding fish and wildlife, recreational, aesthetic, historic, cultural, natural or geologic values should be protected for the public benefit and enjoyment;

(8) Section 401 of the federal clean water act gives the state certification authority to regulate activities licensed or permitted by federal agencies to insure the protection of the quality of state water; and

(9) The comprehensive state water plan required by this chapter shall not alter any existing responsibilities, jurisdiction or planning functions of state agencies established by state or federal law.

42-1731. DEFINITIONS. For the purpose of this chapter:

(1) "Alteration" means any activity using mechanized equipment that moves or overturns gravel or earth.

(2) "Board" means the Idaho water resource board.

(3) "Comprehensive state water plan" means the plan adopted by the board pursuant to section 42-1734A, Idaho Code, or a component of such plan developed for a particular water resource, waterway or waterways and approved by the legislature.

(4) "Dredge or placer mining" means any dredge or other placer mining operation to recover minerals with the use of a dredge boat or sluice washing plant whether fed by bucket line as a part of such dredge or by a separate dragline or any other method including, but not limited to, suction dredges which are capable of moving more than two (2) cubic yards per hour of earth material.

(5) "Hydropower project" means any development which uses a flow of water as a source of electrical or mechanical power, or which regulates the flow of water for the purpose of generating electrical or mechanical power. A hydropower project development includes all powerhouses, dams, water conduits, transmission lines, water impoundments, roads, and other appurtenant works and structures.

(6) "Interim protected river" means a waterway designated pursuant to section 42-1734D or 42-1734H, Idaho Code, as protected for up to two (2) years while a component of the comprehensive state water plan is prepared for that waterway.

(7) "Natural river" means a waterway which possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, which are free of substantial existing man-made impoundments, dams or other structures, and of which the riparian areas are largely undeveloped, although accessible in places by trails and roads.

(8) "Protected river" means a waterway protected in the comprehensive state water plan by designation as either a natural river or a recreational river.

(9) "Recreational river" means a waterway which possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, and which might include some man-made development within the waterway or within the riparian area of the waterway.

(10) "Riparian area" means that area within one hundred (100)

feet of the mean highwater mark of a waterway.

(11) "State agency" means any board, commission, department or executive agency of the state of Idaho.

(12) "Stream bed" means a natural water course of perceptible extent with definite bed and banks, which confines and conducts the water of a waterway which lies below and between the ordinary high water mark on either side of that waterway.

(13) "Waterway" means a river, stream, creek, lake or spring, or a portion thereof, and shall not include any tributary thereof.

SECTION 4. That Section 42-1734, Idaho Code, be, and the same is hereby amended to read as follows:

42-1734. POWERS AND DUTIES. The board shall, subject to the provisions of chapter 52, title 67, Idaho Code, have the following powers and duties:

(~~a~~1) To have and exercise all of the rights, powers, duties and privileges vested by article ~~15~~ XV, section 7, of the constitution of this state in the water resource agency, and the water resource board, herein created, is hereby constituted the water resource agency;

~~(b)--To-progressively-formulate-an-integrated,-coordinated-program for--conservation,--development,--and--use-of-all-unappropriated-water resources-of-this-state,-based-upon-studies-and-after-public--hearings in--affected--areas-at-which-all-interested-parties-shall-be-given-the opportunity-to-appear,-or-to-present-written-testimony-in-response--to published--proposals-for-such-policy-programs.-A-minimum-of-sixty-(60) days-shall-be-allowed-between-publication-of-a-proposal-and--the--date on--which--no--further-testimony-on-the-proposal-will-be-accepted.-All comments-in-writing-shall-be-preserved-as-a-part-of-the-record-of--the board.--In--adopting--such--program-the-board-shall-be-guided-by-these criteria:~~

~~(1)--Existing-rights,-established-duties,-and-the-relative-priorities-of-water-established-in-article-15,-section-3,-of-the-constitution-of-Idaho,-shall-be-protected-and-preserved;~~

~~(2)--Optimum-development-in-the-interest-of-and-for-the-benefit-of the-state-as-a-whole-shall-be-achieved-by-integration-and--coordination--of--use-of-water-and-augmentation-of-existing-supplies-for all-beneficial-purposes;~~

~~(3)--Adequate-and-safe-water-supplies-for--human--consumption--and maximum--supplies-for-other-beneficial-uses-shall-be-preserved-and protected;~~

~~(4)--Subject-to-the-primary-use-of-water-for-the--beneficial--uses now--or--hereafter--prescribed--by--law,--minimum--stream-flow-for aquatic-life-and-the-minimization-of-pollution-shall--be--fostered and-encouraged-and-consideration-shall-be-given-to-the-development and-protection-of-water-recreation-facilities;~~

~~(5)--Watershed--conservation-practices-consistent-with-sound-engineering-and-economic-principles-shall-be-encouraged;~~

~~(6)--To-provide-for-review-and-reevaluation-of-the-program--on--at least--a-quinquennial-basis,-with-amendments-to-be-adopted-in-substantially-the-same-manner-as-original-programs.~~

(~~c~~2) To institute judicial proceedings to have water rights

established by court decree on any stream, lake or underground water basin; in such proceedings court costs of the action, including the survey and determination of water uses by the director of the department of water resources, shall be borne by the state~~.~~;

(d3) To appear, when requested by the governor, on behalf of and represent the state in matters related to its duties in any proceeding, negotiation, or hearing involving the federal government or other state; provided, however, that compact commissions now established by law shall continue to act but in so doing shall report to it;

(e4) To accept, receive, initiate, investigate, consider and promote such water projects as it deems to be in the public interest~~.~~;

(~~f~~5) To generate and wholesale hydroelectric power at the site of production if such power production is connected with another purpose for such project;

(g6) To file applications and obtain permits in the name of the board, to appropriate, store, or use the unappropriated waters of any body, stream, or other surface or underground source of water for specific water projects. Such filings and appropriations by the board, or any water rights owned or claimed by the board, shall be made in the same manner and subject to all of the state laws relating to appropriation of water, with the exception that the board will not be required to pay any fees required by the laws of this state for its appropriations. The filings and appropriations by the board shall be subject to contest or legal action the same as any other filing and appropriation and such filings and appropriations shall not have priority over or affect existing prior water rights of any kind or nature; provided that the board shall have the right to file for water rights with appropriate officials of other states as trustee for project users, and to do all things necessary in connection therewith;

(h7) To finance said projects with revenue bonds or such moneys as may be available;

(~~i~~8) To acquire, purchase, lease, or exchange land, rights, water rights, easements, franchises and other property deemed necessary or proper for the construction, operation and maintenance of water projects;

(~~j~~9) To exercise, in accordance with the provisions of title 7, chapter 7, Idaho Code, the right of eminent domain to acquire property necessary for the construction of projects, both land and water;

(k10) To cooperate in all water studies, planning, research, or activities with any state or local agency in this state, or any other state or any federal agency and to enter into contracts with federal, state and local governmental agencies to effect this purpose;

~~(l) When a comprehensive state water plan is adopted, copies thereof shall be filed in the office of the governor and director of the department, and published and distributed generally;~~

(m11) To present to the governor for presentation to the legislature not later than the 30th ~~of November~~ of ~~each~~ November prior to the convening of a regular legislative session the final report containing the complete plans, costs and feasibility estimates for any water project which the board recommends that the state construct in accordance with the ~~multiple-use water resource policy and~~ comprehensive state water plan; and to construct any water project specifically

authorized by the legislature;

(n12) To enter into contracts with political subdivisions, municipal entities, individuals and others for the rehabilitation and repair of existing irrigation projects and irrigation facilities, the sale and or lease of water, use of water, water storage, electric power, or other service, to turn over projects to water users after pay-out and to lease facilities, sell, lease or dispose of surplus facilities subject to the provisions of applicable law;

(o13) To enter into contracts to effect the purposes of this act;

(p14) To sue and be sued;

(q15) To study and examine pollution of rivers, streams, lakes and ground water, and to advise, cooperate and counsel with the state board of health and welfare in a manner designed to avoid inhibition of economic development and at the same time insure the right of the people to comfortably enjoy our water resources and accomplish the establishment of water quality criteria;

(r16) To call upon any other state agency for cooperation, assistance or use of information available to such agency; provided, however, if such agency is required to make substantial expenditures in responding to such request, appropriate arrangements for compensation may be accomplished;

(s17) To issue revenue bonds for the rehabilitation and repair of existing irrigation projects and irrigation facilities, and for water projects, pledge any revenues available to the board to secure said bonds, exclusive of any revenues derived from legislative appropriations, and pool revenues from one or more projects constructed, financed or operated by the board, or existing irrigation project or facilities rehabilitated or repaired by the board;

(t18) To formulate and recommend, prior to each session of the legislature, proposed legislation that may be necessary to assist it in effecting a proper plan for conservation, development and utilization of water resources and waterways and to report to each session of the legislature on the public business entrusted to its care and the financial affairs of the board. In the period between legislative sessions, the board shall deposit with the legislative council statements describing all actions taken and projects undertaken by it;

(u19) To issue procedural and operative rules and regulations as may be necessary for the conduct of its business;

(v20) To appoint advisory boards when deemed desirable to aid in the execution of its powers;

(w21) To take such other action as may be necessary to carry out its duties and powers under this act and the constitution of the state of Idaho;

(x22) To loan without prior legislative approval, the proceeds of the sale of revenue bonds to the local water project sponsor or sponsors; to enter into lease, sale or loan agreement; and to purchase all or a portion of, or participate in, loans, originated by private lending institutions.

SECTION 5. That Chapter 17, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 42-1734A, 42-1734B, 42-1734C,

42-1734D, 42-1734E, 42-1734F, 42-1734G, 42-1734H and 42-1734I, Idaho Code, and to read as follows:

42-1734A. COMPREHENSIVE STATE WATER PLAN. (1) The board shall, subject to legislative approval, progressively formulate, adopt and implement a comprehensive state water plan for conservation, development, management and optimum use of all unappropriated water resources and waterways of this state in the public interest. As part of the comprehensive state water plan, the board may designate selected waterways as protected rivers as provided in this chapter. The comprehensive state water plan shall be based upon studies and public hearings in affected areas at which all interested parties shall be given the opportunity to appear, or to present written testimony in response to published proposals for such policy programs and proposed designations. A minimum of sixty (60) days shall be allowed between publication of a proposal and the date on which no further testimony on the proposal will be accepted. All comments in writing shall be preserved as a part of the record of the board. In adopting a comprehensive state water plan the board shall be guided by these criteria:

(a) Existing rights, established duties, and the relative priorities of water established in article XV, section 3, of the constitution of the state of Idaho, shall be protected and preserved;

(b) Optimum economic development in the interest of and for the benefit of the state as a whole shall be achieved by integration and coordination of the use of water and the augmentation of existing supplies and by protection of designated waterways for all beneficial purposes;

(c) Adequate and safe water supplies for human consumption and maximum supplies for other beneficial uses shall be preserved and protected;

(d) Subject to prior existing water rights for the beneficial uses now or hereafter prescribed by law, minimum stream flow for aquatic life, recreation and aesthetics and the minimization of pollution and the protection and preservation of waterways in the manner hereafter provided shall be fostered and encouraged and consideration shall be given to the development and protection of water recreation facilities;

(e) Watershed conservation practices consistent with sound engineering and economic principles shall be encouraged.

(2) The board may develop a comprehensive state water plan in stages based upon waterways, river basins, drainage areas, river reaches, groundwater aquifers, or other geographic considerations. The component of the comprehensive state water plan prepared for particular water resources and waterways shall contain, among other things, the following:

(a) A description of the water resources and waterway or waterways that are the subject of the plan, including pertinent maps detailing the geographic area of the plan;

(b) A description of the significant resources of the water resources and waterway or waterways;

(c) A description of the various existing and planned uses for these resources including currently undeveloped areas of the

waterway and future plans for those areas, with a discussion of the advantages and disadvantages associated with each planned use; and

(d) A discussion of goals, objectives, and recommendations for improving, developing, or conserving the water resources and waterway or waterways in relation to these resources, including an examination of how different uses will promote the overall public interest, a statement as to the goals the plan expects to achieve, and an analysis of how any specific recommendations further those goals. A description of the methodology used in developing the plan shall be included.

(3) The description of the resources and uses in subsections (2)(b) and (2)(c) of this section shall contain, among other things:

(a) navigation;
(b) power development;
(c) energy conservation;
(d) fish and wildlife;
(e) recreational opportunities;
(f) irrigation;
(g) flood control;
(h) water supply;
(i) timber;
(j) mining;
(k) livestock watering;
(l) scenic values;
(m) natural or cultural features;
(n) domestic, municipal, commercial and industrial uses; and
(o) other aspects of environmental quality and economic development.

(4) The comprehensive state water plan may designate protected rivers. Designations shall be based upon a determination by the board that the value of preserving a waterway for particular uses outweighs that of developing the waterway for other beneficial uses and shall specify whether a protected river is designated as a natural or recreational river. The plan may also describe those water resources and waterways which are not designated as protected rivers.

(5) In designating a natural river, the board shall prohibit the following activities:

(a) construction or expansion of dams or impoundments;
(b) construction of hydropower projects;
(c) construction of water diversion works;
(d) dredge or placer mining;
(e) alterations of the stream bed; and
(f) mineral or sand and gravel extraction within the stream bed.

(6) In designating a recreational river, the board shall determine which of the activities listed in subsection (5) of this section shall be prohibited and may specify the terms and conditions under which activities that are not prohibited may go forward.

(7) Any prohibition or terms and conditions imposed pursuant to subsections (5) and (6) of this section shall remain in effect until the legislature acts upon the recommendation of the board as provrded in section 42-1734B, Idaho Code, or until the legislature revokes its

earlier approval of a protected river by law.

42-1734B. BOARD PROCEDURES FOR ADOPTING A COMPREHENSIVE STATE WATER PLAN. (1) Prior to the adoption of the comprehensive state water plan or any component of the comprehensive plan, the board shall conduct hearings in the manner provided in section 42-1734A, Idaho Code.

(2) In the preparation, adoption, and implementation of the comprehensive state water plan, the board shall encourage the cooperation, participation, and assistance of state agencies. The board also shall solicit economic, energy, environmental, and other technical studies and recommendations from state agencies with particular expertise. All agencies of the state of Idaho shall cooperate with the board by providing requested existing information and studies pertaining in any manner to any matters which are the subject of this act. The board shall have discretion to balance all factors relevant to the formulation, adoption and implementation of the comprehensive state water plan and implementation and the designation of protected rivers.

(3) Any state agency may petition the board to amend the comprehensive state water plan. The board shall review any petition filed pursuant to this section within six (6) months after it is filed and shall either commence action to amend the comprehensive plan or set forth its reasons for denying the request in writing.

(4) All state agencies shall exercise their duties in a manner consistent with the comprehensive state water plan. These duties include but are not limited to the issuance of permits, licenses, and certifications; provided, however, that nothing in this chapter shall be construed to affect the authority of any state agency with respect to activities not prohibited by the comprehensive state water plan. The designation of a waterway as a natural or recreation river shall not preclude the department of health and welfare from establishing water quality standards for such waterway.

(5) When a comprehensive state water plan is adopted, copies thereof shall be filed in the office of the governor and director of the department of water resources, and published and distributed generally.

(6) The comprehensive state water plan and any component thereof developed for a particular waterway or waterways is subject to review and amendment by the legislature of the state of Idaho by law at the regular session immediately following the board's adoption of the comprehensive state water plan or component thereof. The board shall submit all subsequent modifications to the legislature in the same manner as provided in this subsection.

(7) The board shall review and reevaluate the comprehensive state water plan at least every five (5) years, with amendments to be adopted in the same manner as the original plan.

(8) A protected river designated by the board shall not become a final part of the comprehensive state water plan until approved by law. If the legislature does not approve a protected river by law at the regular session immediately following the board's designation of such protected river, then the designation of such protected river shall terminate and any prohibition or terms and conditions imposed on

such protected river pursuant to subsection (5) or (6) of section 42-1734A, Idaho Code, shall be terminated ten (10) days following the end of the session. The failure to approve a protected river shall not operate to invalidate a comprehensive plan or component thereof. Nothing in this subsection shall prevent the legislature, however, from approving such protected river and reinstituting or modifying such prohibitions or terms and conditions in a subsequent session.

(9) After adoption of a comprehensive plan or component thereof, the board shall administer the implementation of the plan.

42-1734C. STATUS OF COMPREHENSIVE STATE WATER PLAN BEFORE FEDERAL AGENCIES. The comprehensive state water plan required by this chapter shall be submitted to the federal energy regulatory commission, and the pacific northwest electric power and conservation planning council, and any other federal agencies as the state water plan for the conservation, development, management and optimum use of the state of Idaho's water resource.

42-1734D. DESIGNATION OF INTERIM PROTECTED RIVERS. (1) Prior to the adoption of a comprehensive plan for a waterway, the board may designate a waterway as an interim protected river. Any state agency may petition the board to designate a waterway as an interim protected river. The board shall promulgate procedural rules for designation of interim protected rivers. The rules shall provide adequate notice to interested parties of any petitions filed or actions contemplated pursuant to this act.

(2) The board shall determine whether the nominated waterway merits designation as an interim protected river. The board shall accept or reject a nomination within six (6) months after it is filed. There shall be no review of any board decision rejecting or accepting a nomination for an interim protected river. Designation of a waterway as an interim protected river shall be based upon a determination that:

(a) It is probable that the waterway would be designated a protected river in the comprehensive state water plan; and

(b) Interim protected river status is necessary to protect the values that would support such waterway's designation as a protected river in a comprehensive state water plan.

(3) In designating a waterway for interim protected river status, the board shall indicate which of the activities listed in subsection 42-1734A(5), Idaho Code, shall be prohibited.

(4) Interim protected river status shall remain in effect until the earliest of:

(a) The adoption of a comprehensive state water plan for the waterway designated as an interim protected river;

(b) Two (2) years following the designation of an interim protected river unless extended by law;

(c) The revocation of a waterway's interim protected river status by law.

(5) Any person may petition the board for a determination that a particular proposed action or project will not significantly impair the values supporting a waterway's designation as an interim protected river. The board shall consider among other things environmental

impact statements, technical studies and any other relevant comments or recommendations prepared by the petitioner for use before other state or federal agencies. The board may also consider any other relevant information. If the board determines that the proposed action or project will not significantly impair the values supporting a waterway's designation as a protected river, then this section shall not apply to such action or project, except that the board, after consultation with relevant state agencies, may impose appropriate conditions on such action or project. An aggrieved party may seek judicial review of the board's decision pursuant to sections 67-5215 and 67-5216, Idaho Code.

(6) If a waterway is designated as an interim protected river, then the board shall proceed to prepare a comprehensive state water plan for the waterway. The board shall in preparing the state comprehensive water plan for the waterway consider, after review of all relevant factors contained in section 42-1734A, Idaho Code, whether the designation should continue or whether modification of the designation is warranted.

(7) If the designation of a waterway as an interim protected river is either revoked by law, or terminated as provided in this section, then the waterway shall not be eligible for designation as an interim protected river for a period of two (2) years following the revocation or termination of its interim protected river status.

42-1734E. REMEDIES. (1) The attorney general, at the request of the board, shall commence a civil action to enjoin any person violating any provision of this chapter and to recover actual damages in that amount required to restore a protected river and its riparian area to a condition reasonably comparable to that existing prior to the violation.

(2) It shall be the duty of the attorney general to institute and prosecute all enforcement actions provided for in this chapter.

42-1734F. RIGHTS NOT AFFECTED. (1) No provision of this chapter, or any rules or regulations promulgated pursuant to this chapter, shall in any way limit, restrict, or conflict with approved applications for the appropriation of water or with vested property rights existing on the date a waterway is designated for protected river status or interim protected river status. For the purpose of this chapter, nonvested rights shall include, but not be limited to, pending applications for state mining permits or mineral leases, and pending applications for the appropriation of water.

(2) No provision of this chapter, or any rules or regulations promulgated pursuant to this chapter shall bar a water user or his agent from cleaning, maintaining or replacing a water diversion structure existing on or before the date a river is designated as protected. A water user or his agent may remove any obstructions from the stream channel, if such obstruction interferes with the delivery of, or use of, water under any existing water right. The provisions of this section do not relieve a person from complying with any other applicable laws.

(3) Nothing in this act shall prevent or restrict the relicensing

of existing hydropower projects that have been previously licensed by the federal energy regulatory commission and which have generated electricity. Any designation of waterways as interim protected rivers or protected rivers shall not affect the operation or relicensing, including but not limited to the expansion of capacity which does not enlarge existing boundaries or project impoundments of any hydropower project existing and that has been previously licensed by the federal energy regulatory commission and which have generated electricity as of the date of the designation.

42-1734G. WATER RIGHTS. No provisions of this chapter, or any rules or regulations promulgated pursuant to this chapter, shall be construed to establish a water right. Any water rights necessary to fulfill the purposes of this chapter shall be obtained pursuant to the provision of chapter 2 or chapter 15, title 42, Idaho Code.

