GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED BY
THE FIRST REGULAR SESSION OF THE
CENTENNIAL IDAHO LEGISLATURE

Convened January 9, 1989
Adjourned March 29, 1989

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

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SECRETARY OF STATE

PETE T. CENARRUSA
Secretary of State
Boise, Idaho

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CHAPTER 1
(S.B. No. 1053)

AN ACT

APPROPRIATING MONEY TO THE DEPARTMENT OF FISH AND GAME IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 98, LAWS OF 1988; 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 98, Laws of 1988, there is hereby appropriated to the Department of Fish and Game the following amount to be expended for the named program from the listed account for the period July 1, 1988 through June 30, 1989:

FOR:
Winter Feeding and Depredation Control
FROM:
Fish and Game Account $708,300

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

Approved February 3, 1989.

CHAPTER 2
(S.B. No. 1043)

AN ACT

RELATING TO A SCHOOL DISTRICT BUDGET; AMENDING SECTION 33-801, IDAHO CODE, TO CHANGE A REFERENCE FROM MILL LEVY TO TAX LEVY.

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

SECTION 1. That Section 33-801, Idaho Code, be, and the same is hereby amended to read as follows:

33-801. SCHOOL DISTRICT BUDGET. No later than twenty-eight (28) days prior to its annual meeting, the board of trustees of each school district shall have prepared a budget, in form prescribed by the state superintendent of public instruction, and shall have called and caused to be held a public hearing thereon, and at such public hearing, or at a special meeting held no later than fourteen (14) days after the public hearing, shall adopt a budget for the ensuing year. Notice of the hearing shall be posted, and published as prescribed in section 33-402, Idaho Code, and a record of the hearing shall be kept by the

clerk of the board of trustees. At the time said notice is given and until the date of the hearing, a copy of the budget shall be available for public inspection at all reasonable times at the administrative offices of the school district, or at the office of the clerk of the district. The board of trustees of each school district shall also prepare and publish, as a part of such notice, a summary statement of the budget for the ensuing year. Such statement shall be prepared in a manner consistent with standard accounting practices and in such form as the state superintendent of public instruction shall prescribe, and, among other things, said statement shall show amounts budgeted for all major classifications of income and expenditures, with total amounts budgeted for salary and wage expenditures in each such classification shown separately. Such statement shall show amounts previously budgeted for the then current year for the same classification for purposes of comparison. The budgeted dollar amounts of revenue in those categories included within the provisions of section 33-802, Idaho Code, as approved within the adopted budget shall be the same as presented to the respective county commissioners for ~~mill~~ tax levy purposes.

Approved February 21, 1989.

CHAPTER 3
(S.B. No. 1044)

AN ACT

RELATING TO CONTRACTS FOR TRANSPORTATION OF PUPILS; AMENDING SECTION 33-1510, IDAHO CODE, TO CHANGE THE REQUIREMENT FOR APPROVAL FROM THE STATE BOARD OF EDUCATION TO THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

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

SECTION 1. That Section 33-1510, Idaho Code, be, and the same is hereby amended to read as follows:

33-1510. CONTRACTS FOR TRANSPORTATION SERVICE. All contracts entered into by boards of trustees for the transportation of pupils shall be in writing in a form approved by the state ~~board of education~~ superintendent of public instruction. No contract shall be executed covering a period of time exceeding five (5) years.

Before entering into such contracts, the board of trustees shall invite bids by once giving notice as provided in section 33-402, Idaho Code, and shall award the contract to the lowest responsible bidder.

Approved February 21, 1989.

CHAPTER 4
(H.B. No. 90)

AN ACT

RELATING TO AGRICULTURAL COMMODITY DEALER LIENS; AMENDING SECTION 45-1804, IDAHO CODE, TO PROVIDE THAT THE LIEN MAY BE FILED BY AN AGENT OR ATTORNEY, TO PROVIDE WHERE THE LIEN SHALL BE FILED, AND REMOVING A NOTICE OF LIEN REQUIREMENT; AMENDING CHAPTER 18, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-1809, IDAHO CODE, TO PROVIDE THAT ACTIONS AGAINST THE SAME PROPERTY MAY BE JOINED AND THAT COSTS AND ATTORNEY'S FEES MAY BE ALLOWED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 45-1804, Idaho Code, be, and the same is hereby amended to read as follows:

45-1804. DURATION OF LIEN -- NOTICE OF LIEN. (1) The lien created by section 45-1802, Idaho Code, remains in effect for a period of not more than ninety (90) days after the date of attachment except as provided in subsections (2) and (3) of this section.

(2) The lien created by section 45-1802, Idaho Code, may extend for a period of six (6) months from the date the lien attaches if all of the following are completed by the agricultural commodity dealer or producer or his authorized attorney or agent within ninety (90) days after the date of attachment:

(a) Filing with the county recorder of the county where the ~~agricultural--commodity--dealer-or-producer-is-located-of~~ purchaser of the agricultural commodities maintains its headquarters or main place of business, a written notice of lien, signed and verified by the agricultural commodity producer or the agricultural commodity dealer or his authorized attorney or agent and containing:

1. A true statement of the demand of the agricultural commodity producer or agricultural commodity dealer after deducting all credits and offsets;

2. The name of the person who purchased the agricultural product from the agricultural commodity producer or agricultural commodity dealer;

3. A description of the agricultural product charged with the lien;

4. A statement that the amount claimed is a true and bona fide existing debt as of the date of filing of the notice of lien; and

5. Such other information as the county recorder may require.

~~(b)--Sending,-by-certified-mail,-return-receipt-requested,-a--copy of--the--notice--described-in-subsection-(2)(a)-of-this-section-to all-other-persons-who-have-filed-a-claim-of-lien-on-the--inventory or--accounts-receivable-of-the-purchaser-of-the-agricultural-product.~~

(3) A lien extended for a period of six (6) months under subsection (2) of this section may be extended for an additional six (6) months by completing the requirements of subsections (2)(a) ~~and (2)(b)~~ of this section prior to the expiration of the lien.

SECTION 2. That Chapter 18, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-1809, Idaho Code, and to read as follows:

45-1809. JOINDER OF ACTIONS -- FILING FEES AS COSTS -- ATTORNEY'S FEES. Any number of persons claiming liens against the same property under this chapter may join in the same action, and when separate actions are commenced, the court may consolidate them. The court shall also, as part of the cost, allow the moneys paid for filing and recording the claim, and a reasonable attorney's fee for each person claiming a lien.

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

Approved February 21, 1989.

CHAPTER 5
(H.B. No. 12)

AN ACT

RELATING TO THE TAX ON CERTAIN ANIMALS FOR DISEASE CONTROL; AMENDING SECTION 25-232, IDAHO CODE, BY INCREASING THE LIVESTOCK DISEASE CONTROL FEE FROM FIFTEEN CENTS PER HEAD TO EIGHTEEN CENTS PER HEAD.

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

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

25-232. DISEASE AND ANIMAL DAMAGE CONTROL TAX LEVY AND FEES ON CATTLE, HORSES, AND MULES. (a) There is hereby imposed upon cattle, horses, and mules in the state of Idaho a fee of ~~fifteen~~ eighteen cents (15~~8~~¢) per head. Said fee shall be collected at the time of every brand inspection when a charge for brand inspection is made as required by law. Such fee when collected shall be paid by the person paying the charge for brand inspection and shall be used by the Idaho department of agriculture for livestock disease control. The state brand inspector shall collect said fees in addition to, at the same time and in the same manner as the fee collected for brand inspection. The fees so collected shall be deposited as provided in section

25-233, Idaho Code.

(b) In addition to the fee imposed in subsection (a) above, there is hereby imposed an additional fee of not to exceed five cents (5¢) per head upon the same livestock subject to the fee required in subsection (a). The amount of the additional fee shall be fixed by order of the state brand board upon the written recommendation of the Idaho cattle association. The fees collected under the provisions of this subsection (b) shall be deposited in the sheep commission account, and the board of sheep commissioners shall quarterly transmit the proper share of such moneys to the board of directors of each animal damage control district. The provisions of section 67-3525, Idaho Code, shall not apply to the payment of moneys from the sheep commission account to the animal damage control districts.

(c) The state brand inspector shall be reimbursed for the reasonable and necessary expenses incurred for the collections required in this section, in an amount determined by the administrator of the division of animal industries, a representative of the Idaho cattle association and the inspector, but the total of such expense reimbursement for the fees collected as required in subsections (a) and (b) of this section shall not exceed one and one-quarter cents (1-1/4¢) per head.

Approved February 23, 1989.

CHAPTER 6
(H.B. No. 13)

AN ACT

RELATING TO LIVESTOCK REPORTABLE DISEASES; AMENDING SECTION 25-211, IDAHO CODE, BY ADDING THE DISEASE TRICHOMONIASIS TO THE LIST OF REPORTABLE DISEASES.

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

SECTION 1. That Section 25-211, Idaho Code, be, and the same is hereby amended to read as follows:

25-211. REPORTABLE DISEASES. It is hereby made the duty of all persons practicing veterinary medicine in this state, all owners or operators of any laboratory making tests for the following named diseases, or owners or persons in charge of livestock, to report to the bureau division all cases of glanders, farcy, hog cholera, tuberculosis, anthrax, rabies, dourine, scabies, pseudorabies, trichomoniasis, or Bangs disease that they may find existing among animals, within this state, within forty-eight (48) hours from the date that any such case shall come to their knowledge, providing, that any such report of any of the foregoing diseases made by any practicing veterinarian, or owner or operator of any laboratory shall be made upon forms pre-

scribed and approved by the division of animal industries of the department of agriculture of the state of Idaho, and providing that no such practicing veterinarian or owner or operator of any laboratory in this state shall make any blood tests upon any of such animals unless they are marked with an identifying ear tag or tattoo mark, and the number of such mark with the name and address of the owner or owners of such animals shall be included in such report.

Approved February 23, 1989.

CHAPTER 7
(H.B. No. 17)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO INCORPORATE AMENDMENTS MADE TO THE INTERNAL REVENUE CODE BY CONGRESS IN 1988 AND CHANGING THE EXEMPTION AMOUNT FROM ONE THOUSAND NINE HUNDRED DOLLARS TO THE AMOUNT ALLOWED BY THE INTERNAL REVENUE CODE; 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, 1989~~8~~9.

(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 in 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, 1989.

Approved February 23, 1989.

CHAPTER 8
(S.B. No. 1047)

AN ACT
RELATING TO SCHOOL DISTRICT LEVIES; AMENDING SECTION 33-802, IDAHO CODE, TO DELETE REDUNDANT LANGUAGE.

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. 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 Obligation 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. 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 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%).

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 subsection 2 or 3 of this section shall be made 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 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.

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 purposes 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 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 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.

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 this section.

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. 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.

Approved February 23, 1989.

CHAPTER 9
(S.B. No. 1033)

AN ACT

RELATING TO CASSIA COUNTY; AMENDING SECTION 31-118, IDAHO CODE, TO PROVIDE FOR THE COUNTY SEAT OF CASSIA COUNTY.

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

SECTION 1. That Section 31-118, Idaho Code, be, and the same is hereby amended to read as follows:

31-118. CASSIA COUNTY. Cassia county is described as follows: beginning with the intersection of the middle of the channel of Snake river with the north and south center line of section twenty-eight (28), township ten (10) south, range twenty-one (21) east;

Western boundary. Thence south on the said center line of said section twenty-eight (28), to the point of intersection of the north line of the right of way of the Minidoka & Southwestern Railroad Company, which point is one hundred (100) feet distant at right angles

from the center of the main track of the line of road of said railroad company as the same is now located; thence in a southwesterly direction along the north line of said railroad right of way to a point where said line intersects the south line of the canal right of way of the Twin Falls Land & Water Company, which point of intersection is one hundred (100) feet distant at right angles from the center line of the main canal of the said Twin Falls Land & Water Company; thence south to the south line of section thirty-six (36), township ten (10) south, range twenty (20) east; thence west to the southwest corner of said section thirty-six (36); thence south on the section lines to the south line of township eleven (11) south, thence west to the southeast corner of township eleven (11) south, range eighteen (18) east; thence south on the range lines to the south line of the state of Idaho (1907, p. 40);

Southern boundary. Thence east along the south boundary line of the state of Idaho to the intersection of the same with the one hundred thirteenth (113th) meridian west from Greenwich;

Eastern boundary. Thence north along the said meridian to the intersection of the same with the (R.C., section 23i) southern line of township twelve (12) south; thence west upon and along the southern line of said township twelve (12), to the southwest corner of township twelve (12) south, range thirty (30) east; thence north upon the range line between ranges twenty-nine (29) and thirty (30) east, to the southwest corner of township nine (9) south, range thirty (30) east;

Northern boundary. Thence west along and upon the south line of township nine (9) south, to the southwest corner of section thirty-four (34), township nine (9) south, range twenty-eight (28) east; thence north upon and along the line between sections thirty-three (33) and thirty-four (34), township nine (9) south, range twenty-eight (28) east, and an extension thereof to the point where said line so extended intersects the center of the main channel of Snake river (1913, ch. 6, section 2, p. 32); thence down the said river in a southwesterly direction to the point of beginning (R.C., section 23i).

County seat--~~Albion~~ Burley.

Approved March 2, 1989.

CHAPTER 10
(H.B. No. 2)

AN ACT

RELATING TO COUNTY FINANCES; AMENDING SECTION 31-1502, IDAHO CODE, TO PROVIDE A PROPER REFERENCE.

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

SECTION 1. That Section 31-1502, Idaho Code, be, and the same is hereby amended to read as follows:

31-1502. TRANSFER OF MONEYS. The board must not transfer any money from one fund to another except as permitted by section 63-914, Idaho Code, nor in any manner divert the money in any fund to other uses, except in cases expressly provided and permitted by law, nor make any preferred creditor, nor cause any warrant to be drawn payable out of its order except on the order of the district court in cases provided by law, and the county treasurer must in all things observe these instructions: provided, that when any money shall have been assessed and collected in any of the counties of this state, and the same set apart as a separate fund, for special purpose, and from any cause the money in said fund shall have become inoperative for the purpose for which said fund was created, it shall be lawful for the board of county commissioners in such cases to transfer the money in said fund to such fund as the board of county commissioners may deem best.

March 1, 1989.

CHAPTER 11
(H.B. No. 4)

AN ACT
RELATING TO COUNTY BUDGETS; AMENDING SECTION 31-1609, IDAHO CODE, TO PERMIT AN APPROPRIATION ACCOUNT TO REMAIN OPEN.

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

SECTION 1. That Section 31-1609, Idaho Code, be, and the same is hereby amended to read as follows:

31-1609. LAPSE OF APPROPRIATIONS -- INCOMPLETE IMPROVEMENTS. All appropriations, other than appropriations for incompleted improvements in progress of construction, shall lapse at the end of the fiscal year; provided, that the appropriation accounts ~~shall~~ may remain open until the first Monday in November for the payment of claims incurred against such appropriations prior to the close of the fiscal year. After the said first Monday in November the appropriations, except as herein provided regarding incompleted improvements, shall become null and void and any lawful claims presented thereafter against any such appropriations shall be provided for in the next ensuing budget. All balances in any appropriation for incomplete improvements in progress of construction, shall be carried forward and shown in the budget for the ensuing year to the credit of such improvement.

Approved March 1, 1989.

CHAPTER 12
(H.B. No. 37)

AN ACT

RELATING TO CERTAIN FEES; AMENDING SECTION 39-263, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND AMENDING SECTION 53-505, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES AND TO PROVIDE PROPER REFERENCES.

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

SECTION 1. That Section 39-263, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 2. That Section 53-505, Idaho Code, be, and the same is hereby amended to read as follows:

53-505. INDEX OF CERTIFICATES -- FEES -- COPY OF CERTIFICATE AS EVIDENCE. The several county recorders of the state shall keep an alphabetical index of all persons recording certificates~~, provided~~ for herein and for the indexing and recording of such certificate, they shall receive a fee ~~of two dollars ($2.00) per page~~ as set forth in section 31-3205, Idaho Code. A copy of such certificate, duly certified to by the county recorder in whose office the same shall be recorded, shall be prima facie evidence in all courts of law in this state of the facts therein stated.

Approved March 1, 1989.

CHAPTER 13
(H.B. No. 38)

AN ACT

RELATING TO DUTIES OF THE COUNTY AUDITOR; AMENDING SECTION 63-2104, IDAHO CODE, TO PROVIDE DUTIES OF THE COUNTY AUDITOR IN SETTLEMENT OF MONEYS BELONGING TO TAXING DISTRICTS.

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

SECTION 1. That Section 63-2104, Idaho Code, be, and the same is hereby amended to read as follows:

63-2104. SETTLEMENT BY COUNTY AUDITOR WITH ~~MUNICIPALITIES~~ TAXING

DISTRICTS. The county auditor must, on the second Monday of each month, transmit to the clerk of every ~~incorporated city, every school district, and every other~~ taxing district having a treasurer whose duty it is to receive, keep and disburse all moneys belonging to it, ~~an order on the county treasurer, prepared upon blanks in the form supplied by the state tax commission, in favor of the treasurer of such incorporated city, or school district or other taxing district for the amount~~ a settlement of all moneys belonging to each district, paid into the county treasury and apportioned to such ~~incorporated city, school district or other~~ taxing district on or after the second Monday of the preceding month; provided, however, that in the months of July and January the money may be transmitted no later than the 25th of the month. ~~At the same time, the treasurer shall also make out and transmit to the clerk of the incorporated city, or school district or other taxing district a statement in duplicate in segregated form, each levy or each source from which received, showing from what sources the money was received and the amount received from each source, which statement must be made upon blanks in the form to be supplied by the state tax commission and duly sworn to before an officer authorized to administer oaths. Upon receipt of the order and statements the clerk shall countersign the order and deliver the same, together with the duplicate statement, to the treasurer and file the original statement in his office. The order, when countersigned by the clerk, shall be payable to the treasurer upon presentation to the county treasurer, and the county treasurer shall return the order as his voucher for any payment in his regular monthly settlement with the county auditor, as provided by law.~~

Approved March 1, 1989.

CHAPTER 14
(S.B. No. 1031)

AN ACT

RELATING TO THE COUNTY SHERIFF; AMENDING SECTION 31-2202, IDAHO CODE, TO CLARIFY THAT THE PRIMARY DUTY OF ENFORCING PENAL PROVISIONS AND STATUTES IS VESTED WITH THE SHERIFF AND TO PROVIDE PROPER NOMENCLATURE; REPEALING SECTIONS 31-2208, 31-2209 AND 31-2210, IDAHO CODE; AMENDING SECTION 31-2212, IDAHO CODE, TO PROVIDE ADDITIONAL CONDITIONS UNDER WHICH THE OFFICE OF SHERIFF SHALL BE VACANT; AMENDING SECTIONS 31-2218 AND 31-2226, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND AMENDING SECTION 31-2227, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Section 31-2202, Idaho Code, be, and the same is hereby amended to read as follows:

31-2202. DUTIES OF SHERIFF. The policy of the state of Idaho is that the primary duty of enforcing all penal provisions and statutes of the state is vested with the sheriff of each county as provided in section 31-2227, Idaho Code. The sheriff ~~must~~ shall perform the following:

1. Preserve the peace.

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense, unless otherwise provided by law.

3. Prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.

4. Attend all courts, including magistrate's division of the district court when ordered by a district judge, at their respective terms held within his county, and obey the lawful orders and directions of the courts.

5. Command the aid of as many inhabitants of the county as he may think necessary in the execution of these duties.

6. Take charge of and keep the county jail and the prisoners therein.

7. Indorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time of reception.

8. Serve all process and notices in the manner prescribed by law.

9. Certify under his hand upon process or notices the manner and time of service, or, if he fails to make service, ~~the~~ reasons of his failure, and return the same without delay.

10. Perform such other duties as are required of him by law.

11. Keep a record of all stolen cars reported within his county, which record shall contain the name of the motor vehicle, the engine number thereof, a complete description of such vehicle and such other information as may aid in the identification of the stolen car. Such record shall be open to public inspection during office hours, and immediately upon receiving a report of a stolen car the sheriff shall prepare and forward a copy thereof to the director of the department of law enforcement and he shall also notify the director of the department of law enforcement of any and all cars recovered.

12. Work ~~concurrently and cooperate~~ in his county with the Idaho state ~~police~~ department of law enforcement in the following respects:

(a) Require all persons using the highways in the state to do so carefully, safely and with exercise of care for the persons, property and safety of others;

(b) Safeguard and protect the surface and other physical portions of the state highways;

(c) Enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;

(d) Regulate traffic on all highways and roads in the state; and respond to calls following wrecks and make investigations relative thereto.

13. Work in his county with the Idaho transportation department to give examinations for and sell operators' and chauffeurs'

licenses.

14. Expeditiously and promptly investigate all cases involving missing children when such cases are reported to him.

SECTION 2. That Sections 31-2208, 31-2209 and 31-2210, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Section 31-2212, Idaho Code, be, and the same is hereby amended to read as follows:

31-2212. OFFICE DEEMED VACANT, WHEN. ~~When~~ In addition to the events specified in section 59-901, Idaho Code, when the sheriff is committed under an execution or commitment, for not paying over money received by him by virtue of his office, and remains committed for sixty (60) days, his office is vacant.

SECTION 4. That Section 31-2218, Idaho Code, be, and the same is hereby amended to read as follows:

31-2218. ELISOR, WHEN APPOINTED. Process and orders in an action or proceeding may be executed by a person residing in the county, designated by the court, the judge thereof, or a ~~probate~~ magistrate judge, and denominated an elisor in the following cases:

1. When the sheriff and coroner are both parties.

2. When either of these officers is a party and the process is against the other; and,

3. When either of these officers is a party and there is a vacancy in the office of the other, or when it appears by affidavit to the satisfaction of the court in which the proceeding is pending, or the judge thereof, that both of these officers are disqualified, or by reason of any bias, prejudice or other cause would not act promptly or impartially.

When the process is delivered to an elisor he must execute and return it in the same manner as the sheriff is required to execute similar process.

SECTION 5. That Section 31-2226, Idaho Code~~,~~ be, and the same is hereby amended to read as follows:

31-2226. REFUSAL TO DELIVER PROPERTY. If the former sheriff refuses or neglects to deliver to his successor the jail, process, papers and prisoners in his charge, the new sheriff may, notwithstanding, take possession of the jail, and of the prisoners confined therein, and the ~~probate court, or the probate~~ magistrate judge, may, upon application, order the delivery of the process and papers.

SECTION 6. That Section 31-2227, Idaho Code, be, and the same is hereby amended to read as follows:

31-2227. ENFORCEMENT OF PENAL LAWS -- PRIMARY RESPONSIBILITY. Irrespective of police powers vested by statute in state, ~~precinct,~~ county, and municipal officers, it is hereby declared to be the policy

of the state of Idaho that the primary duty of enforcing all the penal provisions of any and all statutes of this state, in any court, is vested in the sheriff and prosecuting attorney of each of the several counties. When in the judgment of such county officers, they need assistance from ~~precinct--and~~ municipal peace officers within the county, they are authorized and directed to call for such and such local officers shall render such assistance.

When in the judgment of such county officers, advice and/or assistance is needed which is not available in the county, the sheriff and/or the prosecuting attorney are directed to call upon the state department of law enforcement for such advice and assistance and the department shall render such cooperative service. Whenever in the opinion of the governor any peace officer of this state refuses to offer assistance when requested to do so, or refuses to perform any duty enjoined upon him by the penal statutes of this state, the governor shall direct the attorney general to commence action under chapter 41, title 19, Idaho Code, to remove such officer from office.

When in the judgment of the governor the penal laws of this state are not being enforced as written, in any county, or counties, in this state, he may direct the director of the department of law enforcement to act independently of the sheriff and prosecuting attorney in such county, or counties, to execute and enforce such penal laws.

Approved March 1, 1989.

CHAPTER 15
(S.B. No. 1032)

AN ACT

RELATING TO THE COUNTY TREASURER; REPEALING SECTION 31-2116, IDAHO CODE; AND AMENDING SECTION 31-2121, IDAHO CODE, TO PROVIDE FOR THE DELIVERY OF OFFICIAL MONEYS AND INSTRUMENTS TO THE TREASURER'S SUCCESSOR BY THE BOARD OF COUNTY COMMISSIONERS.

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

SECTION 1. That Section 31-2116, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 31-2121, Idaho Code, be, and the same is hereby amended to read as follows:

31-2121. DELIVERY OF MONEY AND PAPERS AFTER DEATH. In case of the death of any county treasurer ~~his legal representatives must deliver up~~, all official moneys, books, accounts, papers and documents ~~which come into their possession~~ shall be delivered to the treasurer's successor by the board of county commissioners.

Approved March 1, 1989.

CHAPTER 16
(S.B. No. 1175)

AN ACT

AMENDING SECTION 1, CHAPTER 93, LAWS OF 1988, RELATING TO THE APPROPRIATION FOR THE OFFICE ON AGING; APPROPRIATING MONEYS TO THE STATE INSURANCE FUND IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 36, LAWS OF 1988; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 93, Laws of 1988, be, and the same is hereby amended to read as follows:

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	$ ~~40,300~~ 129,800	$~~1,060,600~~ 979,100	$1,234,300
Office on Aging Account	~~319,900~~ 339,900	~~121,800~~ 421,800	~~4,296,600~~ 3,976,600	4,738,300
TOTAL	$~~445,300~~ 465,300	$~~170,100~~ 551,600	$~~5,357,200~~ 4,955,700	$5,972,600

SECTION 2. In addition to the appropriation made by Section 1, Chapter 36, Laws of 1988, there is hereby appropriated to the Office of the Governor for the State Insurance Fund the following amount, to be expended according to the designated expense classes from the listed account, for the period July 1, 1988, through June 30, 1989:

FOR:	
Personnel Costs	$107,500
Operating Expenditures	95,100
Capital Outlay	96,300
TOTAL	$298,900
FROM:	
State Insurance Fund Account	$298,900

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 2, 1989.

CHAPTER 17
(H.B. No. 127)

AN ACT

RELATING TO COOPERATIVE SERVICE AGENCIES; AMENDING SECTION 33-317, IDAHO CODE, TO CHANGE A REFERENCE FROM MILLS TO PERCENT.

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

SECTION 1. That Section 33-317, Idaho Code, be, and the same is hereby amended to read as follows:

33-317. COOPERATIVE SERVICE AGENCY -- POWERS -- DUTIES -- LIMITATIONS. Two (2) or more school districts may join together for educational purposes to form a service agency to purchase materials and/or provide services for use individually or in combination. The cooperative service agency thus formed shall be empowered to adopt by-laws, and act as a body corporate and politic with such powers as are assigned through its by-laws but limited to the powers and duties of local school districts. In its corporate capacity, this agency may sue and be sued and may acquire, hold and convey real and personal property necessary to its existence. The employees of the service agency shall be extended the same general rights, privileges and responsibilities as comparable employees of a school district.

A properly constituted cooperative service agency may request from its member school districts funding to be furnished by ~~up-to-five--(5) mills~~ a tax levy not to exceed one-tenth of one percent (.1%) for a period not to exceed ten (10) years by such member school districts. Such levy must be authorized by an election held in each of the school districts pursuant to sections 33-401--33-406, Idaho Code, and approved by a majority of the district electors voting in such election. Moneys received by the member school districts from this source shall be transferred to the cooperative service agency upon receipt by the school districts.

Approved March 2, 1989.

CHAPTER 18
(H.B. No. 145)

AN ACT

RELATING TO SCHOOL DISTRICT FISCAL AFFAIRS; AMENDING SECTION 33-701, IDAHO CODE, TO PROVIDE THAT AMENDED BUDGETS BE SUBMITTED TO THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

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

SECTION 1. That Section 33-701, Idaho Code, be, and the same is

hereby amended to read as follows:

33-701. FISCAL YEAR -- PAYMENT AND ACCOUNTING OF FUNDS. The fiscal year of each school district shall be a period of twelve (12) months commencing on the first day of July in each year.

The board of trustees of each school district shall have the following powers and duties:

1. To determine and order paid all lawful expenses for salaries, wages and purchases, whether or not there be money in the treasury for payment of warrants drawn against any fund of the district.

Whenever any school district 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 affirma-

tively by sixty percent (60%) of the members of the board of trustees. Such amended budgets shall be submitted to the state ~~board--of education~~ superintendent of public instruction;

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 2, 1989.

CHAPTER 19
(S.B. No. 1030)

AN ACT

RELATING TO COUNTY GOVERNMENT; REPEALING CHAPTERS 11, 12 AND 13, TITLE 31, IDAHO CODE.

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

SECTION 1. That Chapters 11, 12 and 13, Title 31, Idaho Code, be, and the same are hereby repealed.

Approved March 8, 1989.

CHAPTER 20
(S.B. No. 1099)

AN ACT

RELATING TO PROFESSIONAL SERVICE CORPORATIONS; AMENDING SECTION 30-1303, IDAHO CODE, TO FURTHER DEFINE THE TERM "PROFESSIONAL SERVICE"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 30-1303, Idaho Code, be, and the same is hereby amended to read as follows:

30-1303. DEFINITIONS. As used in this act:

(1) The term "professional service" shall mean any type of service to the public which can be rendered by a member of any profession within the purview of his profession. For the purpose of this chapter, the professions shall be held to include the practices of architecture, chiropractic, dentistry, engineering, landscape architecture, law, medicine, nursing, occupational therapy, optometry, physical therapy, podiatry, professional geology, psychology, certified or

licensed public accountancy, social work, surveying, and veterinary medicine, and no others. This chapter shall not be held to preclude incorporation as provided by section 54-1235, Idaho Code.

(2) The term "professional corporation" means a corporation organized under this act for the sole and specific purpose of rendering professional service and which has as its shareholders only natural persons who themselves are duly licensed or otherwise legally authorized within the state of Idaho to render one or more of the same professional services as the corporation.

(3) The term "allied professional services" shall mean professional services which are so related in substance that they are frequently offered in conjunction with one another as parts of the same service package to the consumer.

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, 1989.

CHAPTER 21
(S.B. No. 1100)

AN ACT

RELATING TO MANUFACTURED HOMES; AMENDING SECTION 44-2101, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 21, TITLE 44, BY THE ADDITION OF A NEW SECTION 44-2102A, IDAHO CODE, TO PROVIDE EXCEPTIONS TO THE CHAPTER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 44-2101, Idaho Code, be, and the same is hereby amended to read as follows:

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, except as otherwise provided in this chapter.

(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, except as otherwise provided in this chapter.

(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, except as otherwise provided in this chapter.

(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.

SECTION 2. That Chapter 21, Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 44-2102A, Idaho Code, and to read as follows:

44-2102A. EXCEPTIONS TO CHAPTER. Notwithstanding any other provisions to the contrary, a licensed real estate broker or licensed real estate salesman shall be allowed to list for sale and sell manufactured homes or mobile homes as defined by this chapter under the following conditions:

(1) The manufactured home or mobile home is listed and/or sold in connection with the listing and/or sale of real property on which the home is located.

(2) The manufactured home or mobile home is listed and/or sold in connection with the listing and/or sale, transfer or assignment of a leasehold interest in real property, on which the home is located, the term of which exceeds one (1) year.

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 8, 1989.

CHAPTER 22
(H.B. No. 15, As Amended in the Senate)

AN ACT

RELATING TO SALES TAX; AMENDING SECTION 63-3622HH, IDAHO CODE, TO PROVIDE THAT THE SALES TAX DOES NOT APPLY TO COSTS OF LABOR UTILIZED IN THE REPAIR OF RECREATION-RELATED VEHICLES; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3622HH, Idaho Code, be, and the same is hereby amended 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 only the costs of parts and, but not labor, utilized on the snowmobile, off-highway motorbike, recreational vehicle or motorcycle.

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 April 1, 1989.

Approved March 8, 1989.

CHAPTER 23
(S.B. No. 1247)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 98, LAWS OF 1988; 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 98, Laws of 1988, there is hereby appropriated to the Department of Fish and Game the following amount to be expended for the named program according to designated expense class from the listed account for the period July 1, 1988, through June 30, 1989:

WILDLIFE:

FOR:

Trustee and Benefit Payments	$50,000

FROM:

Fish and Game Account	$50,000

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 13, 1989.

CHAPTER 24
(S.B. No. 1253)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 127, LAWS OF 1988; AMENDING SECTION 2, CHAPTER 127, LAWS OF 1988, TO CHANGE THE AMOUNT OF INTEREST EARNINGS; 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 127, Laws of 1988, there is hereby appropriated to the State Treasurer 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	$20,000

FROM:

Interagency Billing and Receipts Account	$20,000

SECTION 2. That Section 2, Chapter 127, Laws of 1988, be and the same is hereby amended to read as follows:

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 ~~$170,000~~ $270,000 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. 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, 1989.

CHAPTER 25
(H.B. No. 82)

AN ACT

RELATING TO CITY APPROPRIATION ORDINANCES; AMENDING SECTION 50-1003, IDAHO CODE, TO PERMIT A CITY TO AMEND AN APPROPRIATION ORDINANCE TO INCLUDE REVENUES FROM SOURCES OTHER THAN AD VALOREM TAX REVENUES.

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

SECTION 1. That Section 50-1003, Idaho Code, be, and the same is hereby amended to read as follows:

50-1003. ANNUAL APPROPRIATIONS BILL -- ~~AMENDING~~ APPROPRIATION ORDINANCE -- SPECIAL APPROPRIATION UPON PETITION OR ELECTION. The city council of each city shall, prior to the commencement of each fiscal year, pass an ordinance to be termed the annual appropriation ordinance, which in no event shall be greater than the amount of the proposed budget, in which the corporate authorities may appropriate such sum or sums of money as may be deemed necessary to defray all necessary expenses and liabilities of such corporation, not exceeding in the aggregate the amount of tax authorized to be levied during that year in addition to all other anticipated revenues. Provided, the amount appropriated from property tax revenues shall not exceed the amount of property tax revenue advertised pursuant to section 50-1002, Idaho Code.

Such ordinance shall specify the object and purposes for which such appropriations are made and the amount appropriated for each object or purpose. Said ordinance shall be filed with the office of the secretary of state.

The city council of any city may, by the same procedure as used in adopting the original appropriation ordinance at any time during the current fiscal year, amend the appropriation ordinance to a greater amount than that adopted, if after the adoption of the appropriation ordinance, additional revenue will accrue to the city during the current fiscal year as a result of increase in state or federal grants or allocations, or as a result of an increase in an enterprise fund or funds to finance the operation and maintenance of governmental facilities and services which are entirely or predominantly self-supporting by user charges, or as a result of an increase in revenues from any

source other than ad valorem tax revenues. A city whose property tax certification is made for the current fiscal year may amend its budget and annual appropriation ordinance, pursuant to the notice and hearing requirements of section 50-1002, Idaho Code, prior to certification to the county commissioners.

No further appropriation, except as herein provided, shall be made at any other time within such fiscal year unless the proposition to make each appropriation has been first sanctioned by a majority of the legal voters of such city, either by petition signed by them equal in number to a majority of the number who voted at the last general city election, or approved at a special election duly called therefor, and all appropriations shall end with the fiscal year for which they are made.

Approved March 20, 1989.

CHAPTER 26
(H.B. No. 28)

AN ACT

RELATING TO THE PERIOD OF LIMITATION UPON ASSESSMENT AND THE COLLECTION OF INCOME TAX; AMENDING SECTIONS 63-3068 AND 63-3072, IDAHO CODE, TO ALLOW CREDITS TO BE ADJUSTED AS THE RESULT OF ACTION TAKEN BY THE INTERNAL REVENUE SERVICE; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3068, Idaho Code, be, and the same is hereby amended to read as follows:

63-3068. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION OF TAX. Except as provided in section 63-3070, Idaho Code:

(a) The amount of income taxes imposed by this act shall be assessed within three (3) years after the due date of the return or the date the return was filed, whichever is later, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period; provided, however, if an assessment has been made within the prescribed time, such tax may be collected by levy or by a proceeding in court within a period of six (6) years after assessment of the tax and provided, further, that this shall not be in derogation of any of the remedies elsewhere herein provided. The running of the period of limitations provided by this section shall be suspended for the period during which the state tax commission is prohibited from making the assessment or from collecting by levy or a proceeding in court, and for thirty (30) days thereafter.

(b) In the case of income received during the lifetime of a decedent, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within six

(6) months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent.

(c) When taxable income or tax credits for any year ~~has~~ have been adjusted by federal internal revenue action or by voluntary action on the part of the taxpayer, and no corresponding adjustment has been reported by the taxpayer to the state of Idaho, the limitation upon assessment shall be one (1) year from the delivery by the taxpayer to the state tax commission of notice of final determination thereof together with copies of schedules supplied the taxpayer by the Internal Revenue Service. All items of income and deduction which were adjusted in the federal determination, tax credits, and all allocations and apportionments shall be subject to adjustment for Idaho tax purposes. If an adjustment to a state return is the result of an adjustment to the taxpayers federal return and affects the amount of credit allowed to be claimed in a different year, credits in the other year may be adjusted notwithstanding any statute of limitation.

(d) Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this act, both the state tax commission or its delegate or deputy and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SECTION 2. That Section 63-3072, Idaho Code, be, and the same is hereby amended to read as follows:

63-3072. CREDITS AND REFUNDS. (a) Where there has been an overpayment of any income tax imposed by this act, the amount of such overpayment shall be credited against any income tax then due from the taxpayer, and any balance of such excess shall be refunded to the taxpayer.

(b) The state tax commission is authorized and the state board of tax appeals authorized to order the tax commission in proper cases to credit or remit, refund, and pay back all taxes and penalties erroneously or illegally assessed or collected, regardless of whether the same have been paid under protest, which claims for refund shall be certified to the state board of examiners by the state tax commission.

(c) No such credit or refund of taxes, penalties or interest paid, shall be allowed or made after three (3) years from the due date of the return or from the time the return was filed, whichever is later, unless before the expiration of such period a claim therefor is filed by the taxpayer; provided, the period of limitation shall be one (1) year from the time of final determination of federal tax liability for the year involved in the event state taxable income has been decreased or tax credit increased as the result of a federal audit or ~~other determination~~ an amended return. If an adjustment to a state return is the result of an adjustment to the taxpayer's federal return and affects the amount of credit allowed to be claimed in a different year, credits in the other year may be adjusted notwithstanding any

statute of limitation.

(d) If a claim for credit or refund relates to an overpayment attributable to a net operating loss carry-back, in lieu of the three (3) year period of limitation prescribed in subsection (c), the period shall be that period which ends with the expiration of the fifteenth day of the fortieth month following the end of the taxable year of the net operating loss which results in such carry-back.

(e) Appeal of a tax commission decision denying in whole or part a claim for refund shall be made in accordance with and within the time limits prescribed in section 63-3049, Idaho Code.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1987.

Approved March 20, 1989.

CHAPTER 27
(H.B. No. 46)

AN ACT

RELATING TO NET OPERATING LOSSES FOR STATE INCOME TAX PURPOSES; REPEALING SECTION 63-3021, IDAHO CODE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION THERETO OF A NEW SECTION 63-3021, IDAHO CODE, DEFINING THE TERM "NET OPERATING LOSS;" DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3021, 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 63-3021, Idaho Code, and to read as follows:

63-3021. NET OPERATING LOSS. (a) The term "net operating loss" means taxable income as defined in section 63-3022, Idaho Code, with modifications as specified in subsection (b) of this section.

(b) Modifications:

(1) The amount of any net operating loss deduction included in taxable income shall be added back to taxable income.

(2) In the case of a taxpayer other than a corporation:

(i) Any amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

(ii) Any deduction for long-term capital gains provided by

this chapter shall be added to taxable income.

(3) Any deduction allowed under section 151 of the Internal Revenue Code (relating to personal exemption) or any deduction in lieu of any such deduction shall be added back to taxable income.

(4) Any deduction for the standard or itemized deductions provided for in sections 63(c) and (d) of the Internal Revenue Code, except for any deduction allowable under section 165(c)(3) of the Internal Revenue Code (relating to casualty losses) shall be added back to taxable income. Casualty losses for property physically located in Idaho at the time of the casualty may be deducted from Idaho taxable income.

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, 1989.

Approved March 20, 1989.

CHAPTER 28
(H.B. No. 114)

AN ACT

RELATING TO PUBLICATION OF FINANCIAL STATEMENTS BY CITIES; AMENDING SECTION 50-1011, IDAHO CODE, TO PROVIDE FOR THE PUBLICATION OF A CITY'S FINANCIAL STATEMENT FOLLOWING COMPLETION OF THE ANNUAL AUDIT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-1011, Idaho Code, be, and the same is hereby amended to read as follows:

50-1011. PUBLICATION OF FINANCIAL STATEMENTS -- NONCOMPLIANCE. It shall be the duty of the city treasurer to cause to be published quarterly during each fiscal year for at least one (1) insertion in the official newspaper of the city, a full statement of each separate account, fund or appropriation for the year to date, and balances of the debits and credits belonging thereto, indicating salaries, capital outlay and a percentage comparison to the original appropriation. All published financial statements shall include the following: "Citizens are invited to inspect the detailed supporting records of the above financial statements." Such statement shall be published within thirty (30) days from the end of each quarter, except for the final quarter of the fiscal year which shall be published within thirty (30) days from the date of completion of the annual audit. Failure upon the part of the treasurer of any city to comply with the requirements of this section shall be deemed a misdemeanor.

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

Approved March 20, 1989.

CHAPTER 29
(H.B. No. 193)

AN ACT

APPROPRIATING MONEYS TO THE STATE AUDITOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 286, LAWS OF 1988; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES, EXPRESSING LEGISLATIVE INTENT; 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 286, Laws of 1988, there is hereby appropriated to the state auditor for financial improvement practices 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	$340,600
FROM:	
General Account	$340,600

SECTION 2. There is hereby reappropriated to the State Auditor for financial improvement practices any unexpended and unencumbered balances of the General Account appropriated by Section 1, for the period July 1, 1989, through June 30, 1990.

SECTION 3. It is legislative intent that when the computer center provides services to the other programs within the State Auditor's Office or to other state agencies, a fixed fee written contract which delineates the services to be performed and the cost to the program or agency, must be signed in advance by authorized representatives of the computer center and the program or state agency for which the services are being performed.

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 20, 1989.

CHAPTER 30
(H.B. No. 215)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 285, LAWS OF 1988; 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 285, Laws of 1988, there is hereby appropriated to the Idaho Transportation Department the following amount to be expended for the named program according to designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

GENERAL SUPPORT:

FOR:	
Personnel Costs	$ 50,000
Operating Expenditures	112,500
TOTAL	$162,500
FROM:	
State Highway Account	$162,500

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 20, 1989.

CHAPTER 31
(H.B. No. 42)

AN ACT

RELATING TO NURSING HOME ADMINISTRATORS; AMENDING SECTION 54-1604, IDAHO CODE, TO DELETE SUPERFLUOUS LANGUAGE AND TO PROVIDE THAT FEES BE SET BY BOARD RULE NOT TO EXCEED EIGHTY-FIVE DOLLARS.