42-1734H. DESIGNATION OF PARTICULAR RIVERS AS INTERIM PROTECTED RIVERS. (1) The board shall designate the following waterways as interim protected rivers pursuant to section 42-1734D, Idaho Code:

(a) Priest River, from the Canadian Border to the confluence of Priest Lake;

(b) South Fork of the Boise River, from Anderson Ranch Dam to Neal Bridge;

(c) Snake River, from Section 5, Township 11 South, Range 20 East, B.M. to King Hill;

(d) The following waterways within the Payette River Basin:

1. North Fork of the Payette River, from Cabarton Bridge to Banks;

2. South Fork of the Payette River, from the Sawtooth Wilderness Boundary to Banks;

3. Main Payette River, from Banks to Black Canyon Dam; and

(e) Henry's Fork of the Snake River from its point of origin at Henry's Lake to the point of its confluence with the backwaters of Ashton Reservoir.

(2) The board shall determine which of the activities listed in subsection (5) of section 42-1734A, Idaho Code, shall be prohibited.

42-1734I. DESIGNATION UNDER FEDERAL LAW. Designation of a waterway as a protected river pursuant to this chapter shall not be a basis for seeking inclusion of such waterway in the national wild and scenic rivers system pursuant to 16, United States Code section 1273(a)(ii) unless the act designating the waterway as a protected river specifically requests the governor to seek inclusion of the waterway in the national wild and scenic rivers system.

Approved April 6, 1988.

CHAPTER 371
(S.B. No. 1483, As Amended in the House)

AN ACT

RELATING TO AD VALOREM TAXES; AMENDING SECTION 63-1118, IDAHO CODE, TO PROVIDE CONDITIONS FOR THE PAYMENT OF DELINQUENT TAXES; REPEALING SECTIONS 63-1124 AND 63-1125, IDAHO CODE; AMENDING CHAPTER 11, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-1124, IDAHO CODE, TO PROVIDE FOR THE REDEMPTION OF PROPERTY AFTER THE ISSUANCE OF A TAX DEED; AMENDING CHAPTER 11, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-1125, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF TAXES ON SEGREGATED PROPERTY; AMENDING CHAPTER 11, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-1125A, IDAHO CODE, TO PROVIDE FOR REDEMPTION OF SEGREGATED PROPERTY AFTER THE ISSUANCE OF A TAX DEED; AND AMENDING SECTION 63-1126B, IDAHO CODE, TO INCLUDE PARTIES OF INTEREST OF RECORD TO RECEIVE NOTICE OF THE PENDING ISSUE OF A TAX DEED, AND TO INCLUDE ADDITIONAL REQUIREMENTS FOR THE CONTENTS OF A NOTICE.

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

SECTION 1. That Section 63-1118, Idaho Code, be, and the same is hereby amended to read as follows:

63-1118. PAYMENT OF DELINQUENT TAXES. ~~Upon the payment of delinquent taxes with accrued interest and penalty, the tax collector shall issue the receipt corresponding to the delinquency entry.~~ To avoid the issuance of a tax deed for property described in the delinquency entry, payment of the delinquent taxes, including penalty, interest, and costs incurred, must be paid to the tax collector within three (3) years of the date of the delinquency. Upon payment, the tax collector shall issue a receipt. In the event payment is mailed to the tax collector, the cancelled check may serve as receipt.

SECTION 2. That Sections 63-1124 and 63-1125, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Chapter 11, 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 63-1124, Idaho Code, and to read as follows:

63-1124. REDEMPTION -- EXPIRATION OF RIGHT. After the issuance of a tax deed, property may be redeemed only by the record owner, or owners, or party in interest, up to the time the county commissioners have entered into a contract of sale or the property has been transferred by county deed. In order to redeem property, the record owner, or owners, or party in interest shall pay all delinquent taxes including the penalty, accrued interest, and costs, and including, but not limited to, title search fees. The taxes accrued, including the current calendar year, against such property subsequent to the issuance

of a tax deed to the county shall be extended upon a valuation to be given by the assessor upon application of the treasurer, and the taxes shall be computed according to the authorized levies for the year or years to be extended. Should such payments be made, a redemption deed shall be issued by the county treasurer to the redemptioner and the rights, title and interest acquired by the county shall cease and terminate. Provided, however, that such right of redemption shall expire five (5) years from the date of issuance of a tax deed to the county, in the event the county commissioners have not extinguished the right of redemption by contract of sale or transfer by county deed during said redemption period. In the event a tax deed is issued and payment is not received within five (5) years of the issuance of such tax deed, then said tax deed to the county is presumptive evidence of the regularity of all proceedings prior thereto and the fee simple title, after the issuance of said tax deed, rests in the county.

SECTION 4. That Chapter 11, 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 63-1125, Idaho Code, and to read as follows:

63-1125. PAYMENT OF DELINQUENT TAXES ON SEGREGATED PROPERTY. The record owner or owners or any party in interest of a segregated portion of the property covered by a delinquency entry may release the lien for taxes at the time, and in the manner provided in sections 63-1102 and 63-1118, Idaho Code, by paying to the tax collector the amount due on that particular piece of property. The county assessor shall determine and certify to the tax collector the market value of that segregated portion of property, and the tax collector will calculate the correct tax to be paid for any prior year or years of delinquent taxes, including the penalty, accrued interest and costs incurred. The provisions of this act shall apply to all delinquency entries hereafter entered.

SECTION 5. That Chapter 11, 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 63-1125A, Idaho Code, and to read as follows:

63-1125A. REDEMPTION OF SEGREGATED PROPERTY. The record owner or owners or any party in interest of a segregated portion of property covered by a tax deed, may redeem that property at the time and in the manner provided in section 63-1124, Idaho Code, by paying to the tax collector the amount due on that particular piece of property including, but not limited to, the penalty, accrued interest, title search fees and other costs incurred. The county assessor shall determine and certify to the tax collector the market value of that segregated portion of property, and the tax collector will calculate the correct tax to be paid for that current calendar year and all prior years of delinquency. The provisions of this act shall apply to all delinquency entries hereafter entered.

SECTION 6. That Section 63-1126B, Idaho Code, be, and the same is hereby amended to read as follows:

63-1126B. ISSUANCE OF NOTICE OF PENDING ISSUE OF TAX DEED. (1) The county treasurer of the county wherein the property for which a tax deed may issue shall serve or cause to be served written notice of pending issue of tax deed upon the record owner or owners and parties in interest of record in the following exclusive manner:

(a) By serving or causing to be served a copy of such notice by ~~registered or~~ certified mail with return receipt demanded upon the record owner or owners and parties in interest of record at their last known address, such service of notice to be made no more than five (5) months nor less than two (2) months before the time set for the tax deed to issue;

(b) In the event that such notice is served as above described and returned undelivered and after reasonable and diligent search and inquiry in attempting to locate and serve the record owner or owners and parties in interest of record, by publishing a ~~copy~~ summary of such notice in a newspaper ~~being most likely to give notice to the record owner or owners and~~ having general circulation in the county wherein the property ~~for which the delinquency entry has been made~~ is situated. Such publication must be made at least once a week for four (4) consecutive weeks, the last publication of which is to be no more than two (2) months nor less than fourteen (14) days before the time set for the tax deed to issue.

(2) The record owner or owners and parties in interest of record shall be liable and pay to the county treasurer all reasonable costs and fees in the preparation, service and publication of such notice and such reasonable costs shall become a lien upon the property in favor of the county treasurer.

(3) Such notice and summary thereof must contain the following items:

(a) The name and last known address of the record owner or owners;

(b) An accurate description of the property for which the delinquency entry has been made, or, in lieu thereof, the registered tax number ~~of~~r parcel number used in assessing the same;

1. A street address or other information which would be of assistance to the public in ascertaining the location of the property; or

2. The name and telephone number of a person, firm or business office from whom information concerning the location of the property may be obtained;

(c) The year for which the tax was assessed and for which the tax is delinquent;

(d) An itemized statement showing tax, penalty, interest and all costs and fees incident to the delinquency entry and such notice up to and including the date of the making of such notice;

(e) The date the delinquency entry was made;

(f) The time, date, place at which, and by whom the tax deed will issue; and

(g) A statement that the record owner or owners or any party in

interest shall have adequate opportunity to be heard, to confront and cross-examine any evidence or witness against the record owner or owners, and obtain and present evidence on behalf of the record owner or owners or any party in interest. Such statement shall also contain notice of to whom inquiries and objections shall be directed concerning the notice and information contained therein and by what date such inquiries and objections must be received.

(4) ~~(a)~~ Any party in interest may file a written request for such notice in the office of the county treasurer of the county wherein the property for which the delinquency entry has been made is situated. Such request shall contain the following items:

1. The name and address of the record owner or owners;
2. An accurate description of the property covered by the interest, or, in lieu thereof, the registered tax number or parcel number used in assessing the same;
3. The name and address of the party in interest;
4. An accurate description of the interest held; and
5. The date of expiration of the interest held.

~~(b)--If-a-party-in-interest-shall-furnish-a-duplicate-form-of--the written--request--together-with-a-self-addressed-envelope,-postage prepaid,-for-the--purpose,--the--county--treasurer--shall--certify thereon--to--the-filing-of-the-written-request-and-deliver-or-mail the-same-to-the-party-in-interest-requesting-a-copy-of-the-notice.~~

~~(c)--If-a-party-in-interest--has--previously--filed--such--written request--for--a--copy-of-the-notice,-the-county-treasurer-shall-at the-time-of-sending-notice-to-the-record-owner-or-owners-also-send a-copy-of-the-notice-by-registered-or-certified-mail--with--return receipt--demanded--to--each--party--in-interest-who-has-previously filed-such-written-request.-In--the--event--such--notice--is--also served--upon-a-party-in-interest-under-this-section,-each-party-in interest-so-served-shall-be-liable-for-and-shall-pay-to-the-county treasurer-all-reasonable-costs-and-fees--in--the--preparation--and mailing-of-such-notice-to-the-requesting-party-in-interest.~~

(5) If a record owner or owners or a party in interest shall have actual notice of the notice of pending issue of tax deed or that issuance of a tax deed is pending, it shall be deemed sufficient notice under this section.

(6) Service shall be deemed completed upon depositing the registered--or certified letter containing the original or a copy of the notice of pending issue of tax deed with return receipt demanded in any United States post office mail box, or upon physical delivery of such notice or copy thereof by the county treasurer or his or her appointed agent to the record owner or owners or party in interest, or upon the date of last publication.

Approved April 7, 1988.

CHAPTER 372
(S.B. No. 1563)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 1989 AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FROM STATE SOURCES; APPROPRIATING MONEYS FOR DEPOSIT IN THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING MONEYS FOR DEPOSIT IN THE PUBLIC EMPLOYEE RETIREMENT ACCOUNT; APPROPRIATING MONEYS FOR THE UNEMPLOYMENT INSURANCE PROGRAM; APPROPRIATING MONEYS FOR THE EMPLOYER'S PORTION OF SOCIAL SECURITY TAXES; AND APPROPRIATING ALL MONEYS ACCRUING TO THE PUBLIC SCHOOL INCOME FUND.

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

SECTION 1. It is legislative intent that the following amount shall be expended from state sources for Public School Support for the period July 1, 1988, through June 30, 1989:

FROM:

General Account		$356,000,000
Dedicated Accounts:		
Endowment Fund Income	$16,500,000	
Department of Lands	2,900,000	
Liquor Account	1,200,000	
Miscellaneous Receipts	2,171,100	
Subtotal	$22,771,100	22,771,100
TOTAL		$378,771,100

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, 1988, through June 30, 1989:

FROM:

General Account $356,000,000

SECTION 3. There is hereby appropriated from the Public School Income Fund the amount necessary for deposit in the Public Employee Retirement Account to be expended according to Section 59-1332A, Idaho Code, for the period July 1, 1988, through June 30, 1989.

SECTION 4. There is hereby appropriated from the Public School Income Fund the amount necessary for the Unemployment Insurance Program to be expended according to Section 72-1349C, Idaho Code, for the period July 1, 1988, through June 30, 1989.

SECTION 5. There is hereby appropriated from the Public School Income Fund the amount necessary to be expended for the purpose of paying the employer's portion of social security taxes for public school district employees, according to Section 59-1115, Idaho Code, for the period July 1, 1988, through June 30, 1989.

SECTION 6. There is hereby appropriated from the Public School Income Fund to the State Board of Education to be expended pursuant to law, all moneys which may accrue to such fund for the period July 1, 1988, through June 30, 1989.

Law without signature.

CHAPTER 373
(H.B. No. 771)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, AS AMENDED BY CHAPTER 2, LAWS OF 1988, TO PROVIDE FOR A SPECIFIC DOLLAR AMOUNT FOR A PERSONAL EXEMPTION RATHER THAN THE AMOUNT ALLOWED BY THE INTERNAL REVENUE CODE; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3004, Idaho Code, as amended by Chapter 2, Laws of 1988, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first day of January, 1988.

(b) Provisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date provided for such amendments, deletions, or additions, including retroactive provisions, except that the "exemption amount" provided by section 151 (d)(1) of the Internal Revenue Code shall be nineteen hundred dollars ($1,900) for purposes 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 and retroactively to January 1, 1988.

Law without signature.

CHAPTER 374
(H.B. No. 778)

AN ACT

APPROPRIATING MONEYS FOR GENERAL EDUCATION PROGRAMS AT BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, LEWIS-CLARK STATE COLLEGE AND THE UNIVERSITY OF IDAHO FOR FISCAL YEAR 1989; MAKING CERTAIN CODE

PROVISIONS SPECIFICALLY AVAILABLE TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the 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 amount, to be expended for the designated program from the listed accounts for the period July 1, 1988, through June 30, 1989:

FOR:	
General Education Programs	$129,028,100
FROM:	
General Account	$105,900,000
State Endowment Funds	5,657,100
Interagency Billing and Receipts Account	17,471,000
TOTAL	$129,028,100

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 the period of July 1, 1988, through June 30, 1989, 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 332, Laws of 1987, to be used for nonrecurring expenditures only, for the period July 1, 1988, through June 30, 1989.

Law without signature.

CHAPTER 375
(H.B. No. 787)

AN ACT
APPROPRIATING MONEYS FROM THE WATER POLLUTION CONTROL ACCOUNT.

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

SECTION 1. There is hereby appropriated from the Water Pollution Control Account to the General Account the sum of $2,000,000 for fiscal year 1989.

Law without signature.

CHAPTER 376
(H.B. No. 757, As Amended in the Senate)

AN ACT

RELATING TO POLICE OFFICERS; AMENDING CHAPTER 53, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5340, IDAHO CODE, TO PROVIDE THAT ANY POLICE OFFICER EMPLOYED BY THE STATE WHO IS SERIOUSLY INJURED BY ANOTHER PERSON IS ENTITLED TO RECEIVE HIS REGULAR SALARY AND BENEFITS IN LIEU OF WORKMEN'S COMPENSATION BENEFITS FOR UP TO ONE YEAR, TO PROVIDE DUTIES OF THE DIRECTOR, TO PROVIDE FOR DISABILITY BENEFITS AFTER THE ONE YEAR PERIOD, AND TO LIMIT THE APPLICABILITY OF THE SECTION.

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

SECTION 1. That Chapter 53, 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 67-5340, Idaho Code, and to read as follows:

67-5340. LEAVE OF ABSENCE WITH PAY IN LIEU OF WORKMEN'S COMPENSATION BENEFITS. (1) Whenever any employee of the state of Idaho who is categorized as a police officer for retirement purposes pursuant to section 59-1302A, Idaho Code, is physically disabled by a serious injury arising out of and in the course of his duties, and the injury is induced by a second party, he shall be entitled, regardless of his period of service with the department, to a leave of absence while so disabled without loss of salary or benefits for a period of not more than one (1) year. Any workmen's compensation payments made to the employee shall revert back to the employee's department. For the purposes of this section, "serious injury" means an injury which renders the police officer incapable of performing the regularly assigned duties of his regular employment position or office and "injury induced by a second party" means an injury induced by the negligent, malicious, or intentional act or omission of another person during a chargeable misdemeanor or felony.

(2) It shall be the duty of the director of the applicable department to determine whether or not the disability referred to in subsection (1) of this section arose out of and in the course of duty. The director of the applicable department shall also determine when such disability ceases.

(3) Payment of salary pursuant to this section shall not preclude the disabled police officer from receiving regular medical, surgical or hospital coverage as provided pursuant to section 67-5761, Idaho Code.

(4) If a police officer is disabled for more than one (1) year then the regular disability insurance provisions of the Idaho Code shall apply to any period of disability beyond the one (1) year period of disability covered by this section.

(5) The provisions of this section shall not apply to periods of disability which occur subsequent to termination of employment by res-

ignation, retirement, or dismissal. When the provisions of this section do not apply, the employee shall be eligible for those benefits which would apply if this section had not been enacted.

Approved April 7, 1988.

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 125)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE INTENT WITH RESPECT TO REDUCTION OF SALARY OF A CLASSIFIED EMPLOYEE WHOSE CLASSIFICATION HAS BEEN REALLOCATED DOWNWARD.

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

WHEREAS, downward reallocation of the classification of certain employees has resulted in the reduction in salary of those employees; and

WHEREAS, this policy is contrary to practice in private industry and other governmental entities; and

WHEREAS, Hay and Associates, reporting on their study of the State Personnel System authorized by the First Regular Session of the Forty-ninth Idaho Legislature, recommended elimination of this policy.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature of the State of Idaho declares that if the salary of an employee whose classification is reallocated downward is greater than the top step of the pay grade to which the class is assigned, the employee's salary shall not be reduced; but that employee shall thereafter receive no salary increase, other than longevity pursuant to Section 67-5309C(b), Idaho Code, that would exceed the top step.

Adopted by the Senate February 1, 1988.
Adopted by the House February 15, 1988.

(S.C.R. No. 129)

A CONCURRENT RESOLUTION
DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY REGARDING GROUNDWATER QUALITY STANDARDS IN IDAHO.

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

WHEREAS, the purity and quality of the groundwater of the State is becoming a growing concern of all citizens of the State; and

WHEREAS, in Idaho groundwater supplies ninety-four percent of the total water used for industrial purposes, over ninety percent of the total water used for drinking purposes, and twenty-six percent of the total water used for irrigation; and

WHEREAS, in Idaho, groundwater is also heavily relied upon for trout farming and other forms of aquaculture; and

WHEREAS, pressures from population growth have caused an increase in the amount of waste materials disposed of on or beneath the land surface and land disposal of waste has been based on the assumption that soils can treat or otherwise prevent pollutants from reaching groundwater; and

WHEREAS, many pollutants eventually enter groundwater and may accumulate there for a long time before being detected; and

WHEREAS, unlike surface waters, groundwaters move very slowly, lack self-cleansing properties and are relatively difficult to monitor and clean up; and

WHEREAS, activities which are very important to the economic development and style of life in Idaho also can threaten groundwater quality in the State and include petroleum storage, feedlots and dairies, landfills and hazardous waste sites, land applied wastewater, hazardous substances, landspreading of septage or sludges, field application of pesticides and fertilizers, and subsurface sewage disposal; and

WHEREAS, economic development, the quality of life and the quality of groundwater of Idaho ultimately go hand in hand.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council shall appoint a committee to undertake and complete a study of the statutory framework for controlling and protecting the quality of groundwater in this State. The Committee shall consult with and receive advice from representatives of the Board of Health and Welfare, the Division of Environment of the Department of Health and Welfare, the Water Resource Board, the Department of Water Resources, water users, industrial users, consumer groups, and conservation groups, as well as any others interested in and affected by the issue of groundwater quality throughout the State. The Committee may hold meetings throughout the State of Idaho as the cochairmen deem necessary.

BE IT FURTHER RESOLVED that the Committee shall begin its study by inventorying federal laws and regulations concerning water quality to insure that Idaho complies fully and expeditiously with statutory requirements in such a manner as to minimize regulatory duplication and costs in the full protection of our groundwater.

BE IT FURTHER RESOLVED that the Committee shall report its findings, recommendations and recommended legislation, if any, to the First Regular Session of the Fiftieth Idaho Legislature.

Adopted by the Senate February 10, 1988.
Adopted by the House March 23, 1988.

(S.C.R. No. 130)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE IDAHO LEGISLATURE CONCERNING THE IMPORTANCE OF TOURIST SERVICES ALONG IDAHO'S INTERSTATE HIGHWAY SYSTEM AND URGING A COOPERATIVE EFFORT AMONG IDAHO CITIES, THEIR CHAMBERS OF COMMERCE, AND THE IDAHO TRANSPORTATION DEPARTMENT TO PROVIDE THOSE SERVICES.

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

WHEREAS, Idaho is in competition with other western states for the tourist dollar and many tourists enter and travel in Idaho using the interstate highway system; and

WHEREAS, Idaho can attract tourists by offering efficient, friendly, and informative tourist services and aesthetically pleasing rest and information areas for tourists along its interstate highway system; and

WHEREAS, the Idaho Transportation Department is currently in the process of upgrading Idaho's rest areas located on the interstate in order to make them more pleasing to the eye and more useful to the tourist; and

WHEREAS, the Transportation Department is providing space in the upgraded rest areas for tourist information services but it cannot rent the space directly to private parties; and

WHEREAS, the Transportation Department can rent the space to local cities who, in turn, can enter into agreements with private groups, such as local Chambers of Commerce, to station volunteers in the tourist information booths; and

WHEREAS, an agreement between the cities and their local Chambers of Commerce to station volunteers in the tourist information booths would provide a valuable service to tourists at no cost to the Idaho taxpayer, increase the expenditure of tourist dollars in Idaho cities and in our state, and would coincide with and augment the Transportation Department's efforts to upgrade the rest areas along Idaho's interstate highway system.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature hereby encourages the Idaho cities located on the interstate highway system and the Chambers of Commerce of those cities to work in conjunction with each other and with the Transportation Department to establish tourist information centers and to station volunteers in the tourist information centers, and the Legislature also encourages the Transportation Department to continue its program to upgrade the rest areas and to give special attention to providing specifically designated areas at the rest stops for tourist information centers.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Resolution to the Director of the Idaho Transportation Department; to the Executive Director of the Association of Idaho Cities; and to the

Chambers of Commerce, mayors or city managers, and to the presidents of the city councils of the following cities: Caldwell, Nampa, Meridian, Boise, Mountain Home, Twin Falls, Pocatello, Idaho Falls, Coeur d'Alene, Kellogg and Wallace.