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

SECTION 1. That Section 54-1604, Idaho Code, be, and the same is hereby amended to read as follows:

54-1604. FUNCTIONS AND DUTIES OF BOARD -- FEE FOR LICENSE APPLICANTS -- RULES AND REGULATIONS. (1) It shall be the functions and duties of such board to:

(a) Develop, impose, and enforce standards consistent with this act which shall be met by individuals in order to receive and retain a

license as a nursing home administrator which standard shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(c) Issue licenses and registrations to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses and registrations previously issued by the board in any case where the individual holding any such license or registration is determined substantially to have failed to conform to the requirements of such standards;

(d) Establish and carry out procedures designated to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(e) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the board charging that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;

(f) Conduct a continuing study and investigation of administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such;

(g) The fee to be paid by applicants for licenses, ~~provisional licenses,~~ recertification of registration and applicants seeking a reciprocal endorsement of a license issued by the proper authorities in another state, shall be ~~forty~~ set by board rule in an amount not to exceed eighty-five dollars ($~~40~~85.00).

(2) The board or any committee or member thereof or any hearing officer designated by such board, acting in an official capacity, shall have powers and duties as provided by law.

Such board shall not be bound by the strict rules of evidence in the conduct of its proceedings but any determinations made shall be founded upon sufficient legal evidence to sustain them.

(3) The board shall also have the authority to make rules not inconsistent with law as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary to enable the state to meet the requirements set forth in section 1908 of the "Social Security Act," the federal rules promulgated thereunder, and other pertinent federal requirements.

Approved March 20, 1989.

CHAPTER 32
(H.B. No. 125)

AN ACT

RELATING TO THE HISTORICAL SOCIETY; AMENDING SECTION 67-4124, IDAHO CODE, TO INCREASE THE NUMBER OF MEMBERS ON THE BOARD OF TRUSTEES; AND AMENDING SECTION 67-4125, IDAHO CODE, TO PROVIDE QUORUM REQUIREMENTS.

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

SECTION 1. That Section 67-4124, Idaho Code, be, and the same is hereby amended to read as follows:

67-4124. BOARD OF TRUSTEES -- QUALIFICATIONS, APPOINTMENT AND TERMS OF MEMBERS. The board of trustees shall consist of ~~five--(5)~~ seven (7) members to be appointed by the state board of education. The members of the board shall be chosen with due regard to their knowledge, competence, experience and interest in the fields related to the preservation of the historical archives of Idaho. The state board of education shall consider geographic representation and population distribution when selecting board members. All appointees shall be chosen solely on the basis of their qualifications, and not more than ~~three--(3)~~ four (4) members of the board shall belong to the same political party.

All members of the board of trustees shall serve for a specific term. Upon expiration of the terms of members serving on the board of trustees on the effective date of this act, the board shall appoint one (1) member for a term of two (2) years, two (2) members for a term of four (4) years, and two (2) members for a term of six (6) years. Appointments thereafter, except appointments for the unexpired portion of a term, shall be for a term of six (6) years.

SECTION 2. That Section 67-4125, Idaho Code, be, and the same is hereby amended to read as follows:

67-4125. BOARD MEETINGS -- OFFICERS -- QUORUM -- EXPENSES. The board shall hold such meetings as may be necessary for the orderly conduct of its business, with at least one (1) meeting in each calendar quarter, and from time to time on seventy-two (72) hours' notice of the chairman or of a majority of the members. At the first meeting of the board, and every two (2) years thereafter, the members of the board shall select a chairman and a vice chairman. ~~Three-(3)~~ Four (4) members shall be necessary to constitute a quorum at any meeting and action of the majority of members present shall be the action of the board.

The members of the board of trustees of the society shall be compensated as provided by section 59-509(f), Idaho Code.

Approved March 20, 1989.

CHAPTER 33
(H.B. No. 43)

AN ACT

RELATING TO THE STATE BOARD OF OPTOMETRY; AMENDING SECTION 54-1509, IDAHO CODE, TO CHANGE VENUE FOR CONTEMPT PROCEEDINGS IN CASE OF REFUSAL TO OBEY A SUBPOENA, TO ELIMINATE THE REQUIREMENT FOR COURT APPROVAL FOR THE SERVICE OF A SUBPOENA, AND TO PROVIDE AUTHORITY TO HIRE A HEARING OFFICER; AMENDING SECTION 54-1510, IDAHO CODE, TO PROVIDE A REFERENCE AND TO PROVIDE ADDITIONAL GROUNDS FOR SUSPENSION OR REVOCATION OF A LICENSE TO INCLUDE CONVICTION, WITHHELD JUDGMENT OR SUSPENDED SENTENCE IN A CRIMINAL ACTION INVOLVING A FELONY OR CRIME OF MORAL TURPITUDE, EXPLOITATION OF A PATIENT, PRACTICING AS AN IMPAIRED OPTOMETRIST AND COMMISSION OF ANY ACT WHICH WOULD CONSTITUTE A FELONY OR CRIME OF MORAL TURPITUDE; REPEALING SECTIONS 54-1511 AND 54-1512, IDAHO CODE; AMENDING CHAPTER 15, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1511, IDAHO CODE, TO PROVIDE THE PROCEDURES BY WHICH THE BOARD CAN TAKE ACTION AGAINST A LICENSEE; AND AMENDING CHAPTER 15, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1512, IDAHO CODE, TO PROVIDE THE PENALTIES WHICH MAY BE IMPOSED ON A LICENSEE AND APPEAL AND PROCEDURES FOR REINSTATEMENT OF A RESTRICTED, SUSPENDED OR REVOKED LICENSE.

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

SECTION 1. That Section 54-1509, Idaho Code, be, and the same is hereby amended to read as follows:

54-1509. STATE BOARD OF OPTOMETRY -- POWERS AND DUTIES. In order to protect the public in the practice of optometry, better enable members of the public to fix professional responsibility and further safeguard the doctor-patient relationship, the state board of optometry shall have the following powers and duties:

1. To make and prescribe rules and regulations for a fair and wholly impartial method of examination of candidates to practice optometry.

2. To make and prescribe rules and regulations defining for the optometrists what shall constitute a school, college or university or department of a university or other institution reputable and in good standing and to determine the reputability and good standing of a school, college or university or department of a university or other institution by reference to a compliance with such rules and regulations.

3. To make and prescribe rules to establish a standard of preliminary education deemed requisite to admission to a school, college or university and to require satisfactory proof of the enforcement of such standards by schools, colleges and universities.

4. To make and prescribe rules governing the relicensing of persons applying for a license to practice optometry in the state of Idaho after a failure to maintain a license for a period in excess of

five (5) years.

5. To pass upon the qualifications and fitness of applicants for reciprocal licenses to practice optometry in Idaho and to make and prescribe rules governing the granting of reciprocal licenses to practice optometry in Idaho to persons licensed in other states.

6. To conduct examinations to ascertain the qualifications and fitness of applicants to practice optometry.

7. To make and prescribe rules governing the minimum amount and kind of continuing education in optometry to be required annually of each optometrist seeking relicense to practice optometry in the state of Idaho.

8. To make, prescribe and promulgate rules and regulations prescribing a code of ethics and standards of professional conduct in practice for the purpose of regulating and governing the practice of optometry by licensed optometrists within the state of Idaho and to change and modify its rules and regulations or prescribe new rules and regulations in order to improve the practice of optometry for the benefit of the people of the state of Idaho.

9. To make, prescribe and promulgate rules governing the listing and identification of charges for materials and for professional services provided to members of the public by persons licensed to practice optometry in Idaho.

10. To make, prescribe and promulgate rules and regulations regarding the establishment of "branch offices" in the state of Idaho by persons licensed to practice optometry.

11. To make, prescribe and promulgate rules and regulations regarding advertising by optometrists licensed to practice in Idaho.

12. To make, prescribe and promulgate rules defining "gross incompetence" as grounds for suspension or revocation of an optometrist's license as provided in section 54-1510, Idaho Code.

13. To make, prescribe and promulgate rules and regulations governing the verification by an optometrist of the accuracy in compounding and the quality of the workmanship and materials used by any person, firm or corporation in the course of filling or compounding the optometrist's prescriptions for vision aids of any type prior to delivery by the optometrist.

14. To make, prescribe and promulgate rules governing the issuance and release of prescriptions or copies of prescriptions by optometrists out of the office of the optometrist.

15. To make, prescribe and promulgate rules governing the type and kind of records to be kept by each optometrist pertaining to all patients examined or for whom he has adapted optical accessories.

16. To make, prescribe and promulgate such other rules and regulations required by this act or necessary or desirable for its enforcement and administration.

17. The state board of optometry shall have the power to administer oaths, take depositions of witnesses in and out of the state of Idaho in the manner of civil cases, require the attendance of such witnesses and the production of such books, records and papers as it may desire at any hearing before it or deposition authorized by it, pertaining in any manner to any matters of which it has authority to investigate and for that purpose the board may issue a subpoena for

any witness or a subpoena duces tecum to compel the production of any books, records or papers directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a civil case is returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in civil cases. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court, or any judge thereof, of any county in this state in which ~~such disobedience, neglect or refusal occurs,~~ the proceeding is held upon application of the board, to compel obedience in proceedings for contempt as in the case of disobedience of the requirements of any subpoena issued from such court or for refusal to testify therein. The licensed person accused in such proceeding shall have the same right of subpoena upon making application to the board as set out in this act.

~~No subpoena authorized by this act shall be served until after the preparation of a complaint and citation as provided in section 54-1511, Idaho Code. Prior to the service of any subpoena authorized by this act, the state board of optometry or the accused optometrist must secure an order authorizing the service of the subpoena from a district judge of the judicial district in which the accused optometrist resides or has engaged in the practice of optometry within the preceding five (5) years. Application to a district judge for authorization to serve a subpoena shall be on ex parte motion supported by an affidavit of a member of the state board of optometry, the accused optometrist or his attorney, or the attorney general of the state of Idaho, or one (1) of his designated assistants, setting forth the reasons why the person applying for permission to serve the subpoena believes the testimony or evidence to be obtained will be pertinent to the investigation, inquiry or hearing. The order shall be filed with the state board of optometry.~~

18. The state board of optometry shall have the power to hire attorneys, investigators and, hearing officers or other employees for carrying out the purpose of this act or to promote the interests of the profession of optometry in Idaho from funds available in the fund established by this act or from any other available funds.

19. To authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest.

SECTION 2. That Section 54-1510, Idaho Code, be, and the same is hereby amended to read as follows:

54-1510. REVOCATION OF LICENSES -- GROUNDS. Every license issued under the provisions of this chapter shall be subject to suspension or, revocation or other discipline pursuant to the procedures set forth in section 54-1511, Idaho Code, upon any of the following grounds:

1. Fraud or deception in procuring license.

2. Practicing optometry under a false or assumed name or as a representative or agent of any person, firm or corporation other than

another licensed optometrist, a physician licensed to practice medicine and surgery under chapter 18, title 54, Idaho Code, or a professional service corporation, which has been incorporated under the authority of chapter 13, title 30, Idaho Code, by persons licensed to practice optometry under chapter 15, title 54, Idaho Code, or licensed to practice medicine and surgery under chapter 18, title 54, Idaho Code.

3. ~~Conviction of~~ Having been convicted or having received a withheld judgment or suspended sentence in this or any other state of a felony, a crime involving moral turpitude, or any act related to the qualifications, functions or duties of an optometrist.

4. Gross incompetency.

5. ~~Habitual--intemperance in the use of ardent spirits, narcotics or stimulants.~~ Inability to practice optometry with reasonable skill and safety by reason of:

(a) Mental illness; or

(b) Physical illness including, but not limited to, physical deterioration which adversely affects cognitive, motor or perceptive skills; or

(c) Habitual or excessive use or abuse of drugs defined in law as controlled substances, alcohol, or any other substances which impair ability; or

(d) Having a communicable, contagious or infectious disease which endangers the health of patients.

~~6. While the licensee is suffering from an uncommon contagious or infectious disease likely to endanger the health of his patients.~~

~~7.~~ Failure to pay to the board or the bureau of occupational licenses annual fee and to secure renewal license, whereupon after twenty (20) days' notice by registered mail the license of such delinquent may be revoked; but the payment of such fee at or before the time of hearing, with such additional sum, not exceeding twenty-five dollars ($25.00) as may be fixed by the board of optometry, shall excuse the default.

~~8~~7. Any practice or behavior of a character likely to deceive or defraud the public.

~~9~~8. Obtaining of any fee or compensation by fraud, deceit or misrepresentation.

~~10~~9. Employing, either directly or indirectly, any suspended or unlicensed optometrist to do optometric work.

~~11~~10. Advertising the practice of optometry ~~by any means not specifically approved by the rules of the state board of optometry~~ in a false, misleading or deceptive manner.

~~12~~11. Employment or use of what are known as "cappers" or "steerers."

~~13~~12. Consistently accepting referrals that violate the laws of the state of Idaho.

~~14~~13. For wilfully permitting or allowing or causing a person who is not a licensed optometrist or a licensed physician or surgeon to use the optometrist's prescription or optometric finding to fit contact lenses upon a person or member of the public, or supply contact lenses directly to a member of the public.

~~15~~14. For violation of any of the provisions of this act or the

rules and regulations or code of ethics made and promulgated by the state board of optometry, as authorized in section 54-1509, Idaho Code.

15. For wilfully attempting to violate, directly or indirectly, conspiring to violate, or assisting or participating in or abetting the violation of any of the provisions of this act or the rules and regulations or code of ethics made, prescribed or promulgated by the state board of optometry pursuant to the authority granted in this act.

16. Having engaged in any conduct which constitutes an abuse or exploitation of a patient arising out of the trust and confidence placed in the licensee by the patient.

17. Having committed any act which constitutes a felony or has committed any act which constitutes a crime involving moral turpitude.

SECTION 3. That Sections 54-1511 and 54-1512, Idaho Code, be, and the same are hereby repealed.

SECTION 4. That Chapter 15, 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 54-1511, Idaho Code, and to read as follows:

54-1511. PROCEDURE -- CONTESTED CASES -- NOTICE -- HEARING RECORDS. (1) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

(2) The notice shall include:

(a) A statement of the time, place, and nature of the hearing;

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statutes and rules involved;

(d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished;

(e) The notice shall be served on all parties either in person or by certified mail not less than twenty (20) days prior to the time set for the hearing.

(3) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(4) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(5) The record in a contested case shall include:

(a) All pleadings, motions and intermediate rulings;

(b) Evidence received or considered;

(c) A statement of matters officially noticed;

(d) Questions and offers of proof, objections, and rulings thereon;

(e) Proposed findings and exceptions;

(f) Any decision, opinion, or report by the officer presiding at the hearing; and

(g) All staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.

(6) Any party may request in writing five (5) days before any hearing in a contested case that the oral proceedings thereof be taken in the form of stenographic notes. Any party may have such stenographic notes of the oral proceedings, or any part thereof, transcribed at his own expense.

(7) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(8) All hearings conducted pursuant to the provisions of this section, whether before the board or a hearing officer, shall be held in Ada county unless otherwise designated by the board.

SECTION 5. That Chapter 15, 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 54-1512, Idaho Code, and to read as follows:

54-1512. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the existence of grounds for discipline of any person holding a license, seeking a license, or renewing a license under the provisions of this chapter, the board of optometry may impose one or more of the following penalties:

(a) Suspension of the offender's license for a term to be determined by the board;

(b) Revocation of the offender's license;

(c) Restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of optometry in a particular manner for a term to be determined by the board;

(d) Refusal to renew offender's license;

(e) Placement of the offender on probation and supervision by the board for a period of time and under terms and conditions to be determined by the board;

(f) Imposition of an administrative fine not to exceed two thousand dollars ($2,000) plus costs of prosecution and reasonable attorney fees; or

(g) Written letters of censure or reprimand which shall become a permanent record in the files of the licensee.

(2) Any person whose license to practice optometry in this state has been suspended, revoked or restricted pursuant to this chapter, whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the board. Upon investigation and hearing, the board may in its discretion grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications.

(3) Nothing herein shall be construed as barring criminal prose-

cutions for violations of this chapter where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

(4) All final decisions by the board shall be subject to judicial review pursuant to the provisions of the administrative procedure act.

Approved March 20, 1989.

CHAPTER 34
(H.B. No. 7)

AN ACT

RELATING TO THE IDAHO NATIONAL GUARD; AMENDING SECTION 46-707, IDAHO CODE, TO DEFINE "ARMORY"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 46-707, Idaho Code, be, and the same is hereby amended to read as follows:

46-707. DEFINITIONS. As used in this act:

(a) "Adjutant general" means the adjutant general of the State of Idaho;

(b) "The Federal Act" means Public Law No. 783 of the 81st Congress, (64 Stat. 829-832), entitled "The National Defense Facilities Act."

(c) "National Guard Bureau" means the National Guard Bureau of the Department of the Army and National Guard Bureau of the Department of the Air Force.

(d) "Idaho National Guard" means the Idaho Army National Guard and the Idaho Air National Guard.

(e) "Armory" means a building, storehouse, repository, arsenal, depot or training facility on land owned, leased, licensed or otherwise under the control of the Idaho National Guard.

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

Approved March 20, 1989.

CHAPTER 35
(H.B. No. 130)

AN ACT

RELATING TO MOTOR VEHICLE CERTIFICATES OF TITLE; AMENDING SECTION 49-504, IDAHO CODE, TO PROVIDE A TIME LIMIT FOR FILING WITH THE DEPARTMENT APPLICATIONS FOR CERTIFICATES OF TITLE; AMENDING CHAP-

TER 5, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-504A, IDAHO CODE, TO PROVIDE A PENALTY FOR FAILURE TO FILE FOR TRANSFER OF A CERTIFICATE OF TITLE IN A TIMELY MANNER AND TO PROVIDE FOR DISPOSITION OF MONEYS; AND AMENDING SECTION 49-1609, IDAHO CODE, TO PROVIDE A TIME LIMIT ON NOTIFICATION TO THE DEPARTMENT OF VEHICULAR TRANSFERS BY A DEALER OR MANUFACTURER.

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

SECTION 1. That Section 49-504, Idaho Code, be, and the same is hereby amended to read as follows:

49-504. APPLICATIONS TO DEPARTMENT FOR CERTIFICATES -- PROCEDURE --IDENTIFICATION NUMBERS. (1) Application for a certificate of title shall be made upon a form furnished by the department and shall contain a full description of the 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 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.

(2) If a certificate of title has not previously been issued for the vehicle in this state, 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 the vehicle was brought into this state.

(3) In the case of a new vehicle being titled for the first time, no certificate of title or registration shall be issued unless the application is indorsed by a franchised new vehicle dealer licensed to sell a new vehicle. Each 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 vehicle dealer. The certificate or statement of origin shall be in a form prescribed by the board and shall contain the year of manufacture or the model year of the vehicle, the manufacturer's vehicle identification number, 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 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.

(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 vehicles, and upon receiving an application for a certifi-

cate of title, shall first check the engine or identification number shown in the application against the index and against the stolen and recovered vehicle index required to be maintained by section 49-509, Idaho Code. The department, when satisfied that the applicant is the owner of the vehicle and that the application is in proper form, shall issue in the name of the owner of the vehicle a certificate of title bearing a title number, the signature of the director of the department, the seal of his office, 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, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(5) In all cases of transfer of vehicles the application for certificates of title shall be filed within ~~ten~~ thirty (~~10~~30) calendar days after the delivery of the vehicles. Licensed dealers need not apply for certificate of title for vehicles in stock or when they are acquired for stock purposes.

(6) In the case of the sale of a 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 the department by the dealer or the lienholder upon application signed by the purchaser. In all other cases the certificates shall be obtained by the purchaser.

(7) If the vehicle has no engine and no identification number, then the department shall designate an identification number for that vehicle at the time of issuance of the certificate of title. The identification number shall be permanently affixed to or indented upon the frame of the vehicle and legibly maintained by the owner at all times while a certificate of title to the vehicle shall be issued and outstanding.

SECTION 2. That Chapter 5, 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 49-504A, Idaho Code, and to read as follows:

49-504A. PENALTY FOR LATE FILING -- TRANSFER OF CERTIFICATE OF TITLE -- DISPOSITION OF MONEYS. (1) When a transfer of ownership arises from the sale of a vehicle, a penalty for presentation of a previously issued certificate of title shall be assessed against the purchaser when the presentation for transfer of title occurs:

(a) More than thirty (30) days but less than sixty (60) days after the vehicle was purchased $25.00

(b) Sixty (60) days or more after the vehicle was purchased $50.00

(2) All fines collected under the provisions of this section shall be deposited in the state highway account.

SECTION 3. That Section 49-1609, Idaho Code, be, and the same is hereby amended to read as follows:

49-1609. 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~~ thirty (~~10~~30) calendar days, give written notice of the transfer to the department or the assessor upon the official form provided by the department. Every 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.

Approved March 20, 1989.

CHAPTER 36
(H.B. No. 45)

AN ACT

RELATING TO IDAHO ESTATE AND TRANSFER TAXES; AMENDING SECTION 14-402, IDAHO CODE, TO DEFINE "FEDERAL ESTATE TAX RETURN"; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 14-402, Idaho Code, be, and the same is hereby amended to read as follows:

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) "Federal estate tax return" means any form or other document which establishes, changes or amends a federal estate tax amount.

(5) "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~~6) "Nonresident" means a decedent who was domiciled outside Idaho at the time of death.

(~~6~~7) "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~~8) "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~~9) "Property" means property included in the gross estate.

(~~9~~10) "Release" means a release of no tax due or a receipt for payment of the tax due under this chapter.

(~~10~~11) "Resident" means a decedent who was domiciled in Idaho at the time of death.

(~~11~~12) "Section 2011" means section 2011 of the United States internal revenue code of 1986, as amended or renumbered.

(~~12~~13) "Section 6501" means section 6501 of the United States internal revenue code of 1986, as amended or renumbered.

(~~13~~14) "Taxable estate" means "taxable estate" as defined in section 2051 of the United States internal revenue code of 1986, as amended or renumbered.

(~~14~~15) "Transfer" means "transfer" as defined and used in section 2001 of the United States internal revenue code of 1986, as amended or renumbered.

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, 1989.

Approved March 20, 1989.

CHAPTER 37
(H.B. No. 102)

AN ACT

RELATING TO THE PUBLIC UTILITIES LAW; AMENDING SECTION 61-631, IDAHO CODE, TO PROVIDE THAT THE AWARDING OF COSTS IN THE SUPREME COURT FROM AN APPEAL OF AN ORDER BY THE IDAHO PUBLIC UTILITIES COMMISSION WILL CONFORM TO THE IDAHO APPELLATE RULES.

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

SECTION 1. That Section 61-631, Idaho Code, be, and the same is hereby amended to read as follows:

61-631. COSTS ON APPEAL -- ENFORCEMENT. Whenever costs are awarded to a party by the S~~s~~upreme C~~c~~ourt, ~~if he claims such costs he must tax the same before the clerk of the Supreme Court, subject to exception and review by the Supreme Court or the judges thereof, within such time and subject to such regulations as the Supreme Court shall by rule direct, and the same when taxed shall be certified by the clerk of the Supreme Court to the clerk of the district court for the district and county which shall be designated in the memorandum of costs and disbursements, to be there entered as a judgment and to be enforced by execution as in the case of other judgments~~ the party

claiming such costs shall file a memorandum of costs in such manner as the supreme court shall direct by its rules. Costs taxed in the supreme court shall be added to any order required by the remittitur. The payment of costs on appeal shall be enforced by the public utilities commission.

Approved March 20, 1989.

CHAPTER 38
(H.B. No. 174)

AN ACT

RELATING TO HAZARDOUS WASTE; AMENDING SECTION 39-4413, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR SHALL COMMENCE A PERMIT SUSPENSION OR REVOCATION ACTION BY GIVING WRITTEN NOTICE.

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

SECTION 1. 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 pro-

vide 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 pursuant to the grounds provided in subsection (6) of section 39-4409, Idaho Code.

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 shall 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 appro-

priate 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 chapter. 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 20, 1989.

CHAPTER 39
(H.B. No. 74)

AN ACT

RELATING TO THE PERMANENT BUILDING ACCOUNT; AMENDING SECTION 57-1105, IDAHO CODE, TO PROVIDE PROPER REFERENCES; REPEALING SECTION 57-1106, IDAHO CODE; AND AMENDING SECTION 57-1107, IDAHO CODE; TO PROVIDE PROPER REFERENCES.

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

SECTION 1. That Section 57-1105, Idaho Code, be, and the same is hereby amended to read as follows:

57-1105. APPROPRIATION ~~FROM--GENERAL--FUND~~ -- PURPOSE -- LIMITATIONS AND CONDITIONS. ~~There is hereby appropriated--from--the--general fund--and-transferred-into-the-permanent-building-fund,-the-sum-of-two million-($2,000,000)-dollars-for-the-purpose-of-defraying-the-cost--of planning,-site-purchases-and-erection-of-public-buildings-and-improvement--of--the--public--buildings--of-this-state-now-owned-or-hereafter erected--or--acquired;--and--the--said--sum--of--two--million--dollars ($2,000,000),-and-a~~All unencumbered and otherwise unappropriated funds now or hereafter placed in the permanent building ~~fund~~ account are hereby perpetually appropriated to the ~~state-board--of--examiners--for the--said--purposes,--subject--to-the-following-limitations-and-conditions:-The-state-board-of-examiners,-upon-the-advice-of--the--division of--tourism--and-industrial-development,-may-authorize-the-preparation of-plans-and-specifications-for-necessary-public-buildings-and--public building--improvements--for-the-proper-functioning-of-state-government and-state-institutions,-and-for-the-purpose-of-defraying-the--cost--of such--preparation--of--plans-and-specifications-may-let-contracts-upon bids-made-in-such-manner,-as-it-may-deem-adequate-to-secure-competitive bidding,-encumber-and-authorize-expenditure--from--the--appropriations made--in--this--section--of-sums-not-in-excess-of-one-and-one-half-per cent-of-the-division-of-tourism-and-industrial-development's--estimate of--the--total-cost-of-the-erection-of-such-buildings-or-completion-of such-improvements.-Or,-in-its-discretion,-the-state-board-of-examiners may,-where-it-appears-to--its--satisfaction--that--a--saving--will--be effected-to-the-state-thereby,-and-in-lieu-of-contracting-for-preparation--of-plans-and-specifications-separately,-employ-the-services-of-a competent,-licensed-architect,-fix-the-length-and-terms-of-his-employment-on-a-salary-basis,-and-assign-to-him-the-duty-of--preparation--of such--plans--and-specifications.--The-salary-and-necessary-expenses-of the-state-architect-so-employed,-incurred-in-the--performance--of--his duties--as--such--shall--be--paid--from--the--funds--in--this--section~~ appropriated permanent building fund advisory council and the division of public works, subject to the provisions of chapter 57, title 67, Idaho Code.

SECTION 2. That Section 57-1106, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 57-1107, Idaho Code, be, and the same is hereby amended to read as follows:

57-1107. CONSTRUCTION OF IMPROVEMENT UPON APPROVAL -- PAYMENT. Upon legislative ~~approval--of---any---such---submitted---plans---and specifications~~ appropriation from the permanent building account, it shall be the duty of the ~~state-board-of-examiners~~ permanent building fund advisory council to cause the approved construction, acquisition or improvement to be promptly completed in accordance with the terms of the approving legislation, and to be paid for on claims presented against the state out of the permanent building fund herein created and appropriated for that purpose.

Approved March 20, 1989.

CHAPTER 40
(H.B. No. 20)

AN ACT

RELATING TO REAL ESTATE DEFINITIONS AND LANGUAGE USAGE; AMENDING SECTION 54-2023, IDAHO CODE, TO PROVIDE CLARIFICATION OF THE MASCULINE AND FEMININE GENDER AS USED IN CHAPTER ~~20,~~ TITLE 54, IDAHO CODE, AND TO DEFINE WORDS POPULARLY USED IN PLACE OF THE WORD SALESMAN IN CHAPTER 20, TITLE 54, IDAHO CODE.

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

SECTION 1. That Section 54-2023, Idaho Code, be, and the same is hereby amended to read as follows:

54-2023. DEFINITIONS. The word "person" as used in ~~this-act~~ chapter 20, title 54, Idaho Code, shall be construed to mean and include a corporation and a partnership.

The words "business opportunity" as used in ~~this-act~~ chapter 20, title 54, Idaho Code, shall be construed to mean and include an established business, good will of an established business, or any interest therein, or any one or combination thereof, where a sale or transfer of an interest in land, including but not limited to an assignment of a lease, is involved in the transaction. The words "dealer in options," as used in ~~this-act~~ chapter 20, title 54, Idaho Code, shall be construed to mean any person, firm, partnership, association, or corporation who shall directly or indirectly take, obtain, or use options to purchase, exchange, rent, or lease real property or any interest therein for another or others whether or not said options shall be in his or its name and whether or not title to said property shall pass through the name of said person, firm, partnership, association, or corporation in connection with the purchase, sale, exchange, rental, or lease of said real property, or interest therein.

Words used in chapter 20, title 54, Idaho Code, in the masculine gender include the feminine gender.

The word "salesman" as used in chapter 20, title 54, Idaho Code, includes salesperson, sales agent and sales associate.

Approved March 20, 1989.

CHAPTER 41
(H.B. No. 87)

AN ACT
RELATING TO PURE SEED LAW; AMENDING SECTION 22-434, IDAHO CODE, BY ESTABLISHING LICENSE FEES BASED ON SEED PACKAGE WEIGHTS FOR SALE.

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

SECTION 1. That Section 22-434, Idaho Code, be, and the same is hereby amended to read as follows:

22-434. SEED DEALERS LICENSE. An in-state seed dealer or an out-of-state seed dealer who sells, distributes, processes or mixes for the use of others any ~~agricultural, vegetable, ornamental or tree and shrub~~ seed, shall obtain a license from the department authorizing him to sell, distribute, process or mix such seed. A dealer shall not be entitled to a license unless he has an established plant, warehouse or place of business.

A separate license shall be required for each place of business within the state of Idaho from which seed regulated under this chapter is sold. Application for licenses shall be on a form provided by the director ~~and shall be accompanied by a fee of no less than forty dollars ($40.00) for in-state dealers and no less than eighty dollars ($80.00) for out-of-state dealers, provided that the application of any person licensed pursuant to the provisions of chapter 23, title 22, Idaho Code, or any person selling or offering for sale, barter, exchange or trade, vegetable or ornamental plant seed in packages of eight (8) ounces or more, shall be accompanied by an application fee of no less than fifteen dollars ($15.00), provided further, that the~~. No license shall be issued until the applicant shall have paid the fee provided in the following paragraphs (1), (2) and (3).

(1) Class "A" license shall consist of those in-state dealers who sell seed in packages of eight (8) ounces up to and including five (5) pounds, who shall pay a license fee of fifteen dollars ($15.00).

(2) Class "B" license shall consist of those in-state dealers who sell seed in packages or bulk of more than five (5) pounds who shall pay a license fee of forty dollars ($40).

(3) Class "C" license shall consist of out-of-state dealers who shall pay a license fee of eighty dollars ($80.00).

The license fees established in this ~~chapter~~ section are minimums

and ~~that~~ any future increases shall be as promulgated by the director pursuant to chapter 52, title 67, Idaho Code. Applications shall be renewed no later than July 1 of each year.

Fees so collected shall be paid into the state treasury and credited to the state agricultural inspection account.

Producers selling their own crop shall be exempt from this section.

The department may suspend, revoke, or refuse to issue or renew the license of any person when it is satisfied that:

(1) The applicant or licensee has been guilty of fraud, deception, or misrepresentation in the procurement of a license; and/or

(2) The licensee was guilty of violating any of the provisions of this chapter.

Approved March 20, 1989.

CHAPTER 42
(H.B. No. 70)

AN ACT

RELATING TO REAL ESTATE TRUST ACCOUNTS; AMENDING SECTION 54-2049, IDAHO CODE, TO ALLOW REAL ESTATE BROKERS TO DEPOSIT PERSONAL FUNDS IN REAL ESTATE TRUST ACCOUNTS.

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

SECTION 1. That Section 54-2049, Idaho Code, be, and the same is hereby amended to read as follows:

54-2049. TRUST FUNDS TO BE DEPOSITED IN NEUTRAL DEPOSITORY OR TRUST FUND ACCOUNT. Every person, whether operating as an individual or in a partnership or in a corporate capacity, shall immediately place in a neutral escrow depository in this state all funds entrusted to him, by his principal or by others, in his capacity as a real estate broker or agent, or shall maintain a trust fund account in a bank or approved depository in this state, and shall place therein all such entrusted funds on receipt thereof. In no case shall entrusted funds be commingled with funds of a real estate broker, firm or agent, except that the broker or firm may deposit an amount of their own funds, in an amount to be determined by the commission, for the purpose of opening and maintaining the account.

Approved March 20, 1989.

CHAPTER 43
(H.B. No. 35)

AN ACT

RELATING TO COUNTY OFFICERS; REPEALING CHAPTER 30, TITLE 31, IDAHO CODE.

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

SECTION 1. That Chapter 30, Title 31, Idaho Code, be, and the same is hereby repealed.

Approved March 20, 1989.

CHAPTER 44
(H.B. No. 3)

AN ACT

RELATING TO THE SHERIFF'S REVOLVING TRAVEL FUND; AMENDING SECTION 31-1801, IDAHO CODE, TO STRIKE REFERENCE TO A LIMIT ON THE AMOUNT NECESSARY FOR A SHERIFF TO RECEIVE AN ADVANCE ON TRAVEL EXPENSES; AMENDING SECTION 31-1802, IDAHO CODE, TO INCREASE THE AMOUNT OF THE SHERIFF'S REVOLVING TRAVEL FUND AND TO PROVIDE THAT THE COMMISSIONERS MAY REQUIRE AN ADDITIONAL BOND FROM THE SHERIFF; AND AMENDING SECTION 31-1803, IDAHO CODE, TO PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS MAY REQUIRE AN ITEMIZED CLAIM FOR TRAVEL EXPENSES.

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

SECTION 1. That Section 31-1801, Idaho Code, be, and the same is hereby amended to read as follows:

31-1801. DRAWING TRAVELING EXPENSES IN ADVANCE. In each instance where the duties of the sheriff of any county require him, in his official capacity, to incur traveling and hotel expenses ~~in excess of ten dollars ($10.00),~~ for himself or his deputies, he may, prior to the incurring thereof, make demand on the county auditor for a warrant on the county treasurer and shall receive ~~for~~ a sum not to exceed the amount set aside under the provisions of section 31-1802, Idaho Code, to be used for the purpose of defraying the whole or a part of said traveling and hotel expenses. At the time demand is made on the county auditor for said warrant it shall be the duty of the sheriff to file with the auditor a statement specifying the general purpose for which the sum to be withdrawn is to be used.

SECTION 2. That Section 31-1802, Idaho Code, be, and the same is hereby amended to read as follows:

31-1802. SHERIFF'S REVOLVING TRAVELING FUND. There shall be set aside by the board of county commissioners of each county upon the request of the sheriff thereof by order entered in their minutes a sum not exceeding five thousand dollars ($~~1~~5,000), to be known as the "Sheriff's Revolving Travel Fund," in this act referred to as the fund, out of which fund any warrants drawn under the provision of this act shall be paid. The amount set aside for such fund shall be charged by the auditor against the sheriff and the board of county commissioners ~~must~~ may require of the sheriff, a bond, in addition to his official bond, in such sum as the board may determine, to secure the repayment of such sum or sums withdrawn. The fund so set aside shall remain in the county treasury subject to withdrawal and reimbursement as herein provided.

SECTION 3. That Section 31-1803, Idaho Code, be, and the same is hereby amended to read as follows:

31-1803. AUDIT AND ALLOWANCE OF ACCOUNT -- REPAYMENT OF DISALLOWED AMOUNT. After the performance of the duty, which necessitated the incurring of traveling and hotel expenses and the withdrawal of money, has been made, as in this act provided, ~~it shall be the duty of~~ the board of county commissioners may require the sheriff to present his itemized claim for such traveling and hotel expenses as other claims are presented to the board of county commissioners, which body shall audit said claims for allowance or rejection. For those items allowed it shall be the duty of the board of county commissioners to order a warrant drawn, payable to the county treasurer for the total amount of the items allowed, which warrant shall be delivered to the county auditor. If any item of said claim is disallowed, the sheriff shall deposit with the county auditor an amount equal to the amount disallowed, together with any unexpended portion of the amounts withdrawn, which amounts, together with the warrant drawn in favor of the county treasurer for the amount of items allowed, shall be credited by the county auditor to the sheriff and shall be deposited by the auditor in the county treasury and placed to the credit of the fund.

Approved March 20, 1989.

CHAPTER 45
(H.B. No. 154)

AN ACT

RELATING TO THE EASTERN IDAHO VOCATIONAL-TECHNICAL SCHOOL; AMENDING SECTIONS 33-2208, 33-2209, 33-2210, 33-2211 AND 33-2212, IDAHO CODE, TO CHANGE THE NAME OF THE EASTERN IDAHO VOCATIONAL-TECHNICAL SCHOOL TO EASTERN IDAHO TECHNICAL COLLEGE.

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

SECTION 1. That Section 33-2208, Idaho Code, be, and the same is hereby amended to read as follows:

33-2208. EASTERN IDAHO ~~VOCATIONAL~~-TECHNICAL ~~SCHOOL~~ COLLEGE CREATED. There is hereby established in Bonneville County, Idaho a post-secondary vocational school to be designated and known as the Eastern Idaho ~~Vocational~~-Technical ~~School~~ College, consisting of such vocational and technical training courses as the state board for vocational education may, from time to time authorize.

SECTION 2. That Section 33-2209, Idaho Code, be, and the same is hereby amended to read as follows:

33-2209. ~~SCHOOL~~ COLLEGE IS BODY POLITIC AND CORPORATE -- SEAL -- POWER TO SUE AND BE SUED. The Eastern Idaho ~~Vocational~~-Technical ~~School~~ College is hereby declared to be a body politic and corporate, with its own seal and having power to sue and be sued in its own name. The general supervision, government and control of the Eastern Idaho ~~Vocational~~-Technical ~~School~~ College is vested in the state board of vocational education of the state of Idaho.

SECTION 3. That Section 33-2210, Idaho Code, be, and the same is hereby amended to read as follows:

33-2210. COURSES OFFERED -- CERTIFICATES OF COMPLETION. The Eastern Idaho ~~Vocational~~-Technical ~~School~~ College shall offer and give instruction in vocational and technical courses as are usually included in post-secondary vocational schools. Such courses or programs may be given or conducted on or off campus, or in night school, summer school, or by extension courses. The state board for vocational education shall grant certificates of completion for successful completion of courses or programs prescribed by the ~~school~~ college.

SECTION 4. That Section 33-2211, Idaho Code, be, and the same is hereby amended to read as follows:

33-2211. POWERS OF STATE BOARD FOR VOCATIONAL EDUCATION. The state board for vocational education shall have the power:

1. To adopt rules and regulations for its own government and the government of the Eastern Idaho ~~Vocational~~-Technical ~~School~~ College;
2. To employ professional and nonprofessional persons and to prescribe their qualifications;
3. To acquire and hold, and to dispose of, real and personal property, and to construct, repair, remodel and remove buildings;
4. To contract for the acquisition, purchase or repair of buildings, in the manner prescribed for trustees of school districts;
5. To dispose of real and personal property in the manner prescribed for trustees of school districts;
6. To convey and transfer real property of the ~~school~~ college upon which no buildings used for instruction are situated, to nonprofit corporations, school districts, community college housing commissions, counties or municipalities, with or without consideration;

to rent real or personal property for the use of the ~~school~~ college, its students or faculty, for such terms as may be determined by the state board for vocational education; and to lease real or personal property of the ~~school~~ college not actually in use for ~~school~~ instructional purposes on such terms as may be determined by the state board for vocational education;

7. To acquire, hold, and dispose of, water rights;

8. To accept grants or gifts of money, materials, or property of any kind from any governmental agency, or from any person, firm, or association, on such terms as may be determined by the grantor;

9. To cooperate with any governmental agency, or any person, firm or association in the conduct of any educational program; to accept grants from any source for the conduct of such program, and to conduct such program on, or off, campus;

10. To employ a superintendent of the ~~school~~ college and, with his advice, to appoint such assistants, instructors, specialists and other employees as are required for the operation of the ~~school~~ college; to fix salaries and prescribe duties; and to remove the superintendent or any other employee for cause;

11. With the advice of the superintendent, to prescribe the courses and programs of study, the requirements for admission, the time and standards for completion of such courses and programs, and to grant certificates of completion for those students entitled thereto;

12. To employ architects or engineers in planning the construction, remodeling or repair of any building or property and, whenever no other agency is designated by law so to do, to let contracts for such construction, remodeling or repair and to supervise the work thereof;

13. To have at all times, general supervision and control of all property, real and personal, appertaining to the ~~school~~ college, and to insure the same.

SECTION 5. That Section 33-2212, Idaho Code, be, and the same is hereby amended to read as follows:

33-2212. CREATION OF ADVISORY COUNCIL -- MEMBERS -- COMPENSATION. The state board for vocational education may appoint an advisory council consisting of not less than twelve (12) nor more than fifteen (15) persons to offer counsel and advice in the organization, establishment and conduct of the Eastern Idaho ~~Vocational~~-Technical ~~School~~ College. Members of the council will serve without salary but shall be compensated as provided by section 59-509(b), Idaho Code. Members of said council shall be appointed from as nearly as is practicable the vocational area to be served by the Eastern Idaho ~~Vocational~~-Technical ~~School~~ College as determined by the state board for vocational education.

Approved March 22, 1989.

CHAPTER 46
(S.B. No. 1012)

AN ACT

RELATING TO SEX OFFENSES; AMENDING CHAPTER 61, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-6108, IDAHO CODE, TO PROVIDE THE CRIME OF MALE RAPE.

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

SECTION 1. That Chapter 61, 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 18-6108, Idaho Code, and to read as follows:

18-6108. MALE RAPE. Every male who causes the penetration, however slight, of the oral or anal opening of another male, with his penis, against the victim's will by use of force or violence or by duress, or by threat of imminent or great bodily harm accompanied by apparent power of execution, for the purpose of sexual arousement, gratification or abuse shall be guilty of a rape.

Approved March 27, 1989.

CHAPTER 47
(S.B. No. 1013, As Amended)

AN ACT

RELATING TO CIVIL ACTIONS IN CHILD ABUSE CASES; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 6, IDAHO CODE, TO CREATE A CIVIL CAUSE OF ACTION IN CHILD ABUSE CASES, TO PROVIDE STANDING, TO PROVIDE DAMAGES AND ATTORNEYS' FEES, TO PROVIDE A STATUTE OF LIMITATIONS, AND TO PROVIDE AN EFFECTIVE DATE.

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

SECTION 1. That Title 6, 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 6, Idaho Code, and to read as follows:

CHAPTER 17
TORT ACTIONS IN CHILD ABUSE CASES

6-1701. TORT ACTIONS IN CHILD ABUSE CASES. An action may be brought by or on behalf of any child against any person who has:

(1) Wilfully and lewdly committed any lewd or lascivious act or acts upon or with the body or any part or member of a child under the age of sixteen (16) years as defined in section 18-1508, Idaho Code;

or

(2) Sexually abused any child as defined in section 18-1506, Idaho Code; or

(3) Sexually exploited any child for a commercial purpose as defined in section 18-1507, Idaho Code; or

(4) Injured a child as defined in section 18-1501, Idaho Code.

This civil cause of action exists independently of any criminal action commenced pursuant to chapter 15, title 18, Idaho Code. A civil action may be pursued under the provisions of this chapter even if a criminal prosecution is not pursued.

6-1702. WHO MAY BRING ACTION. A child abuse tort action under the provisions of this chapter may be brought by the child or on the child's behalf by a parent or the child's legal representative.

6-1703. DAMAGES -- ATTORNEYS' FEES. Damages in an action brought pursuant to the provisions of this chapter shall consist of compensation for past and future damages and may consist of emotional and physical pain and suffering, mental anguish, disability, loss of society and companionship, expenses for past and future therapy, and punitive damages where the claimant proves malicious or outrageous conduct by the party against whom the claim for punitive damages is asserted.

The prevailing party in a child abuse tort action shall be entitled to costs and reasonable attorneys' fees.

6-1704. STATUTE OF LIMITATIONS. Notwithstanding any limitation contained in chapter 2, title 5, Idaho Code, an action under the provisions of this chapter must be commenced within five (5) years from the date that an aggrieved child reaches the age of eighteen (18) years.

6-1705. EFFECTIVE DATE. This act shall be in full force and effect on and after July 1, 1989. Provided, that an action may be brought under this chapter only if the cause of action accrued on or after July 1, 1989. Provided further, that nothing in this chapter is intended to affect or limit causes of action for damages or other relief recognized by common law or other statutory provisions for events that occurred before July 1, 1989.

Approved March 27, 1989.

CHAPTER 48
(S.B. No. 1014)

AN ACT

RELATING TO CHILD WITNESSES; AMENDING SECTION 19-3023, IDAHO CODE, TO PROVIDE THAT A FRIEND OF THE CHILD MAY STAND WITH THE CHILD ON THE WITNESS STAND UNLESS THE DEFENDANT'S RIGHTS WOULD BE UNDULY PREJUDICED.

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

SECTION 1. That Section 19-3023, Idaho Code, be, and the same is hereby amended to read as follows:

19-3023. CHILD SUMMONED AS WITNESS. When a child is summoned as a witness in any hearing in any criminal matter, including any preliminary hearing, notwithstanding any other statutory provision, parents, a counselor, friend or other person having a supportive relationship with the child ~~may, in the discretion of the court,~~ shall be allowed to remain in the courtroom at the witness stand with the child during the child's testimony unless in written findings made and entered, the court finds that the defendant's constitutional right to a fair trial will be unduly prejudiced.

Approved March 27, 1989.

CHAPTER 49
(S.B. No. 1015)

AN ACT
RELATING TO GRAND JURIES; AMENDING SECTION 19-1105, IDAHO CODE, TO PROVIDE THAT GRAND JURIES MAY HEAR LEGALLY ADMISSIBLE HEARSAY.

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

SECTION 1. That Section 19-1105, Idaho Code, be, and the same is hereby amended to read as follows:

19-1105. EVIDENCE RECEIVABLE BY GRAND JURY. In the investigation of a charge for the purpose of either presentment or indictment, the grand jury can receive ~~no other~~ any evidence ~~than such as~~ that is given by witnesses produced and sworn before them except as hereinafter provided, ~~or~~ furnished by legal documentary evidence, ~~or~~ the deposition of a witness in the cases provided by this code~~. The grand jury can receive none but legal evidence, and the best evidence in degree, to the exclusion of hearsay or secondary evidence, but no~~ or legally admissible hearsay. No witness whose testimony has been taken and reduced to writing on a preliminary examination must be subpoenaed or required to appear before the grand jury, until such testimony has been first submitted to and considered by the grand jury, but if such testimony has been lost or cannot be found, or if the grand jury after considering the same still desires the presence of any such witnesses, they may be subpoenaed.

Approved March 27, 1989.

CHAPTER 50
(S.B. No. 1017)

AN ACT

RELATING TO THE CRIME VICTIMS COMPENSATION ACCOUNT; AMENDING SECTION 72-1025, IDAHO CODE, TO PROVIDE THAT THE COURT MAY IMPOSE A FINE FOR EACH FELONY OR MISDEMEANOR COUNT AND IF IT DOES NOT IMPOSE A FINE, IT MUST SUBMIT ITS REASONS IN WRITING.

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

SECTION 1. That Section 72-1025, Idaho Code, be, and the same is hereby amended to read as follows:

72-1025. FINES -- REIMBURSEMENTS -- PRIORITY -- DISPOSITION. (1) In addition to any other fine which may be imposed upon each person found guilty of criminal activity, the court shall impose a fine or reimbursement according to the following schedule, unless the court orders that such fine or reimbursement be waived ~~because~~ only when the defendant is indigent and ~~unable~~ at the time of sentencing shows good cause for inability to pay and written findings to that effect are entered by the court:

(a) For each conviction~~,~~ or finding of guilt of ~~a~~ each felony count, a fine or reimbursement of not less than twenty dollars ($20.00) per felony count;

(b) For each conviction~~,~~ or finding of guilt of ~~a~~ each misdemeanor count, a fine or reimbursement of ten dollars ($10.00) per misdemeanor count.

(2) The fine or reimbursement imposed under the provisions of this section shall have priority over all other judgments of the court, except an order to pay court costs.

(3) Notwithstanding the provisions of section 19-4705, Idaho Code, the fines or reimbursements imposed under the provisions of this section shall be paid into the crime victims compensation account.

Approved March 27, 1989.

CHAPTER 51
(S.B. No. 1020, As Amended)

AN ACT

RELATING TO EVIDENCE; TO PROVIDE LEGISLATIVE FINDINGS; AMENDING CHAPTER 3, TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 9-336, IDAHO CODE, TO PROVIDE THAT CERTAIN EVIDENCE ENTERED AT THE PRELIMINARY HEARING CAN ALSO BE USED AT TRIAL IF THE SOURCE OF THE EVIDENCE IS NOT AVAILABLE AT THE TIME OF THE TRIAL.

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

SECTION 1. The legislature is aware of the case of State v. Elisondo, 114 Idaho 412, 757 P.2d 675 (1988), which overrules the earlier case of State v. Mee, 102 Idaho 474, 632 P.2d 633 (1981). In the Elisondo case the court held that the admission of the preliminary hearing testimony of an unavailable witness in the subsequent criminal trial violates the public policy of the state of Idaho. It is the legislature of the state of Idaho that declares what the public policy of the state shall be. In examining those considerations, it is the opinion of the legislature that the admission of previously recorded testimony of a preliminary hearing should be admissible under the safeguards contained within section 9-336, Idaho Code. The legislature finds that it is against public policy to adopt a per se rule excluding preliminary hearing testimony from a subsequent criminal proceeding. The legislature finds that such an exclusion provides an incentive to a criminal defendant to take steps to prevent a witness from testifying at trial. It is the policy of the state that all relevant and admissible evidence should be usable in criminal proceedings.

SECTION 2. That Chapter 3, Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 9-336, Idaho Code, and to read as follows:

9-336. EVIDENCE FROM PRELIMINARY HEARING -- ADMISSION -- REQUIREMENTS. Prior to admitting into evidence recorded testimony from a preliminary hearing, the court must find that the testimony offered is:

1. Offered as evidence of a material fact and that the testimony is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and

2. That the witness is, after diligent and good faith attempts to locate, unavailable for the hearing; and

3. That at the preliminary hearing, the party against whom the admission of the testimony is sought had an adequate opportunity to prepare and cross-examine the proffered testimony.

Approved March 27, 1989.

CHAPTER 52
(S.B. No. 1022)

AN ACT

RELATING TO THE CRIME VICTIMS COMPENSATION ACCOUNT; AMENDING SECTION 72-1003, IDAHO CODE, TO PROVIDE THAT COMPENSATION CAN BE PAID FOR A DEATH RESULTING FROM A MOTOR VEHICLE ACCIDENT AND TO PROVIDE A DEFINITION.

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

SECTION 1. That Section 72-1003, Idaho Code, be, and the same is hereby amended to read as follows:

72-1003. DEFINITIONS. As used in this chapter:

(1) "Claimant" means any of the following claiming compensation under this chapter:

(a) A victim;

(b) A dependent of a deceased victim; or

(c) An authorized person acting on behalf of any of them, including parent(s), legal guardian(s), and sibling(s), of a victim who is a minor.

(2) "Collateral source" means a source of benefits, other than welfare benefits, or advantages for economic loss otherwise compensable under this chapter which the claimant has received or which is readily available to him from:

(a) The offender;

(b) The government of the United States or any agency thereof, a state or any of its political subdivisions, or an instrumentality of two (2) or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under this chapter;

(c) Social security, medicare, and medicaid;

(d) Workers' compensation;

(e) Wage continuation programs of any employer;

(f) Proceeds of a contract of insurance payable to the claimant for loss which was sustained because of the criminally injurious conduct; or

(g) A contract, including an insurance contract, providing hospital and other health care services or benefits for disability. Any such contract in this state may not provide that benefits under this chapter shall be a substitute for benefits under the contract or that the contract is a secondary source of benefits and benefits under this chapter are a primary source.

(3) "Commission" means the industrial commission.

(4) "Criminally injurious conduct" means intentional, knowing, or reckless conduct that:

(a) Occurs or is attempted in this state;

(b) Results in injury or death; ~~or~~ and

(c) Is punishable by fine, imprisonment, or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle except when intended to cause personal injury or death; provided that criminally injurious conduct shall include violations of the provisions of sections 18-4006 3(b), 18-8004 ~~and 49-1001~~, 18-8007, 67-7034 or 67-7035, Idaho Code.

~~(5) "Dependent" means a natural person who is recognized under the law of this state to be wholly or partially dependent upon the victim for care or support and includes a child if under the age of eighteen (18) or incapable of self support and unmarried and includes~~

a child of the victim conceived before the victim's death but born after the victim's death, including a child that is conceived as a result of the criminally injurious conduct.

(6) "Injury" means actual bodily harm or disfigurement and, with respect to a victim, includes pregnancy, venereal disease, mental or nervous shock, or extreme mental distress. For the purposes of this chapter, "extreme mental distress" means a substantial personal disorder of emotional processes, thought or cognition which impairs judgment, behavior or ability to cope with the ordinary demands of life.

(7) "Victim" means a person who suffers injury or death as a result of:

(a) Criminally injurious conduct;

(b) His good faith effort to prevent criminally injurious conduct; or

(c) His good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

Approved March 27, 1989.

CHAPTER 53
(S.B. No. 1061)

AN ACT

RELATING TO CHILD WITNESSES IN CERTAIN COURT PROCEEDINGS; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 30, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-3024A, IDAHO CODE, TO PROVIDE THAT THE TESTIMONY OF A MINOR MAY BE TAKEN BY THE USE OF A TWO-WAY CLOSED CIRCUIT TELEVISION SYSTEM, TO PROVIDE THE FINDINGS THAT THE COURT MUST MAKE BEFORE SUCH A SYSTEM MAY BE USED, TO PROVIDE A PROCEDURE BY WHICH THE SYSTEM SHALL BE USED, AND TO REQUIRE A REPORT BE MADE TO THE LEGISLATURE REGARDING THE USE OF THE SYSTEM, AND TO PROVIDE THAT THE SECTION SHALL BE CONSTRUED TO BE COMPATIBLE WITH EXISTING STATUTES AND RULES OF EVIDENCE.

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

SECTION 1. The legislature is aware of the recent cases of Coy v. Iowa, 108 S.Ct. 2798, 101 L.Ed.2d 857 (1988) ____ U.S. ____; State v. Hester, 760 P.2d 27 (1988), 114 Id 688; and State v. Flint, 761 P.2d 1158 (1988) 114 Id 806. In analyzing these cases, the legislature is aware of the difference between the 6th amendment to the United States constitution and the corresponding provision found in article I, section 13 of the Idaho constitution. Specifically, in this context it is the belief of the legislature that the right to confront witnesses is guaranteed only within the federal constitution. No such corresponding provision exists under the state constitution.

The legislature finds that child abuse is a problem of disturbing proportions in today's society. It is one of the most difficult problems to detect and prosecute in large part because there often are no

witnesses except the victim. The legislature believes that a child victim may suffer trauma from exposure to the harsh atmosphere of the typical courtroom and desires, consistent with the federal constitutional guarantee embodied in the confrontation clause, to shield the child witness through the procedure established in section 19-3024A, Idaho Code. It is the intent of the legislature to provide the court with discretion to employ unusual court procedures to protect the rights of a child witness, the rights of the defendant, and the integrity of the judicial process. In exercising its discretion, the court necessarily will be required to balance the rights of the defendant against the need to protect a child witness and to preserve the integrity of the court's truthfinding function. This discretion is intended to be used selectively when the facts and circumstances in the individual case present compelling evidence of the need to use these unusual procedures.

It is the belief of the legislature that the adoption of a procedure to balance the rights of the defendant while protecting the child witness is a substantive matter of law required under article 2 of the Idaho constitution to be performed by the legislative branch of government.

SECTION 2. That Chapter 30, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-3024A, Idaho Code, and to read as follows:

19-3024A. ALTERNATIVE PROCEDURE FOR TAKING TESTIMONY OF A CHILD WITNESS -- ORDER -- PRESENCE OF COUNSEL AND DEFENDANT -- FILMING, VIDEOTAPING OR TRANSMITTING OF TESTIMONY. 1. As used in this section:

(a) "Child witness" means a person who is under the age of sixteen (16) years and who is alleged to have been a witness of, or a witness to an alleged violation of the provisions of sections 18-1501, 18-1506, 18-1507, 18-1508, 18-1514, 18-1515, 18-6605 and 18-6608, Idaho Code.

(b) "Simultaneous electronic transmission" means any device capable of projecting a live visual and aural transmission such as closed-circuit television.

2. Notwithstanding any other provision of law or rule of court, the court in any criminal, youth rehabilitation, or child protective act proceeding, upon written notice of the prosecutor made at least three (3) days prior to the date of the preliminary hearing or trial date on which the testimony of the minor is scheduled, or during the course of the proceeding on the court's own motion, may order that the testimony of a minor sixteen (16) years of age or younger at the time of the motion be taken by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant and attorneys, and communicated to the courtroom by means of two (2) way closed-circuit television, if the court makes all of the following findings:

(a) The minor's testimony will involve a recitation of the facts of an alleged sexual offense committed on or with the minor.

(b) The impact on the minor of one or more of the factors enumer-

ated in paragraphs (1) through (4) of this subsection 2(b), is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness unless closed-circuit television is used.

(1) Threats of serious bodily injury to be inflicted on the minor or a family member, of incarceration or deportation of the minor or a family member, or of removal of the minor from the family or dissolution of the family, in order to prevent or dissuade the minor from attending or giving testimony at any trial or court proceeding or to prevent the minor from reporting the alleged physical or sexual offense or from assisting in criminal prosecution.

(2) Use of a firearm or any other deadly weapon during the commission of the crime.

(3) Infliction of great bodily injury upon the victim during the commission of the crime.

(4) Conduct on the part of the defendant or defense counsel during the hearing or trial which causes the minor to be unable to continue his or her testimony notwithstanding the notice requirement contained in subsection 2 of this section.

In making the determination required in this section, the court shall consider the age of the minor, the relationship between the minor and the defendant or defendants, any handicap or disability of the minor, and the nature of the acts charged. The minor's refusal to testify shall not alone constitute sufficient evidence that the special procedure described in this section is necessary in order to obtain the minor's testimony.

(c) The equipment available for use of two (2) way closed-circuit television would accurately communicate the image and demeanor of the minor to the judge, jury, defendant or defendants and attorneys.

3. (a) The hearing on a motion brought pursuant to the provisions of this section shall be conducted out of the presence of the jury.

(b) Notwithstanding any other provision of law or rule of court, the court, in determining the merits of the motion, shall not compel the minor to testify at the hearing; nor shall the court deny the motion on the ground that the minor has not testified.

(c) In determining whether the impact on an individual child of one (1) or more of the four (4) factors enumerated in paragraph (b) of subsection 2 of this section is so substantial that the minor is unavailable as a witness unless closed-circuit television is used, the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the support person, the prosecutor, and defense counsel present. The defendant or defendants shall not be present. The court shall conduct the questioning of the minor and shall not permit the prosecutor or defense counsel to examine the minor. The prosecutor and defense counsel shall be permitted to submit proposed questions to the court prior to the session in chambers. Defense counsel shall be afforded a reasonable opportunity to consult with the defendant or defendants prior

to the conclusion of the session in chambers.

4. When the court orders the testimony of a minor to be taken in another place outside of the courtroom, the court shall do all of the following:

(a) Make a brief statement on the record, outside of the presence of the jury, of the reasons in support of its order. While the statement need not include traditional findings of fact, the reasons shall be set forth with sufficient specificity to permit meaningful review and to demonstrate that discretion was exercised in a careful, reasonable and equitable manner.

(b) Instruct the members of the jury that they are to draw no inferences from the use of two (2) way closed-circuit television as a means of facilitating the testimony of the minor.

(c) Instruct respective counsel outside of the presence of the jury, that they are to make no comment during the course of the trial on the use of two (2) way closed-circuit television procedures.

(d) Instruct the support witness, outside the presence of the jury, that he is not to coach, cue, or in any way influence or attempt to influence the testimony of the minor.

(e) Order that a complete record of the examination of the minor, including the images and voices of all persons who in any way participate in the examination, be made and preserved on videotape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and his attorney during ordinary business hours. The videotape shall be destroyed after five (5) years have elapsed from the date of entry of judgment. If an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been ordered. Any videotape which is taken pursuant to the provisions of this section is subject to a protective order of the court for the purpose of protecting the privacy of the witness.

5. When the court orders the testimony of a minor to be taken in another place outside the courtroom, only the minor, a support person designated by the court, a nonuniformed bailiff, and, after consultation with the prosecution and the defense, a representative appointed by the court, shall be physically present for the testimony. A videotape shall record the image of the minor and his testimony, and a separate videotape shall record the image of the support person.

6. When the court orders the testimony of a minor to be taken in another place outside the courtroom, the minor shall be brought into the judge's chambers prior to the taking of his testimony to meet for a reasonable period of time with the judge, the prosecutor, and defense counsel. A support person for the minor shall also be present. This meeting shall be for the purpose of explaining the court process to the child and to allow the attorneys an opportunity to establish rapport with the child to facilitate later questioning by closed-circuit television. No participant shall discuss the defendant or any of the facts of the case with the minor during this meeting.

7. When the court orders the testimony of a minor to be taken in another place outside the courtroom, nothing in this section shall

prohibit the court from ordering the minor to be brought into the courtroom for a limited purpose including the identification of the defendant or defendants as the court deems necessary.

8. The examination shall be under oath and the defendant's image shall be transmitted live to the witness via two (2) way contemporaneous closed-circuit television.

9. Nothing in this section shall affect the disqualification of witnesses pursuant to section 601 of the Idaho rules of evidence.

10. The criminal justice council shall submit a report to the legislature on or before January 1, 1990, summarizing the experience of courts which have used contemporaneous closed-circuit television pursuant to the provisions of this section.

11. The provisions of this section shall not be construed to amend section 19-3024 or 19-809A, Idaho Code, or rule 803(24) or 804(5) of the Idaho rules of evidence.

Approved March 27, 1989.

CHAPTER 54
(S.B. No. 1180)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1813, IDAHO CODE, TO PROVIDE THAT A FRIEND OF A CHILD WITNESS MAY STAY WITH THE CHILD ON THE WITNESS STAND UNLESS THE DEFENDANT'S RIGHTS WOULD BE UNDULY PREJUDICED.

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

SECTION 1. That Section 16-1813, Idaho Code, be, and the same is hereby amended to read as follows:

16-1813. EVIDENTIARY HEARING. If the child denies the allegations in the petition, the court shall conduct a full evidentiary hearing, in the manner prescribed by the Idaho juvenile rules. The child shall have the right to call witnesses on his or her own behalf. A record shall be made in all proceedings connected with the case and shall be preserved in the event of appeal. If at the conclusion of the evidentiary hearing the court finds the child to come within the purview of the act, the court shall so rule, and then shall set the matter down for disposition hearing, or may, in the interest of time, hold a disposition hearing at the conclusion of the evidentiary hearing if all information necessary to the disposition of the case is available at the time.

When a child, other than the child against whom the petition has been filed, is summoned as a witness in any hearing under this act, notwithstanding any other statutory provision, parents, a counselor, a friend or other person having a supportive relationship with the child shall, if available, be permitted to remain in the courtroom at the

witness stand with the child during the child's testimony unless, in written findings made and entered, the court finds that the child's constitutional right to a fair trial will be unduly prejudiced.

Approved March 27, 1989.

CHAPTER 55
(H.B. No. 18)

AN ACT

RELATING TO THE TAXABLE WAGE BASE AND CONTRIBUTION RATES FOR UNEMPLOYMENT COMPENSATION INSURANCE; AMENDING SECTION 72-1350, IDAHO CODE, TO PROVIDE FOR A CALCULATION TO DETERMINE THE UNEMPLOYMENT RESERVE FUND SIZE, TO PROVIDE FOR ADJUSTMENTS, TO PROVIDE FOR AN EFFECTIVE TAX RATE FOR CALENDAR YEAR 1989 AND FOR FUTURE YEARS, TO PROVIDE FOR TAX SCHEDULES, TO PROVIDE A SCHEDULE OF CONTRIBUTION RATES, AND TO PROVIDE FOR ASSIGNMENT OF RATES TO EMPLOYERS; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 72-1350, Idaho Code, be, and the same is hereby amended to read as follows:

72-1350. TAXABLE WAGE BASE AND CONTRIBUTION RATES. (a) All remuneration for personal services as defined in section 72-1328, Idaho Code, equal to the average annual wage in covered employment for the penultimate calendar year, rounded to the nearest multiple of six hundred dollars ($600), or the amount of taxable wage base specified in the federal unemployment tax act, whichever is higher, shall be the taxable wage base for purposes of this act.

(b) All covered employers, except those eligible and electing the cost reimbursement payment method, shall pay contribution rates as assigned annually by the director in accordance with the following, provided, however, and notwithstanding any other provision of the employment security law, for calendar years 1987 and 1988, the contribution rates for all covered experience-rated employers shall be determined in accordance with schedule VI.

(c) ~~The ratio of the unencumbered balance in the employment security fund on the June 30th immediately preceding the rate year to the total wages reported by covered employers for the preceding state fiscal year will determine the appropriate rate schedule for the calendar year 1989, and for each calendar year thereafter.~~ A desired unemployment reserve fund size shall be determined for each calendar year by calculating from the penultimate year, the ten (10) year average of annual benefits paid to wages covered, multiplied by one and one-half (1.5). The resulting ratio, when applied to the covered wages of the penultimate year, represents the desired fund size. This calculation is hereafter referred to as the average cost multiple (ACM).

(d) Beginning in calendar year 1989 and effective each calendar year thereafter, the ACM becomes the ratio at the top of tax rate schedule V as provided in subsection (g) of this section, and all other ratios for tax rate schedules I through IX are adjusted up or down from schedule V in equal increments of .005.

(e) The unemployment tax rate schedule for each calendar year shall be determined by comparing the ratio of the actual balance of the unemployment reserve fund on December 31, to the wages covered in the penultimate year against the tax schedule ratios as provided in subsection (d) of this section.

(~~d~~f) The ratios ~~at-the-top-of~~ computed for each tax schedule ~~in the--tax-table~~ as provided in subsection (~~f~~d) of this section shall be placed with their appropriate tax schedule at the top of the columns as provided in subsection (g) of this section, and shall represent the minimum fund level required for ~~a~~ the specific tax schedule to be in effect.

~~(e)--Employer-rates-will-be-assigned-with-the--rates--provided--in each--schedule--for--eligible,--standard-rated--and-deficit-employers, based-upon-their-experience-as-determined-under-the-provisions-of-sections-72-1319,-72-1319A-and-72-1351,-Idaho-Code.~~

(~~f~~g) Schedules of Contribution Rates

			SCHED. I	SCHED. II	SCHED. III	SCHED. IV	SCHED. V	SCHED. VI	SCHED. VII	SCHED. VIII	SCHED. IX
~~Minimum Ratio of Fund to Total Wages~~			(~~.0500~~)	(~~.0450~~)	(~~.0400~~)	(~~.0350~~)	(~~.0300~~)	(~~.0250~~)	(~~.0200~~)	(~~.0150~~)	(---)
Cumulative Taxable Payroll Limits			+.020	+.015	+.010	+.005	ACM	-.005	-.010	-.015	
			Contribution Rates for Eligible Employers								
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)									
1	--	10	0.1%	0.5%	0.9%	1.3%	1.5%	1.7%	2.1%	2.5%	2.9%
2	10	22	0.4	0.8	1.2	1.6	1.8	2.0	2.4	2.8	3.2
3	22	37	0.7	1.1	1.5	1.9	2.1	2.3	2.7	3.1	3.5
4	37	52	1.0	1.4	1.8	2.2	2.4	2.6	3.0	3.4	3.8
5	52	67	1.3	1.7	2.1	2.5	2.7	2.9	3.3	3.7	4.1
6	67	82	1.6	2.0	2.4	2.8	3.0	3.2	3.6	4.0	4.4
7	82	--	1.9	2.3	2.7	3.1	3.3	3.5	3.9	4.3	4.7
Contribution Rates for Standard-Rated Employers:			2.1%	2.5%	2.9%	3.3%	3.5%	3.7%	4.1%	4.5%	4.9%
Cumulative Taxable Payroll Limits											
			Contribution Rates for Deficit Employers								
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)									
1	--	20	2.4	2.8	3.2	3.6	3.8	4.0	4.4	4.8	5.2
2	20	40	2.8	3.2	3.6	4.0	4.2	4.4	4.8	5.2	5.6
3	40	60	3.2	3.6	4.0	4.4	4.6	4.8	5.2	5.6	6.0
4	60	80	3.6	4.0	4.4	4.8	5.0	5.2	5.6	6.0	6.4
5	80	99	4.0	4.4	4.8	5.2	5.4	5.6	6.0	6.4	6.8
6	99	--	5.4	5.4	5.4	5.4	5.4	5.6	6.0	6.4	6.8

(h) Employer rates will be assigned with the rates provided in each schedule for eligible, standard-rated and deficit employers, based upon their experience as determined under the provisions of sections 72-1319, 72-1319A and 72-1351, Idaho Code.

(gi) Each employer shall be notified of his rate of contribution as determined for any calendar year pursuant to this section and section 72-1351, Idaho Code. Such determination shall become conclusive and binding upon the employer, unless within fourteen (14) days after delivery or mailing of the notice thereof to his last known address, the employer files an application for redetermination, setting forth his reasons therefor. Reconsideration shall be limited to transactions occurring subsequent to any previous determination which has become final. The employer shall be promptly notified of the redetermination, which shall become final unless an appeal is filed within fourteen (14) days after delivery or mailing of notice to his last known address. Proceedings on the appeal shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 2. 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, 1989.

Approved March 27, 1989.

CHAPTER 56
(H.B. No. 19)

AN ACT

RELATING TO THE PRACTICE OF LANDSCAPE ARCHITECTURE; AMENDING SECTION 54-3003, IDAHO CODE, TO PROVIDE THE APPLICATION FEE SHALL NOT EXCEED ONE HUNDRED DOLLARS, THE EXAMINATION FEE SHALL NOT EXCEED FOUR HUNDRED DOLLARS, AND THE ORIGINAL CERTIFICATE FEE SHALL NOT EXCEED EIGHTY DOLLARS.

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

SECTION 1. That Section 54-3003, Idaho Code, be, and the same is hereby amended to read as follows:

54-3003. QUALIFICATIONS -- EXAMINATIONS -- BOARD -- CERTIFICATES OF REGISTRATION -- FEES -- RECIPROCITY -- EXEMPTIONS -- INDIVIDUALS, PARTNERSHIPS AND CORPORATIONS -- RESTRICTION ON USE OF NAME -- SEAL. (a) Application and practice. In order to safeguard human health and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice landscape architecture for hire, shall be required to submit evidence that he is qualified to so practice and shall be registered under the provisions of this act.

(b) Qualifications. For license as a landscape architect, evidence must be submitted to the board that the applicant:

(1) is eighteen (18) years of age or older;

(2) has, before admission to the examination, completed the course of study in and been graduated from a college or school of landscape architecture approved by the board. He shall also submit, before admission to the examination, evidence of actual practical experience in landscape architectural work of grade and character satisfactory to the board. Each complete year of study in such approved college or school of landscape architecture may be accepted in lieu of one (1) year of such experience, and the applicant must submit evidence of sufficient additional acceptable experience to total four (4) years of combined education and experience. In lieu of graduation from an accredited college or school of landscape architecture, and the practical experience in addition thereto, an applicant may be admitted to the examination upon presenting evidence of at least four (4) years of actual, practical experience in landscape architectural work of a grade and character satisfactory to the board.

(c) Examinations. Examinations for the license shall be held by the board at least once each year, provided that applications shall have been received during the time announced. The board shall adopt rules and regulations covering the subjects and scope of the examinations at the times designated. Every applicant for license as a landscape architect shall be required, in addition to all other requirements, to establish by written examination his competency to plan, design, specify, and supervise the installation of landscape projects. Each written examination may be supplemented by such oral examinations as the board may determine.

(d) The board. There is hereby created in the department of self-governing agencies an Idaho state board of landscape architects. The board shall consist of three (3) landscape architects. Members of the board shall be appointed by the governor and must be residents of this state, have the qualifications of landscape architects required by this act, and after the initial board is organized be licensed hereunder. The terms of the members of the board first appointed shall expire as follows:

Two (2) members two (2) years later, one (1) member three (3) years later. Thereafter, appointments shall be for four (4) year terms. Each member shall hold office until the appointment and qualification of his successor. Vacancies occurring prior to the expiration of the term shall be filled by appointment in like manner for the unexpired term. No member shall serve more than eight (8) consecutive years. The board may by written agreement authorize the bureau of occupational licenses to act as agent in its interest, and shall have the power to make such rules and regulations as shall be necessary in the performance of its duties. The board shall elect, at its first meeting of every calendar year, from its members, a president, and a secretary who may or may not be a member of the board. The secretary shall hold such office at the pleasure of the board and shall receive a salary fixed by the board. In carrying out the provisions of this act, all members of the board shall be compensated as provided by sec-

tion 59-509(g), Idaho Code. Payment of travel and other expenses shall be made from the occupational licenses fund.

(e) Revenue. Certificates of registration shall expire on the last day of June following their issuance or renewal. Renewal may be effected during the month of June by payment to the board of the required fee.

(1) In case any registrant fails to pay the renewal fee before thirty (30) days after the due date, the renewal fee shall be the current fee plus an amount set by the board; provided, that any registrant in good standing, upon fully retiring from landscape architectural practice, may withdraw from practice by giving written notice to the board and may thereafter resume practice at any time upon payment of the then current renewal fee. Any registrant, other than a properly withdrawn licensee, who fails to renew his registration for a period of one (1) year may be reinstated only on reexamination as is required for new registrants, or reciprocity. The board shall issue a receipt to each landscape architect promptly upon payment of the annual license fee.

(2) Amounts. The amount of fees shall be as determined by the board within the following stated limits:

(A) The application fee not to exceed ~~fifty~~ one hundred dollars (~~$50.00~~).

(B) The fee for examination not to exceed ~~two~~ four hundred dollars (~~$200~~).

(C) The fee for an original certificate ~~not to exceed thirty dollars ($30.00).~~

~~(B) The fee for a duplicate certificate not to exceed twenty dollars ($20.00).~~

~~(E) The~~ and the annual license fee not to exceed eighty dollars ($80.00).

(3) Refund. Fees shall be nonrefundable.

(4) Deposit. All fees received under the provisions of this act shall be deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred by the board under the provisions of this act shall be a charge against and paid from said fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this act, the provisions of any other law notwithstanding. In no instance will the occupational licenses fund be obligated to pay any claims which in aggregate with claims already paid exceed the income to the occupational licenses fund which has been derived by the application of this act.

(5) Appropriation. The money paid into the occupational licenses fund is continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and in carrying out and enforcing the provisions of this act.

(f) Reciprocal provisions. The board may certify for registration with limited examination an applicant who is legally registered as a landscape architect in any other state or country whose requirements for registration are at least substantially equivalent to the requirements of this state.

(g) Exemptions. (1) None of the provisions of this act shall pre-

vent employees of those lawfully practicing as landscape architects from acting under the instruction, control or supervision of their employers.

(2) None of the provisions of this act shall apply to the business conducted in this state by any horticulturist, nurseryman, or landscape nurseryman, gardener, landscape gardener, landscape designer, or landscape contractor, as these terms are generally used, or any other person, including, but not limited to, their right to plan and supervise in connection therewith, except that no such person shall use the designation "landscape architect," "landscape architecture," or any description tending to convey the impression that he is a registered landscape architect unless he is registered as provided in this act.

(3) This act shall not apply to architects, professional engineers, geologists, and land surveyors, licensed to practice their respective professions.

(h) Act applies to natural persons only.

(1) All certificates of registration shall be issued to natural persons only but nothing contained in this act shall prevent a duly registered landscape architect from performing his services for a corporation, firm, partnership, or association.

(2) Partners. Each partner in a partnership of landscape architects shall be registered to practice. Subject to this requirement, a partnership of landscape architects may use a partnership name if such name consists of:

(A) The names of two (2) or more landscape architects.

(B) The names of one or more landscape architects and one or more professional engineers, architects, or planners.

(3) Any person applying to the licensing official of any county or city for a business license to practice landscape architecture shall at the time of such application exhibit to such licensing official satisfactory evidence under the seal of the board and the hand of its secretary that such applicant possesses a current registration. The license shall not be granted until such evidence is presented, any contrary provision of any special act or general act notwithstanding.

(i) Qualifications for practice--seal:

(1) No person shall use the designation "landscape architect" or "landscape architecture," or advertise any title or description tending to convey the impression that he is a landscape architect, or practicing landscape architecture, unless such person is a registered landscape architect. Every holder of a registration certificate shall display it in his principal office, place of business, or place of employment.

(2) Every landscape architect shall have a seal approved by the board, which shall contain the name of the landscape architect and the words "Registered Landscape Architect, State of Idaho," and such other words or figures as the board may deem necessary and prescribe. All drawings and title pages of specifications, prepared by such landscape architect or under the supervision of such landscape architect, shall be stamped with the aforesaid seal. Nothing contained herein shall be construed to permit the seal of

a landscape architect to serve as a substitute for the seal of a licensed architect, a licensed professional engineer or a licensed land surveyor.

Approved March 27, 1989.

CHAPTER 57
(H.B. No. 31)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1315, IDAHO CODE, TO SUBSTITUTE THE PHRASE "MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT" FOR THE PHRASE "FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963"; AMENDING SECTION 72-1328, IDAHO CODE, TO PROVIDE THAT THE TERM WAGES SHALL INCLUDE EMPLOYER CONTRIBUTIONS UNDER 26 U.S.C. 401(k) AGREEMENTS BUT SHALL NOT INCLUDE CAFETERIA PLANS; AMENDING SECTION 72-1353, IDAHO CODE, TO PROVIDE THAT A NOTICE OF ADMINISTRATIVE DETERMINATION OF COVERED EMPLOYMENT SHALL BE DEEMED SERVED IF DELIVERED OR MAILED TO THE PERSON BEING SERVED AT THAT PERSON'S LAST KNOWN ADDRESS AND THAT SERVICE BY MAIL SHALL BE DEEMED COMPLETE ON THE DATE OF MAILING; AMENDING SECTION 72-1354, IDAHO CODE, TO PERMIT THE COMPROMISE OF PENALTY CHARGES ON DELINQUENT EMPLOYER CONTRIBUTIONS FOR GOOD CAUSE; AMENDING SECTION 72-1360, IDAHO CODE, TO PERMIT THE COMPROMISE OF INTEREST CHARGES WHEN IN THE BEST INTEREST OF THE DEPARTMENT; AMENDING SECTION 72-1361, IDAHO CODE, TO PROVIDE THAT SUBSECTION (k) AND PART OF SUBSECTION (d) OF SECTION 72-1368, IDAHO CODE, ARE APPLICABLE TO EMPLOYER HEARINGS; AMENDING SECTION 72-1364, IDAHO CODE, TO PROVIDE FOR COMPROMISE OF TAXES, PENALTY AND INTEREST IF THE EMPLOYER IS OUT OF BUSINESS AND UNABLE TO MAKE FULL PAYMENT OF THE TAXES, PENALTY AND INTEREST DUE; AMENDING SECTION 72-1366, IDAHO CODE, TO PROVIDE THAT A BENEFIT CLAIMANT WHO HAS COMMITTED FRAUD IN CONNECTION WITH HIS CLAIM FOR UNEMPLOYMENT INSURANCE BENEFITS SHALL BE LIABLE TO REPAY ANY BENEFITS RECEIVED FOR A WEEK IN WHICH THE CLAIMANT COMMITTED FRAUD; AMENDING SECTION 72-1368, IDAHO CODE, TO ALLOW A CLAIMS EXAMINER TO WITHDRAW AND REVISE A DETERMINATION THAT HAS NOT BECOME FINAL, TO MODIFY THE AUTHORITY OF THE DIRECTOR TO ISSUE SPECIAL REDETERMINATIONS, TO ALLOW AN APPEALS EXAMINER TO REFER A MATTER BACK TO A CLAIMS EXAMINER FOR FURTHER ACTION, AND TO PROVIDE THAT UNEMPLOYMENT INSURANCE DETERMINATIONS SHALL NOT HAVE PRECLUSIVE EFFECT IN OTHER ACTIONS, WITH EXCEPTIONS.

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

SECTION 1. That Section 72-1315, Idaho Code, be, and the same is hereby amended to read as follows:

72-1315. COVERED EMPLOYER. The term "covered employer" means:

(a) Any person who, in any calendar quarter in either the current or preceding calendar year paid for services in covered employment wages of three hundred dollars ($300) or more, or for some portion of a day in each of twenty (20) different calendar weeks, whether or not consecutive, in either the current or preceding calendar year employed at least one (1) individual (irrespective of whether the same individual was in employment in each such day). For purposes of this subsection there shall not be taken into account any wages paid to, or in employment of, an employee performing domestic services referred to in subsection (h) of this section.

(b) All individuals performing services within this state for an employer who maintains two (2) or more separate establishments within this state shall be deemed to be performing services for a single employer for all the purposes of this act.

(c) Each individual engaged to perform or assist in performing the work of any person in the service of an employer shall be deemed to be engaged by such employer for all the purposes of this act, whether such individual was engaged or paid directly by such employer or by such person, provided the employer had actual or constructive knowledge of the work.

(d) Any employer (whether or not an employer at the time of acquisition) who acquires the organization, trade, or business or substantially all the assets thereof, of another who at the time of such acquisition was a covered employer.

(e) In the case of agricultural labor, any person who:

(1) During any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of twenty thousand dollars ($20,000) or more for agricultural labor, or

(2) On each of some twenty (20) days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least ten (10) individuals in employment in agricultural labor for some portion of the day.

(3) Such labor is not agricultural labor when it is performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the immigration and nationality act, unless the individual is required to be covered by the federal unemployment tax act.

(f) A crew leader who furnishes members of a crew to perform agricultural labor for another person if:

(1) Such crew leader holds a valid certificate of registration under the ~~farm-labor-contractor-registration-act-of-1963~~ migrant and seasonal agricultural worker protection act; or

(2) Substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(3) If such individual is not an employee of such other person within the meaning of section 72-1316(d), Idaho Code.

(g) In the case of any individual who is furnished by a crew leader to perform agricultural labor for another person, such other person and not the crew leader shall be treated as the employer of

such individual if such crew leader is not, under the provisions of subsection (f) of this section, considered to be the employer and such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his behalf or on behalf of such other person) for the agricultural labor performed for such other person.

(h) In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of one thousand dollars ($1,000) or more for such service.

(1) A person treated as a covered employer under this subsection (h) shall not be treated as a covered employer with respect to wages paid for any service other than domestic service referred to in this subsection (h) unless such person is treated as a covered employer under subsection (a) or (e) of this section, with respect to such other service.

(i) Any governmental entity as defined in section 72-1322C, Idaho Code.

(j) A nonprofit organization as defined in subsection (a) of section 72-1349A, Idaho Code.

(k) An employer who has elected coverage pursuant to the provisions of subsection (c) of section 72-1352, Idaho Code.

SECTION 2. That Section 72-1328, Idaho Code, be, and the same is hereby amended to read as follows:

72-1328. WAGES. (a) The term "wages" means shall include:

(1) All remuneration for personal services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director~~.~~;

(2) All ~~The term "wages" also includes all~~ tips received while performing services in covered employment totaling twenty dollars ($20.00) or more in a month, and which are reported in writing to the employer as required under federal law;

(3) Any employer contribution under a qualified cash or deferred agreement as defined in 26 U.S.C. 401(k) to the extent such contribution is not included in gross income by reason of 26 U.S.C. 402(a)(8).

(b) The term "wages" shall not include:

(1) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), made to, or on behalf of, an individual or any of his dependents under a plan or system established by an employer which makes provision generally for individuals performing service for him (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on

account of (i) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term "wages" only payments which are received under a workmen's compensation law), or (ii) medical or hospitalization expenses in connection with sickness or accident disability, or (iii) death;

(2) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability by an employer to, or on behalf of, an individual performing services for him after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer;

(3) The amount of any payment made by an employer to, or on behalf of, an individual performing services for him or his beneficiary (i) from or to a trust described in section 401(a) of the Federal Internal Revenue Code which is exempt from tax under section 501(a) of the Federal Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust, or (ii) under or to an annuity plan which, at the time of such payments, is a plan described in section 403(a) of the Federal Internal Revenue Code, under a cafeteria plan within the meaning of section 125 of the Federal Internal Revenue Code;

(4) The amount of any payment made by an employer (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in his employ under section 3101 of the Federal Internal Revenue Code; or

(5) Noncash payments for farm work.

(c) Except as otherwise provided in regulations prescribed by the director, any third party which makes a sickness or accident disability payment, which is not excluded from wages under subsection (b)(1)(i) of this section, shall be treated as the employer with respect to such payment of wages for the purposes of this act.

SECTION 3. That Section 72-1353, Idaho Code, be, and the same is hereby amended to read as follows:

72-1353. ADMINISTRATIVE DETERMINATIONS OF COVERAGE. The director may, upon his own motion or upon application of any employer, make findings of fact and on the basis thereof, a determination with respect to whether such employer is a covered employer and whether services performed for or in connection with the business of such employer constitutes covered employment. A determination shall become final unless, within fourteen (14) days after notice, an appeal is filed with the employment security agency setting forth the grounds for such appeal. For purposes of this section, a notice shall be deemed served if delivered to the person being served or if mailed to his last known address; service by mail shall be deemed complete on the date of mailing. Proceedings on appeal shall be had in accordance with the provisions of section 72-1361 ~~of this act~~, Idaho Code.

SECTION 4. That Section 72-1354, Idaho Code, be, and the same is hereby amended to read as follows:

72-1354. PENALTY ON UNPAID CONTRIBUTIONS -- EFFECT OF FAILURE TO PAY CONTRIBUTIONS. If contributions are not paid by any covered employer on or before the date on which they are due and payable, such contributions shall bear penalty at the rate of one per centum (1%) or two dollars ($2.00), whichever is the larger, for each month or fraction thereof until paid; provided, that in no case shall the penalty exceed the actual amount of contributions due and payable. The date of payment of contributions shall be deemed the date of actual receipt by the ~~D~~director, or if mailed, the date of mailing. Penalties collected pursuant to this section shall be paid into the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho Code. At the discretion of the director or his authorized representative, the department may compromise the amount of penalty collected pursuant to this section if the employer shows he had good cause for failing to timely pay contributions.

Furthermore, if any employer shall be in default under section 72-1349, 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 are to be brought by the ~~D~~director in the name of the state of Idaho.