Adopted by the Senate February 25, 1988.
Adopted by the House March 22, 1988.

(S.C.R. No. 132)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND SUBMITTING A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO THE ELECTORS OF THE STATE OF IDAHO FOR AN ADVISORY VOTE, AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE QUESTION.

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

WHEREAS, in the session of the Congress of the United States of America, begun and held at the city of New York, on Wednesday, the fourth of March, one thousand seven hundred and eighty-nine, it was resolved by a constitutional majority of two-thirds thereof, to submit the following proposition to amend the Constitution of the United States of America in the following words, to-wit:

"ARTICLE --

No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened."; and

WHEREAS, as provided by Section 34-2217, Idaho Code, the Idaho Legislature shall not ratify an amendment to the Constitution of the United States without first submitting the question to an advisory vote of the electorate of the State of Idaho; and

WHEREAS, it is the finding of the Legislature that it is appropriate at this time to submit the question of adopting the proposed amendment to the electors.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the question to be submitted to the electorate at the next general election shall be as follows:

"Shall the Legislature of the State of Idaho ratify the following proposed amendment to the Constitution of the United States: "No law varying the compensation for the services of Senators and Representatives shall take effect until an election of Representatives shall have intervened."?"

BE IT FURTHER RESOLVED that the Secretary of State is hereby directed to publish this proposed constitutional amendment question as

provided by law for publication of proposed amendments to the Constitution of the State of Idaho.

Adopted by the Senate February 15, 1988.
Adopted by the House March 23, 1988.

(S.C.R. No. 135)

A CONCURRENT RESOLUTION
REQUESTING THE DEPARTMENT OF HEALTH AND WELFARE TO ADJUST, AMEND OR REVISE THE REQUIRED RULES, REGULATIONS OR ORDERS TO INCLUDE HOSPICE CARE AS ONE OF THE PROGRAMS UNDER THE MEDICAID PROGRAM.

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

WHEREAS, the Medicaid program now offers an optional program to provide hospice care to eligible persons; and

WHEREAS, hospice care can often be provided at less cost than other forms of care; and

WHEREAS, hospice care provides an alternative for a terminally ill patient and the patient's family to receive medical and counseling assistance, along with pain and symptom management in the home.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Director of the Department of Health and Welfare is requested to adjust, amend or revise particular rules, regulations or orders as necessary in order to take advantage of the hospice care option under the Medicaid program.

Adopted by the Senate March 7, 1988.
Adopted by the House March 18, 1988.

(S.C.R. No. 136)

A CONCURRENT RESOLUTION
TO THE IDAHO BOARD OF TRANSPORTATION AND THE IDAHO TRANSPORTATION DEPARTMENT RELATING TO THE DESIGNATION OF U.S. HIGHWAY 12 AND STATE HIGHWAYS 13 AND 14 BETWEEN GRANGEVILLE AND KAMIAH AS A SCENIC ROUTE.

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

WHEREAS, the Idaho Transportation Board established the Idaho Scenic Route System in 1976 in order to inform tourists and travelers of areas of unusual interest and scenic value within the State; and

WHEREAS, to date, the Board has designated scenic routes in all parts of the State of Idaho and the designation has proven to be an effective method of attracting tourists; and

WHEREAS, that portion of U.S. Highway 12 and State Highways 13 and 14 between Grangeville and Kamiah has all the attributes required for scenic route designation including a wide spectrum of natural scenic attractions and superior aesthetic characteristics.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Idaho Transportation Board and the Idaho Transportation Department are urged to designate these highways between Grangeville and Kamiah an Idaho Scenic Route.

Adopted by the Senate March 2, 1988.
Adopted by the House March 24, 1988.

(S.C.R. No. 139)

A CONCURRENT RESOLUTION
AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY OF CHILD ABUSE, ABANDONMENT AND NEGLECT.

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

WHEREAS, child abuse, abandonment and neglect is a subject of concern to all citizens of the State of Idaho; and

WHEREAS, the Idaho Legislature is in agreement that this is an area of concern which must be addressed more specifically; and

WHEREAS, the Legislature recognizes the issue is a complicated one which requires an in-depth study to yield the information upon which informed decisions can be made.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is hereby authorized and directed to appoint a committee consisting of five Senators, three from the majority party and two from the minority party, and five Representatives, three from the majority party and two from the minority party, to undertake and complete a study of child abuse, abandonment and neglect.

BE IT FURTHER RESOLVED that the Legislative Council shall report the Committee's findings and recommendations to the First Regular Session of the Fiftieth Idaho Legislature.

Adopted by the Senate March 8, 1988.
Adopted by the House March 28, 1988.

(S.C.R. No. 140)

A CONCURRENT RESOLUTION

DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE EDUCATIONAL NEEDS OF THE YOUNG CHILDREN IN IDAHO.

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

WHEREAS, kindergarten and early intervention issues regarding Idaho's young children are becoming a growing concern of all citizens of the state; and

WHEREAS, specific questions on school entrance age, retention, class size and appropriate curriculum and early intervention services for our young children have recently come before this Legislature; and

WHEREAS, PL 99-457 extends the provisions of PL 94-142 in each state to pre-school handicapped children.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized and directed to appoint a committee to undertake and complete a study of the educational needs of the young children in Idaho to help teachers, parents, program administrators and policymakers make informed decisions about kindergarten and early intervention issues in Idaho.

BE IT FURTHER RESOLVED that the Committee shall hold meetings throughout the State as the cochairmen deem necessary in order to consult with and receive advice from the Department of Education, the Department of Health and Welfare, the State Board of Education, parents, early intervention and early childhood education specialists, kindergarten teachers, special educators, parent-teacher associations, parent advocacy groups, program administrators, educators, related professional organizations as well as any others interested in and affected by the issues of kindergarten and early childhood intervention by the State.

BE IT FURTHER RESOLVED that the Committee shall begin its study by determining the existing level of services for young children with disabilities in Idaho in order to determine the steps necessary to begin serving all of Idaho's young children with disabilities, and that the Committee shall continue by examining kindergarten programs in relation to school entrance age, retention, class size and appropriate curriculum.

BE IT FURTHER RESOLVED that the Legislative Council shall report the Committee's findings and recommendations to the First Regular Session of the Fiftieth Idaho Legislature.

Adopted by the Senate March 17, 1988.
Adopted by the House March 28, 1988.

(S.C.R. No. 144)

A CONCURRENT RESOLUTION
AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY OF TAXATION MATTERS.

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

WHEREAS, for many years the State's citizens enjoyed a balanced tax system which included components of ad valorem taxes, sales taxes, individual income taxes and corporate income taxes; and

WHEREAS, because of a variety of factors, including voter sponsored changes in tax policy as well as federal changes in tax policy, the tax structure in place today has become dangerously out of balance; and

WHEREAS, the number of exemptions in the ad valorem tax laws, the sales tax laws, the individual income tax laws, and the corporate income tax laws need close attention in order for the tax burdens imposed by these laws to be equitably shared; and

WHEREAS, it is the desire of this Legislature that a tax structure should encourage economic development, and not hinder it.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is directed to appoint a committee to conduct a study of the State's tax structure, with special attention to be paid to the interrelationships of the ad valorem tax, the sales tax, and the income tax, and the necessity or justification for exemptions from these taxes. The Committee shall consist of not more than five members of the Senate and not more than five members of the House of Representatives.

BE IT FURTHER RESOLVED that the Legislative Council shall report findings and recommendations to the First Regular Session of the Fiftieth Idaho Legislature.

Adopted by the Senate March 25, 1988.
Adopted by the House March 28, 1988.

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 29)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE FORTY-NINTH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the Second Regular Session of the Forty-ninth Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 11, 1988.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Monday, January 11, 1988, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 11, 1988.
Adopted by the Senate January 11, 1988.

(H.C.R. No. 30)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE FORTY-NINTH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the Second Regular Session of the Forty-ninth Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 13, 1988.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regu-

lar Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Wednesday, January 13, 1988, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 12, 1988.
Adopted by the Senate January 12, 1988.

(H.C.R. No. 31)

A CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF HEALTH AND WELFARE TO AMEND THE REQUIRED RULES AND REGULATIONS TO PROVIDE PREGNANCY RELATED MEDICAID COVERAGE AND INFANT HEALTH CARE TO LOW INCOME FAMILIES IN IDAHO.

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

WHEREAS, the Medicaid program now offers an optional program to provide medical assistance to poor pregnant women, infants and children; and

WHEREAS, it has been demonstrated that adequate medical care during pregnancy is cost effective in reducing later medical costs associated with low birth weight babies.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Director of the Department of Health and Welfare is requested to adjust, amend or revise those particular rules, regulations or orders impacting the Medicaid program's coverage of poor pregnant women, infants and children to take advantage of changes in the federal Medicaid eligibility requirements and that may allow for case management during the prenatal and delivery period.

Adopted by the House February 18, 1988.
Adopted by the Senate March 3, 1988.

(H.C.R. No. 32)

A CONCURRENT RESOLUTION

AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A TOTAL AND THOROUGH RECODIFICATION OF COUNTY STATUTES.

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

WHEREAS, Title 31 of the Idaho Code, entitled "Counties and County

Law" contains many obsolete, confusing and conflicting provisions; and

WHEREAS, the provisions of Title 31 have had many additions and amendments in piecemeal fashion over the years; and

WHEREAS, the duties that counties must perform and the statutes counties must operate under have changed dramatically and fundamentally since Idaho became a state; and

WHEREAS, it is in the best interests of all concerned that a complete and thorough recodification of Title 31, Idaho Code, and other applicable statutes be undertaken and completed.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is directed to appoint a committee to undertake and complete a total and thorough recodification of Title 31, Idaho Code, and other applicable statutes.

BE IT FURTHER RESOLVED that the Committee shall report findings and recommended recodification legislation to the First Regular Session of the Fiftieth Idaho Legislature.

Adopted by the House February 2, 1988.
Adopted by the Senate February 19, 1988.

(H.C.R. No. 33)

A CONCURRENT RESOLUTION
PROVIDING FOR PRINTING THE HOUSE AND SENATE LEGISLATIVE JOURNALS AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, Section 67-509, Idaho Code, has made provisions for the printing of the House and Senate Legislative Journals;

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 Second Regular Session of the Forty-ninth Idaho Legislature, that the contract for the printing of the House and Senate Legislative Journals in accordance with the provisions of law and in accordance with the written contract between the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee, as party of the first part, and Gary D. Dotson, General Manager/Vice President, Northwest Printing, Inc., of Boise, Idaho, as party of the second part, be, and the same is hereby ratified and confirmed, 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 14th day of January, 1988, by and between the HOUSE JUDICIARY, RULES AND ADMINISTRATION

COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE in the Second Regular Session of the Forty-ninth Legislature of the State of Idaho, hereinafter mentioned as party of the first part, and Gary D. Dotson, General Manager/Vice President, NORTHWEST PRINTING, INC., of Boise, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH; That pursuant to a resolution of said party of the first part and written quotation submitted by party of the second part, a contract for legislative printing is hereby awarded to the said Northwest Printing, Inc., as follows:

HOUSE AND SENATE DAILY JOURNAL
OF THE SECOND REGULAR SESSION

375 copies of House Journal
375 copies of Senate Journal
750 total copies ..... $17.81 per page
100 additional copies ..... $ 1.98 per page

PERMANENT JOURNAL
OF THE SECOND REGULAR SESSION

275 copies of House Permanent Journal, including 5 hard-bound, gold lettered volumes
275 copies of Senate Permanent Journal, including 5 hard-bound, gold lettered volumes
560 total copies ..... $13.53 per page

IT IS AGREED, by the parties hereto that all of said printing shall be done in the form and manner, and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Legislative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the first party shall be complied with as though set forth herein at length.

IT IS AGREED, that in the printing of the Journal, the same shall be delivered daily on the desk of the Chief Clerk of the House, and on the desk of the Secretary of the Senate not later than the hour of 9 o'clock a.m. on each day: provided, that the party of the second part shall not be responsible in this respect, in cases of unreasonable delay in furnishing copy for such printing to the party of the second part.

IT IS AGREED, that the permanent printed Journal shall be delivered to the Chief Clerk of the House and the Secretary of the Senate not later than twenty (20) days from date of receipt of final copy, and that for each day's failure to so deliver, there shall be deducted from the contract price for printing said Journal the sum of Fifty Dollars ($50) per day for each day's delay.

The party of the second part further covenants and agrees to deliver to the party of the first part good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to party of the first part, in the sum of

Five Thousand Dollars ($5000), guaranteeing the satisfactory and faithful performance by the party of the second part of all the conditions and covenants of this contract.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper official and the party of the first part, by Concurrent Resolution, has caused these presents to be executed by its proper officials.

Party of the First Part

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

/s/Don C. Loveland
Don C. Loveland, Chairman

/s/Tom Boyd
Tom Boyd, Speaker of the House

SENATE JUDICIARY AND RULES COMMITTEE

/s/Roger Fairchild
Roger Fairchild, Chairman

/s/James E. Risch
James E. Risch, President Pro Tempore

Party of the Second Part

NORTHWEST PRINTING, INC.

/s/Gary D. Dotson
Gary D. Dotson, General Manager/Vice President

Adopted by the House February 1, 1988.
Adopted by the Senate February 9, 1988.

(H.C.R. No. 34)

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 1989 fiscal year, and to consult with experts in all fields in order to present the most complete information available; and

WHEREAS, it is the desire of the Legislature to adopt the findings of this committee as to the revenue projections in order to facilitate

the appropriations process.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring, that we find the following a factual representation of the revenue available from the General Account for appropriation in the 1988-1989 fiscal year.

Revenue Projections for 1988-1989 fiscal year:

Court System	$ 3,000,000
Secretary of State	1,100,000
State Treasurer	8,000,000
Department of Insurance	24,000,000
Department of Lands	175,000
Department of Law Enforcement	1,080,000
Department of Revenue and Taxation:	
Individual Income Tax	295,000,000
Corporate Income Tax	60,000,000
Kilowatt Hour Tax	1,900,000
Beer Tax	1,600,000
Mine License Tax	600,000
Wine Tax	900,000
Cigarette Tax	7,000,000
Unclaimed Property	1,000,000
Miscellaneous Agencies and Transfers	1,000,000
Liquor	4,945,000
Sales Tax	262,000,000
TOTAL	$673,300,000

Adopted by the House January 28, 1988.
Adopted by the Senate February 1, 1988.

(H.C.R. No. 35)

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 1988 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 Second Regular Session of the Forty-ninth 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 1987-1988 fiscal

year.

Revenue Projections for 1987-1988 fiscal year:

Court System	$ 3,000,000
Secretary of State	1,340,000
State Treasurer	6,500,000
Department of Finance	180,000
Department of Insurance	28,421,000
Department of Lands	180,000
Department of Law Enforcement	1,035,000
Department of Revenue and Taxation:	
Individual Income Tax	286,450,000
Corporate Income Tax	56,970,000
Kilowatt Hour Tax	2,000,000
Beer Tax	1,700,000
Mine License Tax	600,000
Wine Tax	950,000
Cigarette Tax	7,500,000
Unclaimed Property	1,200,000
Miscellaneous Agencies and Transfers	979,000
Liquor	4,945,000
Sales Tax	259,550,000
TOTAL	$663,500,000

Adopted by the House January 27, 1988.
Adopted by the Senate February 1, 1988.

(H.C.R. No. 36)

A CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF HEALTH AND WELFARE TO AMEND THE REQUIRED RULES AND REGULATIONS TO ALLOW INCREASED REIMBURSEMENT RATES TO PHYSICIAN PROVIDERS UNDER THE MEDICAID PROGRAM IN IDAHO.

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

WHEREAS, maintaining a high quality health care delivery system in this state depends in part on the ability of patients to select a physician of choice; and

WHEREAS, it is a matter of general concern that certain physicians are reluctant to continue to accept Medicaid patients because the Medicaid reimbursement schedule currently does not pay the full amount of usual and customary physician's fees for services; and

WHEREAS, this restriction on access to physician's services is not in keeping with our commitments to freedom of choice, and may in fact lead to situations in which a patient is denied access to necessary health care services.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Director of the

Department of Health and Welfare is requested to adjust, amend or revise those particular rules, regulations or orders impacting the Medicaid program's reimbursement schedule for physician's fees so that payments in the future will more nearly reflect usual and customary charges, with special emphasis to be paid to the reimbursement schedule for the care and delivery of expectant mothers.

Adopted by the House February 22, 1988.
Adopted by the Senate March 3, 1988.

(H.C.R. No. 37)

A CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF HEALTH AND WELFARE TO INVESTIGATE THE OPTIONS AVAILABLE TO THE STATE TO EXPAND COVERAGE FOR CARE AT HOME OF PERSONS ELIGIBLE FOR OR POTENTIALLY ELIGIBLE FOR MEDICAID COVERAGE.

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

WHEREAS, there are several program options available under the Medicaid program that appear not to have been fully utilized in the past; and

WHEREAS, it is desirable that the State use all of its available resources, techniques and processes to contain within acceptable limits the costs of publicly supported health care services in this State; and

WHEREAS, the use of certain nontraditional techniques may assist in this process.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Director of the Department of Health and Welfare is requested to investigate options available under the Medicaid program to expand Medicaid coverage for certain programs not now implemented or not now implemented to the fullest extent in Idaho for those persons eligible for Medicaid or potentially eligible for Medicaid in the near future, which investigation should focus on home health care projects, on personal care services, on chore services, on meals on wheels, on support by family members, and other systems and programs, all of which must demonstrate that they are cost effective for the Medicaid program and are medically necessary.

BE IT FURTHER RESOLVED that the Director is requested to report his findings and suggestions to the Health and Welfare Committees of the Senate and the House on a regular basis prior to the convening of the First Regular Session of the Fiftieth Idaho Legislature.

Adopted by the House February 17, 1988.
Adopted by the Senate March 3, 1988.

(H.C.R. No. 39)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENDORSING THE CONCEPTS OF THE BUY IN IDAHO, INC. PROGRAM WHICH PROMOTE IDAHO CITIZENS' PARTICIPATION IN THE ECONOMIC GROWTH OF IDAHO.

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

WHEREAS, essential support for Idaho's economic future will come from citizens and businesses already resident in this great State; and

WHEREAS, our State's buying power, if concentrated in Idaho, could make a significant positive difference in the condition of the State's economy; and

WHEREAS, a dollar spent in Idaho is an investment which multiplies as many as seven times through the local economy; and

WHEREAS, investment in Idaho results in increasing available tax revenues to fund essential governmental services including education, transportation and health services without increasing tax rates; and

WHEREAS, expanding the market for products within Idaho is an opportunity for economic development which is immediately available and uniquely accessible to Idahoans; and

WHEREAS, Buy In Idaho, Inc. is an organization whose mission is the development of a self-help program organized and administered by the private sector for the benefit of Idaho's economy, Idaho jobs and Idaho's people; and

WHEREAS, Buy In Idaho, Inc. is developing a directory of all products and services available within Idaho which will serve as a valuable tool in furthering the State's economic development; and

WHEREAS, Buy In Idaho, Inc. also sponsors programs aimed at promotion of Idaho products outside the State with resulting expansion of Idaho markets beyond our borders; and

WHEREAS, Buy In Idaho, Inc., like similar programs in at least fifteen of our sister states, asks only that we think first of local services and products.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature, on behalf of the citizens of Idaho, heartily endorses the concepts of the Buy In Idaho, Inc. program. We concur in the finding that the citizens of Idaho are anxious to participate in the growth of our economy and to invest their purchasing power in the State's future. We commend the efforts of Buy In Idaho, Inc. to assure that, when making expenditures, we think first of Idaho services and products.

Adopted by the House February 15, 1988.
Adopted by the Senate March 3, 1988.

(H.C.R. No. 40)

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 policies, together with estimated costs thereof; and

WHEREAS, the Legislature has received and reviewed the report of the Governor dated January 13, 1988, and the report of the Idaho Personnel Commission dated October 1, 1987; and

WHEREAS, the Legislature recognizes the need to maintain spending patterns of state government within established guidelines; and

WHEREAS, the Legislature recognizes the necessity to maintain the internal equity of its classification and compensation structure.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that:

1. Recommendation No. 1 of the Personnel Commission and concurred with by the Chief Executive is hereby adopted.

2. Recommendation No. 2 of the Idaho Personnel Commission is rejected.

3. That portion of Recommendation No. 2 of the Chief Executive to provide a 4% across-the-board salary increase for state employees is rejected.