SECTION 5. That Section 72-1360, Idaho Code, be, and the same is hereby amended to read as follows:

72-1360. LIENS. (a) Upon the failure of any covered employer to pay contributions or penalties when due, the director may file with the clerk of the district court of the county, wherein such employer has his principal place of business, and a copy thereof with the clerk of the district court of any county in which such employer may have real or personal property, a certificate under his official seal, stating:

(1) the name of the covered employer;

(2) his address;

(3) the amount of contributions and penalties in the form of an itemized statement thereof owing and in default; and tfhl

(4) that the time in which an appeal or review is permitted, pursuant to section 72-1358, Idaho Code, has expired without having been taken or that delay will jeopardize collection. Thereupon, such clerk shall enter in the judgment docket of the court, the name of the employer mentioned in the certificate, the amount of such contributions and penalties in default and the date when such certificate is filed. When such certificate is duly filed and recorded, the amount of the contributions and penalties in default shall be a lien upon the entire interest of such employer, legal or equitable, in any property, real or personal, tangible or intangible, not exempt from execution, situated in the county where the certificate or a copy thereof was filed. The lien thus

created shall be in favor of the state of Idaho and shall be prior to all other liens and encumbrances, except previously existing mortgage liens, labor liens and tax liens, and it shall have equal priority with tax liens. No lien for contributions or penalties shall be valid against one who purchases personal property from the delinquent employer in the usual course of business and in good faith and without actual notice of such lien. Such lien may be enforced against any real or personal property of the delinquent employer by the Ddirector, his authorized representative, or by any sheriff of the various counties in the same manner as a judgment of the district court duly docketed and the amount, secured by the lien thus established, shall bear interest at the rate of the state statutory legal limit. The foregoing remedy shall be in addition to all other remedies against the covered employer. The amount of interest collected pursuant to this section may be compromised at the discretion of the director when such compromise is in the best interest of the department.

(b) The employer against whose property such lien has been filed may cause his property to be released by filing with the county clerk of the county where such lien is recorded a bond in a sum double the amount claimed in said lien, executed by a surety company licensed to do business in Idaho or by two (2) private sureties residing in Idaho, to be approved by the district judge of the district in which said lien is filed, or, in the event of his absence from the county in which said lien is filed, then by the probate judge of said county, running to the state of Idaho and conditioned for the payment of all contributions, penalties, interest, and costs that may be recovered by the state of Idaho against such employer or that may be found to be a lien upon or against the property of such employer. The clerk shall then issue to such employer a certificate stating that the bond is substituted in lieu of the property of said employer and that the lien on said property is forever released and discharged and a marginal entry on said release and bond shall be made in the lien docket containing the original record of certificate of claim of lien, and if the state establishes the validity of its lien by a suit to foreclose the same, it shall be entitled to a judgment or decree against the sureties upon said bond.

(c) Any lien as provided in this section shall be released or satisfied by the director, upon the payment of the debt secured by the lien, and the property against which a lien is claimed shall be released therefrom by filing a notice of such release or satisfaction with the clerk of the county in which the certificate of claim of lien was filed. In any suit or action involving the title to real or personal property against which the state has or may claim a lien, the state may be made a party to such suit or action.

SECTION 6. That Section 72-1361, Idaho Code, be, and the same is hereby amended to read as follows:

72-1361. APPEALS TO THE EMPLOYMENT SECURITY AGENCY AND TO THE COMMISSION. Upon appeal from a denial of a claim for refund or credit, determination of amount due upon failure to report, determination of

rate of contribution, determination of coverage, or jeopardy determination as provided by this act, the interested employer shall have opportunity for a fair hearing. The conduct of such hearings and appeal procedures shall be governed by the provisions of section 72-1368(f), (g), (h), ~~and~~ (i) ~~of this act~~ and (k), Idaho Code. The director may make special redeterminations as provided in subsection 72-1368(d), Idaho Code.

SECTION 7. That Section 72-1364, Idaho Code, be, and the same is hereby amended to read as follows:

72-1364. UNCOLLECTIBLE ACCOUNTS. (a) The director may enter agreements of compromise with an employer with respect to any contributions, penalties and interest due where it is determined by the director that there exists an inability on the part of the employer to make full payment, and the employer is no longer operating any business.

(b) Contribution payments or penalties due, pursuant to the provisions of this act, uncollected three (3) years after they become due, may be charged as uncollectible by the director if no assets belonging to the liable person and subject to attachment can be found and in the opinion of the director there is no likelihood of collection at a future date.

SECTION 8. That Section 72-1366, Idaho Code, be, and the same is hereby amended to read as follows:

72-1366. PERSONAL ELIGIBILITY CONDITIONS. The personal eligibility conditions of a benefit claimant are that--

(a) In accordance with the provisions of this act, and such rules consistent therewith, as the director may prescribe--

(1) He shall have made a claim for benefits and provided all necessary information pertinent to eligibility.

(2) He shall have registered for work and thereafter reported at an employment office or other agency in a manner prescribed by the director.

(b) In some calendar quarter within his base period he shall have met the minimum wage requirements in his base period as provided in section 72-1367, Idaho Code.

(c) Claimant's unemployment is not due to having voluntarily left work to marry, or to perform the customary duties of maintaining a household, or to leave the locale to live with a spouse. The provisions of this subsection shall not apply after a change in conditions whereby claimant has become the main support of self or immediate family.

(d) During the whole of any week with respect to which he claims benefits or credit to his waiting period he was able to work, available for suitable work, and seeking work; provided, however, the director shall waive these provisions for each week he is attending training under provisions of section 72-1312(a), Idaho Code; and provided, that no claimant shall be considered ineligible in any week of unemployment for failure to comply with the provisions of this subsec-

tion if such failure is due to an illness or disability which occurs after he has filed a claim and registered for work and no suitable work has been available for him after the beginning of such illness or disability; and, provided further, that no claimant shall be deemed to be unavailable for the whole of the week who, because of compelling personal circumstance, is required to be absent from his normal market area, provided that such absence does not exceed a major portion of the week.

(e) His unemployment is not due to the fact that he left his employment voluntarily without good cause connected with his employment, or that he was discharged for misconduct in connection with his employment.

(f) His unemployment is not due to his failure without good cause to apply for available suitable work or to accept suitable work when offered to him. The longer a claimant has been unemployed, the more willing he must be to seek types of work other than in his ordinary trade or occupation and to accept work at a lower rate of pay. The director shall waive these provisions for each week he is attending a training course to which he has been assigned by a representative of the director if the claimant has submitted with each claim a written certification from the training course that claimant is enrolled in and is attending and satisfactorily completing the training course. A claimant may be assigned to a training course under the following conditions:

(1) The claimant is lacking in skills which would make him competitive in the labor market and is in need of available training or retraining in skills required by demand occupations. A demand occupation is an occupation in which work opportunities are available and there is not a surplus of qualified applicants; and

(2) The claimant has been unemployed continuously for four (4) or more weeks and the lack of employment opportunities is expected to continue for an extended period of time, or if the claimant's occupation is one for which there is a seasonal variation in demand, that the lack of demand for his skills is the result of a decline in demand expected to continue for an extended period of time and is not the result of a seasonal fluctuation; and

(3) The training relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in claimant's market area and there is not a substantial surplus of workers with requisite skills in the occupation in that area; and

(4) The training course is one approved by a representative of the director and can be completed within one (1) year; and

(5) The training course is prescribed for the purpose of training claimant in skills that will allow him to obtain immediate employment in a demand occupation and is not primarily intended to meet the requirements of a degree from a college or university; and

(6) The claimant can be reasonably expected to complete the training successfully.

(g) In determining for the purposes of this act, whether or not work is suitable for an individual, the degree of risk involved to his health, safety, morals, his physical fitness, experience, training,

past earnings, length of unemployment and prospects for obtaining local employment in his customary occupation, the distance of the work from his residence, and other pertinent factors shall be considered. No employment shall, in any event, be deemed suitable and benefits shall not be denied to any otherwise eligible individual for refusing to accept new work or to hold himself available for work under any of the following conditions:

(1) If the vacancy of the position offered is due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality of the work offered;

(3) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(h) A benefit claimant, otherwise eligible for benefits, shall not be eligible for any week in which he fails, without good cause, to attend a training course to which he has been assigned under the provisions of subsection (f) of this section, if such course is available at no cost to the claimant.

(i) Notwithstanding any other provisions of this section, no individual who is otherwise eligible shall be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the trade act of 1974, nor shall such individual be denied benefits by reason of leaving work to enter such training; provided, the work left is not suitable employment, or because of the application to any such week in training of provisions in this law, or any applicable federal unemployment compensation law relating to availability for work, active search for work, or refusal to accept work. For purposes of this subsection, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the trade act of 1974, and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the trade act of 1974.

(j) A benefit claimant shall not be eligible to receive benefits for any week with respect to which it is found that his unemployment is due to a labor dispute; provided, that this subsection shall not apply if it is shown that--

(1) He is not participating, financing, aiding, abetting, or directly interested in the labor dispute; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises at which the labor dispute occurs, any of whom are participating in or directly interested in the dispute.

(k) A benefit claimant shall not be entitled to benefits for any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation or insurance law of another state or of the United States; provided, that if the appropriate agency of such other state or of the United States shall finally determine that he is not entitled to such unemployment

compensation or insurance benefits, he shall not by provisions of this subsection be denied benefits. For purposes of this section, a law of the United States providing any payments of any type and in any amounts for periods of unemployment due to involuntary unemployment shall be considered an unemployment compensation law of the United States.

(l) A benefit claimant shall not be entitled to benefits if it is determined that he has wilfully made a false statement or representation or wilfully failed to report a material fact in order to obtain said benefits for a period of fifty-two (52) weeks from the date of said determination ~~and said.~~ Said claimant shall also be liable to repay to the fund any sums received ~~as a result of said~~ for a week in which the claimant made a false statement, misrepresentation, or ~~failure~~ failed to report a material fact.

(m) A benefit claimant shall not be entitled to benefits if his principal occupation is self-employment.

(n) A benefit claimant who has been found ineligible for benefits under the provisions of subsections (c), (e), (f), (g) or (i) of this section may reestablish his eligibility by having obtained bona fide work and received wages therefor in an amount of at least sixteen (16) times his weekly benefit amount.

(o) Benefits based on service in employment defined in sections 72-1349A, 72-1349B, and 72-1352(c), Idaho Code, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act.

(1) If the services performed during one-half (1/2) or more of any contract period by an individual for an educational institution as defined in section 72-1322B, Idaho Code, are in an instructional, research, or principal administrative capacity, all the service of such individual shall be deemed to be in such capacity.

(2) If the services performed during less than one-half (1/2) of any contract period by an individual for such an educational institution are in an instructional, research, or principal administrative capacity, none of the service of such individual shall be deemed to be in such capacity.

(3) As used in this section, "contract period" means the entire period for which the individual contracts to perform services, pursuant to the terms of the contract.

(p) No individual is eligible to receive benefits in two (2) successive benefit years unless subsequent to the beginning of the first of said benefit years during which he received benefits he performed service and earned remuneration for such service in an amount equal to not less than five and one-half (5 1/2) times his weekly benefit amount established during the first benefit year.

(q) (1) With respect to weeks of unemployment beginning after December 31, 1977, benefits based on wages earned for services performed in an instructional, research, or principal administrative capacity for an educational institution shall not be paid for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar period between

two (2) terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(2) With respect to weeks of unemployment beginning after December 31, 1977, benefits based on wages earned for services performed in any other capacity for an educational institution shall not be paid to any individual for any week which commences during a period between two (2) successive school years or terms if such individual performs such services in the first of such school years or terms, and there is a contract or reasonable assurance that such individual will perform such services in the second of such school years or terms, except that if compensation is denied to any individual under this subparagraph and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this clause.

(3) With respect to any services described in paragraphs (1) and (2) of this subsection, benefits shall not be paid nor "waiting week" credit given to an individual for wages earned for services for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(4) With respect to any services described in paragraphs (1) and (2) of this subsection, benefits shall not be payable on the basis of services in any such capacities as specified in paragraphs (1), (2) and (3) of this subsection to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this paragraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(r) Benefits shall not be paid after December 31, 1977, based on services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(s) (1) Benefits shall not be paid after December 31, 1977, based on service performed by an alien unless such alien is an individ-

ual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

SECTION 9. That Section 72-1368, Idaho Code, be, and the same is hereby amended to read as follows:

72-1368. CLAIMS FOR BENEFITS AND APPELLATE PROCEDURE. (a) Claims for benefits shall be made in accordance with such rules as the director may prescribe.

(b) Each employer shall post and maintain in places readily accessible to individuals performing services for him printed statements concerning benefit rights, claims for benefits and such other matters relating to the administration of this act as the director may by rules prescribe. Each employer shall supply to such individuals copies of such printed statements or other materials relating to claims for benefits when and as the director may by rules prescribe. Such printed statements and other materials shall be supplied by the director to each covered employer without cost to the covered employer.

(c) A representative of the department of employment, appointed by the director and hereinafter referred to as a claims examiner, shall examine promptly a claim filed pursuant to subsection (a) above and, on the basis of the facts found by him, shall determine whether or not the claimant is eligible for benefits and, if eligible, date of commencement of his benefit year, the weekly benefit amount payable, the total benefit amount payable, his base period wages, and his base period covered employers. In the event of a denial or a finding by the claims examiner that a claimant is ineligible for benefits, the determination shall include the reasons for the ineligibility. At any time before the determination becomes final or a request for redetermination is received, the claims examiner, on his own motion, may withdraw the determination and issue a revised determination. The determination or revised determination shall become final unless, within fourteen (14) days after notice, as provided in subsection (e) following, a request for redetermination is filed with the department of employment.

(d) A request for redetermination may be filed by any interested party and shall be filed in accordance with such rules as may be prescribed by the director. A redetermination upon such request shall be

promptly made by a claims examiner and, on the basis of facts found by him, shall include a statement as to whether or not the determination is affirmed, reversed or modified, and if modified, to what extent, as well as a statement showing the reasoning upon which the redetermination is based isf adverse to the claimant requesting it; or, upon such request and before notices of the redetermination have been served, the director may, on his own motion, transfer the request for redetermination directly to an appeals examiner in which event such request shall be deemed to constitute an appeal, as of the date of the request, from the determination. A redetermination shall become final unless, within fourteen (14) days after notice, as provided in subsection (e) following, an appeal is filed by an interested party with the department of employment in accordance with such rules as may be prescribed by the director. The director may make a special redetermination whenever he finds that ~~an~~ a departmental error ~~in computation or identity~~ has occurred in connection with a determination, or that additional wages of the claimant or other facts pertinent to such determination have become available or have been newly discovered, or that benefits have been allowed or denied or the amount of benefits fixed on the basis of nondisclosure or misrepresentation of fact. Such special redetermination must be made within one (1) year from the date of the original determination, except that a special redetermination involving a finding that benefits have been allowed or denied or the amount of benefits fixed on the basis of nondisclosures or misrepresentations of fact may be made within two (2) years from the date of the original determination. Subject to the same limitations and for the same reasons, the director may make a special redetermination in any case in which the final decision has been rendered by an appeals examiner, the commission, or a court and may apply to the appeal tribunal which rendered such final decision to issue a revised decision. In the event that an appeal involving an original determination is pending as of the date a special redetermination is issued, such appeal, unless withdrawn, shall be treated as an appeal from such special redetermination.

(e) All interested parties as defined in section 72-1323, Idaho Code, shall be entitled to prompt service of notice of determinations and redeterminations. The claimant shall be served with notice of all determinations and redeterminations, but in the event that a claimant files more than one (1) claim arising out of the same unemployment, the last employer need not be served with notice of more than the initial determination and redetermination unless he specifically requests service of additional notices. For purposes of this section, a notice shall be deemed served if delivered to the person being served or if mailed to his last known address; service by mail shall be deemed complete on the date of mailing.

(f) To hear and decide appeals from determinations and redeterminations the director shall appoint one or more appeals examiners. Unless the appeal is withdrawn, the appeals examiner~~, after affording the interested parties reasonable opportunity for a fair hearing,~~ shall affirm, modify, set aside or reverse the determination or redetermination involved ~~and~~, after affording the interested parties reasonable opportunity for a fair hearing, or may refer a matter

back to the claims examiner for further action. The appeals examiner shall notify the interested parties of his decision by serving notice in the same manner as provided in subsection (e) above. Such decision shall set forth the findings of fact upon which the decision is based together with a statement showing how the appeals examiner applied the employment security law to such findings of fact in order to reach his conclusion. The appeals examiner may, either upon application for rehearing by an interested party or on his own motion, proceed to rehear, affirm, modify, set aside or reverse any prior decision on the basis of the evidence previously submitted in such case or on the basis of additional evidence; provided, that such application or motion be made within ten (10) days after the date of service of such decision. A full and complete record shall be kept of all proceedings in connection with an appealed claim. All testimony at any hearing before an appeals examiner shall be recorded but need not be transcribed unless a claim for review of the appeals examiner's decision is filed with the commission. Witnesses subpoenaed by the appeals examiner shall be allowed fees at a rate prescribed in the rules of the director. Such fees shall be deemed a part of the expenses of administering this act. If any interested party to a hearing formally requests the appeals examiner to issue a subpoena for a witness whose evidence is deemed necessary, the appeals examiner shall promptly issue the subpoena, unless such request is determined to be unreasonable. Unless an interested party shall within fourteen (14) days after service of the decision of the appeals examiner file with the commission a claim for review or unless an application or motion is made for a rehearing of such decision, the decision of the appeals examiner shall become final.

(g) The commission shall decide all claims for review filed by any interested party in accordance with its own rules of procedure not in conflict herewith. The record before the commission shall consist of the record of proceedings before the appeals examiner, unless it appears to the commission that the interests of justice require that the interested parties be permitted to present additional evidence. In that event, the commission may, in its sole discretion, conduct a hearing to receive additional evidence or may refer the matter back to the appeals examiner for an additional hearing and decision. On the basis of the record of proceedings before the appeals examiner as well as any additional evidence, if allowed, the commission shall affirm, reverse, modify, set aside or revise the decision of the appeals examiner or may refer the matter back to the appeals examiner for further proceedings. The commission shall file its decision and shall promptly serve notice of its decision to all interested parties. A decision of the commission shall be final and conclusive as to all matters adjudicated by the commission upon filing the decision in the office of the commission; provided, within twenty (20) days from the date of filing the decision, any party may move for reconsideration of the decision or the commission may rehear or reconsider its decision on its own initiative, and in any such event the decision shall be final upon denial of a motion for rehearing or reconsideration or the filing of the decision on reconsideration.

(h) No person acting on behalf of the director or any member of

the commission shall participate in any case in which he has a direct or indirect personal interest.

(i) An appeal may be made to the Supreme Court by such parties from such decisions and orders of the commission and within such times and in such manner as prescribed by rule of the Supreme Court.

(j) (1) Benefits shall be paid promptly in accordance with a determination, redetermination, appeals examiner decision or commission findings allowing such benefit rights, regardless of:

(a) The pendency of a time period for requesting a redetermination, filing an appeal or petitioning for commission review, or

(b) Pendency of a request for determination, appeal, or petition for review.

(2) Such payments shall not be withheld until a subsequent redetermination, appeals examiner decision, or commission findings modifies or reverses the previous decision, in which event benefits shall be paid or denied in accordance with such decision.

(k) (1) Any right, fact, or matter in issue, directly based upon or necessarily involved in a determination, redetermination, decision of the appeals examiner or decision of the commission which has become final, shall be conclusive for all the purposes of this act as between the interested parties who had notice of such determination, redetermination or decision. Subject to appeal proceedings and judicial review by the Supreme Court as set forth in this section, any determination, redetermination or decision as to rights to benefits shall be conclusive for all purposes of this act and shall not be subject to collateral attack irrespective of notice.

(2) No finding of fact or conclusion of law contained in a decision or determination rendered pursuant to this act by an appeals examiner, the industrial commission, a court, or any other person authorized to make such determinations shall have preclusive effect in any other action or proceeding, except proceedings that are brought (i) pursuant to this act, (ii) to collect unemployment insurance contributions, (iii) to recover overpayments of unemployment insurance benefits, or (iv) to challenge the constitutionality of provisions of this act or administrative proceedings under this act.

Approved March 27, 1989.

CHAPTER 58
(H.B. No. 147)

AN ACT

RELATING TO THE TIME FOR A SHELTER CARE HEARING; AMENDING SECTION 16-1614, IDAHO CODE, TO PROVIDE THE TIME FOR AN ADJUDICATORY HEARING FOR TEMPORARY CUSTODY.

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

SECTION 1. That Section 16-1614, Idaho Code, be, and the same is hereby amended to read as follows:

16-1614. SHELTER CARE HEARING. (a) Notwithstanding any other provision of this chapter, when a child is taken into custody pursuant to section 16-1612, Idaho Code, a hearing to determine whether the child should be released shall be held according to the provisions of this section.

(b) The parents or custodian from whom the child was removed shall be given notice of the shelter care hearing. Such notice shall include the time, place, and purpose of the hearing; and, that such person is entitled to be represented by legal counsel. Notice as required by this subsection shall be given at least twenty-four (24) hours before the shelter care hearing.

(c) Notice of the shelter care hearing shall be given to the parents or custodian from whom the child was removed by personal service and the return of service shall be filed with the court. Provided, however, that such service need not be made where the undelivered notice is returned to the court along with an affidavit stating that such parents or custodian could not be located or were out of the state.

(d) The shelter care hearing may be continued for a reasonable time upon request by the parent, custodian or counsel for the child.

(e) If, upon the completion of the shelter care hearing, it is shown that:

(1) a petition has been filed; and

(2) there is reasonable cause to believe the child comes within the purview of this chapter and that reasonable efforts to prevent the placement of the child in shelter care could not be provided because of the immediate danger to the child or were provided but were not successful in eliminating the need for foster care placement of the child; and

(3) it is in the best interests of the child to remain in temporary shelter care pending the conclusion of the adjudicatory hearing;

the court shall issue, within twenty-four (24) hours of such hearing, an order of temporary custody. Any evidence may be considered by the court which is of the type which reasonable people may rely upon.

(f) Upon ordering temporary custody pursuant to subsection (e) of this section, the court shall also order an adjudicatory hearing to be held as soon as possible, but in no event later than ~~fifteen~~ thirty (~~15~~30) days from the date the petition was filed.

(g) If the court does not find that the child should remain in shelter care under subsection (e) of this section, the child shall be released and the court may dismiss the petition.

Approved March 27, 1989.

CHAPTER 59
(H.B. No. 270)

AN ACT

APPROPRIATING MONEYS TO THE STATE AUDITOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 286, LAWS OF 1988; 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 286, Laws of 1988, there is hereby appropriated to the State Auditor the following amount to be expended for the named programs according to the designated expense classes from the listed account for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
AUDITING AND ACCOUNTING:			
FROM:			
General Account	$68,000		$ 68,000
SAFIRS:			
FROM:			
General Account		216,700	216,700
TOTAL	$68,000	$216,700	$284,700

SECTION 2. There is hereby appropriated $13,228.19 from the General Account to the State Auditor for payment to Ada County pursuant to the provisions of Section 18-2507, Idaho Code, and Section 31-3203, Idaho Code.

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

Approved March 27, 1989.

CHAPTER 60
(H.B. No. 271)

AN ACT

AMENDING SECTION 2, CHAPTER 123, LAWS OF 1988, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF LAW ENFORCEMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 123, Laws of 1988, be, and the same is hereby amended to read as follows:

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~~
		1,404,700	3,022,500		7,204,600
Idaho Law Enforcement Telecommunications Account	90,300	~~100,900~~	~~9,900~~		~~201,100~~
		160,900	24,900		276,100
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~~
		1,854,500	3,360,400		9,095,000
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

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Breeder Fund Account				60,000	60,000
Idaho Horse Breeders' and Owners' Award Account				100,000	100,000
Track Improvement and Industry Promotion Account				100,000	100,000
TOTAL	$ 152,500	$ 117,300		$ ~~120,000~~ 320,000	$ ~~309,000~~ 589,800
V. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Account	$ 475,600	$ 132,000	$ 31,500		$ 639,100
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~~	~~$ 30,900~~	~~$ 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~~ 6,325,800	~~$2,957,000~~ 2,969,400	~~$ 612,900~~ 3,437,900	~~$1,144,500~~ 1,000,400	~~$11,149,700~~ 13,733,500

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 27, 1989.

CHAPTER 61
(H.B. No. 273)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 95, LAWS OF 1988; 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 95, Laws of 1988, there is hereby appropriated to the Office of the Governor for the Commission for the Blind the following amount to be expended according to the designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:			
General Account		$160,000	$160,000
Blind Commission Donations Account	$3,000		3,000
TOTAL	$3,000	$160,000	$163,000

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 27, 1989.

CHAPTER 62
(H.B. No. 296)

AN ACT

AMENDING SECTION 2, CHAPTER 56, LAWS OF 1988, 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 2, Chapter 56, Laws of 1988, be, and the same is hereby amended to read as follows:

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~~ 1,286,400	$ 962,300	$ 8,100		~~$2,247,700~~ 2,256,800
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~~ 41,400	$ ~~5,700~~ 10,700	$ 400	$466,000	$ ~~506,600~~ 518,500
GRAND TOTAL	~~$2,510,000~~ 2,526,800	~~$1,297,600~~ 1,302,600	$79,400	$466,000	~~$4,353,000~~ 4,374,800

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 27, 1989.

CHAPTER 63
(S.B. No. 1264)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 1990 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; APPROPRIATING ALL MONEYS ACCRUING TO THE PUBLIC SCHOOL INCOME FUND; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FOR SCHOOL IMPROVEMENTS AND ONE-TIME ACQUISITIONS OR PROJECTS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES TO ATTRACT AND RETAIN QUALITY EDUCATORS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FOR AN EDUCATOR MENTOR PROGRAM.

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, 1989, through June 30, 1990:

FROM:		
General Account		$394,256,300
Dedicated Accounts:		
Endowment Fund Income	$16,650,000	
Department of Lands	2,429,500	
Liquor Account	1,200,000	
Miscellaneous Receipts	3,925,000	
Subtotal	$24,204,500	24,204,500
TOTAL		$418,460,800

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, 1989, through June 30, 1990:

FROM:	
General Account	$394,256,300

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, 1989, through June 30, 1990.

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, 1989, through June 30, 1990.

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, 1989, through June 30, 1990.

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, 1989, through June 30, 1990.

SECTION 7. It is legislative intent that $17,200,000 of the moneys appropriated in Section 2 of this act shall be expended as follows:

(a) $5,200,000 shall be expended for school improvements in the following priority order: First, reduction of teacher-student ratios in elementary grades 1-3 where appropriate; second, development of special programs, including alternative programs, additional counseling services, or remedial or tutorial services, to reduce the risk of school failure in elementary and secondary school and to increase the number of high school graduates; third, addition of certificated personnel needed to offer subject-matter courses appropriate to the

skills and abilities of the students; and fourth; addition of certificated personnel to expand or improve curriculum.

(b) $12,000,000 shall be expended by school districts for one-time acquisitions or projects including, but not limited to, purchase of textbooks, supplies and materials; lease or purchase of instructional equipment; purchase of additional library materials; or minor remodeling or renovation to accommodate class size reduction in grades 1-3.

(c) The $12,000,000 shall be distributed as follows: 50% ($6,000,000) outside the education support program on a fall enrollment count basis; and 50% ($6,000,000) through the education support program.

(d) Each school district shall make application for its share of the money designated in this section. The State Superintendent of Public Instruction will approve those applications that are within the established criteria in subsections (a) and (b) of this section. In addition, each school district shall, at a time established and on a form approved by the State Superintendent of Public Instruction, report on the expenditures of moneys received pursuant to this section.

SECTION 8. It is legislative intent that $3,000,000 of the moneys appropriated in Section 2 of this act be expended by school districts to attract and retain quality educators as follows:

(a) School districts shall pay each full-time classroom teacher an annual salary of sixteen thousand dollars ($16,000) or more.

(b) School districts with career compensation plans developed and approved in accordance with Chapter 13, Title 33, Idaho Code, shall implement such plans.

(c) School districts that do not have approved career compensation plans shall develop and implement an employee compensation plan wherein not more than one-third of the classroom teachers shall receive merit pay that recognizes extraordinary teaching performance and is based upon written evaluations.

(d) School districts are encouraged to establish a differentiated compensation plan that will attract and retain high caliber secondary math and science teachers.

(e) School districts shall, at a time established and on a form approved by the State Superintendent of Public Instruction, report the expenditures that have been made of the moneys designated in this section.

SECTION 9. It is legislative intent that $500,000 of the moneys appropriated in Section 2 of this act shall be distributed by the State Superintendent of Public Instruction for implementing an educator mentor program by providing to the school districts $1,000, or however much may be available from the amount designated, for each first year teacher and each first year administrator. The use of the educator mentor program funds shall be limited to the following:

(a) Payments to mentor teachers or administrators to assist the first year personnel.

(b) Released time for mentor teachers or administrators to assist

the first year personnel.

(c) Released time for the first year teachers or administrators for professional growth activities.

(d) Contracts with institutions of higher education to provide assistance to first year personnel.

Approved March 27, 1989.

CHAPTER 64
(H.B. No. 244)

AN ACT

RELATING TO CITY ELECTIONS; AMENDING SECTION 50-409, IDAHO CODE, TO CLARIFY COMPENSATION REQUIREMENTS FOR ELECTION JUDGES AND CLERKS; AMENDING SECTION 50-416, IDAHO CODE, TO PROVIDE THAT THE CITY CLERK AND DEPUTY CITY CLERKS DO NOT HAVE TO BE QUALIFIED ELECTORS OF THE CITY; AMENDING SECTION 50-419, IDAHO CODE, TO CHANGE THE CLOSING TIME FOR ABSENTEE REGISTRATION; AMENDING SECTION 50-424, IDAHO CODE, TO DELETE THE REREGISTRATION REQUIREMENT FOR ELECTORS WHO MOVE TO ANOTHER PRECINCT WITHIN THE CITY; AMENDING CHAPTER 4, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-425, IDAHO CODE, TO PROVIDE A PROCEDURE FOR AFFIDAVIT VOTING FOR ELECTORS WHO MOVE INTO ANOTHER PRECINCT; AMENDING SECTION 50-432, IDAHO CODE, TO DESIGNATE THE TIME OF FILING PETITIONS; AMENDING SECTION 50-463, IDAHO CODE, TO PROVIDE COUNTING OF DUPLICATE BALLOT BOXES MAY BEGIN AFTER FIVE BALLOTS HAVE BEEN CAST; AND AMENDING SECTION 23-927, IDAHO CODE, TO CLARIFY THE HOURS OF LIQUOR SALES DURING CITY ELECTIONS.

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

SECTION 1. That Section 50-409, Idaho Code, be, and the same is hereby amended to read as follows:

50-409. APPOINTMENT AND COMPENSATION OF ELECTION JUDGES AND CLERKS. The city council in each city, at a regular meeting in the month preceding an election, shall appoint an election judge and such clerks as may be necessary for each voting precinct within the city. The election officials shall be qualified city electors. The city clerk shall notify the election officials of their appointment within five (5) days following appointment. If any election judge or clerk fails to report for duty on the day of election the city clerk shall fill such vacancies from among the qualified electors presenting themselves to vote. Compensation for the election judges and clerks shall be determined by the city council at time of appointment and shall be not less than the minimum wage as prescribed by ~~the laws of the state of Idaho~~ federal law.

SECTION 2. That Section 50-416, Idaho Code, be, and the same is

hereby amended to read as follows:

50-416. CITY CLERK IS REGISTRAR. (1) The city clerk of every city in the state of Idaho shall be the registrar for registration of voters at all general and special city elections. The city council may designate such other persons as are necessary in the city clerk's office to assist with registration of voters and the preparation of election record and poll books. Provided, however, that the city clerk and such other persons who have been designated by the city council to assist in the election process in the city clerk's office do not have to be qualified electors of the city, unless so required by city ordinance.

(2) The city council may appoint one (1) deputy registrar for each election precinct to assist the city clerk in the registration of electors of such precinct.

(3) The city clerk or deputy registrars shall register without charge any elector who personally appears in the office of the city clerk and requests to be registered. Deputy registrars appointed to assist with precinct registration and providing a place of registration within the precinct shall be paid not to exceed fifty cents ($.50) for each name registered.

(4) Upon receipt of a written application to the city clerk from an elector who, by reason of illness or physical incapacity is prevented from personally appearing in the office of the city clerk or before the deputy precinct registrar, the city clerk or deputy registrar so directed by the city clerk shall register such elector at the place of abode of the elector.

SECTION 3. That Section 50-419, Idaho Code, be, and the same is hereby amended to read as follows:

50-419. REGISTRATION BY AN ELECTOR WHILE ABSENT FROM HOME PRECINCT. An elector absent from his home precinct may register by mailing a request for registration to the city clerk of the city in which the elector resides, which request if received preceding an election shall cause the city clerk to send to the elector an official registration card. The elector shall complete the card before a notary public or an official with elector registration functions similar to those of a city clerk and shall return it to the city clerk on or before 65 p.m. the sixth day prior to the election.

SECTION 4. That Section 50-424, Idaho Code, be, and the same is hereby amended to read as follows:

50-424. REREGISTRATION -- WHEN REQUIRED. (1) An elector shall reregister if:

(a) His registration is canceled by the city clerk as provided by law.

~~(b) He changes his residence to another precinct.~~

~~(c)~~ An elector who has moved from one residence to another residence within the same precinct shall be permitted to vote and the election officials shall note the change of address in the elec-

tion record and poll books and the city clerk shall correct the election register following the canvass of the ballot.

(2) An elector shall be reregistered in the same manner as a first registration.

SECTION 5. That Chapter 4, 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 50-425, Idaho Code, and to read as follows:

50-425. AFFIDAVIT VOTING OF ELECTOR WHO MOVES TO ANOTHER PRECINCT. Notwithstanding any other provision of law, any qualified elector who moves from one (1) precinct to another within the same city shall be permitted to vote in that precinct in which such elector is currently a resident, upon signing, under the penalty of perjury, a voter's affidavit at the polls.

After signing the voter's affidavit the elector shall sign the election record and poll books and the election judge shall enter "affidavit" in the remarks column.

After the polls close the chief election judge in each precinct shall return all voters' affidavits to the city clerk. Upon receipt of the voters' affidavits the city clerk shall transfer an elector's voter registration to the proper precinct.

SECTION 6. That Section 50-432, Idaho Code, be, and the same is hereby amended to read as follows:

50-432. TIME AND MANNER OF FILING PETITIONS. All petitions of nomination for elective city offices shall be filed with the clerk of the respective city wherein the elections are to be held, not more than forty (40) or less than twenty-eight (28) days, including Sundays and holidays, immediately preceding election day. When the petition of nomination is presented for filing to the city clerk, he shall forthwith examine the same and ascertain whether it conforms to the provisions of ~~this~~ chapter 4, title 50, Idaho Code. If found not sufficient, he shall immediately, in writing, designate on said nominating petition the defect, omission or reason why such petition is insufficient and shall return the same to the person named as the person to whom the petition may be returned in accordance with section 50-431, Idaho Code. The petition may then be amended and again presented to the clerk if within the time allowed for filing such, as in the first instance. The clerk shall forthwith proceed to examine the amended petition as hereinbefore provided for the original petition. If either the original or the amended form of petition be found sufficient, the clerk shall file the same, endorsing thereon the date and time upon which the petition was accepted by him. The city clerk shall not accept any nominating petitions after 5 p.m. on the final day for filing petitions.

SECTION 7. That Section 50-463, Idaho Code, be, and the same is hereby amended to read as follows:

50-463. ~~CANVASS~~ COUNTING OF VOTES. (1) When the polls are closed the election personnel must immediately proceed to count the ballots cast at such election. The counting must be continued without adjournment until completed and the result declared.

(2) If the precinct has duplicate ballot boxes, the counting ~~shall~~ may begin after five (5) ballots have been cast. At this time, the additional clerks shall close the first ballot box and retire to the counting area and count the ballots. Upon completion of this counting the clerks shall return the ballot box and then proceed to count all of the ballots cast in the second box during this period. This counting shall continue until the polls are closed at which time all election personnel may assist in completing the counting of the ballots.

SECTION 8. That Section 23-927, Idaho Code, be, and the same is hereby amended to read as follows:

23-927. HOURS OF SALE OF LIQUOR. (1) No liquor shall be sold, offered for sale, or given away upon any licensed premises, and all liquor not in sealed bottles must be locked in a separate room or cabinet during the following hours:

a. Sunday, Memorial Day, Thanksgiving and Christmas from 1 o'clock A.M., to 10 o'clock A.M. the following day; provided however, that on any Sunday not otherwise being a prescribed holiday, it shall be lawful for a licensee having banquet area or meeting room facilities, separate and apart from the usual dispensing area (bar room) and separate and apart from a normal public dining room unless such dining room is closed to the public, to therein dispense liquor between the hours of 2 o'clock P.M. and 11 o'clock P.M. to bona fide participants of banquets, receptions or conventions for consumption only within the confines of such banquet area or meeting room facility.

b. On any other day between 1 o'clock A.M. and 10 o'clock A.M.

c. On any day of a general or primary election until after the time when the polls are closed. There is no prohibition against the sale of liquor by the drink during city elections unless the city has enacted an ordinance prohibiting such sales.

d. When any city or county has any ordinance further limiting the hours of sale of liquor, by the drink, then such hours shall be fixed by such ordinance.

(2) A county may, however, by ordinance, allow the sale of liquor by the drink on a Sunday, Memorial Day and Thanksgiving, and may also extend until 2 o'clock A.M. the hours of the sale of liquor by the drink.

(3) Any patron present on the licensed premises after the sale of liquor has stopped as provided in subsection (1) and subsection (2) above shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverages already served.

(4) Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon licensed premises after the time provided for in subsection (3) shall be guilty of a misdemeanor.

(5) It shall be the duty of every person who is employed at or

upon a licensed premises or who owns or manages a licensed premises and is present upon the licensed premises during the hours and at the time set forth in subsection (1) and subsection (2) of this section to lock up and keep locked up in a locked room or locked cabinet all unsealed containers of liquor during the hours and at the times set forth in subsection (1) and subsection (2) of this section, and any such person who fails to perform the duty provided herein shall be guilty of a misdemeanor.

Approved March 27, 1989.

CHAPTER 65
(H.B. No. 115)

AN ACT

RELATING TO REGULAR MEETINGS OF THE BOARDS OF COUNTY COMMISSIONERS; AMENDING SECTION 31-710, IDAHO CODE, TO PROVIDE THAT MEETINGS MAY BE HELD MORE OFTEN THAN MONTHLY.

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

SECTION 1. That Section 31-710, Idaho Code, be, and the same is hereby amended to read as follows:

31-710. REGULAR MEETINGS. The regular meetings of the boards of commissioners must be held at their respective county seats on the second Mondays of each month of the year, or if the board determines that county affairs require regular meetings more often, then at such times as may be provided for in advance by ordinance, and must continue from time to time until all the business before them ~~is disposed of~~ has been addressed. Such other meetings must be held, to canvass election returns, equalize taxation, and for other purposes as are prescribed by law or provided for by the board.

Approved March 27, 1989.

CHAPTER 66
(H.B. No. 108)

AN ACT

RELATING TO MEDICAL AND HEALTH STANDARDS FOR PAID FIREMEN; AMENDING SECTION 72-1428, IDAHO CODE, TO CLARIFY THAT SUCH STANDARDS APPLY TO THE EMPLOYMENT OF PAID FIREFIGHTERS ON OR AFTER OCTOBER 1, 1980, AND TO REDESIGNATE THE SECTION.

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

SECTION 1. That Section 72-1428, Idaho Code, be, and the same is hereby amended to read as follows:

~~72-1428~~ 44-109. MINIMUM MEDICAL AND HEALTH STANDARDS FOR PAID FIREMEN. (1) The term "minimum medical and health standards" means minimum medical and health standards adopted by the director of the department of labor and industrial services pursuant to this section.

(2) ~~From and after January 1, 1975, n~~No paid fireman as defined in section ~~72-1402(A)~~ 59-1351(f), Idaho Code, ~~whether covered under the provisions of chapter 14, title 72, Idaho Code, or under the provisions of chapter 13, title 59, Idaho Code,~~ may be employed until he:

(a) Has met and has been certified as having met minimum medical and health standards;

(b) Has successfully passed a physical agility test conducted by an examining physician;

(c) Is at least nineteen (19) years of age at the time of appointment; and

(d) Has met prescribed physical performance standards as promulgated by the director of the department of labor and industrial services.

(3) A true copy of the medical history and physical agility test of the applicant, completed and signed by the examining physician shall accompany employer certification to the director of the department of labor and industrial services. Such records shall be furnished prior to the date of active employment of the applicant.

(4) Physical examination records shall be a part of the permanent file of the employer.

(5) By October 1, 1984, the director of the department of labor and industrial services shall adopt minimum medical and health standards for employment as a paid fireman, and shall select an examining physician for each city, county and fire district. In adopting such standards the director shall consider existing standards recommended by the professional firefighters of Idaho, and shall adopt equal or higher standards, together with appropriate standards and procedures to insure uniform compliance with this section. The standards when adopted shall be published and distributed to each employer. The cost of the medical examination contemplated by this section is to be paid by the employer.

(6) Nothing in this section shall apply to paid firemen who are employed as such ~~on or~~ before October 1, 1980, as long as they continue in such employment; nor to promotional appointments after becoming a member of a fire department of any employer; nor to the reemployment of a paid fireman by the same or a different employer within two (2) years after the termination of his employment; nor to the reinstatement of a paid fireman who has been on military or disability leave, disability retirement status, or who was terminated because of a reduction in force or leave of absence status.

Approved March 27, 1989.

CHAPTER 67
(H.B. No. 117)

AN ACT
RELATING TO MEDICAID ELIGIBILITY FOR MARRIED PERSONS AND TO PENALTIES FOR TRANSFER OF PROPERTY; AMENDING SECTIONS 56-209e AND 56-214, IDAHO CODE, TO CONFORM WITH SECTION 303 OF PUBLIC LAW 100-360.

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

SECTION 1. That Section 56-209e, Idaho Code, be, and the same is hereby amended 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~~ section to protect the community and separate property rights, insofar as such rights are not specifically preempted by federal law, 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 married medical assistance applicant who is aged, blind or disabled, a clear and simple statement in writing advising them of the provisions of this section.

(e) (i) The provisions of paragraphs (a) through (d) of this subsection shall continue to apply on and after September 30, 1989, to married couples who are living together.

(ii) Beginning September 30, 1989, eligibility for any married person living in a medical institution whose spouse does not live in a medical institution, shall be determined by evaluating income first by attributing such income to the individual or individuals in whose name or names such income is paid, and if such attribution exceeds the maximum eligibility limit, secondly by attributing income in accordance with the community property provisions of chapter 9, title 32, Idaho Code.

(iii) Beginning September 30, 1989, the post eligibility treatment of income of any married person living in a medical institution whose spouse does not live in a medical institution, shall be in accordance with section 1924(b) and (d) of the social security act regardless of whether eligibility was determined in accordance with the name or names by which income was paid or in accordance with the community property provisions of chapter 9, title 32, Idaho Code.

(iv) The provisions of paragraphs (a), (b) and (d) of this subsection as they relate to resources shall continue to apply on and after September 30, 1989, to couples separated because one (1) spouse entered a medical institution for a continuous stay on or before September 29, 1989; and the provisions of section 1924(c) of the social security act shall apply to couples separated because one (1) spouse enters a medical institution for a continuous stay on or after September 30, 1989.

(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 56-214, Idaho Code, be, and the same is hereby amended to read as follows:

56-214. AWARD OF PUBLIC ASSISTANCE -- INELIGIBILITY UPON TRANSFER OF PROPERTY. Upon the completion of the investigation, the state department shall determine whether the applicant is eligible for public assistance under the provisions of this act, the type and amount of public assistance he shall receive, and the date upon which such public assistance shall begin. Public assistance shall be paid in the manner prescribed by the state department.

(1) ~~Public assistance~~ Aid to dependent children shall not be granted under this act to any person who within six (6) months prior to applying for or at any time during which such assistance is received, has either made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this act, or who has divested himself of any interest in property without adequate consideration which interest or proceeds therefrom could reasonably be expected to contribute to the support and maintenance of such person and his family, except that any person who is ineligible for public assistance due solely to such assignment or transfer shall

become eligible provided:

(a) there is a showing that such person has caused such property to be assigned or transferred back to him; or

(b) there is a showing that the person to whom such property is assigned or transferred has, subsequent to such assignment or transfer, met subsistence and medical care costs exclusive of any obligation for support, of such person or family, according to the department's assistance standard, equal to, or in excess of, the market value of the property so assigned or transferred; or

(c) there is a showing that the subsistence and medical care costs of such person, according to the department's assistance standard, subsequent to such assignment or transfer, equal or exceed the market value of the property so assigned or transferred.

(2) Eligibility for old age assistance under section 56-207, Idaho Code, or aid to the blind under section 56-208, Idaho Code, or aid to the permanently and totally disabled under section 56-209a, Idaho Code, shall be determined by continuing to consider as available any resource that was transferred prior to July 1, 1988, until such resource is fully accounted for under the provisions of section 1613(c) of the social security act as such section read on June 30, 1988.

(3) Eligibility for medical assistance under section 56-209b, Idaho Code, shall continue to apply the regulations of the director of the department of health and welfare concerning transfer of property as such regulations read on October 29, 1988 to transfers that occur prior to July 1, 1989, to persons other than to the spouse of the person receiving or applying for medical assistance, and to interspousal transfers that occur prior to October 1, 1989.

(4) The provisions of section 1917(c) of the social security act as amended by public law 100-360 and further amended by public law 100-485 and as hereafter amended shall apply as of July 1, 1989, to transfers of assets other than to the spouse, and as of October 1, 1989, to transfers between spouses, except that such provisions shall not apply either to transfers that occurred before July 1, 1988, or to transfers that have been fully accounted for under subsection (3) of this section.

(5) 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.

Approved March 27, 1989.

CHAPTER 68
(H.B. No. 194)

AN ACT

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

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

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

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

Approved March 27, 1989.

CHAPTER 69
(H.B. No. 170)

AN ACT

RELATING TO ELECTIONS; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-414, IDAHO CODE, TO PROVIDE THAT A PERSON WHO MOVES FROM ONE PRECINCT TO ANOTHER WITHIN THE SAME COUNTY MAY SIGN AN AFFIDAVIT AT THE POLLS AND VOTE, AND TO REQUIRE THE COUNTY CLERK TO TRANSFER THE PERSON'S REGISTRATION BASED UPON THE AFFIDAVIT.

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

SECTION 1. That Chapter 4, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-414, Idaho Code, and to read as follows:

34-414. VOTER'S AFFIDAVIT OF ELECTOR WHO MOVES WITHIN A COUNTY. Notwithstanding any other provision of law, any qualified elector who moves from one (1) precinct to another precinct within the same county shall be permitted to vote the entire ballot or ballots issued to that precinct in which such elector is currently a resident, upon signing, under the penalty of perjury, a voter's affidavit at the polls. The

voter's affidavit procedure shall only be utilized by an elector whose move within the county occurred within two (2) years of the signing of the affidavit. After signing the voter's affidavit the elector shall sign the election record and poll book and the election judge shall enter "affidavit" in the remarks column.

After the polls close the chief election judge in each precinct shall return the voters' affidavits to the county clerk. Upon receipt of a voter's affidavit the county clerk shall transfer the elector's voter registration to the proper precinct. The secretary of state shall prescribe the form for said voter's affidavit.

Approved March 27, 1989.

CHAPTER 70
(H.B. No. 172)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-704, IDAHO CODE, TO PROVIDE A TIME PERIOD IN WHICH A DECLARATION OF CANDIDACY MUST BE FILED; AMENDING SECTION 34-706, IDAHO CODE, TO PROVIDE A TIME PERIOD WITHIN WHICH PARTY OFFICIALS MUST BE NOTIFIED OF CANDIDACY AND TO REMOVE A REFERENCE TO FILLING VACANCIES; AND AMENDING SECTION 34-714, IDAHO CODE, TO DELETE A PROCEDURE FOR FILLING VACANCIES THAT EXIST PRIOR TO THE PRIMARY ELECTION.

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

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

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

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

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

SECTION 2. That Section 34-706, Idaho Code, be, and the same is hereby amended to read as follows:

34-706. NOTIFICATION TO PARTIES. Within ~~five (5)~~ three (3) days after the deadline for filing declarations of political party candidacy the county clerk shall notify the county central committee of each political party of the candidates who have filed for county and precinct offices under the party name and are qualified.

Within ~~five (5)~~ three (3) days after the deadline for filing declarations of political party candidacy the secretary of state shall notify the legislative district central committee of each political party of the legislative candidates who have filed under the party name and are qualified.

Within ~~seven (7)~~ three (3) days after the deadline for filing declarations of political party candidacy the secretary of state shall notify the state central committee of each political party of the candidates who have filed for federal and state offices under the party name and are qualified.

~~Vacancies that exist in the slate of political party candidates at the time such notification is made to the proper central committee can be filled only as provided by section 34-714, Idaho Code.~~

SECTION 3. That Section 34-714, Idaho Code, be, and the same is hereby amended to read as follows:

34-714. FILLING VACANCIES IN SLATE OF POLITICAL PARTY CANDIDATES OCCURRING PRIOR TO PRIMARY ELECTION. ~~Vacancies--that--exist--or--occur prior-to-the-primary-election-in-the-slate-of-candidates-of-any-political--party--may--be-filled-only-in-one-of-the-following-manners, each process-being-mutually-exclusive:~~

~~(1) Vacancies-that-exist-in-the-slate-of--political--party--candidates-at-the-time-notification-to-the-proper-central-committee-is-made as-provided-by-section-34-706, Idaho-Code, solely-because-no-political party--candidate--declared-for-nomination-as-provided-in-this-chapter, or-because-any-candidate--who--did--declare--for--nomination--but--was declared-not-to-be-qualified-by-proper-authority, may-be-filled-by-the proper-central-committee-within-ten-(10)-days-of-the-date-of-notification--by--the--county-clerk-or-the-secretary-of-state, as-the-case-may be. If-the-proper-central-committee-does-not-submit-the-name-of-a-candidate-for-nomination-during-such-ten-(10)-day-period, --no--names--may thereafter--be-submitted, either-for-the-primary-ballot-or-the-general election-ballot. If-the-name-of-a-political-party-candidate-is-submitted-to-the-county-clerk-or-the-secretary-of-state, as-the-case-may-be, such-candidate-must-qualify-within-seventeen-(17)-days-of-the-date--of notification--to--the--proper-central-committee-in-the-same-manner-and with-the-same-requirements-as-if-he-had-declared-his-candidacy-as-provided-in-section-34-704, Idaho-Code. If-such-candidate-does-not--qualify-in-all-respects, the-vacancy-shall-continue-to-exist-and-shall-not be--filled, either-for-the-primary-ballot-or-the-general-election-ballot.~~

(~~2~~1) Vacancies that occur before the primary election in the slate of candidates of any political party because of the death, disqualification for any reason, or withdrawal from the nomination process by the candidate, shall be filled in the following manner if only one (1) candidate declared for that particular office:

(a) By the county central committee if the vacancy occurs for the office of precinct committeeman or for a county office.

(b) By the legislative district central committee if the vacancy occurs for the office of state representative or state senator.

(c) By the state central committee if the vacancy occurs for a federal or state office.

Any political party candidate so appointed by the proper central committee must, in order to have his name on the primary ballot, file a declaration of candidacy and pay the required filing fee, but the petition otherwise required to accompany such declaration shall not be required from the candidate.

(~~3~~2) No central committee shall fill any vacancy which occurs within ten (10) days prior to the primary election. Vacancies which occur during this ten (10) day period because of the death, disqualification for any reason, or withdrawal from the nomination process by the candidate shall be filled according to the provisions of section 34-715, Idaho Code.

(~~4~~3) Vacancies that occur in a slate of candidates for precinct committeeman within ten (10) days prior to the primary election shall not be filled.

Approved March 27, 1989.

CHAPTER 71
(H.B. No. 329)

AN ACT

AMENDING SECTION 2, CHAPTER 68, LAWS OF 1988, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF LANDS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 68, Laws of 1988, be, and the same is hereby amended to read as follows:

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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
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~~	$121,000		~~$ 2,050,300~~
	1,687,300	283,700			2,092,000
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
	60,000	193,000			
10% Timber Lease Account	885,600	654,400	16,300		1,556,300
Forest Pest Account	33,300	57,800			91,100
Lands Federal Account	49,700	27,600	900		78,200
TOTAL	~~$3,270,200~~	~~$1,343,900~~	$192,800		~~$ 4,814,900~~
	3,355,400	1,300,400			4,848,600
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	14,900	~~5,300~~	800		~~5,300~~
		6,400			22,100
10% Recreation Lease					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Account	83,600	95,500	7,600		186,700
Pilgrim Cover water System Account		5,000			5,000
TOTAL	~~$1,201,200~~	~~$ 420,500~~	~~$103,500~~		~~$ 1,005,200~~
	1,296,100	421,600	104,300		1,822,000
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~~
	156,400	30,000			200,400
F. FOREST & RANGE PROTECTION:					
FROM:					
General Account					$ ~~1,662,700~~
					2,878,700
Keep Idaho Green Account					9,900
Fire Suppression Account					100,000
Timber Fire Deficiency Warrant Account					649,000
Fire Presuppression 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~~
					6,832,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL					~~$13,703,500~~ 15,701,900

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

Approved March 27, 1989.

CHAPTER 72
(H.B. No. 232)

AN ACT

RELATING TO COUNTY FEES; AMENDING SECTION 31-3207, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES AND TO PROVIDE A PROPER REFERENCE; REPEALING SECTION 31-3210, IDAHO CODE; AND REPEALING SECTION 31-3216, IDAHO CODE.

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

SECTION 1. That Section 31-3207, Idaho Code, be, and the same is hereby amended to read as follows:

31-3207. AUDITOR'S FEES. ~~The--county-auditor-is-allowed-and-may receive,-when-not-otherwise-provided-by-law,-fees-as-follows:~~

~~For-administering-each-oath,-including-a-jurat,-if-required--$-.25~~

~~For-each-paper-filed.....$-.10~~

~~For-making-records-or-furnishing-copies-thereof,-per-folio--.-$-.20~~

For services as county auditor, not enumerated in this chapter, the fee fixed by the statute requiring the service shall be charged and collected, or the same fee as allowed the county recorder as provided by section 31-3205, Idaho Code, shall be charged and collected.

SECTION 2. That Section 31-3210, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 31-3216, Idaho Code, be, and the same is hereby repealed.

Approved March 27, 1989.

CHAPTER 73
(H.B. No. 177)

AN ACT

RELATING TO THE POWERS AND DUTIES OF BOARDS OF COUNTY COMMISSIONERS; AMENDING SECTION 31-801, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 31-802, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES AND TO PROVIDE FOR SUPERVISION OF APPOINTED BOARDS OR COMMISSIONS; AMENDING SECTION 31-803, IDAHO CODE, TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTIONS 31-804 AND 31-843, IDAHO CODE, TO COMBINE INTO ONE SECTION; REPEALING SECTION 31-806, IDAHO CODE; AMENDING SECTION 31-808, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES, TO PROVIDE FOR NOTICE BY PUBLICATION OF INTENT TO SELL COUNTY PROPERTY, TO PROVIDE FOR THE RIGHT TO REJECT ALL BIDS, AND TO PROVIDE FOR A RATE OF INTEREST ON DEFERRED PAYMENTS; AMENDING SECTION 31-811, IDAHO CODE, TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTION 31-812, IDAHO CODE, TO PROVIDE A PROPER CODE REFERENCE; AMENDING SECTION 31-816, IDAHO CODE, TO STRIKE AN OBSOLETE REFERENCE AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 31-817, IDAHO CODE, TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTION 31-818, IDAHO CODE, TO STRIKE REFERENCE TO CONTRACTS FOR COUNTY PRINTING AND TO PROVIDE FOR EMPLOYMENT OF ASSISTANTS; AMENDING SECTION 31-819, IDAHO CODE, TO STRIKE REFERENCE TO A POSTING OF PROCEEDINGS; AMENDING SECTION 31-822, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 31-823, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 31-824, IDAHO CODE, TO PROVIDE THAT THE SHERIFF MAY PRESCRIBE REGULATIONS FOR THE EMPLOYMENT OF PRISONERS; REPEALING SECTION 31-827, IDAHO CODE; AMENDING SECTION 31-829, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; REPEALING SECTION 31-830, IDAHO CODE; AMENDING SECTION 31-835, IDAHO CODE, TO PROVIDE FOR THE NEGOTIATED SALE OF PROPERTY UNDER CERTAIN CONDITIONS; REPEALING SECTIONS 31-837, 31-838, 31-841 AND 31-842, IDAHO CODE; AMENDING SECTION 31-844, IDAHO CODE, TO PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS MAY ISSUE A SUBPOENA RATHER THAN THE CHAIRMAN AND TO PROVIDE FOR ADDITIONAL ITEMS TO BE INCLUDED; AMENDING SECTION 31-847, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; REPEALING SECTIONS 31-848, 31-849, 31-850, 31-851, 31-852, 31-853 AND 31-854, IDAHO CODE; AMENDING SECTION 31-855, IDAHO CODE, TO PROVIDE A PENALTY FOR NEGLECT OF DUTY BY A COMMISSIONER; AMENDING SECTION 31-857, IDAHO CODE, TO REDUCE THE TIME LIMIT FOR THE PRIMA FACIE PRESUMPTION OF THE EXISTENCE OF A TAXING DISTRICT; REPEALING SECTIONS 31-858, 31-859, 31-860 AND 31-861, IDAHO CODE; AMENDING SECTION 31-862, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND AMENDING SECTION 31-867, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 31-801, Idaho Code, be, and the same is hereby amended to read as follows:

31-801. GENERAL POWERS AND DUTIES. The boards of county commis-

sioners in their respective counties shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law~~,as provided in the following sections, numbered 31-802 to 31-836, inclusive~~.

SECTION 2. That Section 31-802, Idaho Code, be, and the same is hereby amended to read as follows:

31-802. SUPERVISION OF COUNTY OFFICERS. To supervise the official conduct of all county officers, and ~~officers of all districts and other subdivisions~~ appointed boards or commissions of the county charged with assessing, collecting, safekeeping, management or disbursement of the public moneys and revenues; see that they faithfully perform their duties; direct prosecution for delinquencies; approve the official bonds of county ~~and precinct~~ officers, and when necessary, require them ~~to renew their official bonds,~~ to make reports, and to present their books and accounts for inspection.

SECTION 3. That Section 31-803, Idaho Code, be, and the same is hereby amended to read as follows:

31-803. DIVISION OF COUNTY INTO DISTRICTS. To divide the counties into ~~justices' precincts,~~ election precincts, ~~schools,~~ road and other districts required by law, change the same and create others, as convenience requires~~; provided, however, that a justice's precinct may include one or any number or all the election precincts of a county~~.

SECTION 4. That Sections 31-804 and 31-843, Idaho Code, be, and the same are hereby amended to read as follows:

31-804. SUPERVISION OF ELECTIONS. (1) The board of county commissioners must ~~To~~ establish, abolish and change election precincts and canvass all election returns.

~~31-843. SUPPLIES FOR ELECTIONS.~~ (2) The board must provide all poll lists, poll books, blank returns and certificates, proclamations of election and other appropriate and necessary appliances for holding all elections in the county, and allow reasonable charges therefor, and for the transmission and return of the same to the proper officers.

SECTION 5. That Section 31-806, Idaho Code, be, and the same is hereby repealed.

SECTION 6. 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 COMMUNITY COLLEGE DISTRICTS. To sell or offer for sale at public auction ~~at the courthouse door~~, after ~~thirty~~ ten (~~3~~10) 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~~ one hundred dollars ($~~50~~100~~.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 board of county commissioners may reserve the right to reject all bids. 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 rate of interest specified in section 28-22-104(1), Idaho Code. 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 resolution 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 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 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.

SECTION 7. That Section 31-811, Idaho Code, be, and the same is hereby amended to read as follows:

31-811. LEVY OF TAXES. To levy such tax annually on the taxable property of the county as may be necessary ~~to--defray--the--current expenses--thereof,--including--salaries--otherwise-unprovided-for,~~ not exceeding the amount authorized by law; and to levy such taxes as are required to be levied by special or local statutes.

SECTION 8. That Section 31-812, Idaho Code, be, and the same is hereby amended to read as follows:

31-812. EQUALIZATION OF ASSESSMENTS. To equalize the assessments as provided by title 63, Idaho Code.

SECTION 9. That Section 31-816, Idaho Code, be, and the same is hereby amended to read as follows:

31-816. FIXING OF SALARIES. To fix the compensation of all county officers ~~not-otherwise-fixed-by-general-or-special-law~~ and employees, and provide for the payment of the same.

SECTION 10. That Section 31-817, Idaho Code, be, and the same is hereby amended to read as follows:

31-817. FILLING OF VACANCIES. To fill by appointment all vacancies that may occur in county ~~or-precinct~~ offices, except in members

of the county board.

SECTION 11. That Section 31-818, Idaho Code, be, and the same is hereby amended to read as follows:

31-818. ~~CONTRACTING FOR COUNTY PRINTING~~ AUTHORITY TO APPOINT. ~~To contract for the county printing, and provide books and stationery for county offices~~ The board of county commissioners shall be empowered to employ assistants and clerical staff to aid them in fulfilling their duties.

SECTION 12. That Section 31-819, Idaho Code, be, and the same is hereby amended to read as follows:

31-819. PUBLICATION OF PROCEEDINGS. To cause to be published monthly such statement as will clearly give notice to the public of all its acts and proceedings, and, shall include a brief financial summary indicating the total amount spent from each county fund during the month. A more detailed report of expenditures may be published if deemed necessary by the board. Annually, a full financial report shall be prepared and available for public inspection which shows for each fund the sources of income, expenditures during the year, current fund balances, and other financial information as determined by the board. The board shall cause to be published annually not less than the consolidated balance sheet of said annual report. Such statements as well as all other public notices of proceedings ~~of~~, or to be had before the board, not otherwise specially provided for, must be published in one (1) issue of such newspaper printed and published in the county as will be most likely to give notice thereof~~; and when no newspaper is published in the county, copies of such statement must be kept posted for at least twenty (20) days in three (3) public places in the county, one (1) being in a conspicuous place at the courthouse door.~~

SECTION 13. That Section 31-822, Idaho Code, be, and the same is hereby amended to read as follows:

31-822. MAINTENANCE OF FAIR GROUNDS -- TRANSFER OF PROPERTY TO FAIR DISTRICT. To contract to purchase a site, grounds or parks on which to hold public fairs or exhibitions, to care for and maintain the same, regulate the use thereof and, in their discretion, to let, demise or lease the same to the state of Idaho or the department of agriculture for such public fair or exhibition purposes upon such terms and conditions and for such consideration as in their judgment shall best promote the holding of such public fairs or exhibitions. To make a special levy of ~~one-half (1/2) mill on each dollar of assessed valuation~~ one hundredths per cent (.01%) of market value for assessment purposes of taxable property within the county for the purpose of purchasing a site, grounds or park on which to hold public fairs or exhibitions and to erect upon said site, grounds or park suitable buildings and provide for the maintenance of said buildings. The funds raised by this levy may be allowed to accumulate until enough funds

are available to make the desired purchase. On no account shall the funds raised by this levy and for the purpose of purchasing a site for county fairs or exhibitions, or for building upon and improving the same, be used for any other purpose. The board of county commissioners of any county, owning any grounds or parks with or without buildings and improvements thereon, held and maintained for public fairs or exhibitions may, upon such county becoming a member of or a part of a fair district, in their discretion and upon such terms and conditions as to them may be deemed advisable, offer to sell, and sell and transfer and convey by proper conveyance, to such fair district, the grounds or parks owned by such county and used for public fairs or exhibitions, provided, nevertheless, that any conveyance so made shall expressly provide that the grounds or parks shall be used for district fair purposes, and that upon failure of the district to use the said grounds or parks for a district fair for two (2) successive years, the said property so conveyed, shall revert back to the county making the conveyance.

SECTION 14. That Section 31-823, Idaho Code, be, and the same is hereby amended to read as follows:

31-823. MAINTENANCE OF EXHIBITS IN AID OF FAIRS -- ENCOURAGEMENT OF IMMIGRATION AND TRADE. To levy a ~~special~~ tax of not to exceed two hundredths per cent (.02%) of market value for assessment purposes on all the taxable property within their respective counties, for the purpose of creating a fund to be used for collect~~ing,~~ ~~pre~~paring and maintaining an exhibition of the products and industries of the county at any domestic or foreign exposition, for the purpose of encouraging immigration and increasing trade in the products of the state of Idaho, and for the same purposes, in the discretion of the commissioners to pay premiums or prizes for, and any costs or expenses of collecting, preparing, maintaining, exhibiting and advertising of like exhibitions, exhibited by others than the county at any such domestic or foreign exposition~~;~~

~~Provided, the total tax levies for such purposes in any year shall not exceed one (1) mill on each dollar of taxable property in the county, according to the assessment roll.~~

SECTION 15. That Section 31-824, Idaho Code, be, and the same is hereby amended to read as follows:

31-824. EMPLOYMENT OF PRISONERS. To employ inmates of the county jail upon public road work or other county work in the county under such regulations as the board of county commissioners and the sheriff may prescribe.

SECTION 16. That Section 31-827, Idaho Code, be, and the same is hereby repealed.

SECTION 17. That Section 31-829, Idaho Code, be, and the same is hereby amended to read as follows:

31-829. SALE OR REPLACEMENT OF PERSONAL PROPERTY. Whenever any elective county officer has under his jurisdiction or control any personal property belonging to the county which, in his judgment, is of no further use to the county, he may, with the consent of the board of county commissioners, in the name of the county, sell such personal property ~~either at public or private sale~~. Whenever any such official has any personal property belonging to the county under his jurisdiction or control which, in his judgment is obsolete, worn or damaged so as to require replacement and is of greater value on a trade in or exchange for replacements than upon the sale as above permitted he may, incident to purchase of such replacements and with the consent of the board of county commissioners, trade in or exchange such personal property and apply its trade in or exchange value on the purchase price of replacements. If the purchase of such replacements requires calling for bids, the call shall include bids with proposed allowances for such obsolete, worn or damaged property. All cash received from the sale of personal property must be turned in to the county treasury.

SECTION 18. That Section 31-830, Idaho Code, be, and the same is hereby repealed.

SECTION 19. That Section 31-835, Idaho Code, be, and the same is hereby amended to read as follows:

31-835. MINIMUM PRICE -- ORDER -- PROTEST -- HEARING AND DETERMINATION. Before selling any such property the board shall fix a minimum price on each piece of property to be listed for sale and make an order accordingly in the minutes of the proceedings of the board, and at least thirty (30) days shall have elapsed after the proceedings of the board have been published before any such property shall be sold. Any person interested may appear within said thirty-day period and file a protest with the clerk of such board, which protest shall set forth the property described in the proceedings which he believes is worth more than the minimum price fixed in such order. If any such protest is filed the board shall, before selling any such property described in such protest, give such person a hearing at a time and place to be fixed by the board and after reasonable notice to be fixed by the board has been given to the person filing such protest. At such hearing the board shall determine from the evidence produced at the hearing if the property described in the protest is worth more than the minimum fixed in the order and may raise such minimum amount in such an amount as the board may determine. But no sale shall be made for less than ninety per cent (90%) of the minimum price fixed. If no bids have been submitted to meet the minimum price, the board of county commissioners shall have the right to negotiate the sale of the property.

SECTION 20. That Sections 31-837, 31-838, 31-841 and 31-842, Idaho Code, be, and the same are hereby repealed.

SECTION 21. That Section 31-844, Idaho Code, be, and the same is

hereby amended to read as follows:

31-844. SUBPOENAS FOR WITNESSES. The board may~~,--by--their--chairman,--or--the-chairman-of-any-committee,~~ issue subpoenas to compel the attendance of any person and the production of any books, or papers or other items relating to the affairs of the county, for the purpose of examination upon any matter within their jurisdiction.

SECTION 22. That Section 31-847, Idaho Code, be, and the same is hereby amended to read as follows:

31-847. LEAVE OF ABSENCE TO OFFICERS. The board of commissioners may grant to any county officer of their respective counties leave of absence from their county and the state, for a period not exceeding ninety (90) days, during which time the absence of such officer does not work forfeiture of his office; provided, that before the granting of such leave of absence~~,~~ the officer (except county commissioners ~~and probate--judge~~) must appoint a deputy to perform the duties of his office, ~~and-the-probate-judge-must-appoint-a-deputy-clerk-of-the--probate--court,~~ as by statute in such cases made and provided, and must present to, and file with, the board of commissioners of his county the written consent of each person liable on his official bond, that such leave of absence be granted; be it further provided, that no leave of absence shall be granted to more than any one (1) county commissioner at the same time; providing, however, that where any elective or appointive county officer is required to ~~absent~~ himself by reason of being a member of the armed forces of the nation or by reason of official call to service in civilian war work the said board of county commissioners to consent to such absence for a period not to exceed the date of the next succeeding general election, and such absence shall suspend the salary of such officer during such period.

SECTION 23. That Sections 31-848, 31-849, 31-850, 31-851, 31-852, 31-853 and 31-854, Idaho Code, be, and the same are hereby repealed.

SECTION 24. That Section 31-855, Idaho Code, be, and the same is hereby amended to read as follows:

31-855. NEGLECT OF DUTY BY COMMISSIONERS. Any commissioner who neglects or refuses, without just cause therefor, to perform any duty imposed on him, or who wilfully violates any law provided for his government as such officer, or fraudulently or corruptly performs any duty imposed on him, or wilfully, fraudulently or corruptly attempts to perform an act, as commissioner, unauthorized by law, ~~in-addition to-the-penalty-provided-in-the-Penal--Code,--forfeits--to--the--county $500.00--for-every-such-act~~ shall be prosecuted as provided in section 18-316, Idaho Code.

SECTION 25. That Section 31-857, Idaho Code, be, and the same is hereby amended to read as follows:

31-857. SCHOOL, ROAD, HERD AND OTHER DISTRICTS -- PRESUMPTION OF

VALIDITY OF CREATION OR DISSOLUTION. Whenever any school district, road district, herd district, or other district has heretofore been, or shall hereafter be, declared to be created, established, disestablished, dissolved, or modified, by an order of the board of county commissioners in any county of the state of Idaho, a legal prima facie presumption is hereby declared to exist, after a lapse of ~~five~~ two (~~5~~2) years from the date of such order, that all proceedings and jurisdictional steps preceding the making of such order have been properly and regularly taken so as to warrant said board in making said order, and the burden of proof shall rest upon the party who shall deny, dispute, or question the validity of said order to show that any of such preceding proceedings or jurisdictional steps were not properly or regularly taken; and such prima facie presumption shall be a rule of evidence in all courts in the state of Idaho.

SECTION 26. That Sections 31-858, 31-859, 31-860 and 31-861, Idaho Code, be, and the same are hereby repealed.

SECTION 27. That Section 31-862, Idaho Code, be, and the same is hereby amended to read as follows:

31-862. AUTHORIZING SPECIAL TAX TO BE USED SOLELY AND EXCLUSIVELY FOR PREVENTIVE HEALTH SERVICES. The board of county commissioners is hereby authorized to levy a special tax not to exceed ~~twenty--cents (20¢)--on-the-hundred-dollars-($100.00)-of-the-assessed-valuation~~ four hundredths per cent (.04%) of market value for assessment purposes of all taxable property in the county, above the statutory limitation, to be expended solely and exclusively for preventive health services by county or district boards of health.

SECTION 28. That Section 31-867, Idaho Code, be, and the same is hereby amended to read as follows:

31-867. SPECIAL LEVY FOR COURTS -- DISTRICT COURT FUND. (1) The board of county commissioners of each county in this state may levy annually upon all taxable property of its county, a special tax not to exceed ~~two--(2)-mills~~ four hundredths per cent (.04%) of market value for assessment purposes for the purpose of providing for the functions of the district court and the magistrate division of the district court within the county. All revenues collected from such special tax shall be paid into the "district court fund," which is hereby created, and the board may appropriate otherwise unappropriated moneys into the district court fund. Moneys in the district court fund shall be expended for all court expenditures other than courthouse construction or remodeling and for salaries of the deputies of the district court clerk, which salaries shall be expended from the current expense fund.

(2) Balances in the district court fund may be accumulated from year to year sufficient to operate the court functions on a cash basis, but such balances shall not exceed sixty per cent (60%) of the total budget for court functions for the current year.

Approved March 27, 1989.

CHAPTER 74
(H.B. No. 40)

AN ACT

RELATING TO COUNTY GOVERNMENT; AMENDING SECTION 31-604, IDAHO CODE, TO ADD TO THE ENUMERATION OF POWERS OF A BOARD OF COUNTY COMMISSIONERS; REPEALING SECTION 31-606, IDAHO CODE; AMENDING SECTION 31-715A, IDAHO CODE, TO PROVIDE FOR PUBLIC ACCESS TO COUNTY ORDINANCES; AMENDING SECTION 31-805, IDAHO CODE, TO RELIEVE THE BOARD OF COUNTY COMMISSIONERS FROM CERTAIN HIGHWAY FUNCTIONS THAT ARE UNDER THE CONTROL OF A HIGHWAY DISTRICT; AMENDING SECTION 31-815, IDAHO CODE, TO RELIEVE THE BOARD OF COUNTY COMMISSIONERS FROM CERTAIN HIGHWAY FUNCTIONS THAT ARE UNDER THE CONTROL OF A HIGHWAY DISTRICT; REPEALING SECTIONS 31-831, 31-832 AND 31-833, IDAHO CODE; AMENDING SECTION 31-864, IDAHO CODE, TO PROVIDE CONDITIONS FOR THE SUPPORT OF HISTORICAL SOCIETIES; AND REPEALING SECTION 31-865, IDAHO CODE.

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

SECTION 1. That Section 31-604, Idaho Code, be, and the same is hereby amended to read as follows:

31-604. ENUMERATION OF POWERS. It has power:

1. To sue and be sued.

2. To purchase and hold lands within its limits.

3. To make such contracts, and purchase and hold such personal property, as may be necessary to the exercise of its powers.

4. To make such orders for the disposition or use of its property as the interests of its inhabitants require.

5. To levy and collect such taxes for purposes under its exclusive jurisdiction as are authorized by law.

6. Such other and further authority as may be necessary to effectively carry out the duties imposed on it by the provisions of the Idaho Code and constitution.

SECTION 2. That Section 31-606, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 31-715A, Idaho Code, be, and the same is hereby amended to read as follows:

31-715A. SUMMARIZATION OF ORDINANCES PERMITTED -- REQUIREMENTS. (1) The county may publish a summary of the ordinance which summary shall be approved by the board of county commissioners and which shall include:

(a) The name of the county;

(b) The formal identification or citation number of the ordinance;

(c) A descriptive title;

(d) A summary of the principal provisions of the ordinance,

including penalties provided and the effective date;

(e) Any other information necessary to provide an accurate summary; and

(f) A statement that the full text is available ~~at the county courthouse~~ and the name, location, and office hours of the agency where a complete copy may be obtained.

(2) Subsection (1) of this section notwithstanding, whenever any publication is made under this section and the proposed or adopted ordinance contains legal descriptions, or contains provisions regarding taxation or penalties concerning real property, then the sections containing this matter shall be published in full and shall not be summarized. When a legal description of real property is involved, the notice shall also include the street address or addresses of the property described, if any. In the case of descriptions covering one or more street addresses, the street addresses of the corners of the area described shall meet this requirement. Maps may be substituted for written legal description of property provided they contain sufficient detail to clearly define the area with which the ordinance is concerned.

(3) Before submission of a summary to a newspaper for publication under this section, the county clerk under seal of the board of county commissioners shall sign a statement, which shall be filed with the ordinance, that the summary is true and complete and provides adequate notice to the public.

(4) The full text of any ordinance which is summarized by publication under this section shall be promptly provided to any citizen on personal request.

SECTION 4. That Section 31-805, Idaho Code, be, and the same is hereby amended to read as follows:

31-805. SUPERVISION OF ROADS, BRIDGES, AND FERRIES. ~~To~~ The board shall lay out, maintain, control and manage public roads, turnpikes, ferries and bridges within the county, and levy such tax therefor as ~~authorized~~ by law; provided that the board need not lay out, maintain, control, and manage public roads, turnpikes, ferries, and bridges inside the boundaries of a highway district formed pursuant to title 40, Idaho Code.

SECTION 5. That Section 31-815, Idaho Code, be, and the same is hereby amended to read as follows:

31-815. LICENSING OF TOLL ROADS, BRIDGES, AND FERRIES. ~~To~~ The board shall grant licenses and franchises, as provided by law, ~~for~~ construction of, keeping and taking tolls on roads, bridges and ferries, and fix the tolls and licenses; provided that the board need not grant licenses and franchises, as provided by law, for construction of, keeping and taking tolls on roads, bridges and ferries, and fix the tolls and licenses for those areas encompassed within the boundaries of a highway district formed pursuant to title 40, Idaho Code.

SECTION 6. That Sections 31-831, 31-832 and 31-833, Idaho Code,

be, and the same are hereby repealed.

SECTION 7. 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. (1) The board of county commissioners of any county may expend annually 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 purposes of this ~~act~~ section, the board of county commissioners of any county is authorized and empowered to levy not more than twelve one-thousandths percent (.012%) on each dollar of market value for assessment purposes of taxable property within the county.

(2) Before money is granted under this section, the directors of such nonprofit corporations shall present to the county commissioners a proposed budget which shall indicate anticipated revenues and expenditures of the nonprofit corporation (including the sums requested from the county), and shall indicate the purposes of the proposed expenditures. The board of county commissioners may require an audit of the accounts and financial records of any such nonprofit corporations receiving county funds.

SECTION 8. That Section 31-865, Idaho Code, be, and the same is hereby repealed.

Approved March 27, 1989.

CHAPTER 75
(H.B. No. 39)

AN ACT

RELATING TO AD VALOREM TAX ADMINISTRATION; AMENDING SECTION 63-305A, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 63-613, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 63-622, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 63-624, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 63-625, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 63-626, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 63-918, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 63-1302, IDAHO CODE, TO PROVIDE A TIME LIMIT TO PERFECT AN APPEAL ON PERSONAL PROPERTY TAXES; AND AMENDING SECTION 63-1303, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Section 63-305A, Idaho Code, be, and the same is hereby amended to read as follows:

63-305A. ASSESSMENT DATA FURNISHED BY THE STATE TAX COMMISSION. For each parcel of land for which such data is available, the state tax commission or the agency operating the computer in which appraisal data has been stored shall furnish the county assessor with compiled data furnished pursuant to the provisions of section 63-201A, Idaho Code, (including full cash value and ~~assessed~~ market value for assessment purposes of each parcel of real property and the improvements ~~thereon)~~ on each parcel of land after adjustment to reflect increases or decreases in the value of each parcel and the improvements thereon due to economic conditions, depreciation and other factors made known through appraisal data submitted in the preceding and prior tax years.

SECTION 2. That Section 63-613, Idaho Code, be, and the same is hereby amended to read as follows:

63-613. CERTIFICATE BY EXECUTIVE OFFICER -- AD VALOREM AND SPECIAL TAXES -- ASSESSMENT OF PUBLIC UTILITIES. In transmitting the certified statement, as prescribed in the preceding section, the state tax commission's executive officer shall also transmit therewith the certificate showing the total amount of state ad valorem and special state taxes found to be due from the county~~, including the tax of three cents (3¢) per colony of bees~~, and shall, as executive officer of the state tax commission, also transmit therewith a certified statement showing the assessment of any railroad, telegraph, telephone or electric current transmission or distribution line and all other operating property under the jurisdiction of the tax commission situated wholly or partly within the county, specifying the number of miles, the equalized value per mile, and the total equalized value of each line in the county, and in any incorporated city, and in any other taxing district into or through which such line extends, and the name of such line, if any, and the name and post-office address of the taxpayer or owner of such line, and the county auditor shall, upon receipt of such certified statement, file the same in his office.

SECTION 3. That Section 63-622, Idaho Code, be, and the same is hereby amended to read as follows:

63-622. TIME AND MANNER OF CERTIFICATION. Whenever any taxing district is required by law to certify to any board of county commissioners, county tax collector, county auditor, county assessor, or to any other county officer, any ad valorem tax levy, upon property located within said district, ~~in mills, or in cents on each one hundred dollars ($100) of assessed valuation within said district,~~ such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time, and in the manner hereinafter provided.

SECTION 4. That Section 63-624, Idaho Code, be, and the same is hereby amended to read as follows:

63-624. TAX LEVY DETERMINED IN DOLLARS -- CERTIFICATION DATE. When the equalized or adjusted assessed valuations have been determined, in the manner set forth in section 63-623, Idaho Code, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate board of county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total "full cash value" of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total "full cash value" of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed by section 21-807(10), Idaho Code. Full cash value shall be certified by the county assessor of each affected county to such taxing unit and such certification shall be used in this formula. The certification to the board of county commissioners required by this section shall be made not later than the second Monday in September, unless, upon application therefor, the board of county commissioners grants an extension of not more than one (1) week. After receipt of this certification, the board of county commissioners shall make a tax levy ~~in mills~~ as a percent of market value for assessment purposes of all taxable value of property in the taxing district, which when applied to the tax rolls ~~to which reference is made in section 63-625, Idaho Code, as amended~~, will meet the budget requirements certified by such taxing districts.

SECTION 5. That Section 63-625, Idaho Code, be, and the same is hereby amended to read as follows:

63-625. PURPOSE OF ACT. It is the purpose of this act to change ~~and amend the laws of all taxing districts as herein defined, with respect to the making of tax levies and the certification thereof to any board of county commissioners, or to any other county officer, so as to~~ require the council, trustees, board, or other governing body of ~~said~~ taxing districts to determine and certify to the boards of county commissioners of their respective counties, by the second Monday of September of each year, the total amount of money in dollars~~, and not in mills or a certain number of cents on each one hundred dollars ($100) of assessed valuation,~~ that is necessary and required to meet the requirements of its budget which has been prepared and approved during the same year and to provide that the levy necessary to produce the requirements of the several budgets shall be determined by the county commissioners who, in fixing such levy, shall take into consideration the equalized assessed valuation as shown by the real property

assessment roll and the personal property assessment roll of the current year and the subsequent personal property assessment roll for the preceding year adjusted to reflect expected major adjustment in such roll for the current tax year. ~~When-the-county-commissioners-shall-fix and-levy-pursuant-to-this-section,-such-levy-will-be-made-in-mills-and must-be-rounded-off-to-the-nearest-one-hundredth-(1/100th)-of--a--cent per--one--hundred--dollars--($100)-of-assessed-valuation,-so-that-when such-levy-is-expressed-in-dollars-per-one-hundred--dollars--($100)--of assessed-valuation,-it-shall-not-be-carried-beyond-the-fourth-digit-to the-right-of-the-decimal-point.~~

SECTION 6. That Section 63-626, Idaho Code, be, and the same is hereby amended to read as follows:

63-626. ~~CONSTRUCTIVE~~ AMENDMENT OF OTHER ACTS. ~~Any--act--or--part thereof,-where-it-is-provided-that-the-council,-trustees-or-other-governing--body--of--any-taxing-district-as-herein-defined-is-required-to determine-and-certify-to-any-board-of-county-commissioners,-or-to--any other--county-officer,-any-ad-valorem-tax-levy,-in-mills,-or-a-certain number-of-cents-on-each-one-hundred-dollars-($100)-of-assessed--valuation-in-the-district,-and-any-act,-or-part-thereof-wherein-any-time-is fixed--for--any-such-certification-shall-be-construed-to-be-amended-to conform-to-the-requirements-of-this-act,-and-whenever--any--provisions of--the--existing-laws-of-any-of-said-taxing-districts-are-in-conflict with-the-provisions-of-this-act,-the-provisions-of-this-act-shall-control-and-supersede-all-such-laws,-but--n~~Nothing ~~herein~~ contained in this chapter shall be construed as amending or repealing any ~~mill~~ levy limitations upon property in any such taxing district, or amending or repealing any law providing for a petition, public hearing or special election otherwise authorized by law regarding the amount of money that can be collected by a tax on property in any such district.

SECTION 7. That Section 63-918, Idaho Code, be, and the same is hereby amended to read as follows:

63-918. MUNICIPAL TAXES -- COLLECTION ~~---INTEREST-FROM-INVESTMENT ON-NONCOUNTY-FUNDS~~. All taxes of every city, school district or other district or municipality, levied according to law and certified in accordance with the provisions of this act, shall be collected and paid into the county treasury and apportioned to such city, school district or other district or municipality.

SECTION 8. 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 the demand due date specified by the tax collector on the demand tax notice. 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, prior to the tax becoming delinquent. 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 9. That Section 63-1303, Idaho Code, be, and the same is hereby amended to read as follows:

63-1303. NOTICE TO OWNERS ~~AND MORTGAGEES~~. The tax collector shall, immediately after the personal property tax has become due and during the month of November of each year, mail to each person owing taxes shown on the personal property tax roll a notice specifying the amount of the personal property tax due. Unless the tax is paid when due according to the terms of this act the tax shall become delinquent, and a warrant of distraint shall be issued for the collection thereof. ~~A copy of the notice shall also be mailed to any known mortgagee of the personal property.~~

Approved March 27, 1989.

CHAPTER 76
(H.B. No. 27)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE THAT IDAHO ADJUSTMENTS TO THE DEDUCTION FOR DIVIDENDS PAID CONFORM TO CHANGES IN THE INTERNAL REVENUE CODE; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3022, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(1) In the case of a corporation whose income is taxable under this chapter, no deduction shall be allowed for interest on indebtedness incurred or continued to purchase after January 1, 1983, or to carry obligations acquired after January 1, 1983, the interest of which is wholly exempt from the taxes imposed under this chapter. The amount of interest on indebtedness thus incurred or continued shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's average adjusted basis of the obligations mentioned in the preceding sentence bears to such average adjusted basis for all assets of the taxpayer, or, at the option of the taxpayer, an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year.