4. A 3% payline adjustment is granted.

   (a) The mathematical expression for the 3% payline adjustment is:
   Positions with 0 to 320 job evaluation points -
   Hourly rate = $.025955 per point plus $2.8245.
   Positions with 321 points or more -
   Hourly rate = $.014589 per point plus $6.7269.

   (b) The Joint Finance-Appropriations Committee is directed to appropriate for the payline move a total of not to exceed $3.8 million of General Account moneys.

   (c) Merit increases are to be granted to the extent possible from salary savings. Further, for those few agencies that have historically been unable to generate salary savings, the

Joint Finance-Appropriations Committee is directed to appropriate for merit increases a total of not to exceed $950,000 of General Account moneys.

5. For those agencies funded in total or in part from nongeneral account moneys, the Joint Finance-Appropriations Committee is directed to appropriate as nearly as possible the same manner as for General Account funded agencies.

6. The effective date of implementation of these salary adjustments shall be July 10, 1988.

BE IT FURTHER RESOLVED that appropriation measures to fund nonclassified employees be prepared in as nearly as possible the same manner as for classified employees.

Adopted by the House February 9, 1988.
Adopted by the Senate February 12, 1988.

(H.C.R. No. 41)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING ADEQUATE FUNDING OF PUBLIC COMMUNITY COLLEGES.

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

WHEREAS, the Legislature has provided by law for the establishment and operation of colleges within the community college system; and

WHEREAS, two community colleges, College of Southern Idaho and North Idaho College, now serve nearly three thousand students in Idaho; and

WHEREAS, the enrollment in community colleges continues to increase as these institutions strive to provide a community based opportunity for students at the freshman and sophomore levels, as well as meet needs for continuing adult education; and

WHEREAS, community colleges now serve more than twenty-two per cent of the freshman and sophomore students enrolled in Idaho public post-secondary institutions; and

WHEREAS, the financial base of the community college system consists of tuition, county property tax support and state general fund support; and

WHEREAS, tuition levels have increased, but must not be increased to heights which will foreclose the opportunity of attendance to students; and

WHEREAS, property tax levies are at the levels allowed by law, and reflect substantial reliance upon property taxpayers; and

WHEREAS, state general fund support has actually been decreasing

from a high of approximately fifty per cent in the mid-to-late 1970's to a level which is only thirty-nine per cent of the total funding at present; and

WHEREAS, the community college is an integral link in the provision of opportunities for post-secondary public education to students in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the State Board of Education to work towards a fifty per cent state general account budget request for community colleges. At each step in the budgeting process, the needs of students enrolled in community colleges should be recognized and adequately funded to enhance this important educational opportunity.

Adopted by the House February 26, 1988.
Adopted by the Senate March 21, 1988.

(H.C.R. No. 49)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING THE IDAHO FIRST SECURITY GAMES COMMITTEE AS IDAHO'S OFFICIAL REPRESENTATIVE IN THE NATIONAL CONGRESS OF STATE GAMES.

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

WHEREAS, the Idaho Centennial Commission has selected the Idaho First Security Games Committee to sponsor the Idaho First Security Games and Pocatello to serve as Idaho's host city in the summers of 1989 and 1990; and

WHEREAS, the Idaho Centennial Commission has selected the Idaho First Security Games Committee as the official representative of the State of Idaho in the National Congress of State Games; and

WHEREAS, the Idaho First Security Games are part of a nationwide movement stimulated by the National Congress of State Games and encouraged by the United States Olympic Committee; and

WHEREAS, recognition of the Idaho First Security Games Committee by the National Congress of State Games depends upon the official recognition and endorsement of the Idaho Legislature; and

WHEREAS, recognition by the National Congress of State Games of the Idaho First Security Games Committee in Idaho will qualify the Idaho games for official consideration by the United States Olympic Committee; and

WHEREAS, if the Idaho First Security Games are recognized by the United States Olympic Committee, this recognition would allow participants to use the Idaho First Security Games for qualification toward participation in the Olympic Games.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regu-

lar Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho First Security Games Committee be recognized and endorsed as the official representative of the State of Idaho in the National Congress of State Games.

Adopted by the House March 7, 1988.
Adopted by the Senate March 17, 1988.

(H.C.R. No. 51)

A CONCURRENT RESOLUTION
STATING THE SENSE OF THE LEGISLATURE CONCERNING THE CONTROL OF NOXIOUS WEEDS WITHIN THE STATE OF IDAHO.

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

WHEREAS, noxious weeds are a cause of economic losses in Idaho of over $500 million per year and also cause serious environmental problems; and

WHEREAS, the problem exists on private, county, state, and federal lands; and

WHEREAS, a cooperative effort is required to accomplish a viable noxious weed control program in the State of Idaho; and

WHEREAS, the Bureau of Land Management and the U. S. Forest Service have established an Idaho Noxious Weed Workgroup to advise the agencies on matters concerning the control of noxious weeds on federal lands under their jurisdiction; and

WHEREAS, the Idaho Noxious Weed Workgroup has a broad representation of interest groups within Idaho; and

WHEREAS, this workgroup has made much progress in assisting the federal agencies to develop a viable noxious weed control program.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Director of the Idaho Department of Agriculture is hereby encouraged and urged to establish an Idaho State Noxious Weed Workgroup to coordinate county, state, and federal noxious weed control programs.

BE IT FURTHER RESOLVED that the Idaho Noxious Weed Workgroup be used as the nucleus of the new Idaho State Noxious Weed Workgroup and the Director of the Idaho Department of Agriculture, the representative of the Bureau of Land Management, and the representative of the U. S. Forest Service be cochairmen, and that the workgroup members be appointed by consensus of the cochairmen.

Adopted by the House March 9, 1988.
Adopted by the Senate March 21, 1988.

(H.C.R. No. 54)

A CONCURRENT RESOLUTION

EXPRESSING THE SENSE OF THE IDAHO LEGISLATURE ON IDAHO'S WATER RESOURCES.

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

WHEREAS, the Legislative enactment which approved Idaho's participation in the Pacific Northwest Power Planning Council provided specific protection for the sanctity of Idaho water management processes, Section 61-1201, Idaho Code, to wit: "Agreement for State Participation in the Pacific Northwest Electric Power and Conservation Planning Council. - The State of Idaho agrees to participate in the formation of the Pacific Northwest Electric Power and Conservation Planning Council created pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. Nothing in this agreement shall be construed to alter, diminish or abridge the rights of the State of Idaho and its citizens with respect to any water or water related right and those relating to the regulation of the energy industry."; and

WHEREAS, that Act also provided for the expression of Legislative intent, Section 61-1207, Idaho Code, to wit: "Legislative Intent. - The Legislature may, by concurrent resolution, direct to the Idaho Council members, a statement reflecting legislative intent and concern relative to any actions or activities undertaken or sought to be undertaken by the Council."; and

WHEREAS, the Northwest Power Planning Council is proposing to classify twelve thousand miles of rivers and streams in Idaho under the "Protected Areas Designation" program; and

WHEREAS, this proposed federal classification of Idaho waters will impact the management and value of private property and the multiple uses of public lands which are adjacent to said rivers and streams; and

WHEREAS, the development, implementation and application of such designations is an obvious encroachment upon an area that has traditionally and consistently been a matter reserved to the states; and

WHEREAS, the State of Idaho has adequate laws and processes, including the evolving comprehensive Idaho State Water Plan, to determine the uses of waters, rivers and streams in this State.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Pacific Northwest Power Planning Council is hereby respectfully requested to allow the State to consider its own plan for protection of rivers and streams prior to implementing the Council's protected areas designation.

BE IT FURTHER RESOLVED that Idaho's interest in anadromous fish is parallel to that of the Northwest Power Planning Council. Our Idaho Water Plan already includes a policy concerning anadromous fish management. We request that specific, scientifically proven information as to reaches of Idaho streams critical to the maintenance of

anadromous fish spawning and migration should be submitted to the Idaho Water Resources Board for future consideration, via legal process, as an addition to that policy.

BE IT FURTHER RESOLVED that the Northwest Power Planning Council use the comprehensive Idaho State Water Plan as prepared by the Idaho Water Resource Board as the basic plan for the State of Idaho.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives is hereby authorized and directed, to forward a copy of this Resolution to the Idaho members of the Northwest Power Planning Council, to the Governor of this State and to the Governors of the States of Montana, Oregon and Washington, to the Administrator of the Bonneville Power Administration, to the members of the congressional delegation representing this State in the Congress of the United States and to Lois Cashell, Acting Director of the Federal Energy Regulatory Commission in Washington, D.C.

Adopted by the House March 14, 1988.
Adopted by the Senate March 25, 1988.

(H.C.R. No. 55)

A CONCURRENT RESOLUTION
TO THE HONORABLE CECIL D. ANDRUS, GOVERNOR OF THE STATE OF IDAHO.

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

WHEREAS, Idaho's colleges and universities provide an essential, vital service to our students; and

WHEREAS, funding of this effort is costly to both taxpayers and students; and

WHEREAS, the need for efficiency and cooperation among institutions and clear direction of effort is acute in Idaho's higher education system; and

WHEREAS, the State Board of Education must deal continually with political and geographical considerations and divisions; and

WHEREAS, a strong university system is essential to the economic development of the State of Idaho; and

WHEREAS, the maximum earning potential of each of our citizens cannot be realized without excellent university offerings.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully petition the chief executive of our State, the Honorable Cecil D. Andrus, to conduct an examination of the state's higher education structure and governance with the goal of making it more efficient and responsive to the needs of all Idahoans.

Adopted by the House March 21, 1988.
Adopted by the Senate March 25, 1988.

(H.C.R. No. 58)

A CONCURRENT RESOLUTION

AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY OF THE ALCOHOLIC BEVERAGE LAWS OF THE STATE OF IDAHO.

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

WHEREAS, the statutes governing the sale and consumption of alcoholic beverages in the state of Idaho have developed through a process of additions and deletions resulting in a confusing and sometimes contradictory system of statutes; and

WHEREAS, several pieces of legislation have been considered by the current legislative session which have proposed amendments to the alcoholic beverage statutes, and debate on these bills has illustrated the complexity of present statutes; and

WHEREAS, it is incumbent upon the Legislature to provide a comprehensive recodification of statutes governing alcoholic beverages to achieve a comprehensible and understandable system capable of accomplishing appropriate state goals.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is hereby authorized and directed to appoint a committee to undertake and complete a study of the alcoholic beverage statutes and all matters relating thereto.

BE IT FURTHER RESOLVED that the Committee shall report findings and recommended legislation, if any, to the First Regular Session of the Fiftieth Idaho Legislature.

Adopted by the House March 22, 1988.
Adopted by the Senate March 25, 1988.

SENATE JOINT MEMORIALS

(S.J.M. No. 107)

A JOINT MEMORIAL

TO THE HONORABLE RONALD REAGAN, PRESIDENT OF THE UNITED STATES, 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 Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the financial resources of the local governments in the state of Idaho and in many of the other states of the United States are adversely affected by federal designation of land within their jurisdictions as wilderness; and

WHEREAS, local units of government in Idaho lose taxation capacity because of the designation of wilderness lands.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that Congress should take steps necessary to assure that all citizens assist with the costs of financing wilderness designations by compensating local governments for their loss of taxation capacity. Congress should establish a fund to offset the financial impacts on state and local governments due to the loss of revenues resulting from wilderness designations. Distributions of the fund should be based upon an equitable formula which recognizes the lost value. The fund should include affected units of local government including state, county, city and school districts, as well as others if appropriate, which lost property tax capacity as a result of withdrawal of wilderness lands from the tax base.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to The Honorable Ronald Reagan, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 1, 1988
Adopted by the House March 22, 1988.

(S.J.M. No. 109)

A JOINT MEMORIAL

TO PRESIDENT RONALD REAGAN, TO THE SECRETARY OF AGRICULTURE RICHARD LYNG, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, H.R. 558 was enacted July 22, 1987; and

WHEREAS, Title VIII of H.R. 558 provides for effecting several major changes to the Food Stamp Program with little lead time to the states to make the necessary changes to automated systems, state manuals, staff training, printed supplies, and required notices to food stamp recipients; and

WHEREAS, the lack of sufficient lead time directly and indirectly causes errors and waste in both state and federal government and creates unnecessary crises which divert attention from other programs and functions thereby expanding the circle of waste and inefficiency far beyond the Food Stamp Program; and

WHEREAS, Section 806 of H.R. 558 provided for applying one particular change by October 1, 1987, for which the United States Department of Agriculture's notification to the State of Idaho was not received until August 18, 1987; and

WHEREAS, Section 806 of H.R. 558 not only requires a major developmental change to the automated computer system, it also provides for calculating food stamp benefits for food stamp households in a manner that appears to violate the Equal Protection Clause of the United States Constitution, thereby violating citizens' rights and placing the federal government and the states at risk for doing so; and

WHEREAS, The United States Congress habitually passes laws containing seemingly facile changes to the Food Stamp Program, but which have major impact on automated systems and administrative processes and with tight and often nonexistent time constraints for implementation; and

WHEREAS, it is in the public interest that efficiency in government be enhanced at every opportunity and that every effort be made to eliminate waste in government benefits and administrative expenditures; and

WHEREAS, it is in the very highest public interest that instructions to phase in changes to tax supported benefit programs ensure methods that are not violative of the protected rights of individuals.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request that Congress be especially mindful of the very serious problems created solely by short time frames imposed upon the states to

implement changes to the Food Stamp Program; that we further request that Congress not impose implementation dates earlier than 160 days from enactment or 120 days from issuance of implementing regulations by the United States Department of Agriculture, whichever is later; and that we further request that care be taken to ensure that no implementation requirements violate the Constitutional rights of individuals.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, to Secretary of Agriculture Richard Lyng, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 16, 1988.
Adopted by the House March 18, 1988.

(S.J.M. No. 111)

A JOINT MEMORIAL

TO THE UNITED STATES FOREST SERVICE, THE UNITED STATES FISH AND WILDLIFE SERVICE, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES, THE DIRECTOR OF THE IDAHO TRANSPORTATION DEPARTMENT, AND THE DIRECTOR OF THE IDAHO FISH AND GAME DEPARTMENT.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the South Fork of the Salmon River Road is a thirty-two mile stretch of road under the jurisdiction of the United States Forest Service running from the Warm Lake Highway to the confluence of the East Fork of the South Fork of the Salmon River; and

WHEREAS, the South Fork of the Salmon River Road is open only two days a week during the period of January 1 through March 31 mainly to prevent any degradation of fisheries from sediment from the road; and

WHEREAS, the South Fork of the Salmon River Road is virtually the only way of passage to the outside world for residents of Yellow Pine and the surrounding area during the winter months; and

WHEREAS, upgrading the South Fork of the Salmon River Road would have many beneficial effects including helping to ease sedimentation problems in nearby fisheries, allowing residents of Yellow Pine and the surrounding area increased mobility and freedom of travel as they conduct daily business responsibilities, helping residents of Yellow Pine and the surrounding area get to medical care during medical emer-

gencies, and helping the economy in and around Yellow Pine prosper as the area would become more accessible to the outside world.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request the U.S. Forest Service to upgrade and improve the South Fork of the Salmon River Road so that the fish habitat in the South Fork of the Salmon River will not be hampered by sedimentation problems, so that residents of Yellow Pine and the surrounding area will have an easier time gaining access to outside areas during the winter months as well as other times, so that residents of the area will be able to transport themselves to medical care during emergency situations more easily and so that the economy in and around Yellow Pine will be able to prosper as more individuals will be able to enjoy the beautiful countryside.

BE IT FURTHER RESOLVED that we respectfully request the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Idaho Department of Fish and Game and the Idaho Transportation Department to cooperate and render necessary assistance as required to improve the South Fork of the Salmon River Road.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the Administrator of the United States Forest Service, to the Administrator of the United States Fish and Wildlife Service, to the President of the Senate, to the Speaker of the House of Representatives of Congress, to the congressional delegation representing the State of Idaho in the Congress of the United States, to the Director of the Idaho Transportation Department, and to the Director of the Idaho Fish and Game Department.

Adopted by the Senate March 4, 1988.
Adopted by the House March 23, 1988.

(S.J.M. No. 112)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the sovereign states of these United States traditionally exercise control over all water located within the boundaries of the states; and

WHEREAS, Section 27 of the Federal Power Act of 1920, as amended, mandates that the control, appropriation, use and distribution of

water by the respective states is unaffected by the Act; and

WHEREAS, The Federal Energy Regulatory Commission has asserted in its recent administrative decision relative to the proposed Horseshoe Bend Hydroelectric Project (FERC Project No. 5376-002) that the Federal Energy Regulatory Commission licensing of a hydropower project extends Federal Energy Regulatory Commission control over all future upstream uses of water; and

WHEREAS, the Horseshoe Bend decision and other actions of the Federal Energy Regulatory Commission demonstrate that administration of the Federal Power Act is causing unacceptable interference with water resource management programs of the states; and

WHEREAS, there is no national interest served by allowing the Federal Energy Regulatory Commission to substitute its control of water resources for state authority.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we do respectfully request the Congress to enact legislation to amend the Federal Power Act to require the Federal Energy Regulatory Commission to recognize state authority over the use of water for hydropower projects and other uses of water which affect or may affect hydropower projects and to subordinate the Federal Energy Regulatory Commission's licensing of hydropower projects to a state's sovereign authority to manage and control water resources within its boundaries.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 8, 1988.
Adopted by the House March 29, 1988.

HOUSE JOINT MEMORIALS

(H.J.M. No. 10)

A JOINT MEMORIAL

TO PRESIDENT RONALD REAGAN, TO SECRETARY OF TRANSPORTATION JAMES H. BURNLEY, 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 Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, continuation of the Federal-Aid Highway Program is essential to the safety and mobility of American citizens and to the growth and stability of the Idaho and the national economies; and

WHEREAS, the Federal-Aid Highway Program is vitally related to public and private development initiatives which depend on highway transportation; and

WHEREAS, 23 United States Code 101(b) states "... that since the Interstate System is now in the final phase of completion it shall be the national policy that increased emphasis be placed on the construction and reconstruction of the other federal-aid systems ..." in order to bring all of the federal-aid systems up to standards and to increase the safety of these systems to the maximum extent; and

WHEREAS, it is anticipated that Idaho's interstate highways will be completed by 1991 while the deadline for completion of the system nationally is 1993; and

WHEREAS, the authorizations of the Surface Transportation Assistance Act of 1987 continue only through fiscal year 1991 and yet all 50 states are participating in a Transportation Consensus Program to determine the level of transportation funding required for the next 35 years.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature petition Congress to move funding that was used to complete construction of the Interstate System to the refurbishment and improvement of the non-Interstate System highways and bridges.

BE IT FURTHER RESOLVED, that the Idaho Legislature petition Congress to make the Highway Trust Fund and user fees accruing thereto, permanent, so that a reliable funding source will be available for on-

going rehabilitation and improvement of major non-Interstate System highways and bridges which are so essential to the vigor of the Idaho and the national economies.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President Ronald Reagan, to Secretary of Transportation James H. Burnley, to the President of the Senate and to the 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 House February 2, 1988.
Adopted by the Senate March 7, 1988.

(H.J.M. No. 12)

A JOINT MEMORIAL

TO THE HONORABLE PRESIDENT OF THE UNITED STATES, RONALD REAGAN, TO THE SECRETARY OF AGRICULTURE, RICHARD LYNG, TO THE CHIEF OF THE UNITED STATES FOREST SERVICE, DALE ROBERTSON, TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, one of the many things which makes Idaho such an attractive place to live, work and vacation in are the many beautiful areas contained on its public lands; and

WHEREAS, a great deal of the life style of most Idahoans includes utilization of the public lands aesthetically and for recreation and pleasure; and

WHEREAS, whether it has occurred through official policy or plain bureaucratic bungling, many trails and unimproved roads on lands controlled by the U.S. Forest Service have been closed by the locking of gates on those lands; and

WHEREAS, the locking of gates ultimately deprives many Idahoans and vacationers of the thrill of hunting, fishing, backpacking, hiking, exploring, off-road vehicling and cross-country skiing, among other things, on these lands.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request that the United States Forest Service reexamine its policy of closing gates on unimproved roads and trails on land under its jurisdiction so that Idahoans and others can enjoy recreational and aesthetic opportunities associated with those lands.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, Ronald Reagan, to the Secretary of Agriculture, Richard Lyng, to the Chief of the United States Forest Service, Dale Robertson, to the President of the Senate and to the 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 House February 19, 1988.
Adopted by the Senate March 22, 1988.

(H.J.M. No. 13)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, new federal solid waste regulations, which take effect in 1988, will significantly increase the cost of solid waste disposal; and

WHEREAS, there is no current long-term plan for landfill use or replacement in the State of Idaho; and

WHEREAS, a significant number of landfills in this state will be closed in the next few years, for lack of space or for not meeting health and safety standards; and

WHEREAS, new hazardous waste regulations will require major changes in the way small quantities of hazardous waste are disposed of; and

WHEREAS, alternative means of disposing of solid waste and hazardous waste need to be explored in light of new technology; and

WHEREAS, there is currently no plan nor funds available to assist the state and local governments in how to prepare for the impact of new Resource Conservation Recovery Act (RCRA) rules and regulations.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully urge the Congress to appropriate funds to state and local governments for the implementation of the Resource Conservation Recovery Act (RCRA) Subtitle D Rules and Regulations.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional

delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 23, 1988.
Adopted by the Senate March 7, 1988.

(H.J.M. No. 14)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, RONALD REAGAN, TO THE SECRETARY OF ENERGY, JOHN S. HERRINGTON, TO THE PRESIDENT OF THE SENATE AND THE 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.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States will require substantial amounts of energy from nuclear sources in the future; and

WHEREAS, the nuclear power construction program is essentially complete and no new orders are being placed for nuclear power generating plants; and

WHEREAS, development, design, construction, and testing of improved nuclear power systems are not progressing in accordance with future needs and foreign competition; and

WHEREAS, the national interest clearly requires that the most advanced forms of nuclear power generation should be available to the United States; and

WHEREAS, one proposed approach to providing for continuity and progress in the United States for nuclear power generation entails construction over the next ten years of advanced nuclear power generation prototypes, including large power-producing units; and

WHEREAS, the Idaho National Engineering Laboratory operated by the United States Department of Energy in the State of Idaho is uniquely qualified as a site for such a program; and

WHEREAS, the people, the executive branch and the Legislature of the State of Idaho strongly support the safe, economic and reliable development of nuclear power, and would welcome use of the Idaho National Engineering Laboratory site for the above purposes.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully express our strong support for the further advancement of nuclear energy for electrical energy and that the Congress of the United States be encouraged to take such actions that will result in:

1. The designation of the Idaho National Engineering Laboratory

as the "National Commercial Power Reactor Prototype Center."

2. The construction of small and large scale nuclear power stations for the purpose of evaluation, standardization, and electrical power production as they may contribute to improved national competition, safety, reliability, environmental improvement and economics.

BE IT FURTHER RESOLVED that we respectfully request that state agencies and private industrial organizations provide such encouragement as may be practical to carry out the aims and intent of this Memorial.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President Ronald Reagan, to the Secretary of Energy, John S. Herrington, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 23, 1988.
Adopted by the Senate March 3, 1988.

(H.J.M. No. 15)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States Congress has recently changed the point of collection of diesel fuel excise taxes from retail level to the wholesale level in the Omnibus Budget Reconciliation Act of 1987; and

WHEREAS, this change in the federal excise tax law will now require farmers to pay the diesel fuel tax at the time of purchase and to file for refunds afterwards on a quarterly or annual basis; and

WHEREAS, the upfront payment of these taxes by farmers will raise the farmer's annual cost of production and will further inhibit the farmer's cash flow by requiring a need to borrow additional funds for operating expenses; and

WHEREAS, the requirement to apply for refunds will require more of each farmer's valuable time and shift the paperwork burden from the government to the farmer.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Repre-

sentatives and the Senate concurring therein, that we urge the Congress of the United States to reverse its vote on this change in the collection of the diesel fuel excise tax, and that Congress repeal Title X, Subtitle E, Part I, Section 10502 of the Omnibus Budget Reconciliation Act of 1987.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 4, 1988.
Adopted by the Senate March 21, 1988.

(H.J.M. No. 16)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Forty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Legislature of the State of Idaho finds and declares that the State has been seriously handicapped in its ability to collect legally due use taxes on interstate sales because of the 1967 United States Supreme Court decision in the National Bellas Hess case; and

WHEREAS, the National Bellas Hess decision denies Idaho the legal authority to require the collection of use taxes by out-of-state mail order firms which have no physical presence in the State but which may advertise extensively there; and

WHEREAS, the National Bellas Hess decision has resulted in a loss of tax revenue, based on U. S. Advisory Commission on Intergovernmental Relations Report for 1985, of between 4.5 and 11.6 million dollars to the State of Idaho; and

WHEREAS, Idaho retailers have lost, based on a U. S. Advisory Commission on Intergovernmental Relations Report for 1985, between 120 and 290 million dollars in retail sales during that period to out-of-state firms not required to remit a sales tax; and

WHEREAS, the problems of state revenue loss and the competitive disadvantage of local business have been intensified in recent years because of the great growth in mail order sales through television, radio, and credit card advertising; and

WHEREAS, these problems can be resolved only by the correction of the National Bellas Hess decision.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we do hereby petition the Congress of the United States to act immediately to introduce, consider, and enact legislation which would prevent the huge revenue loss and remove the competitive advantage now enjoyed by out-of-state businesses and that it do so by authorizing Idaho to require the collection of sales and use taxes by interstate sellers who solicit business in Idaho through catalogs, advertising materials, radio, television, and the press.

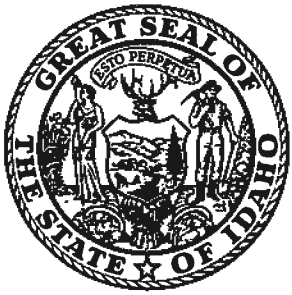
BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and to the Speaker of the House of Representatives of Congress, and to the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 24, 1988.
Adopted by the Senate March 29, 1988.

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-ninth Legislature of the State of Idaho, Second Regular Session thereof, which convened January 11, 1988, and which adjourned March 31, 1988, 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 22nd day of April, 1988.

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. 87-7

ESTABLISHING THE GOVERNOR'S MOTOR CARRIER ADVISORY COMMITTEE

WHEREAS, the people, commerce, and industry of Idaho are dependent to a great extent upon the motor carrier industry for the delivery of raw materials, manufactured goods, agricultural products, and other necessities of life; and

WHEREAS, this vast industry, employing thousands of Idahoans in almost every community in the state, requires user input into the development of the complex rules and regulations under which they operate; and

WHEREAS, it is important to apply the rules, regulations, and laws of the state fairly and equitably to all segments of the industry without undue discrimination and partiality;

NOW, THEREFORE, I, CECIL D. ANDRUS, 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 establish the Motor Carrier Advisory Committee.

The purpose of the committee is to meet bi-monthly to review appropriate changes to the safety, size, and weight and operational rules and regulations of state agencies as they apply to the common, contract and private motor carriers, and to advise the Governor on all aspects of motor carrier operations including;

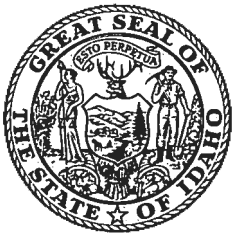
(a) the International Registration Plan (IRP)
(b) uniform motor fuel use tax reporting
(c) simplified state registration and taxation procedures
(d) tax audits
(e) oversize/overweight permit uniformity
(f) motor carrier laws and enforcement
(g) motor carrier taxation concerns and proposals

The committee shall consist of members from the following areas of interest: long haul, heavy haul, short haul, wood products, logging, contracting, agricultural, truck and trailer manufacturing, tankers, concrete, aggregates and others deemed appropriate by the committee.

A representative from each of the following state agencies shall provide support to the committee with the Idaho Transportation Department being the lead agency responsible for administrative support: Transportation, Law Enforcement, Public Utilities Commission and Tax Commission.

Appointment of committee members shall be made by the Governor from candidates recommended by the industry. Appointments shall be for three-year terms expiring July 1, except that the original committee members shall serve as follows: three (3) members to serve one-year terms, four (4) members to serve two-year terms, and three (3) members to serve three-year terms.

The committee shall present all formal recommendations to the participating agencies and the Governor and shall present to the Governor on or before December 1 of each year a report of activities of the committee during the preceding year.



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 seventeenth day of May, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred eleventh, and of the Statehood of Idaho the ninety-seventh.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-8

IDAHO CODE OF FAIR EMPLOYMENT PRACTICES, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-6

WHEREAS, the United States through its Constitution, laws, executive orders, and regulations has declared that all persons are to be treated fairly and equally; and the State of Idaho is committed to fulfilling that federal mandate; and

WHEREAS, the Legislature of the State of Idaho by Title 44, Chapter 17 and Title 67, Chapter 59 of the Idaho Code has declared that employment discrimination based upon race, color, national origin, religion, sex, or age is illegal; by Title 56, Chapter 7 that the handicapped shall be free from employment discrimination in public service; and by Title 65, Chapter 5 that veterans are to be given preference by public employers; and

WHEREAS, every Idahoan should be provided the opportunity to fully develop and use his/her talents. When we allow race, color, religion, national origin, sex, age and/or handicap to prevent anyone from reaching full potential, we fail that person, our state, and our country. In accordance with the principles of fair employment practices, we must strive to recognize and advance the abilities and talents of all people, while denying no individual his/her rightful opportunities; and

WHEREAS, we must assume our citizen-granted role of leadership in the protection of freedom for all citizens and serve in that leadership role as a mode for government, business, industry, labor and education in this regard;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, in that spirit and to that purpose, proclaim the following Idaho Code of Fair Employment Practices to be the governing policy throughout every department of the Executive Branch of Government of the State of Idaho.

ARTICLE I -- Employment Policies of State Agencies

State employees shall be recruited, appointed, assigned and pro-

moted upon the basis of individual merit, in accordance with the principles of fair treatment and non-discrimination on the basis of race, color, sex, religion, national origin, age, or handicap. Appropriate consideration shall be given to veterans in accordance with applicable state and federal laws and regulations.

All state departments, commissions, and boards are directed to review present personnel recruitment, appointment, promotion, demotion, transfer, retention, discipline, separation, training and compensation policies and other employment practices to assure compliance with this Executive Order. They shall regularly review present state and federal laws and regulations and seek to redress under-utilization, if any, of minority, women, or handicapped persons within the state workforce.

The State Personnel Commission shall take positive steps to insure that the entire examination process, oral, written, and ratings shall be free from either conscious or inadvertent bias. State agencies shall give wide distribution of notice of employment opportunities so that all citizens may be fully advised of career opportunities in state government. Employment announcements issued by state agencies shall include a statement indicating "Hiring is done without regard to race, color, religion, national origin, sex, age, or handicap. Appropriate consideration shall be given to veterans in accordance with applicable state and federal laws and regulations."

ARTICLE II--State Action

All services of every state agency shall be performed without discrimination based on race, color, religion, national origin, sex, or handicap. No state facility shall be used in furtherance of any discriminatory practice, nor shall any state agency become a party to any agreement, arrangement, plan, contract, or subcontract which has the effect of sanctioning such practices.

ARTICLE III--State Financial Assistance

Race, color, religion, national origin, sex, or handicap shall not be considered in state-administered programs involving the distribution of funds to qualified recipients for benefits authorized by law; nor shall state agencies provide grants, loans, or other financial assistance to public agencies, private institutions, or organizations which engage in discriminatory practices.

ARTICLE IV--State Employment Services

All state agencies, including educational institutions, which provide employment referral or placement services to public or private employers, shall accept job orders and/or applications on a non-discriminatory basis. They shall refuse to fill any job order designed, either consciously or inadvertently, to exclude any person from employment because of race, color, religion, national origin, sex, age, or handicap.

ARTICLE V--State Education, Counseling and Training Programs

All educational counseling and vocational guidance programs, employment and training programs, policy declarations and staff services of state agencies, or those in which state agencies participate, shall be open to all qualified persons, without regard to race, color, religion, national origin, sex, age, or handicap.

ARTICLE VI--Cooperation with Human Rights Commission

All state departments shall cooperate fully with the Idaho Human Rights Commission if state employees or applicants for state employment file complaints with the Commission. They shall also utilize the services of the Commission when needing technical advice regarding compliance with equal employment opportunity as described by Title 67, Chapter 59, Idaho Code. The Commission shall act as a referral agency for information or complaints concerning discrimination in certain protected classes not covered by Title 67, Chapter 59, Idaho Code.

ARTICLE VII--Enforcement by Appointing Authorities

The executive head of each state executive department shall be responsible for carrying out the policies of this Idaho Code of Fair Employment Practices and shall inform and educate all supervisory personnel regarding its intent and spirit. They shall promulgate clearly written directions to carry out this policy. Upon a showing of substantial evidence to the appropriate appointing authority that any officer or employee of the state has knowingly violated any of the provisions of this Executive Order or any applicable state or federal law or regulation, the appointing authority shall take appropriate disciplinary action.

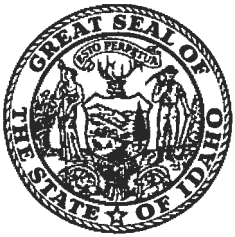
Because of its sensitive nature, sexual harassment often cannot be effectively addressed through normal grievance procedures. Therefore, every appointing authority shall be responsible for the development of a grievance procedure to be used by employees and/or recipients of state services who believe they have been subjected to sexual harassment. This policy shall include at least the following: (1) a statement defining and forbidding sexual harassment; (2) an investigative procedure designed to protect the confidentiality of participants and to effect an immediate and fair resolution of the allegation; and (3) a statement advising employees and service recipients of their rights to raise this issue with appropriate governmental agencies and/or the courts. Pursuant to Article IV of this Executive Order, the Human Rights Commission and the Personnel Commission shall assist in the development of these policies.

ARTICLE VIII--Annual Reports

Each executive agency shall, on September 1 of each year, submit a written report to the Governor setting forth all activities undertaken in the past year to effect this Idaho Code of Fair Employment Practices. The report shall be submitted in a form prescribed by the Governor's Office and in sufficient detail to indicate whether goals established by this Code are being met.

The Governor will appoint an interagency committee to review and evaluate the reports and to consult with each appointing authority as to the progress each is making. The committee will report to the Governor the results of this review and consultation and make periodic recommendations for further improvements in the State's EEO/AA effort.

This Executive Order repeals and replaces Executive Order No. 85-6.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the seventeenth day of May, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred eleventh, and of the Statehood of Idaho the ninety-seventh.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-9

CONTINUATION OF COORDINATION OF STATE GOVERNMENT ACTIVITIES RELATED TO THE SNAKE RIVER RESERVED WATER RIGHTS NEGOTIATIONS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-9

WHEREAS, Section 42-1406A, Idaho Code, mandates the Director of the Department of Water Resources to commence a general adjudication of the water rights of the Snake River Basin; and

WHEREAS, Chapter 22, Section 28, of the 1986 Session Laws directs the Governor and the Attorney General to attempt to resolve issues related to unidentified and unquantified reserved water rights by negotiations with the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation or any other affected tribe prior to the filing of a petition to commence the adjudication of Snake River Basin water rights; and

WHEREAS, in order to effectively manage the Water Resources in the Snake River Basin, it will be necessary to identify and quantify all federal and Indian reserved water rights; and

WHEREAS, it is in the interests of the State of Idaho, the United States and the Indian Tribes to quantify all reserved water rights through a process of negotiations with all reserved rights claimants; and

WHEREAS, the reserved water rights negotiations may have profound effects upon the state's water resource policy expressed in the State Water Plan and the Idaho Code; and

WHEREAS, the Idaho Water Resource Board and the Idaho Legislature have joint constitutional authority and responsibility to formulate state water resource policy;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me, under the Constitution and laws of the State of Idaho, do hereby order as follows:

1. The Idaho Water Resource Board is hereby designated as lead agency to coordinate state activities related to the reserved water rights negotiations.

In carrying out this responsibility, the Board will:

a. Develop a plan which identifies the tasks which need to be accomplished and the agencies or entities of state government which are responsible for each task;

b. Coordinate the activities and functions of various state agencies with respect to the reserved rights negotiations so as to eliminate duplication of effort and maximize available state resources;

c. Identify potential reserved rights claimants and enter into preliminary discussions with them concerning the nature and extent of their claimed rights and the process for resolving issues related to their claims.

d. Represent the state in reserved rights negotiations pursuant to Section 42-1734(d), Idaho Code. The Board may from time to time authorize other parties to participate in the negotiations on behalf of other public or private interests.

e. Consult with the Governor and members of the Idaho Legislature regarding policy issues;

f. Consult with the Attorney General regarding legal strategy and legal issues which arise in the negotiations; and

g. Provide for the effective involvement in the negotiation process of interested water users and other members of the public.

2. The Attorney General will coordinate legal representation for the state and its agencies and institutions which may have legal interests to be protected in the reserved rights negotiations and the adjudication. In this regard, every effort should be made to harmonize the legal positions of the various state agencies and institutions.

3. Nothing herein shall be construed as affecting or limiting the independent authority of the Director of the Department of Water Resources with respect to his statutory duties in a general adjudication to make an impartial evaluation of submitted claims.

4. All state offices, agencies, and institutions shall cooperate with and provide assistance to the Water Resource Board in carrying out its responsibilities under this order.

This Executive Order repeals and replaces Executive Order No. 85-9.

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 seventeenth day of May, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred eleventh, and of the Statehood of Idaho the ninety-seventh.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-10

CONTINUATION OF DELEGATION OF RULE-MAKING APPROVAL UNDER SECTION 72-1333(b), IDAHO CODE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-12

WHEREAS, Section 72-1333(b) of the Idaho Code, authorizes the Director of the Idaho Department of Employment to adopt, amend, or rescind such rules and regulations as may be necessary for the proper administration of the Employment Security Law of Idaho, subject to the prior approval of the Governor; and

WHEREAS, it is my belief that the Director of the Department of Employment is in a position to make a more fully informed and expeditious determination as to the need for proposed rules and regulations because of the direct involvement in the administration of the Employment Security Law and ready access to critical information and technical advice concerning the administration of the law; and

WHEREAS, it is in the best interest of the state to encourage the prompt resolution of any problems in the administration of the Employment Security Law; and

WHEREAS, the procedures required by the Administrative Procedure Act, Section 67-5201, et.seq., Idaho Code, provide more than adequate opportunities for the public to examine and comment on proposed rules and regulations;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby continue to delegate my right of prior approval under Section 72-1333(b) of the Idaho Code, to the Director of the Idaho Department of Employment.

This Executive Order repeals and replaces Executive Order No. 85-12.

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 July, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred eleventh, and of the Statehood of Idaho the ninety-seventh.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-11

CONTINUATION OF THE POLICY FOR THE IMPLEMENTATION OF THE 1122 REVIEW PROGRAM IN THE STATE OF IDAHO, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-10

WHEREAS, health care and its availability, accessibility, development, cost, quality, and utilization are primary concerns of all Idaho citizens; and

WHEREAS, the need to be able to access quality health care is required for all Idaho citizens; and

WHEREAS, as Governor of the State of Idaho, I have the authority to enter the State of Idaho into an agreement with the Secretary of the United States Department of Health and Human Services for the conduct of a capital expenditure review program for health facilities within the State of Idaho pursuant to Section 1122 of the Social Security Act (42 USC Chapter 7); and

WHEREAS, to assure availability and accessibility of health care to all citizens of the state, to insure that unnecessary duplication of services or excessive development of health care facilities or services are controlled, and to assure that health care costs are contained, the continuation of the Section 1122 review program is necessary and proper; and

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby declare that a health facilities capital expenditure review program pursuant to Section 1122 of the Social Security Act will be continued as was implemented on July 1, 1983.

The 1122 review program is a regulatory review process to be administered by the Department of Health and Welfare which department will continue to be the designated planning agency for purposes of this 1122 review program.

For the purpose of assuring that federal and state funds appropriated pursuant to Titles XVIII and XIX of the Social Security Act are not used to support unnecessary capital expenditures made by or on behalf of health care facilities which are reimbursed under any of such titles or state statutes and that, to the extent possible, reimbursement under such titles shall support planning activities with respect to health services and facilities in Idaho, expenditures shall be analyzed and a determination as to whether they are appropriate for reimbursement shall be made. The Director of the Department of Health and Welfare or the Director's designees shall, after consideration of the record of review and input from any interested parties through a public hearing, make a recommendation on proposed capital expenditures to the Secretary of the United States Department of Health and Human Services for the final approval or disapproval.

This Executive Order repeals and replaces Executive Order No. 85-10.

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

July, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred eleventh, and of the Statehood of Idaho the ninety-seventh.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-12

ESTABLISHMENT OF THE IDAHO INFANT AND TODDLER INTERAGENCY COORDINATING COUNCIL

WHEREAS, national research studies indicate that 6 to 12 percent of the population is in need of special services and in Idaho less than one percent of the approximately 36,000 children in the infant/toddler age group have been identified for early intervention services; and

WHEREAS, national efficacy studies report that for every dollar spent on early intervention four to seven dollars are saved when children reach school age; and

WHEREAS, Idaho has one of the highest teen pregnancy rates in the country and the potential for developmental delay and at-risk infants is increased by teen pregnancy; and

WHEREAS, services to Idaho's handicapped and at-risk infants are costly and often delayed due to the limitations of available programs; and

WHEREAS, current eligibility under state legislation eliminates services for many children and families due to level of disability, age, or income requirements; and

WHEREAS, no single agency or profession encompasses sufficient knowledge or funding to deal adequately with the complex problems presented by exceptional infants and toddlers; and

WHEREAS, resource and referral services are fragmented causing major gaps and duplications in services; and

WHEREAS, the state has limited certified, qualified personnel for providing early intervention services; and

WHEREAS, the involvement of the private sector in serving delayed or at-risk infants (i.e., hospitals, doctors, rehabilitation centers, and therapy) enhances the need for coordinated public awareness and parent education; and

WHEREAS, there is a need for developing a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for handicapped infants and toddlers and their families as outlined in Title I of PL 99-457;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby establish the Idaho Infant and Toddler Interagency

Coordinating Council.