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

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

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

(d) (1) A net operating loss for any taxable year commencing on or after January 1, 1983, shall be a net operating loss carryover to each of the ten (10) taxable years following the taxable year of such loss; provided, however, such net operating loss shall be subtracted in each succeeding year in order but the total subtracted in the succeeding taxable years shall not exceed the total

of such net operating loss; provided, further, that a net operating loss not to exceed one hundred thousand dollars ($100,000) arising in a taxable year commencing on or after January 1, 1983, may, at the election of the taxpayer, be carried back to the three (3) immediately preceding taxable years, and if such loss is not entirely absorbed by the income of those years, the amount of loss not exhausted may be subtracted from taxable income arising in the next ten (10) years succeeding the taxable year in which the loss arises in order until exhausted. An election under this subsection must be in the manner prescribed in the regulations of the state tax commission and once made is irrevocable for the year in which it is made. In the event that the taxpayer elects to carryback any loss arising in a year commencing on or after January 1, 1983, any loss not exhausted may be subtracted from taxable income arising in the next succeeding ten (10) taxable years in order until exhausted.

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

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

(f) In the case of a corporation, subtract an amount equal to ~~eighty--per--cent--(80%)~~ the percentage determined under section 246(b)(3) of the Internal Revenue Code of the amount received during the taxable year as dividends, as limited by the rules of section 246(b)(1) of the Internal Revenue Code, from any corporation which has shown to the satisfaction of the state tax commission that more than fifty per cent (50%) of its taxable income for the taxable year immediately preceding the declaration of such dividends was taxable by the state of Idaho under the provisions of this act.

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

(h) In the case of a corporation with more than fifty per cent (50%) of its income taxable within this state, the salary, fee or other compensation of its nonresident officers or directors shall be treated as income from sources within the state. Whether or not any personal services have been performed by such nonresident officers or directors in this state, they shall be deemed to have a business situs in this state. If such salary, fee or other compensation is not reported to this state as income, such corporation shall not deduct as part of its expenses for the taxable year any part of such salary, fee or other compensation in computing taxable income. When the salary, fee or other compensation paid to such nonresident officer is reported to this state as income by such nonresident officer, it shall be apportioned by applying to the total of such income the apportionment

factor of the corporation paying the salary, fee or other compensation, as such factor is reported on the corporation's income tax return computed pursuant to section 63-3027, Idaho Code, or as subsequently modified. Provided, however, reasonable compensation paid to such nonresident officers or directors for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources.

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

(j) In the case of an individual who is on active duty as a full time officer, enlistee or draftee, with the armed forces of the United States, which full time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid for services performed outside this state by the armed forces of the United States.

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

side the state of Idaho shall not be included as income earned from Idaho sources. In computing the income taxable to the corporation or partnership under this subsection, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (d) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

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

(1) a. The standard deduction as defined by section 63, Internal Revenue Code, plus contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus

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

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

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

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

(m) Deduct any amounts added to gross income under section 87 of the Internal Revenue Code for tax credits allowable to the taxpayer under section 40 of the Internal Revenue Code.

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

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

SECTION 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, 1989.

Approved March 27, 1989.

CHAPTER 77
(H.B. No. 181)

AN ACT

RELATING TO CREATION OF A COMMEMORATIVE DAY; AMENDING CHAPTER 1, TITLE 73, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 73-108B, IDAHO CODE, TO PROVIDE THAT A CONSTITUTIONAL COMMEMORATIVE DAY SHALL BE OBSERVED.

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

SECTION 1. That Chapter 1, Title 73, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 73-108B, Idaho Code, and to read as follows:

73-108B. CONSTITUTIONAL COMMEMORATIVE DAY. September 17 shall be designated as constitutional commemorative day. The superintendent of public instruction shall be responsible for developing programs and suitable recognition of the constitution of the United States in conjunction with the commemorative day to be held annually on the anniversary of the signing of the constitution.

Approved March 27, 1989.

CHAPTER 78
(H.B. No. 53)

AN ACT

RELATING TO LICENSE FEES FOR ATTORNEYS; AMENDING SECTION 3-409, IDAHO CODE, TO PROVIDE FOR LICENSE FEES FOR ATTORNEYS, AND TO PROVIDE FOR AN ASSESSMENT FOR THE CLIENTS' SECURITY FUND.

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

SECTION 1. That Section 3-409, Idaho Code, be, and the same is hereby amended to read as follows:

3-409. LICENSE FEES AND APPROPRIATIONS. Every person practicing, or holding himself out as practicing law within this state, or holding himself out to the public as a person qualified to practice or carry on the calling of a lawyer within this state, except state and United States judges of the courts of record within this state, shall, prior to so doing and no later than January 10 of each year, commencing with the year 198690, and thereafter, pay to the board of commissioners of the Idaho State Bar as a license fee the sum of ~~twenty~~ sixty-five dollars (~~$20~~65.00) for the calendar year of his admission to practice law in the state of Idaho~~,~~ if admitted prior to July 1 of the calendar year and thirty-five dollars ($35.00) if admitted after July 1 of the calendar year and one hundred twenty-five dollars ($100~~2~~5) each year for the next three (3) calendar years following the calendar year of such admission, and two hundred fifty dollars ($20~~5~~0) for each year thereafter, until the calendar year following the lawyer's seventy-second birthday and for such calendar year and each year thereafter, the sum of ~~thirty~~ forty-five dollars ($~~3~~45.00). Affiliate members shall pay a fee of ninety-five dollars ($95.00) per year.

The moneys thus collected, together with other revenues shall be administered under the direction of the board of commissioners of the Idaho State Bar for the purpose of administering the Idaho State Bar, encouraging local bar associations, promoting legal education seminars, fostering relations between the public and the bar and for the purpose of establishing and maintaining a clients' security fund which shall be administered by the Idaho State Bar commissioners under rules approved by the ~~S~~supreme ~~C~~court, provided that the clients' security fund shall be funded by assessment of the members of the Idaho State Bar not to exceed ten dollars ($10.00) per member per year, independent of the license fee. All moneys received and expended by the commissioners of the Idaho State Bar shall be audited annually by a certified public accountant.

Approved March 27, 1989.

CHAPTER 79
(H.B. No. 52)

AN ACT

RELATING TO THE UNIFORM PROBATE CODE; AMENDING SECTION 15-5-103, IDAHO CODE, TO INCREASE THE AMOUNT PER ANNUM A PERSON WHO IS UNDER AN OBLIGATION TO PAY MAY PAY A MINOR.

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

SECTION 1. That Section 15-5-103, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-103. FACILITY OF PAYMENT OR DELIVERY. Any person under a duty to pay or deliver money or personal property to a minor may perform this duty, in amounts not exceeding ~~five~~ ten thousand dollars ($~~5~~10,000) per annum, by paying or delivering the money or property to, (1) the minor, if he has attained the age of eighteen (18) years or is married; (2) any person having the care and custody of the minor with whom the minor resides; (3) a guardian of the minor; or (4) a financial institution incident to a deposit in a federally insured savings account in the sole name of the minor and giving notice of the deposit to the minor. This section does not apply if the person making payment or delivery has actual knowledge that a conservator has been appointed or proceedings for appointment of a conservator of the estate of the minor are pending. The persons, other than the minor or any financial institution under (4) of this section, receiving money or property for a minor, are obligated to apply the money to the support and education of the minor, but may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support. Any excess sums shall be preserved for future support of the minor and any balance not so used and any property received for the minor must be turned over to the minor when he attains majority. Persons who pay or deliver in accordance with provisions of this section are not responsible for the proper application thereof.

Approved March 27, 1989.

CHAPTER 80
(H.B. No. 321)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 65, LAWS OF 1988; 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 65, Laws of 1988, there is hereby appropriated to the Secretary of State for the Idaho Commission on the Arts the following amount to be expended according to the designated expense class from the listed accounts for the period July 1, 1988, through June 30, 1989:

FOR:

Trustee and Benefit Payments	$250,000

FROM:

General Account	$100,000

Idaho Commission on the Arts Account	50,000
Interagency Billing and Receipts Account	100,000
TOTAL	$250,000

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

Approved March 27, 1989.

CHAPTER 81
(H.B. No. 320)

AN ACT

AMENDING SECTION 2, CHAPTER 64, LAWS OF 1988, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF PARKS AND RECREATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 64, Laws of 1988, be, and the same is hereby amended to read as follows:

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:					
FROM:					
General Account	$ 380,300	$ 70,300			$ 450,600
Park and Recreation Account	~~123,000~~	219,800	$ 24,100		~~367,700~~
	125,600				369,500
Parks and Recreation Capital Improvement Account			23,200		23,200
Motorbike Recreation Account		15,400			15,400
Recreational Vehicle Account	7,500	5,100			12,600
Federal Surcharge Account	~~86,200~~	16,800			~~103,000~~
	86,900				103,700
TOTAL	$ ~~590,300~~	$ ~~322,300~~	$ 47,300		$ ~~959,900~~

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
	600,300	327,400			975,000
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~~
	57,000				114,400
TOTAL	~~$2,329,400~~	$ 629,000	$ 309,300		~~$3,267,700~~
	2,331,000				3,269,300
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~~
	50,600	27,100	78,400	638,800	794,900
Off-Road Motor Vehicle Account	~~45,100~~	21,900	~~216,800~~	~~543,400~~	826,400
	85,100		218,300	501,100	
State Snowmobile Account				230,000	230,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
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~~
				24,000	30,100
Park and Recreation Federal Account		6,000			6,000
Federal Surcharge Account	~~156,000~~	3,300			~~159,300~~
	156,900				160,200
Recreational Vehicle Account	~~39,200~~	~~25,300~~		~~705,100~~	769,600
	76,200	55,300	4,600	633,500	
Coast Guard Boat Safety Account	~~46,800~~	52,500	~~107,500~~	~~125,000~~	~~331,000~~
	57,500		110,500	112,000	332,500
TOTAL	$ ~~349,700~~	$ ~~160,700~~	$ ~~390,900~~	$~~4,761,500~~	$ ~~5,670,000~~
	468,800	218,300	411,800	4,591,000	5,689,900
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~~
	3,832,200	1,367,600	1,463,400	4,591,000	11,254,200

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 27, 1989

CHAPTER 82
(H.B. No. 149)

AN ACT

RELATING TO APPEALS TO THE DISTRICT COURT; REPEALING SECTIONS 19-3937 AND 19-3938, IDAHO CODE, RELATING TO APPEALS FROM PROBATE AND JUSTICE COURTS.

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

SECTION 1. That Sections 19-3937 and 19-3938, Idaho Code, be, and the same are hereby repealed.

Approved March 27, 1989.

CHAPTER 83
(H.B. No. 146)

AN ACT

RELATING TO THE TIME FOR APPLICATION FOR A NEW TRIAL; AMENDING SECTION 19-2407, IDAHO CODE, TO PROVIDE THE TIME FOR APPLICATION FOR A NEW TRIAL.

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

SECTION 1. That Section 19-2407, Idaho Code, be, and the same is hereby amended to read as follows:

19-2407. TIME FOR APPLICATION. The application for a new trial may be made before or after judgment; and must be made within ~~ten~~ fourteen (1~~0~~4) days after verdict, unless the court or judge extends the time.

Approved March 27, 1989.

CHAPTER 84
(H.B. No. 48)

AN ACT

RELATING TO PEACE OFFICERS STANDARDS AND TRAINING FEES: AMENDING SECTION 31-3201B, IDAHO CODE, BY INCREASING THE FEE TO FOUR DOLLARS.

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

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

31-3201B. PEACE OFFICERS STANDARDS AND TRAINING -- FEE. The court shall charge a fee of ~~three~~ four dollars ($~~3~~4.00) for peace officers standards and training purposes to be paid 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 for cars unlawfully left or parked or 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. Such fees shall be in addition to all other fines and fees levied. Such fees shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees into the state treasurer for deposit in the peace officers standards and training account.

Approved March 27, 1989.

CHAPTER 85
(H.B. No. 50)

AN ACT

RELATING TO RULES OF THE PERSONNEL COMMISSION; AMENDING SECTION 67-5309, IDAHO CODE, TO PROVIDE A PROBATION PERIOD OF ONE YEAR FOR PEACE OFFICERS.

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

SECTION 1. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE PERSONNEL COMMISSION. The commission shall have the power and authority to adopt, amend, or rescind such rules and regulations as may be necessary for proper administration of this act. Such rules shall include:

(a) A rule requiring the personnel commission, after consulting with each department to develop, adopt, and make effective, a classification plan for positions covered by this act, based upon an analysis of the duties and responsibilities of the position. The classification plan will include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule requiring the personnel commission, after consulting with each department to develop, and adopt a comprehensive compensation plan for all classes of positions covered under this act. The compensation plan shall include salary schedules with the salary of each position consistent with the responsibility and difficulty of the work as outlined in the job specifications.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation.

(d) A rule providing for not less than biennial review by the commission of the personnel system including classification and compensation plans, policies and procedures.

(e) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this

act, on the basis of open competitive merit examinations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the examination was open; the application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time for any position for which the commission maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) points shall be added to the earned rating of any war veteran and the widow of any war veteran as long as she remains unmarried. Ten (10) points shall be added to the earned rating of any disabled war veteran, the widow of any disabled war veteran as long as she remains unmarried or the spouse of any disabled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply the preference. Employment registers shall be established in order of final score except that the names of all five (5) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating, and the names of all ten (10) point preference eligibles shall be placed at the top of the register above the names of all nonpreference eligibles. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the five (5) top ranking available eligibles plus the names of all individuals with scores identical to the fifth ranking eligible on the register; however, selective certification shall be permitted when justified by the hiring department, under rules to be made by the commission defining adequate justification based on the duties and requirements of the position. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(f) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified permanent employee of the agency in which the vacancy occurs. An inter-agency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(g) A rule for development and maintenance of a system of service

ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the commission.

(h) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, or other nonmerit factors, and providing for right of appeal.

(i) A rule establishing a probation period not to exceed six (6) months for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of one (1) year, and for the appointing authority to provide the employee and the commission a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the state personnel director to extend the probationary period for good cause for an additional specified period not to exceed six (6) months. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(j) A rule concerning provisional appointments.

(k) A rule concerning temporary appointments.

(l) A rule governing the employment of consultants and persons retained under independent contract.

(m) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, rules and regulations of the employee's department, or rules and regulations of the personnel commission.
2. Inefficiency, incompetency, or negligence in the performance of duties.
3. Physical or mental incapability for performing assigned duties.
4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.
5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.
6. Intoxication on duty.

7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.

8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.

9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.

10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.

11. Habitual pattern of failure to report for duty at the assigned place and time.

12. Habitual improper use of sick leave privileges.

13. Unauthorized disclosure of confidential information from official records.

14. Absence without leave.

15. Misstatement or deception in the application for the position.

16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.

17. Prohibited participation in political activities.

(n) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system.

(o) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(p) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(q) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this act.

(r) A rule concerning "project exempt" appointments.

(s) Rules relating to leave for state employees from official duties, including but not limited to sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

Approved March 27, 1989.

CHAPTER 86
(H.B. No. 51)

AN ACT

RELATING TO INVESTMENTS BY THE STATE TREASURER; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1210A,

TO ALLOW THE STATE TREASURER TO INVEST IN ADDITIONAL INVESTMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 12, 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 67-1210A, Idaho Code, and to read as follows:

67-1210A. ADDITIONAL ALLOWABLE INVESTMENTS BY THE STATE TREASURER. In addition to investments enumerated in section 67-1210, Idaho Code, the state treasurer is authorized and empowered to invest state funds or any other funds in his hands including, but not limited to, funds of any public agency invested pursuant to joint exercise of powers agreements, in prime banker's acceptances and prime commercial paper.

The provisions of this section shall not be construed to enlarge the powers of other public agencies to invest in prime banker's acceptances or prime commercial paper unless such investments are made by the state treasurer pursuant to a joint exercise of powers agreement.

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 27, 1989.

CHAPTER 87
(H.B. No. 98)

AN ACT

RELATING TO THE REGULATORY FEES ASSESSED AGAINST PUBLIC UTILITIES; AMENDING SECTION 61-1004, IDAHO CODE, TO PROVIDE THAT THE MAXIMUM REGULATORY FEE PAYABLE AGAINST A UTILITY'S GROSS INTRASTATE RECEIPTS SHALL NOT EXCEED THREE-TENTHS OF ONE PERCENT OF THE GROSS OPERATING REVENUES DERIVED FROM INTRASTATE UTILITY BUSINESSES AND THAT THE MINIMUM ANNUAL REGULATORY FEE SHALL NOT BE LESS THAN FIFTY DOLLARS.

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

SECTION 1. That Section 61-1004, Idaho Code, be, and the same is hereby amended to read as follows:

61-1004. DUTIES OF COMMISSION -- FEES -- DETERMINATION -- MAXIMUM AND MINIMUM FEES. On or before April 15th of each year the commission shall determine the proportionate assessment that all railroad corporations, and all other public utilities subject to the jurisdiction of

of the commission, shall bear to the amount which will not be appropriated from the general fund which will be required to defray the expense of the commission for supervision and regulation of such railroad corporations and other public utilities during the ensuing fiscal year; such determination shall be based upon a consideration of the time and expense devoted to the supervision and regulation of each such class of railroad corporations and other public utilities during the preceding calendar year, including salaries and wages of the employees and all other necessary and lawful expenditures of the commission. Thereupon the commission shall apportion the assessment thus determined to be required of all railroad corporations and all other public utilities, to each such class thereof, respectively, in proportion to their respective gross operating revenues derived from intrastate utility business in Idaho for the preceding calendar year, except that the maximum fee payable shall not exceed:

(1) In the case of railroad corporations, one per cent (1%) of the gross operating revenues derived from the intrastate utility business of each railroad corporation and

(2) In the case of all other public utilities, ~~one--fourth--(1/4)~~ three-tenths (3/10) of one per cent (1%) of the gross operating revenues derived from the intrastate utility business of each such public utility.

(3) In no case shall the fee be less than ~~$25.00~~ fifty dollars ($50.00).

The commission shall make such assessment of the fees so determined by orders duly made and entered on its minutes.

Approved March 27, 1989.

CHAPTER 88
(S.B. No. 1001)

AN ACT

RELATING TO MOTOR VEHICLE CLASS AND COMMERCIAL DRIVERS' LICENSES; AMENDING SECTIONS 49-102, 49-104, 49-105, 49-106, 49-107, 49-108, 49-113, 49-115, 49-116, 49-119, 49-120 AND 49-122, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS, AND TO REDEFINE DEFINITIONS; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-301, IDAHO CODE, TO PROVIDE FOR CLASSES OF DRIVER'S LICENSES TO OPERATE COMMERCIAL VEHICLES, TO PROVIDE PROPER NOMENCLATURE, AND TO PROVIDE FOR A VALIDATION PERIOD FOR OPERATOR AND CHAUFFEUR LICENSES; AMENDING SECTION 49-302, IDAHO CODE, TO PROVIDE FOR EXEMPTIONS FROM CLASS A, B OR C LICENSURE; AMENDING SECTION 49-303, IDAHO CODE, TO PROVIDE FOR PERSONS WHO MAY NOT BE LICENSED; REPEALING SECTION 49-304, IDAHO CODE; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE FOR INSTRUCTION PERMITS, TEMPORARY AND RESTRICTED LICENSES; AMENDING SECTION 49-306, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR AN APPLICATION FOR A DRIVER'S LICENSE, TO PROVIDE FEES FOR LICENSING, TO PROVIDE FOR

REPORTING OF THE ISSUANCE OF A CLASS A, B OR C LICENSE, AND TO PROVIDE FOR DISTRIBUTION OF LICENSE FEES; AMENDING SECTION 49-307, IDAHO CODE, TO INCREASE THE FEE FOR DRIVER TRAINING, AND TO PROVIDE FOR DISTRIBUTION OF FEES; REPEALING SECTION 49-309, IDAHO CODE; AMENDING SECTIONS 49-310, 49-311 AND 49-312, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-313, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO PROVIDE FOR KNOWLEDGE AND SKILL TESTS FOR DRIVERS; AMENDING SECTION 49-314, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO PROVIDE REQUIREMENTS FOR INFORMATION ON A LICENSE, AND TO PROVIDE FOR REPORTING OF THE ISSUANCE OF A CLASS A, B OR C LICENSE; AMENDING SECTIONS 49-316, 49-317 AND 49-318, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-319, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO PROVIDE FOR RENEWAL OF LICENSES, AND TO PROVIDE FOR AN UPGRADE IN A LICENSE CLASS; AMENDING SECTION 49-320, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-321, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO PROVIDE FOR RECORDS TO BE KEPT BY THE DEPARTMENT; AMENDING SECTION 49-322, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-323, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO PROVIDE FOR REPORTS ON NONRESIDENT DRIVERS; AMENDING SECTION 49-324, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO PROVIDE FOR REPORTS ON RESIDENT DRIVERS; AMENDING SECTIONS 49-325, 49-326, 49-327, 49-328, 49-329, 49-330, 49-331 AND 49-334, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING CHAPTER 3, TITLE 49, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 49-335, 49-336 AND 49-337, IDAHO CODE, TO PROVIDE FOR DISQUALIFICATIONS OF DRIVERS OF COMMERCIAL MOTOR VEHICLES, AND TO PROVIDE PENALTIES; TO PROVIDE FOR ISSUANCE OF A NONRESIDENT DRIVER'S LICENSE, AND TO PROVIDE CONDITIONS; AND TO PROVIDE FOR EMPLOYEE AND EMPLOYER RESPONSIBILITIES; AMENDING SECTIONS 49-1217, 49-1219, 49-1220, 49-1222, 49-1301, 49-1302, 49-1304, 49-1401, 49-1404, 49-1505, 49-2001, 49-2443, 11-607 AND 18-8001, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 18-8002, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO PROHIBIT THE ISSUANCE OF A TEMPORARY PERMIT FOR HOLDERS OF A CLASS A, B OR C LICENSES; AMENDING SECTION 18-8004, IDAHO CODE, TO PROVIDE A LIMIT OF ALCOHOL CONCENTRATION FOR COMMERCIAL VEHICLE OPERATORS; AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO PROHIBIT THE ISSUANCE OF RESTRICTED DRIVING PRIVILEGES TO COMMERCIAL VEHICLE OPERATORS; AMENDING SECTIONS 18-8006, 18-8007, 18-1502 AND 31-2202, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTIONS 33-405, 33-1508 AND 33-1509, 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 Section 49-102, Idaho Code, be, and the same is hereby amended to read as follows:

49-102. DEFINITIONS -- A.

(1) "Abandon" means to leave a vehicle on private property with-

out 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) "Administrator" means the federal highway administrator, the chief executive of the federal highway administration, an agency within the U.S. department of transportation.

(6) "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~~7~~) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(8) "Alcohol or alcoholic beverage" means:

(a) Beer as defined in 26 U.S.C. 5052(a), of the internal revenue code;

(b) Wine of not less than one-half of one per cent (.005%) of alcohol by volume; or

(c) Distilled spirits as defined in section 5002(a)(8), of the internal revenue code.

(~~7~~9) "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~~10~~) "Amateur radio operator." (See "Radio operator, amateur", section 49-119, Idaho Code)

(9~~11~~) "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.

(12) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(10~~3~~) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title.

(~~11~~4) "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~~5) "Armed forces" means the army, navy, marine corps, coast guard and the air force of the United States.

(~~13~~6) "Authorized emergency vehicle." (See "Vehicle", section 49-123, Idaho Code)

(~~14~~7) "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~~8) "Auto transporter" means a vehicle combination constructed for the purpose of transporting motor vehicles.

SECTION 2. That Section 49-104, Idaho Code, be, and the same is hereby amended to read as follows:

49-104. DEFINITIONS -- C.

(1) "Cancellation of ~~operator's or chauffeur's~~ driver's license" means the annulment or termination by formal action of the department of a person's ~~operator's or chauffeur's~~ driver's license because of some error or defect in the driver's license or because the licensee is no longer entitled to the driver's license, but the cancellation of a driver's license is without prejudice and application for a new driver's 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 acci-

dent 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) "Commerce" means:

(a) Trade, traffic, and transportation within the jurisdiction of the United States; between a place in a state and a place outside of the state, including a place outside the United States;

(b) Trade, traffic, and transportation in the United States which affects any trade, traffic and transportation as set out in paragraph (a) of this subsection.

(7) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(68) "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.

(9) "Commercial motor vehicle groups" mean a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross vehicle weight rating or gross combination weight rating of twenty-six thousand and one (26,001) or more pounds;

(b) Is designed to transport sixteen (16) or more persons, including the driver; or

(c) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous materials transportation act and which require the motor vehicle to be placarded.

(~~7~~10) "Commercial vehicle." (See "Vehicle", section 49-123, Idaho

Code)

(11) "Controlled substance" means any substance so classified under section 102(6) of the controlled substances act (21 U.S.C. 802(6)), and includes all substances listed on schedules I through V, of 21, CFR part 1308, as they may be revised from time to time.

(~~8~~12) "Conviction" means the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(~~9~~13) "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.

SECTION 3. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

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) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(7) "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~~8) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(~~8~~9) "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~~10) "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~~11) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(~~11~~12) "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~~13) "Driver" means every person who drives or is in actual phys-

ical control of a vehicle.

(14) "Driver's license" means a license issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code, and authorizes the individual to drive a class of motor vehicle(s).

(15) "Driver's license - classes of" mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Recreational vehicles are exempted from this class of license. Persons holding a valid class A license may operate vehicles in classes B, C, and D with any appropriate endorsements.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a GVWR in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds GVWR. Recreational vehicles are exempt from this class of license. Persons holding a valid class B license may operate vehicles in class C, with any appropriate endorsements, and vehicles in Class D.

(c) Class C. This license shall be issued and valid for the operation of vehicles designed to transport sixteen (16) or more persons, including the driver, or vehicles placarded for hazardous materials; provided that the vehicle is a single vehicle less than twenty-six thousand and one (26,001) pounds GVWR or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds GVWR. Recreational vehicles are exempt from this class of license. Persons holding a valid class C license may operate vehicles in class D.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that does not belong to a group of commercial motor vehicles as defined in 49-104(9), Idaho Code.

(e) Class P. This license is issued as an instructional permit and shall be valid to permit the operator to drive a particular class of vehicle on an instructional basis for only one hundred twenty (120) days. Provided, however, the holder of a class P license must be accompanied at all times with another person who has been licensed in this state as a driver for the class of vehicle being used and is occupying a seat beside the driver.

1. Class P licenses will be issued to persons completing appropriate applications, paying the required fee(s) and who successfully pass a vision and written examination for the appropriate class of license.

2. Applicants for class P license must meet all requirements of the particular class of license for which they are applying.

3. Class P licenses will be issued for classes of driver's licenses as follows:

a. Class P-A. This is an instructional permit issued for class A drivers.

b. Class P-B. This is an instructional permit issued for class B drivers.

c. Class P-C. This is an instructional permit issued for class C drivers.

d. Class P-D. This is an instructional permit issued for class D drivers.

(16) "Driver's license endorsements" mean special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of motor vehicles or motor vehicles hauling certain types of cargo.

(a) "Double/triple trailer" means this endorsement is required on a class A license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle transporting a hazardous material that is required to be placarded under the hazardous materials transportation act and by rules and regulations of the U.S. department of transportation.

(c) "Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to transport sixteen (16) or more persons, including the driver.

(d) "Tanker" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(13~~7~~) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(14~~8~~) "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.

SECTION 4. That Section 49-106, Idaho Code, be, and the same is hereby amended to read as follows:

49-106. DEFINITIONS -- E.

(1) "Emergency vehicle." (See "Vehicle", section 49-123, Idaho Code)

(2) "Employee" means an operator of a commercial motor vehicle, including an owner-operator or other independent contractor while in the course of operating a commercial motor vehicle, who is employed by an employer.

(3) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns, or leases a commercial motor vehicle or assigns employees to operate such a vehicle.

(~~2~~4) "Encumbrance." (See "Lien", section 49-113, Idaho Code)

(3~~5~~) "EPA" means the environmental protection agency of the United States.

(4~~6~~) "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 vehicle or substantially alter its appearance, model, type or mode of operation.

(5~~7~~) "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~~8~~) "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~~9~~) "Executive head," as used in chapter 20, means the governor of the state of Idaho.

(8~~10~~) "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~~11~~) "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.

SECTION 5. That Section 49-107, Idaho Code, be, and the same is hereby amended to read as follows:

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) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.

(6) "Fifth wheel trailer." (See "Trailer", section 49-121, Idaho Code)

(~~6~~7) "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~~8) "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~~9) "Fleet" means one (1) or more apportionable vehicles.

(~~9~~10) "Fold down camping trailer." (See "Trailer", section 49-121, Idaho Code)

(~~10~~11) "Foreign vehicle." (See "Vehicle", section 49-123, Idaho Code)

(~~11~~12) "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~~13) "Full-time salesman" means any person employed as a vehicle salesman on behalf of a dealer for thirty (30) or more hours per week.

SECTION 6. That Section 49-108, Idaho Code, be, and the same is hereby amended to read as follows:

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 combination weight rating (GCWR)" means the value specified by the manufacturer as the maximum loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon or registered weight rating whichever is greater.

(3) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or registered weight rating, whichever is greater.

(~~2~~4) "Gross weight" means the weight of a vehicle without load

plus the weight of any load on that vehicle.

(35) "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.

SECTION 7. That Section 49-113, Idaho Code, be, and the same is hereby amended to read as follows:

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 ~~of~~r 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.

SECTION 8. That Section 49-115, Idaho Code, be, and the same is hereby amended to read as follows:

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 driver's license" means a license issued by the department which authorizes a driver to operate a class of motor vehicle. The license shall be issued in accordance with the standards contained in 49 CFR part 383. A nonresident driver's license shall be

issued only to persons who reside in a foreign jurisdiction outside of the United States.

(4) "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.

SECTION 9. That Section 49-116, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ "Out of service order" means a temporary prohibition against operating a vehicle belonging to a group of commercial motor vehicles.

(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.

SECTION 10. That Section 49-119, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ driver's license" means the termination by formal action of the department or as otherwise provided in this title of a person's driver's license or privilege to operate a motor vehicle on the highways, which terminated driver's license or privilege shall not be subject to renewal or restoration except that an application for a new driver's 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.

SECTION 11. That Section 49-120, Idaho Code, be, and the same is hereby amended to read as follows:

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) "Secretary" means the secretary of transportation of the United States.

(5) "Security agreement." (See section 28-9-105, Idaho Code)

(~~5~~6) "Security interest." (See section 28-1-201, Idaho Code)

(~~6~~7) "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~~8) "Semitrailer." (See "Trailer", section 49-~~1~~21, Idaho Code)

(9) "Serious traffic violation" means:

(a) Excessive speeding;

(b) Reckless driving, as defined under state or local law; or

(c) A violation of a state or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal traffic accident.

(~~8~~10) "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~~11) "Signal." (See "Railroad sign", section 49-119, Idaho Code)

(~~10~~12) "Slow moving vehicle" means any vehicle not normally operated upon the highways.

(~~11~~13) "Snow tire." (See "Tires", section 49-121, Idaho Code)

(~~12~~14) "Sold." (See "Sell", "buy", and "purchase", this section)

(~~13~~15) "Solid rubber tire." (See "Tires", section 49-121, Idaho Code)

(~~14~~16) "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~~20) "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~~ driver's license" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's driver'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.

SECTION 12. That Section 49-122, Idaho Code, be, and the same is hereby amended to read as follows:

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) "United States" means the fifty (50) states and the District of Columbia.

(3) "Unladen weight." (See "Light weight", section 49-113, Idaho Code)

(4) "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.

(5) "Unusual noise." (See "Excessive", section 49-106, Idaho Code)

(6) "Urban district." (See "District", section 49-105, Idaho Code)

(7) "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~~8) "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.

SECTION 13. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

(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~~ driver's license $3.00

(b) For recording the transfer of any interest upon a certificate of title $3.00

(c) For issuance of every certificate of title ~~on~~ a new motor vehicle sold by a registered dealer to a purchaser $3.00

(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

(e) For furnishing a duplicate copy of any certificate of title or receipt of registration $3.00

(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

(g) For answering inquiries as to registration or ownership of motor vehicles or ~~operator's~~ driver's license records, per vehicle registration, title or per ~~operator's~~ driver's license record $2.00

(h) For services in furnishing copies of files of motor vehicle or other registrations, motor vehicle titles, ~~operator's licenses~~ or ~~chauffeur's~~ driver's licenses, per hour $10.00

(i) Placing "stop" cards in motor vehicle registration or title files, each $2.00

(j) For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

(k) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace officer or designated agent of the state of Idaho, per inspection $3.00

(l) For all duplicate registration stickers, each ..... $.50

(m) For issuing letters of temporary vehicle clearance to Idaho based motor carriers $5.00

(3) The fees required in this section shall not apply when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department shall pay one dollar ($1.00) of the fee collected by a county assessor or other agent of the department 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 remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway account. The fee collected under subsection (2)(k), of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if 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 conducted by the department.

(5) The department as often as practicable may provide to law enforcement agencies the record of stolen and recovered motor vehicles and suspensions and revocations of ~~operator--and--chauffeur~~ driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(6) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Boise, Idaho, all instruments required 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, one, a motor or identification number file, the other a file by the name of the owner.

(7) The department shall file each registration application received, and when satisfied as to the genuineness and regularity of the application, and that the applicant is entitled to the registration, shall register the vehicle therein described and the owner thereof in suitable records under a distinctive registration number assigned to the vehicle and to the owner thereof, alphabetically under the name of the owner, and numerically and alphabetically under the engine or identification number and name of the vehicle.

(8) The department shall not grant an application for the registration of a vehicle when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department, or has failed to comply with the provisions of section 49-436, Idaho Code, in past registration periods; or

(c) The fees required by law have not been paid, or where fees

for past registration periods are due, owing and unpaid~~.~~; or

(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.

(9) The department shall rescind and cancel the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier as defined in section 61-801, Idaho Code, has his permit revoked for any cause except at the request of the permit holder, as provided in section 61-808, Idaho Code, or whenever an interstate carrier has his registration revoked by reason of a revocation of his 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.

(16) The department shall place and maintain traffic-control devices, conforming to 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. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the 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.

(19) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(20) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(21) Wherever a highway crosses one or more railroads at grade, the department or local authorities within their respective jurisdictions 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 these stop signs shall be mandatory except when in the determination of the department or local authorities the existence of stop signs at a given crossing would constitute a greater hazard than their absence.

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. Liability on the part of governmental authorities on account of 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.

SECTION 14. That Section 49-301, Idaho Code, be, and the same is hereby amended to read as follows:

49-301. OPERATORS ~~AND CHAUFFEURS~~ TO BE LICENSED. (1) No person, except those expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a valid driver's license ~~as an operator or chauffeur.~~ No person shall operate a vehicle belonging to a group of commercial motor vehicles as defined in 49-104(9), Idaho Code, upon a highway unless he has a class A, B or C driver's license. No person shall receive an ~~operator's or chauffeur's~~ driver's license unless and until he surrenders to the department all valid ~~operator's and chauffeur's~~ driver'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~~ driver's license at any time. No person shall operate a motor vehicle as a chauffeur unless he holds a valid ~~chauffeur's~~ driver's license. No person shall receive a ~~chauffeur's~~ driver's license unless and until he surrenders to the department any ~~operator's~~ driver's license issued to him or an affidavit that he does not possess ~~an operator's~~ driver's license.

(2) ~~Any person holding a valid chauffeur's license in accordance with the provisions of this chapter need not procure an operator's license~~ All operator's and chauffeur's licenses issued prior to April 1, 1990, shall remain valid until expired, except a chauffeur's license will not remain valid after April 1, 1992, for driving a vehicle belonging to a group of commercial motor vehicles as defined in 49-104(9), Idaho Code.

SECTION 15. That Section 49-302, Idaho Code, be, and the same is hereby amended to read as follows:

49-302. WHAT PERSONS ARE EXEMPT FROM LICENSE. The following persons are exempt from licensure if driving privileges are not suspended, cancelled or revoked, disqualified, denied or refused:

(1) Any person ~~while operating a motor vehicle of the armed forces of the United States while serving on active duty in the armed forces;~~ serving on active duty in the armed forces is exempt from obtaining a class A, B or C driver's license to operate military vehicles; however, active military personnel must have a valid driver's license in their possession issued by their home state, or country.

~~(2) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway;~~

(3) Farmers are exempt from obtaining a class A, B or C driver's license to operate a commercial motor vehicle which is:

(a) Controlled and operated by a farmer; and

(b) Used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm; and

(c) Not used in the operations of a common or contract motor carrier; and

~~(d) Used~~ within one hundred fifty (150) miles of the person's farm.

(4) A nonresident who is at least ~~sixteen (16)~~ fourteen (14) years of age and who has in his immediate possession ~~a valid operator's~~ driver's license issued to him in his home state or country

may operate a motor vehicle in Idaho only as an--operator; class D operator.

(45) A nonresident who is at least eighteen (18) years of age and who has in his immediate possession a valid chauffeur's commercial driver's license issued to him in his home state or country may operate a motor vehicle in Idaho either as an operator or chauffeur except that person must be licensed as a chauffeur in Idaho before accepting employment as a chauffeur from a resident of this state;.

(56) A 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 class D operator only, for a period of not more than ninety (90) days in any calendar year, if the motor vehicle is currently registered in the home state or country of the nonresident.

(7) Any person is exempt from obtaining a class A, B or C driver's license for the operation of fire fighting or other emergency equipment used in response to emergencies involving the preservation of life or property.

SECTION 16. That Section 49-303, Idaho Code, be, and the same is hereby amended to read as follows:

49-303. WHAT PERSONS SHALL NOT BE LICENSED. The department shall not issue any driver's license;, and if issued, may revoke or cancel the driver's license of a person who:

(1) As an operator of a vehicle requiring a class D driver's license, who is under the age of sixteen (16) years, except that the department may issue a restricted driver's license to any person who is at least fourteen (14) years of age upon meeting the requirements of section 49-305, Idaho Code.

(2) As a chauffeur is under the age of eighteen (18) years.

(3) As an operator of a commercial vehicle requiring a class A, B or C driver's license is under the age of eighteen (18) years.

(4) As an operator or chauffeur who driver has had his license suspended for the duration of the suspension, nor to any person whose license has been revoked, until the expiration of one (1) year after the license was revoked.

(45) Is an habitual drunkard, or is addicted to the use of narcotic drugs.

(56) 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.

(67) Is required by the provisions of this chapter to take an examination, unless that person shall have successfully passed such examination.

(78) May be required under any law of this state to deposit proof of financial responsibility and who has not deposited that proof.

(89) The department has good cause to believe that the operation of a motor vehicle on the highways by that person would be harmful to public safety or welfare.

(10) Is disqualified for a class A, B or C, except he may be

issued a class D driver's license.

SECTION 17. That Section 49-304, Idaho Code, be, and the same is hereby repealed.

SECTION 18. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS ~~AND~~, TEMPORARY AND RESTRICTED LICENSES. (1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain an ~~operator's~~ driver's license, may apply for a temporary instruction permit for the type of vehicle(s) the person will be operating. The department shall issue a permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of at least one hundred twenty (120) days but, except when operating a motorcycle, that person must be accompanied by a licensed ~~operator or chauffeur~~ driver that holds at least the same class of driver's license and who is actually occupying a seat beside the driver.

(2) The department may, in its discretion, issue a temporary driver's permit to an applicant for ~~an operator's~~ class D driver'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~~ driver's license. The permit must be in the applicant's ~~immediate~~ possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) No person under the age of sixteen (16) years shall be issued a restricted driver's license unless that person has successfully completed an approved driver training course.

(4) A knowledge test shall be passed prior to the issuance of the instruction permit for the class type.

SECTION 19. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE OR INSTRUCTION PERMIT. (1) Every application for an instruction permit or for ~~an operator's or chauffeur's~~ driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit or driver's license shall be accompanied by the following fee, none of which is refundable:

~~(a) Instruction permit ..... $4.00~~
~~(b) Operator's license ..... $13.50~~
~~(c) Chauffeur's license ..... $15.50~~
~~(d) Duplicate license or permit issued under section 49-318, Idaho Code ..... $3.00~~

~~(e)--License-extension-issued-under-section-49-319,-Idaho-Code--$ .....3.00.~~

(a) Class A, B, C license $23.50

(b) Class D license $19.50

(c) Class A, B, C instruction permit $15.50

(d) Class D instruction permit $11.50

(e) Duplicate driver's license or permit issued under section 49-318, Idaho Code $11.50

(f) Driver's license extension issued under section 49-319, Idaho Code ..... $ 6.50

(g) License classification change (upgrade) $15.50

(h) Endorsement addition $11.50

(i) Class A, B, C skills tests $35.00

(j) Class D skills test ..... $ 3.00

(k) Knowledge test ..... $ 3.00

(2) Every application shall state the full name, date of birth, sex, Idaho residence address of the applicant, ~~and--briefly--describe the--applicant,--and~~ height, weight, hair color, eye color, and applicants's social security number for a class A, B or C driver's license. Every application shall also state whether the applicant has previously been licensed as ~~an-operator-or-chauffeur~~ driver, and if so, when and by what state or country, and whether a driver's license has ever been suspended, or revoked, denied, disqualified, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification or refusal and the applicant's oath that all information is correct. The applicant may be required to submit proof of date of birth as set forth in a certified copy of his birth certificate or other satisfactory evidence of birth date to satisfy the issuing officer.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the ~~operator's~~ driver's record from the other jurisdiction and the national driver register. When received, the ~~operator's~~ driver's record from the previous jurisdiction shall become a part of the ~~operator's~~ driver's record in this state with the same force and effect as though entered on the ~~operator's~~ driver's record in this state in the original instance.

(4) Whenever the department receives a request for ~~an-operator's~~ driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to insure identification of the person and to obtain clearance to issue the license.

(6) 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:

(a) Deposit an amount equal to ~~two-dollars-and-five-cents-($2.05)~~ five dollars ($5.00) from each ~~operator's-and-chauffeur's~~ driver's license or instruction permit application fees, application for a duplicate driver's license or permit, classification change, and additional endorsement in the current expense fund; and

(b) Deposit an amount equal to ~~one-dollar-and-fifty-cents-($1.50) from-each-application-for-a-duplicate-license-or-permit~~ three dollars ($3.00) from each fee for a knowledge test or class D skills test in the current expense fund; and

(c) Remit the remainder to the state treasurer.

(6~~7~~) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(7~~8~~) 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:

(a) ~~One-dollar-and-fifty-cents-($1.50)~~ Two dollars ($2.00) of each fee for an ~~operator's-or-chauffeur's~~ driver's license shall be deposited in the emergency medical services account II created in section 39-146A, Idaho Code; and

~~1.--Forty--percent--(40%)--shall--be--deposited-in-the-driver training-account;-and~~

~~2.--Sixty-percent-(60%)-shall-be--deposited--in--the--highway distribution-account.~~

(b) Sixteen dollars and fifty cents ($16.50) of each fee for a class A, B, or C driver's license shall be deposited in the state highway account; and

(c) Ten dollars and fifty cents ($10.50) of each fee for a class A, B, or C instruction permit or driver's license classification change shall be deposited in the state highway account; and

(d) Six dollars and fifty cents ($6.50) of each ~~fee for~~ a duplicate class A, B, or C driver's license, class A, B, or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(e) Five dollars and thirty cents ($5.30) of each fee for a class D driver's license shall be deposited in the driver training account; and

(f) Seven dollars and twenty cents ($7.20) of each fee for a class D driver's license shall be deposited in the highway distribution account; and

(g) Two dollars and sixty cents ($2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training account; and

(h) Three dollars and ninety cents ($3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution account; and

(i) Thirty-five dollars ($35.00) of each fee for a class A, B, or C skills test shall be deposited in the state highway account. The contractor which administered the skills test shall be entitled to thirty dollars ($30.00) of this fee.