The Council shall be composed of not less than 15 nor more than 25 members appointed by the Governor according to the following guidlines. The membership shall be composed of at least:

three parents of handicapped infants and toddlers or handicapped children, age three through five;

three public or private providers of early intervention services;

one representative from the State Legislature;

one person involved in personnel preparation; and

other members representing each of the appropriate agencies involved in the provision of, or payment for, early intervention services to handicapped infant and toddlers and their families and may include additional ad hoc members of other councils and commissions who represent the broader continuum of disabilities and children's issues.

The Council shall meet at least quarterly and in such places as it seems necessary. The meetings shall be publicly announced and, to the extent appropriate, open and accessible to the general public.

Members shall serve at the pleasure of the Governor. The Governor shall appoint a chairperson.

The Department of Health and Welfare shall be the lead agency and shall maintain a project coordinator and office staff to carry out the activities directed by the Council.

The Council's responsibilities shall be:

1. To develop the intra-interagency efforts at the state and local level for planning, developing and implementing services for Idaho's eligible infants and toddlers and their families;
2. To analyze and recommend policies and procedures affecting such intra-interagency efforts;
3. To develop procedural safeguards protecting the family's right to confidentiality, access to records, appropriate early intervention and to initiate or change the intervention services or placement of their special needs infant or toddler;
4. To carry out all responsibilities assigned to the Council by the federal law and regulations outline in PL 99-457;
5. To identify and facilitate the coordination of all available resources;
6. To develop standardized policies and procedures for serving eligible children and families;
7. To advise and assist the lead agency in the identification of the sources of fiscal and other support services for early intervention programs and the assignment of fiscal responsibilities to the appropriate agency;
8. To assist in the coordination of evaluative instruments (screening, assessment, and teaching), personnel standards, and terminology among agencies and providers;
9. To assist in the development of procedures to facilitate the transitions of eligible children between programs and agencies;
10. To comment on state and local legislation, plans and applica-

tions and amendments for funding programs and services for eligible children;

11. To facilitate and coordinate monitoring, reporting, and data collection procedures at the federal, state and regional/local levels;
12. To mediate in the resolution of intra-interagency disputes;
13. To assist in defining terms and eligibility outlined in PL 99-457 -- such as developmental delay, at-risk, individual family services plan, timetables, case management, etc.; and
14. To advise the Governor and lead agency on the status of Idaho's young children in need of special services and to present them with an annual report of such.

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 thirtieth day of June, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-13

CONTINUING THE FAMILY FARM ASSISTANCE AND REFERRAL SYSTEM UNDER THE AUSPICES OF THE IDAHO DEPARTMENT OF AGRICULTURE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-8

WHEREAS, an increasing number of Idaho farmers are faced with economic and legal problems, such as inability to obtain credit, foreclosure, and liquidation; and

WHEREAS, the aforesaid economic and legal problems are at an alarming rate leading to family and social problems among Idaho farmers; and

WHEREAS, there needs to be continued a statewide structure and communication network to coordinate volunteer and government agency activities to assist the beleaguered farmers of Idaho; and

WHEREAS, it is necessary that a state agency continue to be designated as authorized to be responsible for a referral system and hotline to assist those farmers of Idaho who have pressing economic, legal, and social problems;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby, by the authority invested in me by Section 5, Article 4, of the Idaho Constitution and Section 67-802 of the Idaho Code,

direct the Idaho Department of Agriculture to continue to administer the Family Farm Assistance and Referral System, to be known as the "Family Farm Hotline"; and, further, I do hereby direct all state agencies to cooperate fully with and provide assistance to the Department of Agriculture in carrying out its responsibilities under this Order.

This Order repeals and replaces Executive Order No. 85-8.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fifteenth day of September, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-14

EMPLOYEE ORGANIZATIONS AND THE STATE SERVICE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-19

WHEREAS, the public interest requires high standards of performance and morale among employees of the State of Idaho; and

WHEREAS, the well-being of employees and efficient administration of government are benefitted by providing employees an opportunity to participate in employee organizations which advance their interest; and

WHEREAS, the right of employees to associate in employee organizations of their choice is a fundamental human and constitutional right;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby, by the virtue of the authority vested in me by the Constitution and Statutes of the State of Idaho, direct that the following policies shall govern officers and employees of the State of Idaho in dealings with employee organizations.

Section 1. Each employee of the State of Idaho has the right, freely and without fear of penalty or reprisal, to form, join, and assist an employee organization or to refrain from any such activity; and each employee shall be protected in the exercise of this right. The head of each agency shall take the action required to assure that employees in that agency are apprised of their rights under this section and that no interference, restraint, coercion, or discrimination is practiced within the agency to encourage or discourage membership in an employee organization.

Section 2. Employee organizations have the right of reasonable access to places where state employees work, including the use of bulletin boards and meeting spaces, as long as such access does not interfere with the efficient administration of government or with the performance of the employees' duties during normal working hours.

This Executive Order repeals and replaces Executive Order No. 85-19.

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 fifteenth day of September, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-15

DISABILITY DETERMINATIONS UNIT CONTINUED IN THE EXECUTIVE OFFICE OF THE GOVERNOR, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-21

WHEREAS, the Disability Determinations Unit was established as a unit of state government within the Executive Office of the Governor on April 12, 1979; and

WHEREAS, there continues to be a need for the important services provided by the Disability Determinations Unit;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order that the Disability Determinations Unit will continue to function in the Executive Office of the Governor.

This Executive Order repeals and replaces Executive Order No. 85-21.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fifteenth day of September, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-16

DEFERRED COMPENSATION PROGRAM FOR EMPLOYEES OF THE STATE OF IDAHO, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-34

WHEREAS, there is a continuing interest on the part of employees of the State of Idaho in a plan whereby employees may defer the receipt of portions of their earnings until retirement; and

WHEREAS, the Idaho Legislature by and through the implementation of 59-513, Idaho Code, has provided for the establishment of a Deferred Compensation Plan; and

WHEREAS, in response to this interest, the Board of Examiners of the State of Idaho has appointed a Deferred Compensation Committee to study implementation of such a plan; and

WHEREAS, a Deferred Compensation Plan has been presented to and approved by the Board of Examiners of the State of Idaho by the Deferred Compensation Committee; and

WHEREAS, administrative entities on the state level are necessary for proper implementation of the plan;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby, by virtue of the authority vested in me by law, order the following:

1. The Deferred Compensation Committee comprised of a representative appointed by the Governor, a representative from the Office of the Attorney General, and a representative from the Office of the Secretary of State is hereby named as the policymaking board for the Deferred Compensation Program subject to the authority vested in the Board of Examiners of the State of Idaho by law.
2. The Deferred Compensation Committee shall make the following decisions concerning the implementation and maintenance of a Deferred Compensation Program subject to the approval of the Board of Examiners.
   a. Selection of a third-party administrator.
   b. Selection of product companies which sell or offer securities or other assets to the State of Idaho in accordance with the Deferred Compensation Plan.
   c. Approval and monitoring of the marketing program to introduce the Deferred Compensation Program to state employees.
   d. Review all summary reports produced by the Office of the State Auditor and the third-party administrator to insure proper accounting for all funds.
   e. Review on a yearly basis the viability of all product companies associated with the Deferred Compensation Program

and to determine if rebidding is necessary.

g. Review and approve all plan documents, contracts, bylaws and rules and regulations.

h. Review the performance of the third-party administrator.

i. Review all audits of the Deferred Compensation Program.

3. A representative of the Department of Administration in accordance with the request of the Board of Examiners of the State of Idaho shall be responsible for all daily paperwork and contact with the third-party administrator and employees concerning routine matters. The Department of Administration is hereby required to provide the following routine administrative services:

a. Insure remittance to the product companies of deferred moneys is made for the periodic payroll.

b. Review and sign all enrollments, change and claim requests.

c. Keep or arrange to keep any necessary files concerning the Deferred Compensation Program.

d. Communicate with state employees and the third-party administrator concerning routine matters.

e. Provide or arrange to provide completion of any other routine matters as requested by the Deferred Compensation Committee.

This Executive Order repeals and replaces Executive Order No. 85-34.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fifteenth day of September, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-17

SETTING FORTH A CODE OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE DEPARTMENT OF IDAHO STATE GOVERNMENT, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-17

GENERAL PURPOSE

This Executive Order is issued to insure high standards of conduct among state employees and to strengthen the faith and confidence of

the people of Idaho in the integrity of state government and state employees. This Executive Order sets forth a code of conduct for state employees and restates existing Idaho law governing employee conduct in areas where there are actual or potential ethical concerns between their public duties and their private interests. Unless the context indicates otherwise, "state employee(s)" shall have the broadest meaning possible within the Executive Department of Idaho State Government consistent with Idaho Law, and "person" shall include an association, corporation or governmental entity.

It shall be a paramount concern of state employees that they engage in no conduct which might reasonably be interpreted by the people of Idaho as tending to influence or adversely affect the performance of their official duties.

GRATUITIES AND OTHER BENEFITS

State employees shall never solicit in their official capacity any gratuity or other benefit from any person under any circumstances. State employees shall not accept gratuities or other benefits exceeding a total retail value of $100 within a calendar year from any person who is subject to their legal jurisdiction or who is likely to become interested in any contract or transaction over which they exercise any discretionary function. State employees are not precluded from accepting from time to time food or beverages consumed at the time and place of receipt from any person with whom they deal in their official capacity, subject to the limitation of $100 retail value within a calendar year. These rules apply irrespective of kinship or other relationship with the donor outside of the official status of the state employee, and irrespective of the existence of legal consideration for or legal entitlement to the gratuity or other benefit. It is not material that the acceptance of any gratuity or other benefit contrary to this Executive Order is not prejudicial to official impartiality in fact.

Nothing herein is intended to prevent appointing authorities from approving participation by their employees in bona fide training or education programs provided by public or private entities.

State employees shall not accept transportation or lodging from any person who is subject to their jurisdiction or who is or is likely to become interested in any contract or transaction over which they exercise any discretionary function. It shall be the general policy that reimbursable expenses for transportation and lodging of state employees shall be paid by the State of Idaho rather than by another person. This rule does not apply under circumstances where state employees do not have reasonable access to public services or accommodations, when the acceptance of an offer of transportation makes an economical and efficient use of time or transportation and any benefit conferred is trivial or otherwise consistent with the general purpose of this Executive Order.

All state employees exercising any discretionary function shall make a conscious effort to be open to contact by all segments of Idaho society that have an interest in the exercise of that discretionary function. State employees exercising any discretionary function shall not associate with any one person who has or may have an interest in

the exercise of that discretionary function to such an extent as would reasonably be interpreted by the people of Idaho as tending to influence or adversely affect the performance of their official duties.

Honorariums shall not be accepted by state employees from Idaho citizens, associations, corporations or governmental entities for appearances or services given in the course of their official duties.

CONFLICTS OF INTEREST

State employees shall not profit, directly or indirectly, from public funds under their control. State employees shall not have a private interest in any contract or grant made by them in their official capacity. State employees must avoid self-dealing in any purchase or sale made in their official capacity. Any state employee having a private interest in any discretionary matter coming before him in the course of his official duties, whether the matter be regulatory, adjudicative, contractual or the formation of public policy, shall not act but shall withdraw himself.

State employees shall not refer to themselves any business or client where the origin of the relationship arises in their official capacity.

No state employee shall appoint or otherwise employ for compensation payable from public funds any person related by blood or marriage to within the second degree.

OUTSIDE EMPLOYMENT AND EXTRA COMPENSATION

Heads of executive departments; members of the Tax Commission, the Industrial Commission, and the Public Utilities Commission; the Executive Director of the State Board of Education; and the Director of the Executive Office of the Governor shall not hold any other public office or public employment for which compensation is received. Nor shall any state employee serve as a director, officer or employee of any profit-making corporation or institution without disclosure to and approval by their appointing authority. Such approval shall be granted only if such activity will not adversely affect the performance of the employee's official duties, nor create an appearance of impropriety.

State employees may occupy offices or positions in non-profit organizations outside state government service to the extent that it does not interfere with the performance of their official duties in an efficient, mentally- and physically-alert manner.

Except as otherwise prohibited by law, all state employees including those identified above, may own stock in a public or private corporation, be a trustee to a trust, be a personal representative to an estate, serve as a part-time member of the military reserves or the National Guard and serve upon a jury.

All state employees receiving fixed compensation are not to be paid for any extra service performed in the ordinary course of their employment, except for overtime compensation as provided by law, employment in any state educational program as provided in Section 59-512, Idaho Code, or other circumstances expressly authorized by law.

POLITICAL ACTIVITIES

As provided by Section 67-5311, Idaho Code, and an Idaho Personnel Commission directive dated August 9, 1976, state employees shall not command political contributions from other state employees. State employees subject to the state personnel system (hereinafter "classified employees") shall not use their official authority or influence to bring about any nomination or election to public office. Classified employees shall not take an active part in the management of any political organization. Classified employees shall not seek election to a partisan public office. All state employees may vote and express their personal opinion on political issues and candidates and take an active part in support of a candidate in partisan or nonpartisan elections. All state employees may be members of a political party or organization, participate in its activities, serve as an elected convention delegate and voluntarily contribute to political parties or candidates. Classified employees shall avoid participation in public affairs in a manner which would materially compromise their neutrality, efficiency or integrity in the performance of their official duties.

ADMINISTRATION

Department heads and boards and commissions within the Executive Department of the State of Idaho may establish particular codes of employee conduct to supplement the general code of conduct provided under Idaho Law and this Executive Order. Nothing in this Executive Order is intended to preclude more strict provisions of conduct than are required under this Executive Order, except as precluded by Idaho Law.

Questions or disputes regarding the conduct of state employees under this Executive Order and Idaho Law shall be directed to the appropriate appointing authority who may seek legal counsel from the Attorney General.

State employees who have questions regarding their conduct that are not specifically addressed in this Executive Order or who need more direction than is included herein should consult their appointing authorities. State employees who are presently engaged in a course of conduct addressed herein are directed to review that conduct in light of this Executive Order.

Violation of this Executive Order may lead to dismissal, suspension, demotion or other personnel action. In addition, state employees whose conduct violates Idaho Law whether or not restated in this Executive Order are subject to the penalties provided under Idaho Law.

DISTRIBUTION

Appointing authorities shall bring this Executive Order to the attention of state employees now or hereafter under their supervision.

It is the duty of state employees to familiarize themselves with the code of conduct contained in this Executive Order and to reflect upon their own conduct.

This Order repeals and replaces Executive Order No. 85-17.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fifteenth day of September, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-18

CONTINUING STATE OF IDAHO COMPREHENSIVE SAFETY AND LOSS CONTROL POLICY REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-16

WHEREAS, it is in the best interest of state employees, the general public and efficient operation of state government to have a commitment to safety and loss control; and

WHEREAS, the State of Idaho endeavors to provide a safe and healthy working environment for state employees and to protect the public and public property from injury or damage; and

WHEREAS, an effective Safety and Loss Control Policy provides additional benefits of improved productivity, employee confidence, lower insurance costs and improved worker morale; and

WHEREAS, an effective Safety and Loss Control Policy requires full management commitment, cooperation and leadership at all levels of state government;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me under the Constitution and Laws of this state, do hereby order as follows:

1. Each Department Director or other appointing authority will continue to develop, maintain, and monitor a systematic program of safety and loss control for each agency that will minimize the risk of injury or damage to: (a) the public employee, (b) the general public, (c) state property, (d) the ability of the agency to fulfill its mission, and (e) the environment.

2 Each Department Director or other appointing authority will continue to ensure that, where applicable, potential new state employees are appropriately screened, that new employees are systematically and fully trained for all equipment that they are expected to operate, that safe work practices are followed by all employees on the job, that all equipment used is properly maintained and used for its intended purpose, that proper personal protective equipment is worn when

needed and that safety practices are a criterion in employee and supervisor performance evaluations in those positions where such is applicable.

3. Each Department Director or other appointing authority will continue to assume responsibility for reviewing loss reports and accidents involving bodily injury, or property or environmental damage, and to take corrective action to avoid future loss. Where appropriate, assistance from the agencies listed below should be requested to develop and implement appropriate corrective or preventive measures. Each Department Director or other appointing authority may delegate the authority to perform these duties to a safety officer or committee but shall remain responsible for the performance of the agency's safety and loss control program.

4. State buildings being constructed or remodeled shall conform to all existing state codes, including but not restricted to, the Idaho General Safety and Health Standards Code No. 1, the Uniform Building Code, the Uniform Mechanical Code and the Uniform Fire Code. If any conflict arises between applicable codes, the more stringent code shall take precedence. Prior to construction, or remodeling of buildings, where appropriate, construction plans shall be reviewed and approved by the Department of Labor and Industrial Services and the Permanent Building Fund Advisory Council.

5. The following agencies shall continue to assist state agencies by offering the following services:
   a. Department of Labor and Industrial Services shall inspect public buildings and places of employment, and enforce safety and sanitary conditions and practices.
   b. The Office of the State Fire Marshal shall, through the local fire authorities, inspect public buildings and enforce fire and life safety provisions as contained within the Uniform Fire Code.
   c. The State Insurance Fund shall assist in developing employee safety programs, through consultation with staff agency personnel, and provide detailed reports to agencies on their losses insured through the State Insurance Fund.
   d. The Department of Administration, Bureau of Risk Management, shall assist agencies in obtaining other requested services in safety and/or loss control not mentioned above, including general property and casualty loss control, and provide detailed reports to agencies on their losses insured through the Bureau of Risk Management.

6. A Statewide Safety Committee shall continue comprised of the Director of the Department of Labor and Industrial Services, the Manager of the State Insurance Fund, the State Fire Marshal, the Director of the Department of Administration (who shall serve as Chairman of the Committee), or their designees, and other state agencies as deemed necessary. The purpose of the Committee shall be to:
   a. Develop strategies and standards to assist agencies with

their safety programs;

b. Review statewide trends in losses and exposures and make cost-effective recommendations;

c. Coordinate the services available to maximize efficiency and reduce unnecessary duplication of inspections;

d. On behalf of the Governor, review the safety and loss control programs of selected agencies and recommend changes to improve the effectiveness of the programs;

e. Make recommendations to the Governor and Legislature on improving safety and loss control for state government; and

f. Perform other related duties as may be requested by the Governor.

This Order repeals and replaces Executive Order No. 85-16.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fifteenth day of September, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-19

CONTINUATION OF THE IDAHO LEWIS AND CLARK TRAIL COMMITTEE REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-32

WHEREAS, the Lewis and Clark Trail has great historical significance to the State of Idaho; and

WHEREAS, it is important that Idaho have an official group to coordinate with other Lewis and Clark Trail states;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby continue the Idaho Lewis and Clark Trail Committee as an advisory body to state, local and federal governments on the Lewis and Clark Trail development and management.

The Committee shall:

1. Promote public awareness of the historical significance of the Lewis and Clark Expedition and encourage the development and protection of historical sites and outdoor recreational resources along the Lewis and Clark Trail;

2. Act in an advisory capacity to other Idaho Commissions, bureaus, agencies and committees by making recommendations

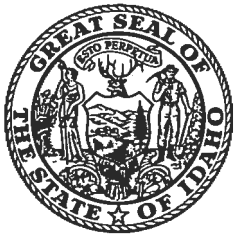
regarding their activities and policies that relate to the history and trail of the Lewis and Clark Expedition; and

3. Serve as the official Liaison with other Lewis and Clark Trail states, the national Lewis and Clark Trail Heritage Foundation, Inc., and federal departments, bureaus and committees concerned with the Lewis and Clark Trail in coordinating and planning activities to foster state and national recognition of the significance of the Lewis and Clark Expedition, including promotion of the aims and recommendations of the federal Lewis and Clark Trail Commission, which existed from 1964 to 1969.

The Committee shall consist of no more than 10 persons who are appointed by the Governor and serve at his pleasure. The membership of the Committee shall include the President of the Lewis and Clark Trail Heritage Foundation, a representative of the Idaho Historical Society, a representative of the Idaho Department of Parks and Recreation and the Governor or his designee.

The Committee shall have regular meetings as determined by the majority of the Committee and shall meet on special occasions upon the call of the Chairperson.

This Executive Order repeals and replaces Executive Order No. 85-32.



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 tenth day of December, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-20

CONTINUATION OF THE MARTIN LUTHER KING, JR. TASK FORCE

WHEREAS, in 1983 Congress enacted legislation which established the third Monday of each January as a legal federal holiday in commemoration of Dr. Martin Luther King, Jr.; and

WHEREAS, Congress, in conjunction with this Act, has created the Martin Luther King, Jr., Federal Holiday Commission to promote appropriate observances including those at the state level; and

WHEREAS, the state wishes to ensure that all persons have an opportunity to participate fully in honoring Dr. King; and

WHEREAS, the celebration of Dr. King's birthday is intended as a time for all Americans to reaffirm their commitment to the basic principles that underlie our Constitution--equality and justice for all;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-802, Idaho Code, do hereby order the establishment of the Governor's Task Force to plan Idaho's observance of the Martin Luther King, Jr., holiday. The Task Force shall consist of a Chairperson and such persons as may be appointed by the Governor and who will serve at his pleasure.

The Task Force shall:

1. Review material supplied to the state by the Martin Luther King, Jr., Federal Holiday Commission; solicit ideas from Idahoans concerning appropriate activities; and make recommendations to the Governor for the state observances;
2. Present the Governor with a report on activities of the past year and recommendations on the upcoming celebration. Such reports are due on November 15 of each year;
3. Encourage participation in activities recommended by the Task Force and the Governor as part of Idaho's commemoration of Dr. King's birthday; and
4. Work with citizen and community groups from throughout the state in coordinating and assisting them to plan activities honoring Dr. King.

Members shall serve without compensation. The Task Force will be staffed by the Idaho Human Rights Commission.

This Executive Order repeals and replaces Executive Order 85-33.

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 December, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 87-21

DEFERRED COMPENSATION PROGRAM FOR EMPLOYEES OF THE STATE OF IDAHO, REPEALING AND REPLACING EXECUTIVE ORDER NO. 87-16

WHEREAS, there is a continuing interest on the part of employees of the State of Idaho in a plan whereby employees may defer the receipt of portions of their earnings until retirement; and

WHEREAS, the Idaho Legislature by and through the implementation of Idaho Code 59-513 has provided for the establishment of a Deferred Compensation Plan; and

WHEREAS, in response to this interest, the Board of Examiners of the State of Idaho has appointed a Deferred Compensation Committee to study implementation of such a plan; and

WHEREAS, a Deferred Compensation Plan has been presented to and approved by the Board of Examiners of the State of Idaho by the Deferred Compensation Committee; and

WHEREAS, administrative entities on the state level are necessary for proper implementation of the plan;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby, by virtue of the authority vested in me by law, order the following:

1. The Deferred Compensation Committee comprised of a representative appointed by the Governor, a representative from the Office of the Attorney General, and a representative from the Office of the Secretary of State is hereby named as the policymaking board for the Deferred Compensation Program subject to the authority vested in the Board of Examiners of the State of Idaho by law.
2. The Deferred Compensation Committee shall make the following decisions concerning the implementation and maintenance of a Deferred Compensation Program subject to the approval of the Board of Examiners.
   a. Selection of a third-party administrator.
   b. Selection of product companies which sell or offer securities or other assets to the State of Idaho in accordance with the Deferred Compensation Plan.
   c. Approval and monitoring of the marketing program to introduce the Deferred Compensation Program to state employees.
   d. Review all summary reports produced by the Office of the State Auditor and the third-party administrator to insure proper accounting for all funds.
   e. Review on a yearly basis the viability of all product companies associated with the Deferred Compensation Program and to determine if rebidding is necessary.
   f. Review all financial hardship cases and other unusual circumstances developing with employees enrolled in the Deferred Compensation Program.
   g. Review and approve all plan documents, contracts, bylaws and rules and regulations.
   h. Review the performance of the third-party administrator.
   i. Review all audits of the Deferred Compensation Program.
3. A representative of the Department of Administration in accordance with the request of the Board of Examiners of the State of Idaho shall be responsible for all daily paperwork and contact with the third-party administrator and employees concerning routine matters. The Department of Administration is hereby required to provide the following routine administrative services:

a. Insure remittance to the product companies of deferred moneys is made for the periodic payroll.
b. Review and sign all enrollments, change and claim requests.
c. Keep or arrange to keep any necessary files concerning the Deferred Compensation Program.
d. Communicate with state employees and the third-party administrator concerning routine matters.
e. Provide or arrange to provide completion of any other routine matters as requested by the Deferred Compensation Committee.

This Executive Order repeals and replaces Executive Order No. 87-16.

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 December, in the year of our Lord nineteen hundred eighty-seven, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 88-1

SETTING FORTH A CODE OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE DEPARTMENT OF IDAHO STATE GOVERNMENT, REPEALING AND REPLACING EXECUTIVE ORDER NO. 87-17

GENERAL PURPOSE

This Executive Order is issued to insure high standards of conduct among state employees and to strengthen the faith and confidence of the people of Idaho in the integrity of state government and state employees. This Executive Order sets forth a code of conduct for state employees and restates existing Idaho law governing employee conduct in areas where there are actual or potential ethical concerns between their public duties and their private interests. Unless the context indicates otherwise, "state employee(s)" shall have the broadest meaning possible within the Executive Department of Idaho State Government consistent with Idaho Law, and "person" shall include an association, corporation or governmental entity.

It shall be a paramount concern of state employees that they engage in no conduct which might reasonably be interpreted by the people of Idaho as tending to influence or adversely affect the perfor-

mance of their official duties.

GRATUITIES AND OTHER BENEFITS

State employees shall never solicit in their official capacity any gratuity or other benefit from any person under any circumstances. State employees shall not accept gratuities or other benefits exceeding a total retail value of $100 within a calendar year from any person who is subject to their legal jurisdiction or who is likely to become interested in any contract or transaction over which they exercise any discretionary function. State employees are not precluded from accepting from time to time food or beverages consumed at the time and place of receipt from any person with whom they deal in their official capacity, subject to the limitation of $100 retail value within a calendar year. These rules apply irrespective of kinship or other relationship with the donor outside of the official status of the state employee, and irrespective of the existence of legal consideration for or legal entitlement to the gratuity or other benefit. It is not material that the acceptance of any gratuity or other benefit contrary to this Executive Order is not prejudicial to official impartiality in fact.

Nothing herein is intended to prevent appointing authorities from approving participation by their employees in bona fide training or educational programs provided by public or private entities.

State employees shall not accept transportation or lodging from any person who is subject to their jurisdiction or who is or is likely to become interested in any contract or transaction over which they exercise any discretionary function. It shall be the general policy that reimbursable expenses for transportation and lodging of state employees shall be paid by the State of Idaho rather than by another person. This rule does not apply under circumstances where state employees do not have reasonable access to public services or accommodations, when the acceptance of an offer of transportation makes an economical and efficient use of time or transportation and any benefit conferred is trivial or otherwise consistent with the general purpose of this Executive Order.

All state employees exercising any discretionary function shall make a conscious effort to be open to contact by all segments of Idaho society that have an interest in the exercise of that discretionary function. State employees exercising any discretionary function shall not associate with any one person who has or may have an interest in the exercise of that discretionary function to such an extent as would reasonably be interpreted by the people of Idaho as tending to influence or adversely affect the performance of their official duties.

Honorariums shall not be accepted by state employees from Idaho citizens, associations, corporations or governmental entities for appearances or services given in the course of their official duties.

CONFLICTS OF INTEREST

State employees shall not profit, directly or indirectly, from public funds under their control. State employees shall not have a private interest in any contract or grant made by them in their official capacity. State employees must avoid self-dealing in any pur-

chase or sale made in their official capacity. Any state employee having a private interest in any discretionary matter coming before him in the course of his official duties, whether the matter be regulatory, adjudicative, contractual or the formation of public policy, shall not act but shall withdraw himself.

State employees shall not refer to themselves any business or client where the origin of the relationship arises in their official capacity.

No state employee shall appoint or otherwise employ for compensation payable from public funds any person related by blood or marriage to within the second degree.

OUTSIDE EMPLOYMENT AND EXTRA COMPENSATION

Heads of executive departments; members of the Tax Commission, the Industrial Commission, and the Public Utilities Commission; the Executive Director of the State Board of Education; and the Director of the Executive Office of the Governor shall not hold any other public office or public employment for which compensation is received. Nor shall any state employee serve as a director, officer or employee of any profit-making corporation or institution without disclosure to and approval by their appointing authority. Such approval shall be granted only if such activity will not adversely affect the performance of the employee's official duties, nor create an appearance of impropriety.

State employees may occupy offices or positions in non-profit organizations outside state government service to the extent that it does not interfere with the performance of their official duties in an efficient, mentally- and physically-alert manner.

Except as otherwise prohibited by law, all state employees including those identified above, may own stock in a public or private corporation, be a trustee to a trust, be a personal representative to an estate, serve as a part-time member of the military reserves or the National Guard and serve upon a jury.

POLITICAL ACTIVITIES

As provided by Section 67-5311, Idaho Code, state employees shall not command political contributions from other state employees. State employees subject to the state personnel system (hereinafter "classified employees") shall not use their official authority or influence to bring about any nomination or election to public office. Classified employees shall not seek election to a partisan public office. All state employees may vote and express their personal opinion on political issues and candidates and take an active part in support of a candidate in partisan or nonpartisan elections. All state employees may be members of a political party or organization, participate in its activities, serve as an elected convention delegate, voluntarily contribute to political parties or candidates and take an active part in political organization management. Classified employees shall avoid participation in public affairs in a manner which would materially compromise their neutrality, efficiency or integrity in the performance of their official duties.

ADMINISTRATION

Department heads and boards and commissions within the Executive Department of the State of Idaho may establish particular codes of employee conduct to supplement the general code of conduct provided under Idaho Law and this Executive Order. Nothing in this Executive Order is intended to preclude more strict provisions of conduct than are required under this Executive Order, except as precluded by Idaho Law.

Questions or disputes regarding the conduct of state employees under this Executive Order and Idaho Law shall be directed to the appropriate appointing authority who may seek legal counsel from the Attorney General.

State employees who have questions regarding their conduct that are not specifically addressed in this Executive Order or who need more direction than is included herein should consult their appointing authorities. State employees who are presently engaged in a course of conduct addressed herein are directed to review that conduct in light of this Executive Order.

Violation of this Executive Order may lead to dismissal, suspension, demotion or other personnel action. In addition, state employees whose conduct violates Idaho Law whether or not restated in this Executive Order are subject to the penalties provided under Idaho Law.

DISTRIBUTION

Appointing authorities shall bring this Executive Order to the attention of state employees now or hereafter under their supervision.

It is the duty of state employees to familiarize themselves with the code of conduct contained in this Executive Order and to reflect upon their own conduct.

This Order repeals and replaces Executive Order No. 87-17.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the first day of February, in the year of our Lord nineteen hundred eighty-eight, and of the Independence of the United States of America the two hundred twelfth, and of the Statehood of Idaho the ninety-eighth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

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Dept = Department
Comm = Commission
Bd = Board
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Sec. 2011	Referred to	Ch.300 -	952,953,956
Sec. 2031	Referred to	Ch.300 -	952,953,956
Sec. 2604	Referred to	Ch.300 -	952,953,956
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16 C.F.R. Part 703	Referred to	Ch.340 - 1012
21 C.F.R. 1308.12(f)	Referred to	Ch.190 - 343
16 U.S.C. 1273(a)(ii)	Referred to	Ch.340 - 1012
26 U.S.C. 401,407	Referred to	Ch.235 - 463

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Commodity Indemnity Account Program	Enacted	Ch.350 - 1035
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Domestic Violence Crime Prevention Act	Enacted	Ch.341 - 1013
Emergency Communications Act	Enacted	Ch.348 - 1027
Estate and Transfer Tax Reform Act of 1988	Enacted	Ch.300 - 952
Irrigation District Domestic Water System Revenue Bond Act	Enacted	Ch.299 - 945
Judicial Confirmation Law	Enacted	Ch.219 - 414
Local Economic Development Act	Enacted	Ch.210 - 393
Manufactured Home Dealer and Broker Licensing	Enacted	Ch.264 - 519
Missing Child Reporting Act	Enacted	Ch.281 - 912
Senior Services Act	Referred to.....	Ch.277 - 909
Telecommunications Act of 1988	Enacted	Ch.195 - 359
Uniform Conservation Easement Act	Enacted	Ch.222 - 422

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49-107	Amended and redesignated 49-441	Ch.265 -	633
49-108	Amended and redesignated 49-426	Ch.265 -	619
49-109	Amended and redesignated 49-442	Ch.265 -	635
49-110	Amended and redesignated 49-202	Ch.265 -	572
49-111	Amended and redesignated 49-419	Ch.265 -	618
49-112	Amended and redesignated 49-427	Ch.265 -	621
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49-121	Amended and redesignated 49-425	Ch.265 -	619
49-122	Amended and redesignated 49-449	Ch.265 -	641
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49-130	Amended and redesignated 49-201	Ch.265 -	571
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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 ELECTED OFFICIALS

GOVERNOR Cecil D. Andrus (D)

LT. GOVERNOR C. L. "Butch" Otter (R)

SECRETARY OF STATE Pete T. Cenarrusa (R)

STATE AUDITOR Joe R. Williams (D)

STATE TREASURER Lydia Justice-Edwards (R)

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

Steve Herndon (D), Senate 1st Term
(Served one and one-half terms House, 1984-87)
P.O. Box 216, Sandpoint 83864
Home 263-6077 Bus. 263-2108
Attorney Wife-Jenica
Education, Local Government/Taxation, Resources/Environment

Tim Tucker (D), House Seat A 3rd Term
K.V. Ranch, HCR 60, Box 227, Porthill 83853
Home 267-2977 Bus. 267-5198
Farmer Wife-Ellen
Agricultural Affairs, Appropriations (JFAC)

James F. Stoicheff (D), House Seat B 8th 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 Seat A 2nd Term
10 Giese Road, Coeur d'Alene 83814
Home 664-3564 Bus. 664-1813
Husband-Scott
Education, Judiciary/Rules, State Affairs

Terry Sverdsten (R), Senate Seat B 4th Term
E27555 Schoolhouse Loop, Cataldo 83810
Home 682-2308 Bus 682-2308
Logging Contractor Wife-Dee
CHAIRMAN-Education
VICE CHAIRMAN-Resources/Environment
Revenue Projections

Robert M. (Bob) Scates (R), House Seat A 4th Term
334 Military Drive, Coeur d'Alene 83814
664-8833
Retired Dentist - Tree Farmer Wife-Elisabeth
VICE CHAIRMAN-Education
Health/Welfare

D. Dean Hasgenson (R), House Seat B 3rd Term
P.O. Box 340, Coeur d'Alene 83814
Home 664-6873 Bus. 667-2456
General Contractor
CHAIRMAN-Resources/Conservation
State Affairs, Transportation/Defense

Hilde Kellogg (R), House Seat C 3rd Term
P.O. Box 1479, Post Falls 83854 773-5412
Business Woman
VICE CHAIRMAN-Business
Local Government, State Affairs

Thomas Joseph Giovanelli (D), House Seat D 1st Term
P.O. Box 2221, Coeur d'Alene 83814
Researcher
Education, Judiciary, Rules/Administration
Local Government

3-BENEWAH & SHOSHONE COUNTIES

Marti Calabretta (D), Senate 2nd Term
Nichols Gulch Box 784, Osburn 83849 752-6371
Social Worker/Artisan Husband-Bennie
Health/Welfare, Resources/Environment
State Affairs

Louis J. Horvath, Jr. (D), House Seat A 6th Term
Box 888, Pinehurst 83850
Home 682-2587 Bus. 784-1371
Educator, Kellogg HS Wife-Joyce
Health/Welfare, Revenue/Taxation
Commerce, Industry & Tourism

Dorothy McCann (D), House Seat B 6th Term
(Served 3 terms House/Senate, 1973-78)
HC 1, Box 260, Wallace 83873 682-3080
Retired
Commerce, Industry/Tourism
State Affairs, Transportation/Defense

4-BENEWAH, BONNER, BOUNDARY, KOOTENAI & SHOSHONE COUNTIES

Mike Blackbird (D), Senate 1st Term
6 Diamond, Kellogg 83837
Home 784-5941 Bus. (509) 456-7771
Salesman Wife-Florence
Health/Welfare, Transportation

Jeanne Givens (D), House Seat A 2nd Term
P.O. Box 969, Coeur d'Alene 83814 664-0707
Consultant Husband-Raymond C.
Business, Health/Welfare, State Affairs

Eugene "Gino" L. White, (D), House Seat B 1st Term
P.O. Box 37, Cataldo 83810
Farm Hand Home: 682-2531
Business, Environmental Affairs

5-LATAH COUNTY

Don Mackin (D), Senate 1st Term
P.O. Box 9762, Moscow 83843 Home 882-5280
Property Management Bus 882-5280
Commerce/Labor, Investment/Retirement
Local Government

James R. "Doc" Lucas DVM (R), House Seat A 4th Term
4231 Highway 95 South, Moscow 83843 882-7374
Veterinarian - Retired Wife-Vi
Appropriations (JFAC), Resources/Conservation

Tom Boyd (R), House Seat B 6th Term
Route 1, Box 69, Genesee 83832 285-1578
Farmer Wife-Beverly
SPEAKER OF THE HOUSE

LEGISLATORS BY DISTRICT (continued)

6-NEZ PERCE COUNTY

Bruce L. Sweaney (D), Senate — 3rd Term
(Served 2 terms House, 1970-74)
Box 804, Lewiston 83501
Home 743-9148 Bus. 743-2534
Land Development/Construction Wife-Marilyn
MINORITY LEADER
Education, State Affairs, Transportation

Larry R. Vincent (D), House Seat A — 1st Term
Route 1, Box 72D, Culdesac 83524 843-7212
Farmer Wife-Betty
Agricultural Affairs
Commerce, Industry/Tourism, Education

Deanna Vickers (D), House Seat B — 1st Term
807 Sixth Street, Lewiston 83501 743-3253
Civic Leader/Dental Hygienist Husband-Lee
Health/Welfare, Resources/Conservation

7-CLEARWATER, IDAHO & LEWIS COUNTIES

Marguerite McLaughlin (D), Senate — 3rd Term
(Served 2 terms House, 1979-82)
704 Floyd Ave., Orofino 83544 476-4138
Husband-G. Bruce
Commerce/Labor, Finance (JFAC)
Investment/Retirement

Carl P. Braun (D), House Seat A — 7th Term
400 Braun Road, Orofino 83544 476-5855
Rural Carrier (Retired) - Farmer Wife-Gladys
Business, State Affairs
Transportation/Defense

Harold W. Reid (D), House Seat B — 14th Term
Route 2, Box 31, Craigmont 83523 937-2514
Agriculture Wife-Louise
Agricultural Affairs, Revenue/Taxation

8-CLEARWATER, IDAHO, LATAH, LEWIS & NEZ PERCE COUNTIES

Ron Beitelspacher (D), Senate — 5th Term
P.O. Box 415, Grangeville 83530 983-2535
Lineman - Outfitter
Finance (JFAC), Transportation
Resources/Environment

Richard L. Adams (D), House Seat A — 4th Term
H.C. 87, Box 28, Grangeville 83530
Home 983-0165 Bus. 928-4511
Teacher Wife-Karen
MINORITY CAUCUS CHAIRMAN
Appropriations (JFAC), Transportation/Defense
Ways/Means

Claud Judd (D), House Seat B — 41/2th Term
(Served 2 terms Senate, 1975-78)
4265 Hwy 11, Orofino 83544 435-4380
Retired Wife-Elvita
Agricultural Affairs,
Commerce, Industry/Tourism, Revenue/Taxation

9-ADAMS, BOISE, GEM & VALLEY COUNTIES

Norris J. Hyde (R), Senate — 1st Term
P.O. Box 730, Emmett 83617 Home 365-5521
Veterinarian Bus. 365-3208
Commerce/Labor, Health/Welfare
Resources/Environment

Gayle Ann Wilde (R), House Seat A — 1st Term
P.O. Box 984, McCall 83638 634-5878
Petroleum Marketer/Secondary Teacher
Husband-Ralph
Education, Environmental Affairs

Robert Fry (R), House Seat B — 3rd Term
P.O. Box 58, Horseshoe Bend 83629 793-2585
Rancher Wife-Gayle
CHAIRMAN-Local Government
Judiciary, Rules/Administration
Revenue/Taxation

10-PAYETTE & WASHINGTON COUNTIES

Roger Fairchild (R), Senate — 4th Term
Box 528, Fruitland 83619
Home 452-4749 Bus. 452-4701
President, Golden Valley Foods, Inc. Wife-Mary
CHAIRMAN-Judiciary/Rules, State Affairs
Transportation

Wayne Sutton (R), House Seat A — 3rd Term
Route 1, Box 42, Midvale 83645 355-2442
Rancher Wife-Gertrude
VICE CHAIRMAN-State Affairs
Agricultural Affairs, Resources/Conservation

Mary Hartung (R), House Seat B — 1st Term
Box 147, Payette 83661
Home 642-3270 Bus. 642-4131
Retailer Husband-Morris
Education, Judiciary, Rules/Administration
Transportation/Defense

11-CANYON COUNTY

Skip Smyser (R), Senate Seat A — 3rd Term
(Served 1 term House, 1981-82)
Route 1, Box 1357, Parma 83660
Home 722-6658 Bus. 722-6721, 342-0777
Lawyer Wife-Melinda
CHAIRMAN-Transportation
Agricultural Affairs, State Affairs

J. L. "Jerry" Thorne (R), Senate Seat B — 2nd Term
331 Winther Blvd., Nampa 83651
Home 467-2892 Bus. 466-3682
Printing Wife-Lois
Finance (JFAC), Local Government/Taxation
Transportation

Atwell J. "At" Parry (R), Senate Seat C — 4th Term
Route 1, Box 2, Melba 83641 495-2228
Grocer/Meat Cutter - Retired Wife-Elaine
CHAIRMAN-Finance, CO-CHAIRMAN-JFAC
VICE CHAIRMAN-Local Government/Taxation

LEGISLATORS BY DISTRICT (continued)

DISTRICT 11-Continued

Robert E. Schaefer (R), House Seat A 2nd Term
P.O. Box 55 Nampa 83653
Home 466-3636 Bus. 466-3636
Architect Wife-Betty
Commerce, Industry/Tourism
Environmental Affairs