(9) A contractor administering the skills test may collect twenty dollars ($20.00) for the use of the contractor's vehicle for the skills test.

SECTION 20. That Section 49-307, Idaho Code, be, and the same is

hereby amended to read as follows:

49-307. ADDITIONAL FEE FOR DRIVER TRAINING. (1) Every applicant for an instruction permit or ~~an operator's~~ driver's license who is required to take or who elects to take a driver training course in a public school shall, in addition to other fees required by law, pay an additional fee of ~~twenty-five~~ thirty dollars (~~$25~~30.00).

(2) Each application for a driver training course permit shall provide the type of information required for ~~an operator's~~ driver's license or instruction permit.

(3) ~~All moneys received from the fee imposed in this section shall be deposited in the driver training account~~ Twenty-five dollars ($25.00) of each fee imposed in this section will be deposited in the driver training account and five dollars ($5.00) will be deposited in the county current expense fund.

SECTION 21. That Section 49-309, Idaho Code, be, and the same is hereby repealed.

SECTION 22. That Section 49-310, Idaho Code, be, and the same is hereby amended to read as follows:

49-310. APPLICATIONS OF PERSONS UNDER THE AGE OF EIGHTEEN YEARS. (1) The application of any person under the age of eighteen (18) years for an instruction permit, restricted driver's license or ~~operator's~~ driver'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 the applicant, then by the person or guardian having such custody or by an employer of the applicant. In the event there is no guardian or employer then some other responsible person willing to assume the obligation for the applicant may sign the application. The person willing to assume responsibility for the applicant must be at least eighteen (18) years of age.

(2) Any negligence or wilful misconduct of a person under the age of eighteen (18) years when operating a motor vehicle upon a highway shall be imputed to the person who signed the application of that person for a permit or driver's license, and that person shall be jointly and severally liable with the permit or driver's license holder for any damage caused by negligence or wilful misconduct, except as otherwise provided by law.

(3) In the event a permit or driver's 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, 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 is not fixed by law, then the department may accept the application when signed by one (1) parent or guardian of the applicant, and while that proof is maintained the parent or guardian shall not be subject to the liability imposed under

subsection (2) of this section.

(4) Any person who has signed the application of a minor for a permit or driver's 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. 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 shall not apply to any civil action where the plaintiff is other than the state of Idaho.

SECTION 23. That Section 49-311, Idaho Code, be, and the same is hereby amended to read as follows:

49-311. RELEASE FROM LIABILITY. Any person who has signed the application for a driver's license of a person under the age of eighteen (18) years may file with the department a verified written request that the driver's license so granted be cancelled and the department shall cancel the driver's license. The person who signed the application shall be relieved from the liability imposed by reason of having signed the application, of any subsequent negligence or willful misconduct of the person signed for in operating a motor vehicle.

SECTION 24. That Section 49-312, Idaho Code, be, and the same is hereby amended to read as follows:

49-312. DEATH OF PERSON SIGNING 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 person under the age of eighteen (18) years for a driver's license, shall cancel the driver's license and shall not issue a new driver's license until a new application, duly signed and verified, is made. This provision shall not apply in the event the licensee has attained the age of eighteen (18) years.

SECTION 25. That Section 49-313, Idaho Code, be, and the same is hereby amended to read as follows:

49-313. EXAMINATION OF APPLICANTS. (1) The sheriff or deputy shall examine every applicant for an ~~operator's or chauffeur's~~ driver's license, except as otherwise provided by law. ~~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. At the discretion of the examiner, an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle for a class D driver's license may be required. In addition, the applicant's knowledge of traffic laws of this state shall be tested by a written examination, except as provided in section 49-319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

(2) The knowledge and skill examinations for applicants for driver's licenses in class A, B or C shall be conducted in compliance with 49 CFR part 383.

(3) Any person failing to pass a knowledge or skill test for a class A, B, C or D driver's license may not retake the test within one (1) week of the failure.

(4) The skill test for a class A, B, C or D driver's license shall be given by the department or its authorized agents.

(5) A skill examination for a class A, B or C driver's license may be waived for an applicant who certifies within the preceding two (2) years:

(a) He has not violated the single license provisions of 49 CFR part 383;

(b) He has not had any license suspension, revocation or cancellation;

(c) He has not had any conviction for any type of motor vehicle for any of the disqualification offenses contained in 49 CFR part 383.51;

(d) He has not had any violation of state or local laws relating to motor vehicle traffic control, arising in connection with any traffic accident, and has no record of an accident in which he was at fault; and

(e) He is regularly employed in a job requiring operation of a commercial motor vehicle; and

(f) He has previously taken and passed a skills test given by a state classified licensing and testing system and that the test was behind-the-wheel in a representative vehicle for that applicant's driver's license classification; or

(g) He has operated, for at least two (2) years immediately preceding application for a commercial driver's license, a vehicle representative of the commercial motor vehicle he operates or expects to operate.

(6) The department shall not issue a tank, double/triple trailer, or hazardous material endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge test. The department shall not issue a passenger endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge and skills test.

SECTION 26. That Section 49-314, Idaho Code, be, and the same is hereby amended to read as follows:

49-314. LOCAL EXAMINERS APPOINTED BY DEPARTMENT. The department shall appoint the sheriff in each county and may appoint any deputy sheriff, chief of police, or other officials or private citizens whom the department deems qualified as examiners, who shall be agents of the department and shall perform duties prescribed in this title. The department 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~~ driver's license examinations, who shall have authority, and it shall be this person's duty to instruct the examiners appointed by the department in the method of giving

~~operator's and chauffeur's~~ driver's license examinations and acquaint them with the use of equipment and forms needed in examining applicants for licensure.

SECTION 27. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO ~~OPERATORS AND CHAUFFEURS~~ DRIVERS. (1) The department shall issue to every qualifying applicant ~~an operator's or chauffeur's~~ driver's license as applied for, which shall bear 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 sign the license with pen and ink immediately upon receipt of the license~~, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions and the applicant's signature; and no driver's license shall be valid until it has been signed by the licensee.

(2) Every ~~operator's and chauffeur's~~ driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR part 383.

SECTION 28. That Section 49-316, Idaho Code, be, and the same is hereby amended to read as follows:

49-316. DRIVER'S LICENSE TO BE CARRIED AND EXHIBITED ON DEMAND. Every licensee shall have his ~~operator's or chauffeur's~~ driver's license in his immediate possession at all times when operating a motor vehicle and shall, upon demand, surrender the driver's license into the hands of a peace officer for his inspection. However, no person charged with a violation of the provisions of this section shall be convicted if ~~an operator's or chauffeur's~~ driver's license issued to the person and valid at the time of his arrest is produced in court.

SECTION 29. That Section 49-317, Idaho Code, be, and the same is hereby amended to read as follows:

49-317. RESTRICTED DRIVER'S LICENSES. (1) The department, upon issuing ~~an operator's or chauffeur's~~ driver'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 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.

(2) The department may either issue a special restricted driver's license or may set forth restrictions upon the usual driver's license form.

(3) The department may, upon receiving satisfactory evidence of any violation of the restrictions of a driver's license, suspend or revoke the driver's license for a period of thirty (30) days but the licensee shall be entitled to a hearing.

SECTION 30. That Section 49-318, Idaho Code, be, and the same is hereby amended to read as follows:

49-318. DUPLICATE ~~CERTIFICATES~~ DRIVER LICENSES. In the event that an instruction permit or ~~operator's or chauffeur's~~ driver's license is lost or destroyed, or a name of a licensee is changed by marriage or otherwise legally changed, the person to whom the permit or driver's license was issued may, upon payment of the fee fixed in section 49-306, Idaho Code, ~~,~~ and upon furnishing satisfactory proof to the department that the permit or driver's license has been lost or destroyed, or the name has been changed, obtain a duplicate or substitute permit or driver's 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 31. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF ~~OPERATOR'S AND CHAUFFEUR'S~~ DRIVER'S LICENSE -- AUTOMATIC EXTENSION FOR ACTIVE MILITARY DUTY. (1) ~~Every operator's and chauffeur's~~ driver's license originally issued to ~~an operator or chauffeur~~ driver shall expire on the licensee's birthday in the ~~third~~ fourth year following the issuance of the driver's license. Every driver's 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~~ knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge tests shall be required for an upgrade in a driver's license class.

(2) When a driver's license has been expired for less than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for more than twelve (12) months, the application shall expire on the licensee's birthday in the ~~third~~ fourth year following issuance of the driver's license.

(3) If a driver's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the driver's 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 an extension of the driver's license. 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 driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's 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 for a renewal of the expired driver's license and surrender the certificate of extension.

(4) An Idaho ~~operator's or chauffeur's~~ driver'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~~ four (~~3~~4) years so long as active duty continues, if the driver's license is not suspended, cancelled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

SECTION 32. That Section 49-320, Idaho Code, be, and the same is hereby amended to read as follows:

49-320. NOTICE OF CHANGE OF ADDRESS. Whenever any person after applying for or receiving an ~~operator's or chauffeur's~~ driver's license shall move from the address shown in the application or in the driver's license issued, that person shall, within ten (10) days, notify the department in writing of the old and new addresses.

SECTION 33. That Section 49-321, Idaho Code, be, and the same is hereby amended to read as follows:

49-321. RECORDS TO BE KEPT BY THE DEPARTMENT. (1) The department shall file every application for a driver's license received by it and shall maintain suitable indices containing:

(a) All applications denied and on each note the reason for denial;

(b) All applications granted; ~~and~~

(c) The name of every licensee whose driver's license has been suspended, ~~or~~ revoked, cancelled, denied or disqualified by the department and after each name note the reasons for the action; and

(d) The driver's license number for the applicant.

(2) The department shall also file all accident reports and abstracts of court records of convictions received by it under the law and maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions and the traffic accidents in which the licensee has been involved shall be

readily ascertainable and available for consideration of the department upon any application for renewal of a driver's license and at other suitable times.

(3) The department of health and welfare, on or about the 25th day of each month shall, upon the request of the department, furnish the department a listing showing the name, age, county of residence, and residence address of each Idaho resident who has died during the preceding month. The listing shall be used only for purposes of updating the ~~operator's and chauffeur's~~ driver'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 34. That Section 49-322, Idaho Code, be, and the same is hereby amended to read as follows:

49-322. AUTHORITY OF DEPARTMENT TO CANCEL DRIVER'S LICENSE. (1) The department shall cancel any ~~operator's or chauffeur's~~ driver's license upon determining that the licensee was not entitled to the issuance of the driver's license, or that the licensee failed to give the required or correct information in his application, or committed fraud in making the application.

(2) Upon a cancellation, the licensee shall surrender the cancelled driver's license to the department.

SECTION 35. That Section 49-323, Idaho Code, be, and the same is hereby amended to read as follows:

49-323. SUSPENDING PRIVILEGES OF NONRESIDENTS AND REPORTING CONVICTIONS. (1) The privilege of driving a motor vehicle on the highways given to a nonresident 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~~ driver's license issued to a resident may be suspended or revoked.

(2) Upon receipt of a record of the conviction in this state of a nonresident driver for any offense under the motor vehicle laws, the department shall forward a certified copy or electronic transfer of the record to the motor vehicle administrator in the state wherein the person so convicted is a resident and to the national driver register.

SECTION 36. That Section 49-324, Idaho Code, be, and the same is hereby amended to read as follows:

49-324. SUSPENDING RESIDENT'S LICENSE UPON CONVICTION IN ANOTHER STATE. The department shall suspend or revoke the driver's license of any resident of this state or the privilege of a nonresident to operate a motor vehicle in this state upon receiving notice of the conviction of that person in another state of an offense which, if committed in this state, would be grounds for the suspension or revocation of the driver's license of ~~an operator or chauffeur~~ the driver. The department shall forward a certified copy or electronic transfer to

the national driver register.

SECTION 37. That Section 49-325, Idaho Code, be, and the same is hereby amended to read as follows:

49-325. MANDATORY REVOCATION BY DEPARTMENT -- TEMPORARY RESTRICTED PERMIT. (1) The department shall revoke the operating privilege of any ~~operator or chauffeur~~ driver upon receiving a record of the person's ~~or chauffeur's~~ conviction of any of the following offenses, when the conviction has become final, if the court has not ordered the suspension or revocation of the privilege:

(a) Vehicular manslaughter;

(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 operating privileges upon conviction of a violation of the provisions of section 18-8004 or 18-8006, Idaho Code;

(c) Perjury or the making of a false affidavit or statement under oath to the department under any law relating to the ownership or operation of motor vehicles;

(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 driver's license, permit or operating privilege has been revoked by the department on the basis of subsections (b) through (e) above, the department may issue a temporary restricted permit, except when restricted operating privileges are specifically prohibited by other provisions of law.

(3) A temporary restricted permit shall specify the restrictions as to time and area of use and any further restrictions as the department, in its discretion, may impose.

SECTION 38. That Section 49-326, Idaho Code, be, and the same is hereby amended to read as follows:

49-326. AUTHORITY OF DEPARTMENT TO SUSPEND OR REVOKE DRIVER'S LICENSE. (1) If the court has not ordered the suspension of a license, the department is 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:

(a) Has committed an offense for which mandatory revocation of license is required upon conviction;

(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 his driver's license had the charge been prosecuted under a state law;

(c) Is incompetent to drive a motor vehicle;

1. Any person who in the opinion of the department, based upon recommendation of 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.

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, however, 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 operate a motor vehicle.

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 the applicant to the department;

(d) Has permitted an unlawful or fraudulent use of a driver's license;

(e) Has committed an offense in another state which if committed in Idaho would be grounds for suspension or revocation;

(f) Has been convicted of the offense of reckless driving, or fleeing or attempting to elude a peace officer, and providing that the 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;

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

(j) Is an habitual violator of the traffic laws of the state of Idaho.

(2) A violation point is assessed for conviction of any charge or with proof of any infraction involving a moving traffic violation. A value of one (1) point shall be given for a less serious violation and up to four (4) points for a more serious violation. 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.

(3) The department is 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.

(4) Upon suspending the driver's license of any person, the department shall immediately notify the licensee in writing, and upon his request shall afford him an opportunity for a hearing before the director. The hearing shall be held within ~~not to exceed~~ twenty (20) days after receipt of the request, and be held in the county where the licensee resides unless the department and the licensee agree that the hearing may be held in some other county. The notice and hearing shall be required prior to the imposition of additional suspension periods beyond the periods as set forth in this section. Upon a hearing the director or his duly authorized agent may administer oaths, 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 the hearing the department shall either rescind its order of suspension or, good cause, may extend the suspension of the driver's license or revoke the driver's license.

Whenever a driver's 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 (1)(c), (d), (g) or (h), the department may issue a temporary restricted permit restricting the time, area and purpose of use. The application, eligibility requirements and form of the temporary restricted permit shall be provided by administrative rule.

(5) The department shall not suspend a driver's license for a period of more than one (1) year and upon revoking a driver's license shall not in any event grant application for a new driver's license until the expiration of one (1) year after the revocation. The provisions of this subsection shall not be applicable with respect to the issuance of temporary restricted permits as provided in section 49-325, Idaho Code.

SECTION 39. That Section 49-327, Idaho Code, be, and the same is hereby amended to read as follows:

49-327. SURRENDER AND RETURN OF DRIVER'S LICENSE. Upon suspending or revoking a driver's license, the department shall require that the driver's license shall be surrendered to and be retained by the department. At the end of the period of suspension, the driver's license so surrendered shall be returned to the licensee.

SECTION 40. That Section 49-328, Idaho Code, be, and the same is hereby amended to read as follows:

49-328. REINSTATEMENT OF REVOKED OR SUSPENDED DRIVER'S LICENSE -- FEE -- WHEN REINSTATEMENT PROHIBITED. (1) When the period of revocation or suspension of a driver's license has expired, or the reason for the revocation or suspension no longer exists, the department shall reinstate the driver's 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).

(2) A driver's license which has been suspended under section 49-1505, 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 41. That Section 49-329, Idaho Code, be, and the same is hereby amended to read as follows:

49-329. NO OPERATION UNDER FOREIGN LICENSE DURING SUSPENSION OR REVOCATION IN IDAHO. No resident or nonresident whose ~~operator's or chauffeur's~~ driver's license or right or privilege to operate a motor vehicle in Idaho has been suspended or revoked shall operate a motor vehicle in this state under a driver's license, permit, or registration certificate issued by any other jurisdiction or otherwise during the suspension or after revocation until a new driver's license is obtained when and as permitted under this chapter.

SECTION 42. That Section 49-330, Idaho Code, be, and the same is hereby amended to read as follows:

49-330. RIGHT OF APPEAL TO COURT. Any person denied a driver's license or whose driver's license has been cancelled, suspended, or revoked by the department, except where cancellation, suspension, or revocation is court ordered shall have the right to file a petition within thirty (30) days of notification of action, for a hearing in the matter in the district court in the county where the person resides and the court shall set the matter for hearing upon thirty (30) days' written notice to the department. The court shall take testimony, examine the facts of the case, and determine whether the petitioner is entitled to a driver's license or is subject to suspension, cancellation, or revocation of the driver's license.

SECTION 43. That Section 49-331, Idaho Code, be, and the same is hereby amended to read as follows:

49-331. UNLAWFUL USE OF DRIVER'S 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~~ driver's license;

(2) To lend his ~~operator's or chauffeur's~~ driver's license to any other person or knowingly permit the use of his driver's license by another;

(3) To display or represent as one's own ~~any operator's or chauffeur's~~ driver'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~~ driver'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~~ driver's license, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in any application;

(6) To permit any unlawful use of ~~an operator's or chauffeur's~~ driver's license issued to him; or

(7) To do any act forbidden or fail to perform any act specified in this chapter.

SECTION 44. That Section 49-334, Idaho Code, be, and the same is hereby amended to read as follows:

49-334. RENTING MOTOR VEHICLE TO ANOTHER. (1) No person shall rent a motor vehicle to any other person unless the latter person is then licensed or, in the case of a nonresident, then 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.

(2) No person shall rent a motor vehicle to another until he has inspected the ~~operator's or chauffeur's~~ driver'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.

(3) 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 the latter person and the date ~~and~~ place when and where the license was issued. This record shall be open to inspection by any peace officer or officer or employee of the department.

SECTION 45. That Chapter 3, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 49-335, 49-336 and 49-337, Idaho Code, and to read as follows:

49-335. DISQUALIFICATIONS AND PENALTIES. (1) Any person who operates a vehicle belonging to a group of commercial motor vehicles and who holds a class A, B or C driver's license is disqualified from operating a vehicle belonging to a group of commercial motor vehicles for a period of not less than one (1) year if convicted of a first violation of:

(a) Operating a vehicle belonging to a group of commercial motor vehicles while under the influence of alcohol or a controlled substance;

(b) Operating a vehicle belonging to a group of commercial motor vehicles while the alcohol concentration of the person's blood or breath is 0.04 or more;

(c) Knowingly and willfully leaving the scene of an accident involving a vehicle belonging to a group of commercial motor vehicles driven by the person;

(d) Using a vehicle belonging to a group of commercial motor vehicles in the commission of any felony;

(e) Refusal to submit to a test to determine the driver's alcohol

concentration while operating a vehicle belonging to a group of commercial motor vehicles.

(2) If any of the above violations occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three (3) years.

(3) A person is disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two (2) or more separate incidents.

(4) A person is disqualified for life from operating a vehicle belonging to a group of commercial motor vehicles who uses a vehicle belonging to a group of commercial motor vehicles in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession of a controlled substance with the intent to manufacture, distribute or dispense such controlled substance.

(5) A person is disqualified from operating a vehicle belonging to a group of commercial motor vehicles for a period of not less than sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a vehicle belonging to a group of commercial motor vehicles arising from separate incidents occurring within a three (3) year period.

(6) A person who drives, operates, or is in physical control of a vehicle belonging to a group of commercial motor vehicles within this state while having any detectable amount of alcohol in his system or who refuses to submit to an alcohol test must be placed out of service for twenty-four (24) hours and be subject to the provisions of section 18-8002, Idaho Code.

49-336. NONRESIDENT DRIVER'S LICENSE. (1) The department shall issue a license in class A, B, or C or any endorsement, only to a person who is domiciled in this state; however, a nonresident applicant who is domiciled in a foreign country where the commercial motor vehicle operator testing and licensing standards do not meet the standards in accordance with 49 CFR part 383 may obtain a nonresident driver's license from this state which meets such standards. The nonresident applicant shall be required to comply with all provisions of this chapter, in the same manner as an Idaho resident.

(2) The department shall add the word nonresident to the face of the driver's license of the nonresident driver.

49-337. EMPLOYEE AND EMPLOYER RESPONSIBILITIES. (1) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance in this or any other state relating to motor vehicle traffic control, other than parking violations, shall notify the department of the conviction in the manner specified by the department within thirty (30) days of the date of conviction.

(2) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance relating to motor vehicle

traffic control in this or any other state, other than parking violations, shall notify his employer in writing of the conviction within thirty (30) days of the date of conviction.

(3) Each employee whose class A, B or C driver's license is suspended, revoked, denied, refused or cancelled by this state or who loses the privilege to operate a commercial motor vehicle in any state for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his employer of that fact before the end of the business day following the day the employee received notice of that fact.

(4) Each person who applies for employment as an operator of a commercial motor vehicle with an employer shall provide notification to the employer, at the time of application, of his previous employment as an operator of a commercial motor vehicle. The period of previous employment of which notification must be given shall be the ten (10) year period ending on the date of application for employment.

(5) No employer shall knowingly allow, permit or authorize an employee to operate a commercial motor vehicle in the United States during any period:

(a) In which the employee has a driver's license suspended, revoked or cancelled by a state, has lost the privilege to operate a commercial motor vehicle in a state or has been disqualified from operating a commercial motor vehicle; or

(b) In which the employee has more than one (1) driver's license.

(6) Each employer shall require the information specified in subsection (4) of this section to be provided by the employee.

SECTION 46. That Section 49-1217, Idaho Code, be, and the same is hereby amended to read as follows:

49-1217. 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 the owner in lieu of proof by the other person to permit that other person to operate a motor vehicle for which the owner has given proof as required. The department shall designate the restrictions imposed by this section on the face of the person's driver's license.

SECTION 47. That Section 49-1219, Idaho Code, be, and the same is hereby amended to read as follows:

49-1219. OTHER PROOF MAY BE REQUIRED. Whenever any proof of financial responsibility filed under the provisions of this chapter no longer fulfills the purposes for which required, the department shall require other proof as required by this chapter and shall suspend the ~~operator's or chauffeur's~~ driver's license and motor vehicle registration or the nonresident's operating privilege pending the filing of other proof.

SECTION 48. That Section 49-1220, Idaho Code, be, and the same is

hereby amended to read as follows:

49-1220. DURATION OF PROOF -- WHEN PROOF MAY BE CANCELLED OR RETURNED. (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 chapter, or the department shall waive the requirement of filing proof, in any of the following events:

(a) At any time after three (3) years from the date 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~~ driver's license or nonresident's operating privilege of the person by or for whom the proof was furnished; or

(b) In the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle; or

(c) In the event the person who has given proof surrenders his ~~operator's or chauffeur's~~ driver's license to the department.

(2) 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 the proof is then pending, or any judgment upon any liability is then unsatisfied, or in the event the person who has filed the bond or deposited the ~~money or~~ securities has, within one (1) year immediately preceding 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 the facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable for the injury or damage, shall be sufficient evidence in the absence of evidence to the contrary in the records of the department.

(3) Whenever any person whose proof has been canceled or returned applies for an ~~operator's or chauffeur's~~ driver's license within a period of three (3) years from the date proof was originally required, the application shall be refused unless the applicant shall reestablish proof for the remainder of the three (3) year period.

SECTION 49. That Section 49-1222, Idaho Code, be, and the same is hereby amended to read as follows:

49-1222. SURRENDER OF ~~OPERATOR'S OR CHAUFFEUR'S~~ DRIVER'S LICENSE. Any person whose ~~operator's or chauffeur's~~ driver's license shall have been suspended as provided in this chapter, or whose policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, or who shall neglect to furnish other proof upon request of the department, shall immediately return his driver's license to the department. If any person shall fail to return to the department the driver's license as required, the department shall direct any peace officer to secure its possession and return the

driver's license to the department.

SECTION 50. That Section 49-1301, Idaho Code, be, and the same is hereby amended to read as follows:

49-1301. ACCIDENTS INVOLVING DAMAGE TO VEHICLE. (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 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 law. A stop as required by this section shall be made without obstructing traffic more than is necessary.

(2) Any person failing to stop or to comply with the requirements under these circumstances shall be guilty of a misdemeanor.

(3) The department shall revoke for a period of one (1) year the driver's license or permit to drive, or the nonresident operating privilege, of any person convicted of a violation of the provisions of this section.

SECTION 51. That Section 49-1302, Idaho Code, be, and the same is hereby amended to read as follows:

49-1302. DUTY TO GIVE INFORMATION IN ACCIDENT INVOLVING DAMAGE TO A VEHICLE. The driver of any vehicle involved in an ~~accident~~ 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. If available, he shall exhibit his ~~operator's or chauffeur's~~ driver's license to the person struck or to the driver or person attending any vehicle collided with.

SECTION 52. That Section 49-1304, Idaho Code, be, and the same is hereby amended to read as follows:

49-1304. 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 the property of 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~~ driver's license.

SECTION 53. That Section 49-1401, Idaho Code, be, and the same is hereby amended to read as follows:

49-1401. RECKLESS DRIVING. (1) Any person who drives or is in actual physical control of any vehicle upon a highway, 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 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 (2) of this section.

(2) 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. 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 fine and imprisonment. The department shall suspend the driver's license of any such person as provided in section 49-326, Idaho Code.

(3) 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 54. That Section 49-1404, Idaho Code, be, and the same is hereby amended to read as follows:

49-1404. FLEEING OR ATTEMPTING TO ELUDE A 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 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 driver's license of a person convicted for a violation of the provisions of this section as provided in section 49-326, Idaho Code.

SECTION 55. That Section 49-1505, Idaho Code, be, and the same is hereby amended to read as follows:

49-1505. SUSPENSION OF ~~OPERATOR'S~~ DRIVER'S LICENSE FOR FAILURE TO PAY UNDERLYING TRAFFIC INFRACTION PENALTY -- APPEAL. (1) The department shall immediately suspend the driver's license, permit and oper-

ating privileges of any ~~operator or chauffeur~~ driver upon receiving notice from any court of the state that a person has failed to pay the penalty for a traffic infraction judgment. 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 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, 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 49-326, 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 driver's license.

(3) Upon proper application and payment of any required fee, a driver's 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 driver's license or permit.

(4) After the expiration of a ninety (90) day suspension under this section, the driver's license, permit and driving privileges of the ~~operator or chauffeur~~ driver whose driver's license was suspended shall not be reinstated under the provisions of section 49-328, Idaho Code, nor renewed under ~~the provi~~sions of section 49-319, 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 driver's license has not been reinstated under the provisions of section 49-328, Idaho Code, or renewed under the provisions of section 49-319, Idaho Code, shall be in violation of the provisions of section 49-301, Idaho Code, for operating a motor vehicle without a driver's license.

(6) Any person whose driver's 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 driver's license, the district court shall order the driver's license reinstated by the department and upon receipt of a copy of such order the department shall reinstate the driver's license without the payment of a fee.

SECTION 56. That Section 49-2001, Idaho Code, be, and the same is hereby amended to read as follows:

49-2001. 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 driver's 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 drivers' 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 driver's 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 forfeiture 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 juris-

diction 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 driver's 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 Driver's Licenses

Upon application for a driver's license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a driver's license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a driver's license to drive to the applicant if:

(1) The applicant has held such a driver's 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 driver's 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 driver's license was revoked, such person may make application for a new driver's license if permitted by

law. The licensing authority may refuse to issue a driver's 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 driver's license to drive issued by another party state and currently in force unless the applicant surrenders such driver's 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 driver's 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 government, 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 57. That Section 49-2443, Idaho Code, be, and the same is hereby amended to read as follows:

49-2443. APPLICATION. Application for an identification card must be made in person before an examiner authorized by the department to issue ~~operator--and--chauffeur~~ driver 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 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 58. That Section 11-607, Idaho Code, be, and the same is hereby amended to read as follows:

11-607. CLAIMS ENFORCEABLE AGAINST EXEMPT PROPERTY. (1) Notwithstanding other provisions of this act:

(a) A creditor may make a levy against exempt property except property described in section 11-603, Idaho Code, to enforce a claim for:

1. Alimony, support, or maintenance;

2. Unpaid earnings of up to one (1) month's compensation or the full-time equivalent of one (1) month's compensation for personal services of an employee;

3. State or local taxes;

4. Civil damages for offenses punishable by imprisonment in the state penitentiary, or for malicious or intentional injury to persons or property, or for damages resulting from the operation of a motor vehicle for which the defendant is convicted of reckless driving, driving while under the influence of intoxicating liquor or drugs, or driving while ~~operator's~~ driver's license has been suspended or revoked, or claims for obtaining money or property by false pretenses or on credit by intentionally making materially false statements in writing respecting financial condition; or

5. Rent for any kind of dwelling place; claims for food and lodging; and

(b) A creditor may make a levy against exempt property to enforce a claim for:

1. The purchase price of the property or a loan made for the express purpose of enabling an individual to purchase property and used for that purpose; and

2. Labor or materials furnished to make, repair, improve, preserve, store, or transport the property.

(c) The department of health and welfare, bureau of child support enforcement may make a levy against exempt property described in subsection (6) of section 11-603, Idaho Code, to enforce a claim for child support or spousal support as defined in chapter 12,

title 7, Idaho Code.

(2) This act does not affect any statutory lien or security interest in exempt property. Such a security agreement shall not be invalidated in or affected by any legal proceedings, including those under the federal bankruptcy act, involving the debtor.

SECTION 59. 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 driver's 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 sec-

tion 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.

SECTION 60. That Section 18-8002, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(a) His driver's license will be seized by the police officer and a temporary permit will be issued; provided, however, that no peace officer shall issue a temporary permit pursuant to this section to a driver whose driver's license or permit has already been and is suspended or revoked because of previous violations~~;~~, except, no temporary permit shall be issued for holders of class A, B or C drivers' licenses;

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

(c) If he does not request a hearing or does not prevail at the hearing, his driver's license will be suspended absolutely for one hundred eighty (180) days; and

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

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

above:

(a) His driver's license or permit shall be seized by the police officer and forwarded to the court and a temporary permit shall be issued by the police officer which allows him to operate a motor vehicle until the date of his hearing, if a hearing is requested, but in no event for more than thirty (30) days; provided, however, that no peace officer shall issue a temporary permit pursuant to this section to a driver whose driver's license or permit has already been and is suspended or revoked because of previous violations;

(b) A written request may be made within seven (7) calendar days for a hearing before the court; if requested, the hearing must be held within thirty (30) days of the seizure unless this period is, for good cause shown, extended by the court for one (1) additional thirty (30) day period. The court, in granting such an extension, may, for good cause shown, extend the defendant's temporary driving privileges for one (1) additional thirty (30) day period. The hearing shall be limited to the question of why the defendant did not take the test, and the burden of proof shall be upon the defendant; the court shall suspend all his driving privileges immediately for one hundred eighty (180) days unless it finds that the police officer did not have probable cause to stop and request him to take the test or that the request violated his civil rights;

(c) If a hearing is not requested by written notice to the court concerned within seven (7) calendar days, upon receipt of a sworn statement by the police officer of the circumstances of the refusal, the court shall suspend his driving privileges for one hundred eighty (180) days, during which time he shall have absolutely no driving privileges of any kind; and

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

(5) Any suspension of driving privileges under this section shall be a civil penalty separate and apart from any other suspension imposed for a violation of other Idaho motor vehicle codes or for a conviction of an offense pursuant to this chapter, and may be appealed to the district court.

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

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

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

SECTION 61. 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) (a) 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.

(b) 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 0.04, 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 vehicle belonging to a group of commercial motor vehicles 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) and subsection (1)(b) of this section. Any person who does not take a test to determine alcohol concentration or whose test result is determined by the court to be unreliable or inadmissible against him, may be prosecuted for driving or being in actual physical control of a motor vehicle while under the influence of alcohol, drugs, or any other intoxicating substances, on other competent evidence.

(3) If the results of the test requested by a police officer show 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 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.

(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 62. 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 driver's 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 driver's 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 18-8004, Idaho Code, shall be considered by the court to determine if a later convic-

tion 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.

(9) Any person who holds a class A, B or C driver's license shall not be issued restricted driving privileges otherwise allowed by the provisions of subsections (1) and (2) of this section.

SECTION 63. That Section 18-8006, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by

the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; and

(e) Shall be ordered by the court to pay restitution in accordance with chapter 53, title 19, Idaho Code.

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

SECTION 64. 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~~ driver'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 shall revoke for a period of one (1) year the driver's 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 65. That Section 18-1502, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502. BEER, WINE OR OTHER ALCOHOL AND TOBACCO AGE VIOLATIONS -- FINES. (a) Whenever a person is in violation, on the basis of age, of any federal, state, or municipal law or ordinance pertaining to the use, possession, procurement, or attempted procurement, or dispensing of any beer, wine or other alcoholic beverage or tobacco product, the violation shall constitute a misdemeanor.

(b) Every person convicted of a misdemeanor under this section shall be punished by a fine of not more than one hundred dollars ($100). The second conviction under this section shall be punished by a fine of not more than two hundred dollars ($200). The third and subsequent convictions under this section shall be punished by a fine of not more than three hundred dollars ($300), or up to thirty (30) days in jail or both.

(c) The transportation department shall suspend the ~~operator's~~ driver's license or permit to drive and any nonresident's driving privileges in the state of Idaho for sixty (60) days of any person under twenty-one (21) years of age who is found guilty or convicted of violating the law pertaining to the use, possession, procurement, attempted procurement or dispensing of any beer, wine or other alcoholic beverage. A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of ~~any~~ insurance policy as provided in section 41-2507, Idaho Code.

SECTION 66. That Section 31-2202, Idaho Code, be, and the same is hereby amended to read as follows:

31-2202. DUTIES OF SHERIFF. The sheriff must:

1. Preserve the peace.

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense, unless otherwise provided by law.

3. Prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.

4. Attend all courts, including magistrate's division of the district court when ordered by a district judge, at their respective terms held within his county, and obey the lawful orders and directions of the courts.

5. Command the aid of as many inhabitants of the county as he may think necessary in the execution of these duties.

6. Take charge of and keep the county jail and the prisoners therein.

7. Indorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time of reception.

8. Serve all process and notices in the manner prescribed by law.

9. Certify under his hand upon process or notices the manner and

time of service, or, if he fails to make service, the reasons of his failure, and return the same without delay.

10. Perform such other duties as are required of him by law.

11. Keep a record of all stolen cars reported within his county, which record shall contain the name of the motor vehicle, the engine number thereof, a complete description of such vehicle and such other information as may aid in the identification of the stolen car. Such record shall be open to public inspection during office hours, and immediately upon receiving a report of a stolen car the sheriff shall prepare and forward a copy thereof to the director of the department of law enforcement and he shall also notify the director of the department of law enforcement of any and all cars recovered.

12. Work concurrently and cooperate in his county with the Idaho state police in the following respects:

(a) Require all persons using the highways in the state to do so carefully, safely and with exercise of care for the persons, property and safety of others;

(b) Safeguard and protect the surface and other physical portions of the state highways;

(c) Enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;

(d) Regulate traffic on all highways and roads in the state; and respond to calls following wrecks and make investigations relative thereto.

13. Give examinations for and sell ~~operators' and chauffeurs'~~ drivers' licenses.

14. Expeditiously and promptly investigate all cases involving missing children when such cases are reported to him.

SECTION 67. That Section 33-405, Idaho Code, be, and the same is hereby amended to read as follows:

33-405. QUALIFICATIONS OF SCHOOL ELECTORS. Any person voting, or offering to vote, in any school election must be, at the time of the election eighteen (18) years of age and a United States citizen who has resided in this state and in the school district at least thirty (30) days next preceding the election in which the elector desires to vote. In the case of election of trustees, the elector must be a resident of the same trustee zone as the candidate or candidates for school district trustees for whom the elector offers to vote for at least thirty (30) days next preceding the election in which the elector desires to vote.

Registration requirements set forth in chapter 4, title 34, Idaho Code, shall be applicable to school elections, and in addition to the foregoing qualifications, a school elector shall have executed, in writing and immediately before voting, a form of elector's oath attesting that he or she possesses the qualifications of a school elector prescribed by this section and indicating the mailing address, residence address or any other necessary information definitely locating the residence of the school elector. The elector may be required to furnish to the election official proof of residence, which proof

shall be established by either an Idaho motor vehicle ~~operator's~~ driver's license or any other document definitely establishing the ~~elector's~~ residence within the school district or trustee zone.

SECTION 68. That Section 33-1508, Idaho Code, be, and the same is hereby amended to read as follows:

33-1508. OPERATION OF SCHOOL BUSES. 1. All school buses shall at all times be operated in conformity with law and with rules and regulations of the department of law enforcement and the state board of education.

2. No school bus shall:

a. Cross any railroad track, or enter or cross any arterial highway without first coming to a full stop. If any such crossing, intersection or access be obscured by trees, buildings or other object, or because of wind, storm or fog, the chauffeur shall open such windows and doors as will permit him to determine when it is safe to proceed;

b. Be operated at any time for the transportation of pupils by any person who does not have a current ~~chauffeur~~ driver's license, a valid driver's permit issued by the board of trustees, and the minimum training for bus drivers as prescribed by the state board of education;

c. Be operated at any time in excess of its maximum occupancy as determined by the manufacturer. Occupancy at no time shall exceed three (3) persons in a seat.

SECTION 69. That Section 33-1509, Idaho Code, be, and the same is hereby amended to read as follows:

33-1509. CHAUFFEURS -- DEFINITION -- QUALIFICATION -- DUTIES. For the purpose of this chapter the term "chauffeur" shall mean any person who at any time is operating a school bus while transporting pupils to or from school, or to or from approved school activities.

A board of trustees shall employ chauffeurs only upon prior application in writing and the board shall require of chauffeurs employed by others who transport pupils of their district under contract, the same information required in such written application. Each application shall contain at least the minimum information specified by the state department of education.

Any person employed as a chauffeur shall be over the age of eighteen (18) years, be of good moral character and not addicted to the use of intoxicants or narcotics. Before entering upon his duties each year, each chauffeur shall file with the board a health certificate, signed not longer than three (3) months prior to such filing by a licensed physician, and in form approved by the state department of education.

Each chauffeur shall at all times possess a valid ~~chauffeur's~~ driver's license, and a school bus driver's permit issued by the board of trustees. Such permit shall be in form approved by the state department of education and shall be carried on the chauffeur's person or be exhibited in full view when the holder thereof is operating any

school bus with pupils therein.

The board of trustees may for cause, and after a hearing, revoke any school bus driver's permit.

Each chauffeur shall maintain such route books and other records as may be required by the state department of education or by the board of trustees of the school district. He shall report any pupil whose behavior is such as may endanger the operation of the vehicle, or who damages the same or any part thereof, or whose language is obscene.

It shall be the duty of each chauffeur to report any condition on, or bordering, his route which constitutes a hazard to the safety of the pupils being transported.

SECTION 70. This act shall be in full force and effect on and after April 1, 1990.

Approved March 27, 1989.

CHAPTER 89
(S.B. No. 1003)

AN ACT

RELATING TO BASIC RULE AND MAXIMUM SPEED LIMITS; AMENDING SECTION 49-654, IDAHO CODE, TO CLARIFY THE CONDITIONS UNDER WHICH REDUCED INFRACTION PENALTIES MAY BE IMPOSED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-654, Idaho Code, be, and the same is hereby amended to read as follows:

49-654. BASIC RULE AND MAXIMUM SPEED LIMITS. (1) 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 highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(2) 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 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.

(3) (a) When the maximum speed on a given highway is set at fifty-five (55) miles per hour, a violation of such speed limit shall be an infraction, and subject to punishment as provided in section 18-113A, Idaho Code, unless the conditions listed in paragraph (i) below exist.

(i) If the posted speed limit on the stretch of highway where the violation occurred was sixty-five (65) miles per hour or more prior to January 2, 1974, and the speed of the vehicle was seventy (70) miles per hour or less, then the violation is an infraction, but the maximum fine that may be imposed shall be five dollars ($5.00), no jail sentence shall be imposed, no violation point counts shall be assessed, and such violation shall not be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

(b) When the maximum speed on a given highway is set at sixty-five (65) miles per hour, ~~and the maximum~~ a violation of such speed limit shall be an infraction, and subject to punishment as provided in section 18-113A, Idaho Code, unless the conditions listed in paragraph (i) below exist.

(i) If the posted speed limit on the stretch of highway where the violation occurred was more ~~than~~ sixty-five (65) miles per hour or more 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, then the violation is an infraction, but the maximum fine that ~~shall~~ may 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~~ no violation point counts ~~as prescribed in section 49-326(2), Idaho Code. A conviction under this subparagraph~~, and such violation 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.

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 27, 1989.

CHAPTER 90
(S.B. No. 1035)

AN ACT

RELATING TO THE COUNTY RECORDER; AMENDING SECTION 31-2401, IDAHO CODE, TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTION 31-2403, IDAHO CODE, TO PROVIDE A PROPER REFERENCE; AMENDING SECTION 31-2407,

IDAHO CODE, TO PROVIDE THAT JUDGMENTS AFFECTING LAND NEED NOT BE RECORDED UNLESS THE FEE THEREFOR HAS BEEN PAID; AMENDING SECTION 31-2408, IDAHO CODE, TO PROVIDE THAT DELIVERY OF A DECREE OF PARTITION TO THE RECORDER IMPARTS NOTICE; AMENDING SECTION 31-2411, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 31-2413, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 31-2414, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 31-2415, IDAHO CODE, TO PROVIDE PROPER REFERENCES, AND TO STRIKE REFERENCE TO TREBLE DAMAGES; AMENDING SECTION 31-2417, IDAHO CODE, TO STRIKE AN OBSOLETE REFERENCE, AND TO STRIKE REFERENCE TO TREBLE DAMAGES; AND AMENDING SECTION 31-2418, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 31-2401, Idaho Code, be, and the same is hereby amended to read as follows:

31-2401. BOOKS TO BE PROCURED -- CUSTODY. The recorder must procure such books for records as the business of his office requires~~, but--orders--for--the--same--must--first-be-obtained-from-the-board-of commissioners~~. He has the custody of and must keep all books, records, maps and papers deposited in his office.

SECTION 2. That Section 31-2403, Idaho Code, be, and the same is hereby amended to read as follows:

31-2403. REGISTER FOR NAMES OF FARMS. Any farm owner in the state of Idaho may, upon the payment ~~of-one-dollar-($1.00)~~ as set forth in section 31-3205, Idaho Code, to the county recorder in the county in which said farm is located, have the name of his ~~said~~ farm duly recorded in a register which the ~~said~~ county recorder shall keep for said purpose, and shall be furnished a certificate issued under the seal of ~~said~~ the auditor, setting forth the name and location of said farm. When any name shall have been recorded, as above specified, as the name of any farm, such name shall not be recorded as the name of any other farm in the same county.

SECTION 3. That Section 31-2407, Idaho Code, be, and the same is hereby amended to read as follows:

31-2407. JUDGMENTS AFFECTING LAND. When requested and paid the fee therefor, t~~T~~he recorder must ~~file-and~~ record with the record of deeds, grants and transfers, certified copies of final judgments, decrees or transcripts of judgments or decrees partitioning or affecting the title or possession of real property, including water rights, any part of which is situate in the county of which he is recorder.