Dorothy L. Reynolds (R), House Seat B 6th 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 2nd Term
328 Winther Blvd., Nampa 83651
Home 466-7621 Bus. 467-2745
Homemaker/Civic Worker Husband-Robert E.
VICE CHAIRMAN-Judiciary, Rules/Administration
Health/Welfare, State Affairs

Elizabeth "Liz" Allen-Hodge (R), House Seat D 2nd Term
P.O. Box 717, Middleton 83844
Home 585-6272 Husband-Alan
Self-employed Consultant
VICE CHAIRMAN-Commerce, Industry/Tourism
Environmental Affairs, State Affairs

Dolores J. Crow (R), House Seat E 3rd Term
203 11th Ave. S. Extension, Nampa 83851
Home 467-1302 Husband-Wayne
Appropriations (JFAC), Environmental Affairs

Ron Crane (R), House Seat F 3rd Term
Route 3, Box 496, Caldwell 83605 459-4990
Businessman Wife-Cheryl
CHAIRMAN-Business
Agricultural Affairs, State Affairs

12-ELMORE & OWYHEE COUNTIES

R. Claire Wetherell (D), Senate 2nd Term
360 East 15th North, Mountain Home 83647
Title Insurance Home 587-3240 Bus. 587-9091
Agricultural Affairs, Education
Judiciary/Rules

Frances Field (R), House Seat A 2nd Term
HC-85, Box 221, Grandview 83624
Home 834-2488 Husband-Oscar
Homemaker/School Dist. Bus. Mgr., Retired
Agricultural Affairs
Resources/Conservation, State Affairs

Leanna Lasuen (D), House Seat B 1st Term
103 Mountain View Dr., Mountain Home 83647
Home 587-4644
Legal Secretary
Commerce, Industry/Tourism, Education
Environmental Affairs

13-ADAMS, BOISE, CANYON, ELMORE, GEM, OWYHEE, PAYETTE, VALLEY & WASHINGTON COUNTIES

Philip E. Batt (R), Senate 7th Term
(Served 1 Term House, 1965-66)
(Lieutenant Governor, 1979-82)
P.O. Box 428, Wilder 83676
Home 337-3102 Bus. 482-7380
Farmer Wife-Jacque
CHAIRMAN-State Affairs
VICE CHAIRMAN-Investment/Retirement
Transportation

Donna Jones (R), House Seat A 1st Term
333 S. 9th Street Payette 83661
Realtor Bus: 642-9669
Home phone: 642-9679
Business, Agricultural Affairs

W. O. "Bill" Taylor (R), House Seat B 1st Term
1914 Primrose Dr., Nampa 83651 466-0970
Contractor/Real Estate Investments Wife-Shirley
Education, Local Government

14-ADA COUNTY

Herb Carlson (R), Senate 3rd Term
1812 Hill Road, Eagle 83616 939-6979
Farmer – Rancher Wife-Lorrain
CHAIRMAN-Agricultural Affairs
CHAIRMAN-Revenue Projections
Finance (JFAC), Resources/Environment

Gary L. Montgomery (R), House Seat A 4th Term
737 N. 7th St., Boise 83702 Bus. 342-3563
Attorney Wife-Marilyn
ASSISTANT MAJORITY LEADER
Judiciary, Rules/Administration
Revenue/Taxation, Ways/Means

Jerry Deckard (R), House Seat B 2nd Term
P.O. Box 441, Eagle 83616 Bus. 343-5641
General Contractor/Farmer Wife-Carol
CHAIRMAN-Ways/Means
Judiciary, Rules/Administration
State Affairs

15-ADA COUNTY

Rod Beck (R), Senate 2nd Term
4257 Tattenham Way, Boise 83704
Home 378-9797 Bus. 377-8808
Real Estate Broker Wife-Rhonda
Finance (JFAC), Investment/Retirement
Local Government/Taxation, Transportation

Don C. Loveland (R), House Seat A 3rd Term
(Served 3 terms Senate, 1983-87)
4624 Berkshire Drive, Boise 83704 375-8893
Retired Wife-Dorothy
CHAIRMAN-Judiciary, Rules/Administration
Local Government, Revenue/Taxation

Phil Childers (R), House Seat B 2nd Term
3440 Quail Place, Boise 83704 375-8904
Sales/Marketing Wife-Margaret
VICE CHAIRMAN-Revenue/Taxation
Commerce, Industry/Tourism
Environmental Affairs

LEGISLATORS BY DISTRICT (continued)

18-ADA COUNTY

Wm. F. (Bill) Ringert (R), Senate — 3rd Term
4210 Mountain View Drive, Boise 83704
Home 375-8009 Bus. 342-4591
Lawyer Wife-Bing
CHAIRMAN-Investment/Retirement
Finance (JFAC), Resources/Environment

Emerson Smock (R), House Seat A — 2nd Term
3917 Mountain View Dr., Boise 83704 375-0588
Retired Wife-Patricia
CHAIRMAN-Environmental Affairs
Business, State Affairs

Christopher R. Hooper (R), House Seat B — 5th Term
3818 Cabarton Lane, Boise 83704 375-8693
CHAIRMAN-Health/Welfare,
Business, Revenue/Taxation

17-ADA COUNTY

Rachel S. Gilbert (R), Senate — 2nd Term
(Served 2 Terms House, 1981-85)
1111 Marshall, Boise 83706
Home 343-3123 Bus. 378-6441
Real Estate Broker
Investment/Retirement
Local Government/Taxation

Ron Slater (R), House Seat A — 2nd Term
3708 Camas, Boise 83705 342-3080
Wife-Diane
Business, Transportation/Defense

Ruby R. Stone (R), House Seat B — 2nd Term
6604 Holiday Drive, Boise 83709
Property Management 375-7975
Commerce, Industry/Tourism, Local Government
State Affairs

18-ADA COUNTY

Jerry J. Hanson (R), Senate — 1st Term
10935 Camas St., Boise 83709
Home 378-9309 Bus 343-4951
Safeco Title Insurance Co. Regional Mgr. Wife-Judy
Commerce/Labor, Health/Welfare
Revenue Projections

Harm Steger (R), House Seat A — 1st Term
11513 W. Amity Rd., Boise 83709 362-1383
Retired Elem. School Principal Wife-Doris
Education, Environmental Affairs

Brent Brocksome (R), House Seat B — 2nd Term
277 N 6th St. Suite 200 83702
Home 362-9093 Bus. 345-8431
Nursing Home Administrator/Owner Wife-Patricia
Appropriations (JFAC), Health/Welfare

19-ADA COUNTY

Gail Etheridge Bray (D), Senate — 3rd Term
P.O. Box 1825, Boise 83701
Home 344-1390 Bus. 336-1080
Husband-Chris
ASSISTANT MINORITY LEADER
Judiciary/Rules, State Affairs

Kathleen W. (Kitty) Gurnsey (R), House Seat A — 7th Term
1111 W. Highland View Dr., Boise 83702 343-1780
Husband-Vern L.
CHAIRMAN-Appropriations, CO-CHAIRMAN-JFAC,
Environmental Affairs

Kenneth L. Robison (D), House Seat B — 1st Term
(Served 1 Term Senate, 1979-80)
1119 N. 12th Street, Boise 83702
Journalist Home 345-3440
Health/Welfare, Resources/Conservation

20-ADA COUNTY

Karl B. Brooks (D), Senate — 1st Term
157 E. Williams St., Boise 83706
Home 383-0356 Bus. 384-7713
Lawyer Wife-Kathy
Investment/Retirement, Judiciary/Rules
Local Government/Taxation

Pamela I. Bengson (R), House Seat A — 4th Term
1925 Teal, Boise 83706
Home 345-6168
Self-employed, Equipment Rental
CHAIRMAN-State Affairs
Judiciary, Rules/Administration

Jack C. Kennevick (R), House Seat B — 9th Term
1 Mesa Vista Drive, Boise 83705 343-2138
Insurance Wife-Mary Anne
MAJORITY LEADER
Business, State Affairs, Ways/Means

21-ADA COUNTY

James E. Risch (R), Senate — 7th Term
5400 S. Cole Road, Boise 83709
Home 362-2626 Bus. 345-9974
Attorney - Farmer/Rancher Wife-Vicki
PRESIDENT PRO TEMPORE
VICE CHAIRMAN-Judiciary/Rules
VICE CHAIRMAN-State Affairs

Boyd Hill (R), House Seat A — 2nd Term
1035 East McMillan Rd, Meridian 83642
Home 888-5515 Bus. 327-0010
Owner, Western Wholesale Wife-Mardi
Business, Environmental Affairs
Revenue/Taxation

Sheila Sorensen (R), House Seat B — 1st Term
5197 Redbridge Rd., Boise 83703
Home 345-8688 Husband-Dean
Local Government, Judiciary/Rules

LEGISLATORS BY DISTRICT (continued)

22-BLAINE, CAMAS, GOODING & LINCOLN COUNTIES

John T. Peavey (O), Senate — 7th Term
P.O. Box 88, Carey 83320
Home 788-2850/summer 726-7568/winter
Rancher Wife-Diane Josephy
MINORITY CAUCUS CHAIRMAN
Agricultural Affairs, Local Government/
Taxation, Resources/Environment

Gary Robbins (R), House Seat A — 2nd Term
750 E. 568 S., Dietrich 83324 544-2771
CPA/Dairyman Wife-Jeri
Agricultural Affairs, Commerce, Industry/
Tourism, Revenue/Taxation

Mack Wm. Neibaur (R), House Seat B — 6th 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 Seat A — 4th Term
Route 1, Box 65, Kimberly 83341 733-3617
Sheep Producer Wife-Kathleen
CHAIRMAN-Resources/Environment
VICE CHAIRMAN-Agricultural Affairs
VICE CHAIRMAN-Education

Darrel S. McRoberts (R), Senate Seat B — 2nd Term
342 Monroe Place, Twin Falls 83301
Home 734-3329 Bus. 543-4322
Plant Manager, Food Processing Wife-Joyce
Finance (JFAC)
Judiciary, Rules/Administration

Ronald L. Black (R), House Seat A — 1st Term
240 N. Locust, Twin Falls 83301 734-9035
Horticulturalist Wife-Gael
Education, Health/Welfare

Celia R. Gould (R), House Seat B — 1st Term
Route 4, Box 113, Buhl 83316
Home 543-6725 Bus. 543-4131
Rancher
Agricultural Affairs, Education
Commerce, Industry/Tourism

Russell W. Newcomb (R), House Seat C — 1st Term
RFD #3, Highlawn Dr., Twin Falls 83301
Home 734-2885 Bus. 733-3700
Surgeon/Farmer Wife-Carol
Education, Health/Welfare
Judiciary, Rules/Administration

Douglas R. Jones (R), House Seat D — 2nd Term
Route 2, Filer 83328
Home 326-4181 Bus. 733-8458
Farmer Wife-Mary Liz
Agricultural Affairs, Education
Resources/Conservation

24-CASSIA, JEROME & MINIDOKA COUNTIES

Denton Darrington (R), Senate Seat A — 3rd Term
Route 1, Declo 83323
Home 654-2712 Bus. 678-6613
Farmer - Teacher Wife-Virgene
CHAIRMAN-Health/Welfare
Judiciary/Rules

Lynn S. Tominaga (R), Senate Seat B — 2nd Term
Route 5, Box 184, Rupert 83350 532-4352
Farmer Wife-Brenda
Agricultural Affairs, Education
Local Government/Taxation
Resources/Environment

Ernest A. Hale (R), House Seat A — 9th Term
725 E. 16th Burley 83318 678-7394
Quarry Operator Wife-Elizabeth
CHAIRMAN-Education
Transportation/Defense

Bruce Newcomb (R), House Seat B — 1st Term
1626 Monroe, Burley 83318
Home 678-3758 Bus. 654-2321
Farmer/Rancher
Agricultural Affairs
Resources/Conservation

Steve Antone (R), House Seat C — 10th Term
1141 Link St., Rupert 83350 436-3927
Farmer Wife-Diane
CHAIRMAN-Revenue/Taxation, Business

Waldo Martens (R), House Seat D — 2nd 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

Larrey Anderson (R), Senate — 2nd Term
273 Robbins, Twin Falls 83301
Home 734-2248 Bus. 733-6756
Building Contractor/Writer Wife-Ellen M.
VICE CHAIRMAN-Transportation
Judiciary/Rules, Local Government/Taxation

Jerry Callen (R), House Seat A — 2nd Term
427-A W. 500 South, Jerome 83338 324-1215
Farmer/Cattle Feeder Wife-Patricia
Agricultural Affairs,
Commerce, Industry/Tourism, State Affairs

Ralph B. Peters (R), House Seat B — 1st Term
601 E. Avenue A, Jerome 83338
Home 324-4683 Bus. 324-8169
Retired Farmer/Businessman Wife-Blanche
Commerce, Industry/Tourism
Local Government

LEGISLATORS BY DISTRICT (continued)

28-BINGHAM COUNTY

Jerry T. Twiggs (R), Senate — 2nd Term
955 West 100 South, Blackfoot 83221 884-4090
Farmer — Wife-Sandra
MAJORITY CAUCUS CHAIRMAN
Agricultural Affairs, Education, State Affairs

Raymond G. Parks (R), House Seat A — 5th Term
1054 West Tabor Road, Blackfoot 83221 684-4818
Farmer — Wife-Paula
VICE CHAIRMAN-Transportation/Defense
Appropriations (JFAC)

Michael K. Simpson (R), House Seat B — 2nd Term
788 Hoff Drive, Blackfoot 83221
Home 785-5043 Bus. 785-0310
Dentist — Wife-Kathy
MAJORITY CAUCUS CHAIRMAN
Judiciary, Rules/Administration
Local Government, Revenue/Taxation

27-BANNOCK & POWER COUNTIES

Bert W. Marley (D), Senate Seat A — 5th Term
P.O. Box 35, McCammon 83250
Home 254-3291 Bus. 238-2575
Teacher - Farmer — Wife-Betty Jane
Agricultural Affairs, Commerce/Labor
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, Revenue Projections

C. E. "Chick" Bilyeu (D), Senate Seat C — 9th Term
11076 N. Philbin Rd., Pocatello 83202 237-3158
Educator - Retired — Wife-Diana
Finance (JFAC), Transportation

Patricia L. McDermott (D), House Seat A — 10th Term
P.O. Box 3, Pocatello 83204
Home 232-6978 Bus. 232-3182
Attorney
Judiciary, Rules/Administration
State Affairs

Wayne Hall (D), House Seat B — 1st Term
10258 South Hall Road, McCammon 83250
Dairy Farmer — Wife-Vera 254-3431
Local Government, Resources/Conservation

Albert M. (Al) Johnson (D), House Seat C — 3rd Term
12350 N. Philbin Rd., Pocatello 83202 237-2828
Farmer - Rancher — Wife-Betty
Environmental Affairs
Resources/Conservation, Revenue/Taxation

Pete Black (D), House Seat D — 3rd Term
530 Cochise, Pocatello 83204
Home 232-5553 Bus. 237-2271
Educator — Wife-Ronda
ASSISTANT MINORITY LEADER
Appropriations (JFAC), Business, Ways/Means

Mary Ellen Lloyd (D), House Seat E — 1st Term
1232 W. Eldredge, Pocatello 83201
Home 237-8207 Bus. 232-9538
Restaurant Owner — Husband-Bill
Judiciary, Rules/Administration, Education

L. Ed Brown (R), House Seat F — 2nd Term
288 Thurston, Pocatello 83201
Home 232-6633 Bus. 232-8024
Teacher — Wife-Carol
Local Government, Resources/Conservation
State Affairs

28-BEAR LAKE, CARIBOU, FRANKLIN & ONEIDA COUNTIES

Dennis S. Hansen (R), Senate — 1st Term
HC70, Box 2500, Soda Springs 83276
Home 547-4410 Bus. 547-3391
Accountant — Wife-Marianne
Agricultural Affairs, Commerce/Labor
Education

Robert C. Geddes (R), House Seat A — 8th Term
7235 N. 2600 West, Preston 83263 852-1376
Farmer — Wife-Carma
Agricultural Affairs, Appropriations (JFAC)

Eugene B. Stucki (R), House Seat B — 5th 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

H. J. "Jim" Christiansen (D), Senate — 1st Term
Box 458, Aberdeen 83210
Home 397-4644 Bus. 228-5001
Farmer - Implement Dealer — Wife-Lou Etta
Agricultural Affairs, Resources/Environment
Transportation

Sam Clark (R), House Seat A — 1st Term
449 McKinley, Pocatello 83201
Home 233-5559 Bus. 232-0800
Insurance — Wife-Debra
Health/Welfare
Judiciary, Rules/Administration

Mark Duffin (R), House Seat B — 2nd Term
P.O. Box 128, American Falls 83211
Home 228-5427 Bus. 548-2498
Farmer
Resources/Conservation, State Affairs
Transportation/Defense

30-BUTTE, CLARK, CUSTER, JEFFERSON & LEMHI COUNTIES

Vearl C. Crystal (R), Senate — 6th Term
P.O. Box 78, Lewisville 83431 754-4705 (Rigby)
Rancher - Rodeo Producer — Wife-Brenda
CHAIRMAN-Local Government
VICE CHAIRMAN-Finance (JFAC)

Ray E. Infanger (R), House Seat A — 8th 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 — 3rd Term
Route 1, Box 21, Rigby 83442 745-7848
Partner-ranch/farm Incorporation — Husband-Thomas O.
VICE CHAIRMAN-Resources/Conservation
State Affairs

LEGISLATORS BY DISTRICT (continued)

31-FREMONT & MADISON COUNTIES

Mark G. Ricks (R), Senate — 5th Term
3348 S 1400 W., Rexburg 83440 358-6676
Farmer Wife-Evelyn T.
MAJORITY LEADER
Commerce/Labor, State Affairs

R. L. "Dick" Davis (R), House Seat A — 2nd Term
P.O. Box 391, Rexburg 83440 356-3233
Contractor - Retired Wife-Phyllis
Education, Transportation/Defense

Cyril D. Burt (R), House Seat B — 2nd Term
Route 2, Box 164-A, St. Anthony 83445 624-7846
Retired Farm Equipment Dealer Wife-Maxine
VICE CHAIRMAN-Environmental Affairs
Business, Revenue/Taxation

32-BONNEVILLE & TETON COUNTIES

Michael D. Crapo (R), Senate Seat A — 2nd Term
P.O. Box 129, Idaho Falls 83402
Home 524-4631 Bus. 523-0620
Attorney Wife-Susan
ASSISTANT MAJORITY LEADER
Health/Welfare, Resources/Environment
State Affairs

Lee Staker (R), Senate Seat B — 2nd Term
2553 Everon, Idaho Falls 83401
Home 529-5256 Bus. 523-7950
Florist, self-employed Wife-Jean
VICE CHAIRMAN-Commerce/Labor
Finance (JFAC), Judiciary/Rules

John D Hansen (R), Senate Seat C — 1st Term
260 Marjacq Ave., Idaho Falls 83401
Home 523-5599 Bus. 523-5171
Lawyer
Education, Investment/Retirement
Resources/Environment

John O. Sessions (R), House Seat A — 11th Term
Box 10, Ariggs 83422
Home 354-2508 Bus. 354-2373
Retailer, semi-retired Wife-Alice
CHAIRMAN-Transportation/Defense
Commerce, Industry/Tourism, Education

Ralph J. Steele (R), House Seat B — 1st Term
531 South 52nd East, Idaho Falls 83401
Home 522-5424 Bus. 522-2532
Farmer/Rancher Wife-Lucile
Resources/Conservation, Transporteton/Defense

Con Mahoney (R), House Seat C — 1st Term
4871 So. 15 W., Idaho Falls 83402
Home 523-8703 Bus. 523-7030
Industrial Contractor Wife-Marie
Local Government, Resources/Conservation

DISTRICT 32-Continued

Thomas F. Loertscher (R), House Seat D — 1st Term
1357 Bone Road, Iona 83427 522-3072
Farmer Wife-Linda
Business, Education, Health/Welfare

Preston B. Brimhall (R), House Seat E — 3rd Term
465 9th St., Idaho Falls 83404 522-4347
Retired Wife-Betty
VICE CHAIRMAN - Local Government
Appropriations (JFAC)

M. Reed Hansen (R), House Seat F — 2nd Term
4329 N. 26 W., Idaho Falls 83402 522-5359
Farmer Wife-Marilyn
VICE CHAIRMAN-Health/Welfare
Resources/Conservation, Revenue/Taxation

33-BONNEVILLE, BUTTE, CLARK, CUSTER, FREMONT, JEFFERSON, LEMHI, MADISON & TETON COUNTIES

Ann Rydalch (R), Senate — 3rd Term
3824 E. 17th St., Idaho Falls 83401
Home 522-6741 Bus. 526-1589
Subcontract Administrator Husband-Vernal
CHAIRMAN-Commerce/Labor
VICE CHAIRMAN-Health/Welfare, Judiciary/Rules

Stan Hawkins (R), House Seat A — 2nd Term
Box 367, Ucon 83454
Home 524-1586 Bus. 523-2880
Agri-Business Wife-Linn
Environmental Affairs
Resources/Conservation, Revenue/Taxation

Golden C. Linford (R), House Seat B — 2nd Term
2120 West 4200 South, Rexburg 83440
Home 356-7220 Bus. 356-7346
Potato Grower-Shipper
Resources/Conservation, Revenue/Taxation