SECTION 4. That Section 31-2408, Idaho Code, be, and the same is hereby amended to read as follows:

31-2408. DECREE OF PARTITION -- RECORD IMPARTS NOTICE. Every such

certified copy of a decree of partition, from the time of ~~filing~~ delivery of the same with the recorder for record, imparts notice to all persons of the contents thereof; and subsequent purchasers, mortgagees and lienholders, purchase and take with like notice and effect as if such copy of decree was a duly recorded deed, grant or transfer.

SECTION 5. That Section 31-2411, Idaho Code, be, and the same is hereby amended to read as follows:

31-2411. INDORSEMENT OF BOOK AND PAGE OF RECORD -- DELIVERY TO PARTY. ~~He~~ The recorder must also indorse upon each instrument, paper or notice, the book and pages in which it is recorded, and must thereafter deliver it upon request to the party leaving the same for record~~,--or-to-his-order~~.

SECTION 6. That Section 31-2413, Idaho Code, be, and the same is hereby amended to read as follows:

31-2413. RECEPTION BOOK. There shall be provided by the county ~~commissioners~~ recorder of each county, ~~in-the-same-manner--that--other record--books--are--provided,~~ a book for use in the office of the recorder to be known as the reception book, in which shall be entered, immediately after numbering, all instruments, papers or notices authorized by law to be recorded. Such book shall be ruled in parallel columns and in the first column at the left hand side of the page shall be entered the instrument number; in the second column, the day, hour and minute of filing; in the third column, the grantor, or person executing the instrument; in the fourth column, the grantee, or person to whom the instrument is executed, if there be such; in the fifth column, the character of the instrument; in the sixth column, the book and page where recorded; in the seventh column a brief description of the property, if any, described therein; and in the last column at the right, the name of the person to whom delivered. Such book shall be a part of the public records of such office, and open to public inspection during office hours.

SECTION 7. That Section 31-2414, Idaho Code, be, and the same is hereby amended to read as follows:

31-2414. CERTIFICATE OF TIME OF RECEPTION. When any such instrument, paper or notice is numbered and entered in the reception book and indexed, it shall be recorded, ~~or-filed,~~ as now provided by law; and it shall be the duty of the recorder to write or stamp, or cause to be written or stamped, at the beginning of the record thereof, if recorded, the words "Instrument number" and add thereto the number stamped or written on such instrument, paper or notice, and to add immediately after the record thereof, a certificate setting forth the exact time of the reception of such instrument, paper or notice, giving the day, hour and minute as set out in the original notation of ~~filing~~ recording made by him upon the instrument, paper or notice itself, and the name of the person at whose request it is recorded, which record and certificate he shall authenticate with his official

signature, but for which certificate and authentication he shall not be authorized or permitted to collect a fee.

SECTION 8. That Section 31-2415, Idaho Code, be, and the same is hereby amended to read as follows:

31-2415. FAILURE ~~PROPERLY~~ TO RECORD INSTRUMENT PROPERLY --LIABILITY AND PENALTY. If any recorder neglects or refuses or fails to record any instrument, paper or notice authorized by law to be recorded, in the manner provided for in ~~the three (3) preceding~~ sections 31-2412, 31-2413 and 31-2414, Idaho Code, he shall be liable to the party aggrieved for ~~three (3) times~~ the amount of the damages which may be occasioned thereby, and for each such neglect or failure or refusal, whether damages are recovered by an aggrieved party or not, he shall pay into the ~~general school~~ current expense fund of his county the sum of fifty dollars ($50.00), which may be recovered by an action which it is the duty of the prosecuting attorney to prosecute. All penalties provided by this section shall be recoverable from the recorder upon his official bond.

SECTION 9. That Section 31-2417, Idaho Code, be, and the same is hereby amended to read as follows:

31-2417. LIABILITY FOR NEGLECT. If any recorder to whom an instrument, proved or acknowledged according to law, or any paper or notice which may by law be recorded, is delivered for record:

1. Neglects or refuses to record such instrument, paper or notice within a reasonable time after receiving the same; or~~,~~

2. Records any instruments, papers or notices untruly, or in any other manner than as hereinbefore directed; or~~,~~

3. Neglects or refuses to keep in his office such indexes as are required by this chapter, or to make the proper entries therein; or~~,~~

~~4. Neglects or refuses to make the searches and to give the certificate required by this chapter; or if such searches or certificate are incomplete and defective in any important particular affecting the property in respect to which the search is requested; or,~~

~~5.~~ Alters, changes or obliterates any records deposited in his office or inserts any new matter therein;

He is liable to the party aggrieved for ~~three (3) times~~ the amount of the damages which may be occasioned thereby.

SECTION 10. That Section 31-2418, Idaho Code, be, and the same is hereby amended to read as follows:

31-2418. FEES TO BE PREPAID. ~~He~~ The county recorder is not bound to record any instrument or file any paper or notice, or furnish any copies, or to render any service connected with his office, until ~~his~~ the fees for the same, as prescribed by law, are, if demanded, paid or tendered.

Approved March 27, 1989.

CHAPTER 91
(S.B. No. 1036)

AN ACT

RELATING TO COUNTY BUILDINGS; AMENDING SECTION 31-1001, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 31-1008, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND AMENDING SECTION 31-1009, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Section 31-1001, Idaho Code, be, and the same is hereby amended to read as follows:

31-1001. ERECTION OF BUILDINGS -- FURNISHING OF OFFICES -- CONTRACTS -- LEASE OF PREMISES FOR COURTHOUSE OR JAIL -- BOOKS AND STATIONERY. The board must cause to be erected or furnished, a courthouse, jail and such other public buildings as may be necessary, and must, when necessary, provide offices with necessary furniture for the sheriff, clerk of the district court and ex officio auditor and recorder, county treasurer, prosecuting attorney, ~~probate--judge,~~ county assessor and county surveyor, and must draw warrants in payment of the same: provided, that the contract for the erection of any such buildings must be let, after thirty (30) days' notice for proposals, to the lowest bidder who will give security for the completion of any contract he may make respecting the same; and, provided further, no contracts for the purchase of furniture must be let under the provisions of this section when the expenses thereunder will exceed one thousand dollars ($1,000). And, provided further, that no part of the provisions of this section shall be construed to prevent the board of county commissioners, from entering into a lease for courthouse premises, rooms and jail for any period in their discretion, not to exceed thirty (30) years, and provided that the county commissioners may contract with responsible parties for the leasing of a courthouse, jail and hospital, or a combination of courthouse, jail and hospital, or fairground buildings and facilities, to be constructed upon premises owned by the county or otherwise, provided that said contract shall be let subject to the provisions of chapter 40 of this title; the contract also may provide that at the expiration of the term of the lease, upon full performance of such lease by the county, the said courthouse premises, rooms and jail, fairground buildings and facilities, or so much thereof as is leased, may become the property of the county. The board must also provide all necessary books of record for the county auditor and recorder, county treasurer, county assessor, and tax collector, clerk of the district court, ~~probate-court,~~ county surveyor, ~~county-superintendent-of-public-instruction,~~ and the books and stationery for the use of the board, and so much as is necessary for the use of said county officers in the transaction of official business. Nothing herein shall be construed as limiting or otherwise affecting a lease or other transaction between the Idaho health facilities authority and the board of county commissioners as provided in

section 31-836, Idaho Code.

SECTION 2. That Section 31-1008, Idaho Code, be, and the same is hereby amended to read as follows:

31-1008. COUNTY BUILDING CONSTRUCTION FUND -- LEVY OF TAX -- SPECIAL ELECTION. In lieu of the issuance of bonds for the purpose specified in section 31-1002, Idaho Code, the board of county commissioners of any county shall have power, in addition to the power specified in said section 31-1002, Idaho Code, when in their judgment the best interests of the county so required, to create and establish a fund for the purpose specified in said section 31-1002, Idaho Code, and for said purposes are hereby authorized and empowered, by resolution adopted at a regular meeting of said board, or at any special meeting called for that purpose, to levy, in addition to all other taxes now authorized by law, an annual tax of not exceeding ~~three (3) mills on the dollar ($1.00) of assessed valuation~~ six hundredths percent (.06%) of market value for assessment purposes of all taxable property in such county for the current year, to be certified, extended and collected at the same time and in the same manner as taxes for general county purposes, and to be apportioned, when collected, to a special fund to be known as the "County Building Construction Fund," provided, that in the resolution and for the purposes hereinbefore mentioned such board shall call a special election, or submit, at any general election, the question of creating such fund to defray the expenses of purchasing such site and erecting and furnishing such buildings, at which election only such electors may vote as are qualified to vote at elections held for the issuance of general obligation bonds, and which election shall in all respects be governed and held in the same manner as is now required by law for the holding of elections to determine the question of the issuance of general obligation bonds. If, at such election two-thirds (2/3) of the qualified voters voting at such election shall have voted to create such funds, then such board of county commissioners may annually levy the taxes for the purposes hereinbefore mentioned. Such fund shall remain intact, subject to investment as hereinafter provided, until the same shall, when augmented by the proceeds of similar levies in succeeding years, be adequate in the judgment of such board to defray the entire cost of purchasing a site and constructing the improvements aforesaid and completely furnishing the same, and no part of such fund shall be expended until complete plans and specifications have been adopted and contracts entered into insuring the completion of such purchase and construction within the limitations of such fund, nor shall the construction of any courthouse or jail be undertaken until such fund is adequate to insure the proper equipment and furnishing thereof; provided, that no such fund shall be accumulated in excess of two per cent (2%) of the assessed valuation of the property within such county; and provided further, that such fund may be used to supplement the proceeds of any bonds issued pursuant to the provisions of sections 31-1002 and 31-1004, Idaho Code, for the purposes aforesaid.

SECTION 3. That Section 31-1009, Idaho Code, be, and the same is

hereby amended to read as follows:

31-1009. INVESTMENT OF FUND -- ACCRUAL OF INTEREST. Any funds accumulated as provided in section 31-1007, Idaho Code, may, so far as practicable without jeopardy thereto, be invested by the county treasurer, under the direction of the board of county commissioners~~, in the securities mentioned in section 57-114, and not otherwise~~; and provided, further, that any portion of such fund not so invested, shall be deposited in accordance with the requirements of the public depository law. All interest earned by such fund shall accrue and be added to the principal thereof and become subject to investment as such.

Approved March 27, 1989.

CHAPTER 92
(S.B. No. 1037)

AN ACT

RELATING TO THE COUNTY AUDITOR; AMENDING SECTION 31-2307, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Section 31-2307, Idaho Code, be, and the same is hereby amended to read as follows:

31-2307. ANNUAL STATEMENT OF FINANCIAL CONDITION OF COUNTY. Every county auditor must, on or before the second Monday in January of each year, prepare, in duplicate, an exact and full statement, under oath, of the financial condition of his county for the fiscal year last preceding, one of which statements shall be filed in the office of the state auditor and the other with the board of county commissioners of the county.

Such statement must clearly set forth the following: The total assessed valuation of the county for each year; the amount of the tax levy on each one hundred dollars ($100) valuation for each several purpose for which levied, stating it, and the total amount of the tax levy for each year. Therefrom shall be deducted the amount of double assessments, uncollected taxes or other credits ordered by the board of county commissioners to be given to the assessor on account of the roll for that year, showing the actual amount of revenue obtainable from such roll. Thereafter shall follow a statement in which shall be charged to each separate fund for which a levy was made, the proportion of net revenue which may be obtained for such fund from such levy, and also all amounts ordered to be transferred thereto as provided by law, and also all revenues received for such year for each of said funds from sources other than property tax. There shall be credited against such revenue, shown in each fund, the amount allowed by the board of county commissioners, for which warrants have been ordered in such year, payable out of such fund; and which amounts

shall be classified into warrants drawn and paid, warrants drawn and not paid, and warrants ordered and not drawn. There shall also be credited, in the statement of the appropriate funds, the amount paid on account of court orders; witness certificates; bonds and coupons; state, ad valorem, wagon road or other levies; current expense; road; bridges; general school purposes; interest on warrants paid; and generally, of all amounts paid out of the revenues of the year on account of each of the several funds, or transferred therefrom as provided by law, and the amount of delinquent tax due to each of such funds from the revenue of such year. The amount of cash in the treasury to the credit of each of such funds shall be credited therein; and said statement of each of said funds shall be balanced, as the condition thereof shall require, by carrying to the credit of such account surplus revenue over expenditures or by debiting the account with deficit of revenue to meet expenditures.

The auditor must, at the close of such report, make recapitulation of the total revenues and expenditures for the year, and must compute the exact levy which would have been required for the net amount of the assessment roll for the year, to pay such expenditures and make a statement of the same.

A further showing shall be made in said statement, as follows: A statement of the actual amount and character of the bonded indebtedness of the county, if any, and rate of interest thereon, together with the amount of the floating indebtedness, at the date of said statement, and the amount of cash on hand in the treasury, applicable to the payment thereof. There shall be a detailed showing made in said statement as to the amount of expenditure made in said year in said county on account of current expense, other than for roads and bridges, wherein the total amount of such expenditures shall be debited and a credit made against the same for the several classified items of expenditure, in the amount shown by each.

Such classification and summarized details shall be as nearly as practicable as follows:

To total amount of expenditure for the year payable out of current expense fund, $ .....

By care of poor: Medical attendance, $ ....; burials, $ ....; temporary aid, $ .....

By salary, or other compensation of each; actual expenses being a county charge; (showing separately under sheriff for deputies and jailers; board and care of prisoners) office expenses; blanks, stationery; furniture; and supplies, amount of each, $ .....

District court: By defense criminals, $ ....; witness fees, $ ....; juror fees, $ .....

~~Justice courts: By fees of justices of the peace, $ ....; constables, $ ....; jurors, $ .....~~

Courthouse: By merchandise, $ ....; repairs, $ ....; janitor, $ ....; fuel, $ ...., etc., and generally, such a summarized detail as shall make a comprehensive statement of the full amount and nature of the expenditures in said fund, for the fiscal year included in said statement.

Approved March 27, 1989.

CHAPTER 93
(S.B. No. 1038)

AN ACT

RELATING TO A BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 31-709, IDAHO CODE, TO PROVIDE THAT CERTAIN BOOKS MUST BE MAINTAINED BY A BOARD OF COUNTY COMMISSIONERS; AND AMENDING SECTIONS 31-710, 31-711, 31-712 AND 31-713, IDAHO CODE, TO COMBINE INTO ONE SECTION.

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

SECTION 1. That Section 31-709, Idaho Code, be, and the same is hereby amended to read as follows:

31-709. BOOKS TO BE KEPT. The board must cause to be kept:

1. A minute book, in which must be recorded all orders and decisions made by them, and the daily proceedings had at all regular and special meetings.

2. An allowance book, in which must be recorded all orders for the allowance of money from the county treasury, to whom made, and on what account, dating, numbering and indexing the same through each year.

3. A road book, containing all proceedings and adjudications relating to the establishment, maintenance, change and discontinuance of roads, road districts, and overseers thereof, their reports and accounts.

4. A franchise book, containing all franchises granted by them, for what purpose, the length of time and to whom granted, the amount of bond and license tax required.

5. A warrant book, to be kept by the county auditor, in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number and reference to the order on the minute book, with the date, amount, on what account, and name of payee.

6. An ordinance book, containing all ordinances, stating the date enacted.

7. A resolutions book, containing all resolutions, stating the date adopted.

SECTION 2. That Sections 31-710, 31-711, 31-712 and 31-713, Idaho Code, be, and the same are hereby amended to read as follows:

31-710. ~~REGULAR~~ MEETINGS. (1) The regular meetings of the boards of commissioners must be held at their respective county seats on the second Mondays of each month of the year, and must continue from time to time until all the business before them is disposed of. Such other meetings must be held, to canvass election returns, equalize taxation, and for other purposes as are prescribed by law or provided for by the board.

~~31-711. ADJOURNED--MEETINGS.~~ (2) Adjourned meetings may be pro-

vided for, fixed and held for the transaction of business, by an order duly entered of record, in which must be specified the character of business to be transacted at such meetings, and none other than that specified must be transacted.

~~31-712. SPECIAL-MEETINGS.~~ (3) If at any time after the adjournment of a regular meeting the business of the county requires a meeting of the board, a special meeting may be ordered by a majority of the board. The order must be entered of record, and five (5) days' notice thereof must, by the clerk, be given to each member not joining in the order. The order must specify the business to be transacted, and none other than that specified must be transacted at such special meeting.

~~31-713. MEETINGS-AND-RECORDS-PUBLIC.~~ (4) All meetings of the board must be public, and the books, records, and accounts must be kept at the office of the clerk, open at all times for public inspection, free of charge. The clerk of the board must give five (5) days' public notice of all special or adjourned meetings, stating the business to be transacted, by posting three (3) notices in conspicuous places, one (1) of which shall be at the courthouse door.

Approved March 27, 1989.

CHAPTER 94
(S.B. No. 1046)

AN ACT

RELATING TO EMPLOYEES OF THE DEPARTMENT OF EDUCATION; AMENDING SECTION 33-127, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF DEPARTMENT OF EDUCATION EMPLOYEES BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

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

SECTION 1. That Section 33-127, Idaho Code, be, and the same is hereby amended to read as follows:

33-127. EMPLOYEES. Employees of the department shall be appointed by the superintendent of public instruction in accordance with the provisions of ~~section-33-105,-Idaho-Code~~ chapter 16, title 59, and chapter 53, title 67, Idaho Code.

Approved March 27, 1989.

CHAPTER 95
(S.B. No. 1063)

AN ACT

RELATING TO PROHIBITED METHODS OF HUNTING; AMENDING SECTION 36-1101, IDAHO CODE, TO PROVIDE THAT IT IS A MISDEMEANOR FOR ANY PERSON TO HUNT ANY OF THE GAME ANIMALS OR GAME BIRDS OF THE STATE FROM OR BY THE USE OF ANY MOTORIZED VEHICLE EXCEPT AS PROVIDED BY COMMISSION REGULATION.

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

SECTION 1. That Section 36-1101, Idaho Code, be, and the same is hereby amended to read as follows:

36-1101. METHODS PROHIBITED — EXCEPTIONS. It is a misdemeanor, except as may be otherwise provided under this title or commission regulations promulgated pursuant thereto, for any person to take any of the game animals, birds or fur-bearing animals of this state and provided further it is a misdemeanor for any person to:

(a) Hunt from Motorized Vehicles. Hunt any of the game animals or game birds of this state from or by the use of any motorized vehicle except as provided by commission regulation; provided however, that the commission shall promulgate rules and regulations which shall allow a physically handicapped person to apply for a special permit which would allow the person to hunt from a motorized vehicle which is not in motion. A physically handicapped person means a person:

1. Who has lost, or has lost the use of, one (1) or both lower extremities or both hands, or who has the significant limitation in the use of the 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 assistance device.

2. 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 60 mm/Hg on room air at rest.

3. 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.

The commission shall specify the form of application for and design of the special permit which shall allow a physically handicapped person to hunt from a motorized vehicle which is not in motion. No fee shall be charged for the issuance of the special permit and the issuance of a special permit shall not exempt a person from otherwise properly purchasing or obtaining other necessary licenses, permits and tags in accordance with this title and rules and regulations promulgated pursuant thereto. The special permit shall not be transferable and may only be used by the person to whom it is issued. A person who has been issued a special permit which allows a physically handicapped

person to hunt from a motorized vehicle not in motion shall have that permit prominently displayed on any vehicle the person is utilizing to hunt from and the person shall produce, on demand, the permit and other identification when so requested by a conservation officer of the department of fish and game. A person possessing a special permit shall not discharge any firearm from or across a public highway. Any unauthorized use of the special permit shall be a misdemeanor and shall be grounds for revocation of the permit.

(b) Molest with Motorized Vehicles. Use any motorized vehicle to molest, stir up, rally or drive in any manner any of the game animals or game birds of this state.

(c) Communicate from Aircraft. Make use of aircraft in any manner to spot or locate game animals, game birds or fur-bearing animals of this state from the air and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person then on the ground.

(d) Hunt from Helicopter. Make use of any helicopter in any manner in the taking of game or loading, transporting, or unloading hunters, game or hunting gear in any manner except when such use is at recognized airports or airplane landing fields, or at heliports which have been previously established on private land or which have been established by a department or agency of the federal, state or local government or when said use is in the course of emergency or search and rescue operations.

(e) Artificial Light. Hunt any animal or bird except raccoon by the aid of a spotlight, flashlight or artificial light of any kind. The act of casting or throwing, after sunset, the beam or rays of any spotlight, headlight or other artificial light capable of utilizing six (6) volts or more of electrical power upon any field, forest or other place by any person while having in his possession or under his control any uncased firearm or contrivance capable of killing any animal or bird, shall be prima facie evidence of hunting with an artificial light. Provided nothing in this subsection shall apply where the headlights of a motor vehicle, operated and proceeding in a normal manner on any highway or roadway, cast a light upon animals or birds on or adjacent to such highway or roadway and there is no intent or attempt to locate such animals or birds. Provided further, nothing in this subsection shall prevent the hunting of unprotected or predatory wildlife with the aid of artificial light when such hunting is for the purpose of protecting property or livestock, is done by landowners or persons authorized in writing by them to do so and is done on property they own, lease or control; and provided further that the hunting and taking of unprotected or predatory wildlife with the aid of artificial light on public lands is authorized after obtaining a permit to do so from the director. The director may, for good cause, refuse to issue such permit.

Other provisions of this subsection notwithstanding, the commission may establish regulations allowing the hunting of raccoon with the aid of an artificial light.

(f) Regulation of Dogs.

1. No person shall make use of a dog for the purpose of pursuing, taking or killing any of the big game animals of this state except

as otherwise provided by regulations of the commission.

2. Any person who is the owner of, or in possession of, or who harbors any dog found running at large and which is actively tracking, pursuing, harassing or attacking, or which injures or kills deer or any other big game animal within this state shall be guilty of a misdemeanor. It shall be no defense that such dog or dogs were pursuing said big game animals without the aid or direction of the owner, possessor, or harborer.

3. Any dog found running at large and which is actively tracking, pursuing, harassing, attacking or killing deer or any other big game animal may be destroyed without criminal or civil liability by the director, or any peace officer, or other persons authorized to enforce the Idaho fish and game laws.

Approved March 27, 1989.

CHAPTER 96
(S.B. No. 1064)

AN ACT

RELATING TO ESTABLISHMENT OF WATER RIGHTS; AMENDING SECTION 42-204, IDAHO CODE, TO ENABLE THE DEPARTMENT OF WATER RESOURCES TO ISSUE A PERMIT FOR AN APPROVED APPLICATION TO APPROPRIATE WATER AS A SEPARATE DOCUMENT.

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

SECTION 1. That Section 42-204, Idaho Code, be, and the same is hereby amended to read as follows:

42-204. EXAMINATION -- PERMIT -- COMMENCEMENT OF WORK -- EXTENSIONS -- APPEAL. On receipt of the application, which shall be of a form prescribed by the department of water resources, it shall be the duty of that department to make an indorsement thereon of the date of its receipt, and to examine said application and ascertain if it sets forth all the facts necessary to show the location, nature and amount of the proposed use. If upon such examination the application is found defective, it shall be the duty of the department of water resources to return the same for correction or to correspond with the applicant to obtain the needed information or amendments. If the application is returned to the applicant or the department shall request additional information and the applicant fails to return the corrected application or to supply the needed information within thirty (30) days, the department may void the record of said application and notify the applicant of such action. If the corrected application is returned or the information is supplied after thirty (30) days, such corrected application shall be treated in all respects as a new application, and the priority of the right initiated shall be determined by the date of receipt, in the office of the department, of the corrected application

or additional information; provided, that upon request, and good cause appearing therefor, the director of the department of water resources may grant an extension of time within which to return the corrected application or supply needed information. All applications which shall comply with the provisions of this chapter and with the regulations of the department of water resources shall be numbered in such manner as will aid in their identification, and it shall be the duty of the department to approve all applications, made in proper form, which contemplate the application of water to a beneficial use: provided, that the department may deny any such application, or may partially approve and grant permit for a lesser quantity of water than applied for, or may grant permit upon conditions as provided in the preceding section.

The ~~approval of an application shall be indorsed thereon, and a record made of such indorsement in the~~ department of water resources~~. The application so indorsed~~ shall ~~constitute~~ issue a permit for any approved application, make a record of the approval and provide a copy of the permit to the applicant, who~~, and a copy thereof shall be returned to the applicant, and he~~ shall be authorized, on receipt thereof, to proceed with the construction of the necessary works for the diversion of such water, and to take all steps required to apply the water to a beneficial use and perfect the proposed appropriation. ~~In its indorsement of approval on any application t~~The department shall require that actual construction work and application of the water to full beneficial use shall be complete within a period of five (5) years from the date of such approval, but may limit the ~~application~~ permit to a less period than is named in the application, and ~~such indorsement~~ the permit shall ~~give~~ set forth the date when beneficial application of the water to be diverted by such works shall be made. Sixty (60) days before the date set for the completion of the appropriation of water under any permit, the department shall forward a notice to the applicant by certified mail at his address of record of the date for such completion, which said notice shall advise the applicant of the necessity of submitting an affidavit of completion or a request for an extension of time on or before said date; Provided that:

1. In cases where the applicant is prevented from proceeding with his work by his failure to obtain necessary consent or final approval or rejection from the federal government because of the pendency of an application for right of way or other matter within the jurisdiction of the United States, or by litigation of any nature which might bring his title to said water in question, the department of water resources upon proper showing of the existence of any such condition, and being convinced that said applicant is proceeding diligently and in good faith, shall extend the time so that the amount of time lost by such delays shall be added to the time given in the original permit for each and every action required.

2. The time for completion of works and application of the water to full beneficial use under any permit involving the diversion of more than twenty-five thousand (25,000) acre feet in one (1) irrigation season for a project of no less than five thousand (5,000) acres, may upon application to the director of the department of water

resources supported by a showing that additional time is needed on account of the time required for organizing, financing and constructing works of such large size, be extended by the director of the department of water resources for an additional period of seven (7) years, but not to exceed twelve (12) years in all from the date of permit: Provided, that no such extension shall be granted unless the applicant for such extension shall show that there has been actually expended toward the construction of said diversion (including expenditures for the purchase of rights of way and property in connection therewith) at least one hundred thousand dollars ($100,000).

3. The time for completion of works and application of the water to full beneficial use under any permit involving the construction of a reservoir of more than ten thousand (10,000) acre feet capacity or for the appropriation of water to be impounded in such reservoir of more than ten thousand (10,000) acre feet capacity, may be extended by the director of the department of water resources upon application to the director if the permittee establishes that the permittee has exercised reasonable diligence and that good cause exists for the requested extension.

4. In connection with permits held by the United States, or the Idaho water resource board, whether acquired as the original applicant, by assignment or otherwise, the director of the department of water resources may extend the time for completion of the works and application of the water to full beneficial use for such additional period or periods of time as he may deem necessary upon application supported by a showing that such additional time is required by reason of the status of plans, authorization, construction fund appropriations, construction, or any arrangements which are found to be requisite to completion of the construction of such works.

5. In all other situations not governed by these provisions the department may grant one (1) extension of time, not exceeding five (5) years beyond the date originally set for completion of works and application of the water to full beneficial use, upon request for extension received on or before the date set for completion, provided good cause appears therefor.

Any applicant feeling himself aggrieved by the ~~indorsement made by~~ decision of the department of water resources ~~upon~~ regarding his application may request a hearing before the director in accordance with section 42-1701A(3), Idaho Code, for the purpose of contesting the ~~indorsement~~ decision and may seek judicial review pursuant to section 42-1701A(4), Idaho Code, of any final decision of the director following the hearing.

Every holder of a permit which shall be issued under the terms and conditions of an application filed hereafter appropriating twenty-five (25) cubic feet or less per second must, within one (1) year from the date upon which said permit issues from the office of the department of water resources, commence the excavation or construction of the works by which he intends to divert the water, and must prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted through no fault of the holder of such permit by circumstances, over which he has no control.

The holder of any permit who shall fail to comply with the provi-

sions of this section within the time or times specified shall be deemed to have abandoned all rights under his permit.

Approved March 27, 1989.

CHAPTER 97
(S.B. No. 1065)

AN ACT

RELATING TO THE TRANSFER OF WATER RIGHTS; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1416A, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO RECOMMEND AND THE DISTRICT COURT TO DECREE CHANGES IN A WATER RIGHT IF THE CHANGES ARE MADE PRIOR TO ENTRY OF THE ORDER COMMENCING THE GENERAL ADJUDICATION IN WHICH THE WATER RIGHT IS BEING ADJUDICATED.

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

SECTION 1. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1416A, Idaho Code, and to read as follows:

42-1416A. PRIOR CHANGE IN POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE, OR NATURE OF USE OF WATER RIGHT CLAIMED IN A GENERAL ADJUDICATION. (1) If any person entitled to the use of water has made a change in point of diversion, place of use, period of use or nature of use of all or a part of the water, including a change as part of an exchange as defined by section 42-105, Idaho Code, prior to entry of an order commencing a general adjudication pursuant to section 42-1408, Idaho Code, and the person entitled to the use of water has not complied with the requirements of sections 42-108 and 42-222, Idaho Code, regarding such changes, the following shall apply:

(a) the water right may be claimed in the general adjudication as changed and an application for change of the water right is not required to be filed pursuant to section 42-222, Idaho Code; and

(b) the water right may be determined by the director in the director's report pursuant to section 42-1411, Idaho Code, and decreed by the district court pursuant to section 42-1412, Idaho Code, as changed, if the change meets the substantive criteria of section 42-222, Idaho Code, for approval of such changes, provided that the change may be approved subject to conditions necessary to satisfy the substantive criteria of section 42-222, Idaho Code, for approval of such changes.

(2) To the extent that the provisions of this section and section 42-1416, Idaho Code, are both applicable to the same water right, the two sections shall be applied conjunctively, if possible, but this

section shall not be construed to limit the provisions of section 42-1416, Idaho Code.

Approved March 27, 1989.

CHAPTER 98
(S.B. No. 1071)

AN ACT

RELATING TO COUNTY EXPENDITURES AND BIDS; AMENDING SECTION 31-4003, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR A CONTRACT TO THE LOWEST RESPONSIBLE BIDDER; AMENDING SECTION 31-4004, IDAHO CODE, TO PROVIDE A PUBLICATION PERIOD FOR BIDS ON PERSONAL PROPERTY AND A TIME PERIOD FOR BIDS ON CONSTRUCTION OF PUBLIC FACILITIES; AND AMENDING SECTION 31-4009, IDAHO CODE, TO PROVIDE FOR DEPOSIT OF CASH FROM FORFEITURE OF A BIDDER'S SECURITY.

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

SECTION 1. That Section 31-4003, Idaho Code, be, and the same is hereby amended to read as follows:

31-4003. EXPENDITURES FOR WHICH BIDS REQUIRED. Unless otherwise provided in this chapter, wWhen the expenditure contemplated exceeds five thousand dollars ($5,000), or ten thousand dollars ($10,000) if for equipment, it shall be contracted for and let to the lowest responsible bidder.

SECTION 2. That Section 31-4004, Idaho Code, be, and the same is hereby amended to read as follows:

31-4004. NOTICE INVITING BIDS -- CONTENTS -- PUBLICATION. The notice inviting bids shall set a date and place for the opening of bids. The first publication of the notice shall be at least two (2) weeks before the date of opening the bids in the case of personal property, and shall be at least thirty (30) days before the date for opening bids for the construction of a public facility. Notice shall be published at least twice, not less than one (1) week apart, in a newspaper of general circulation, printed and published in the county, or if there is none, it shall be published in a newspaper having general circulation in the county. The notice shall succinctly set forth the project to be done. The following documents shall be made available by the county commissioners, free of charge, to any interested bidder: bid form, bidder's instructions, contract documents with general and special instructions, when appropriate, drawings and specifications, when appropriate.

SECTION 3. That Section 31-4009, Idaho Code, be, and the same is hereby amended to read as follows:

31-4009. DEPOSIT OF BIDDER'S SECURITY -- DEPOSIT. The cash from forfeiture of a bidder's security or proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of costs and publication of notice are paid.

Approved March 27, 1989.

CHAPTER 99
(S.B. No. 1072)

AN ACT

RELATING TO THE IDAHO UNCLAIMED PROPERTY ACT; AMENDING SECTION 14-511, IDAHO CODE, TO REQUIRE A LIQUIDATING BUSINESS TO REPORT UNCLAIMED PROPERTY HELD BY THE BUSINESS AT THE TIME OF FINAL DISTRIBUTION, RATHER THAN ONE YEAR AFTER THAT DATE.

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

SECTION 1. That Section 14-511, Idaho Code, be, and the same is hereby amended to read as follows:

14-511. PROPERTY OF BUSINESS ASSOCIATIONS HELD IN COURSE OF DISSOLUTION. Intangible property distributable in the course of a dissolution of a business association which remains unclaimed by the owner ~~for--more-than-one-(1)-year-after-the-date-specified-for-final-distribution-is-presumed-abandoned~~ will be remitted as unclaimed property on the date of final distribution.

Approved March 27, 1989.

CHAPTER 100
(S.B. No. 1075)

AN ACT

RELATING TO THE ADMINISTRATION OF THE AD VALOREM TAX SYSTEM; AMENDING SECTION 63-1102, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF TAXES DURING THE AUDIT PERIOD, TO PROVIDE PROPER NOMENCLATURE AND REFERENCES, AND TO STRIKE OBSOLETE REFERENCES; AMENDING CHAPTER 11, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-1102A, IDAHO CODE, TO ALLOW DEPOSITS TO BE RECEIVED TO BE APPLIED TO THE PAYMENT OF TAXES; AMENDING SECTION 63-1103, IDAHO CODE, TO PROVIDE FOR THE CONTENT OF TAX NOTICES AND TAX RECEIPTS; REPEALING SECTIONS 63-1105, 63-1106, 63-1107, 63-1110, 63-1111, 63-1112 AND 63-1115, IDAHO CODE; AMENDING SECTION 63-1109, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES AND TO PROVIDE PROPER REFERENCES;

AMENDING SECTION 63-1117, IDAHO CODE, TO PROVIDE CLARIFYING PROVISIONS ON INTEREST ON DELINQUENT TAXES; AMENDING SECTION 63-1124, IDAHO CODE, TO PROVIDE PROPER TIME LIMITS ON REDEMPTION OF PROPERTY; AMENDING SECTION 63-1139, IDAHO CODE, TO PROVIDE A PROPER CODE REFERENCE; REPEALING SECTION 63-1141, IDAHO CODE; AMENDING SECTION 63-1142, IDAHO CODE, TO PROVIDE PROPER TIME LIMITS ON REDEMPTION OF PROPERTY; AMENDING SECTION 63-1143, IDAHO CODE, TO PROVIDE PROPER TIME LIMITS ON REDEMPTION OF PROPERTY; REPEALING CHAPTER 33, TITLE 63, IDAHO CODE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-1102, Idaho Code, be, and the same is hereby amended to read as follows:

63-1102. WHEN PAYABLE. (a) All taxes extended on the real property assessment roll shall be payable to the tax collector without penalty on or before December 20 of the year in which the taxes were extended on the roll. The taxes may be paid in two (2) equal instalments, the first on or before December 20 and the second on or before June 20 of the following year.

(b) If the first instalment is not paid on or before December 20, that instalment becomes delinquent and a penalty of two per cent (2%) shall be added. Interest on the amount of the first instalment plus penalty, at the rate of one per cent (1%) per month, shall be calculated from January 1 of the following year. No tax, penalty or interest may be ~~paid to the treasurer~~ receipted by the tax collector between December 21 and the ~~fourth~~ first Monday of January ~~because~~ to allow the ~~books are closed for audit~~ tax roll to be balanced and audited. Payments received by the tax collector during the audit period shall be held in a tax custodial account, but not receipted until the first Monday in January, as provided in section 63-1102A, Idaho Code.

(c) If the second instalment is not paid on or before June 20, that instalment becomes delinquent and a penalty of two per cent (2%) shall be added. Interest on the amount of the second instalment plus penalty, at the rate of one per cent (1%) per month, shall be calculated from January 1 of that year. No tax, penalty or interest may be ~~paid to the treasurer~~ receipted by the tax collector between June 21 and the ~~fourth~~ first Monday in July ~~because~~ to allow the ~~books are closed for audit~~ tax roll to be balanced and audited. Payments received by the tax collector during the audit period shall be held in a tax custodial account, but not receipted until the first Monday in July.

(d) If December 20 or June 20 falls on a Saturday, or Sunday ~~or holiday~~, any payment required by the provisions of this section shall be payable on the next regular workday following December 20 or June 20. ~~If December 20 or June 20 falls on a Saturday, Sunday or holiday,~~ The audit period shall commence on the day following the next working day.

(e) All ~~delinquent state and county~~ taxes, together with any penalties and interest~~,~~ collected by the tax collector shall be appor-

~~tioned by~~ transmitted to the county auditor ~~according to the tax--levy of the year when the delinquent tax levy was made~~ by the tax collector as provided in section 63-2103, Idaho Code.

SECTION 2. 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 63-1102A, Idaho Code, and to read as follows:

63-1102A. RECEIPT OF DEPOSITS TO BE LATER APPLIED TO PAYMENT OF TAXES -- ISSUANCE OF RECEIPTS. (a) Any person, upon application to the tax collector may establish a payment schedule to allow payments of at least twenty-five dollars ($25.00) or the balance owing, to be accumulated toward the payment of real or personal property taxes including penalty, interest and costs, beginning with the oldest delinquency.

(b) The tax collector shall issue a prenumbered receipt consisting of:

(1) Date paid;

(2) Name and address of person making deposit;

(3) The amount of payment; and

(4) Account identification number or parcel number or legal description.

(c) The county shall pay no interest on any tax custodial receipts, and the amount so deposited cannot be withdrawn by the depositor. Such receipts shall not invalidate any proceedings in the collection of taxes, or in the issuance of any delinquency certificate or any proceedings in the foreclosure of tax liens.

(d) If a tax payment received does not satisfy the total tax charge, plus penalty, interest and costs, the tax collector shall notify the taxpayer of the amount due.

(e) The tax collector shall post the payment to the tax roll charge when the sufficient payment is received to satisfy the tax lien, including penalty, interest and costs, which include certified mailings, title searches, advertising, and all other expenses for the processing and collection of the delinquent taxes.

(f) The tax collector shall be held accountable for all moneys received under this section and shall be liable on his official bond for the custody and safekeeping of such moneys, except as to what may be on deposit in designated depositories under the provisions of the public depository law, which is hereby made applicable to such deposits.

SECTION 3. That Section 63-1103, Idaho Code, be, and the same is hereby amended to read as follows:

63-1103. TAX NOTICE AND RECEIPTS -- DUTY OF TAX COLLECTOR. (a) The tax collector of each county in this state must, prior to the fourth Monday of November in each year, mail to every taxpayer, or to his agent or representative, at his last known post-office address, a tax notice~~, describing the property assessed in the name of such taxpayer, and showing the full market value, the assessed--valuation--and the amount of taxes due thereon, the amount of state and county taxes,~~

~~and--each--amount--of--city,--town,-village,-school-district-and-every other-tax-being-separately-shown,-and-also-showing-all-tax-levies--and the--time--when--such--taxes--become--delinquent,-and-also-showing-all delinquency-certificates-and-tax-sale-certificates-outstanding-against the-said-property-as-shown-on-the-official-tax-record-for--that--property,--which--notice--must--be-substantially-in-the-form-prescribed-by this-act.~~ prepared upon forms prescribed by the state tax commission, which shall contain at least the following:

(1) The year in which the tax was levied.

(2) The name and address of the property owner.

(3) An accurate description of the property, or in lieu thereof, the registered tax number.

(4) The uniform parcel number.

(5) Full market value.

(6) The amount of taxes due shown separately and in total:

a. State;

b. County;

c. City;

d. School district;

e. And every other tax being separately shown.

(7) All tax levies in tax code area.

(8) The date when such taxes become delinquent.

(9) All delinquency certificates outstanding against said property.

(b) The original or copies of tax notices shall be numbered consecutively and the original and duplicate tax notices affecting the same assessment shall bear the same numbers, which numbers must be entered upon the real property assessment roll.

(~~b~~c) Tax notices prepared by tax code areas ~~must--be--accompanied by--a--levy--sheet--which-shows-the-amount-of-tax-levy-for-each-taxing district-or-taxing-jurisdiction-as-well-as-the-total-amount-of-the-tax levies-in-each-tax-code-area.~~ shall state that levy sheets are available to the public.

(d) Levy sheets shall list the total tax levy for each taxing district or taxing jursidiction and total in each tax code area.

(~~c~~e) If the taxpayer is one other than the equitable titleholder, such as an escrowee, trustee of trust deed or other third party, the taxpayer shall deliver to the equitable titleholder a true copy of the tax notice ~~and-levy-sheet~~ provided for herein on or before the second Monday of December.

(~~d~~f) A "tax code area" for purposes of this section shall mean a geographical area made up of one or more taxing districts with one total levy within its boundary.

(g) The original receipts shall be retained for a period of ten (10) years. Tax entries shall be preserved as permanent records by the tax collector either in original form or on microfilm to be made available when necessary for reviewing.

(~~e~~h) Computer and data processing routines for completion of all phases of the tax roll procedures may be utilized with the responsibility for completion of each office's statutory duties to remain under the supervision of that office. Wherever the designation tax assessment roll appears, data processing or computer procedures and

forms to be known as official tax records may be substituted.

SECTION 4. That Sections 63-1105, 63-1106, 63-1107, 63-1110, 63-1111, 63-1112, and 63-1115, Idaho Code, be, and the same are hereby repealed.

SECTION 5. That Section 63-1109, Idaho Code, be, and the same is hereby amended to read as follows:

63-1109. DELINQUENCY TAX ENTRIES. ~~No taxes levied for any year and entered upon the real property assessment roll shall be received by the tax collector after the twentieth day of December next thereafter, and prior to the fourth Monday of January or after the twentieth day of June next thereafter, and prior to the fourth Monday of July, in the succeeding year.~~

The tax collector shall, on or before the first day of January in the succeeding year, carry over and enter all delinquent taxes and the penalty thereon, in the proper columns provided in the real property assessment roll, which entry of delinquency shall be dated as of the first day of January of each year and shall have the force and effect of a sale to the tax collector as grantee in trust for the county, for all property entered upon the real property assessment roll on which one half of the original amount of the taxes has not been paid. The settlement date shall be as of the close of business on the December due date of the preceding year.

The tax collector shall, on or before the first day of July in the succeeding year make delinquency entries to be dated as of the first day of January in the year the taxes fall delinquent, for all property entered upon the real property assessment roll on which the remaining one half of the original amount of the taxes, with the penalty added, has not been paid. The settlement date shall be as of the close of business on the June due date of the current year.

~~The auditor shall charge the tax collector with the total amount of all delinquency entries and credit him with all payments and redemption thereof.~~

SECTION 6. That Section 63-1117, Idaho Code, be, and the same is hereby amended to read as follows:

63-1117. INTEREST. All delinquent taxes and penalties, as shown in the delinquency entries, bear interest at the rate of ~~twelve~~ one per cent (~~12%~~) per ~~annum~~ month from ~~the date of such entries~~ January 1 of the year the taxes become delinquent until paid or until the issuance of tax deed, and the interest must be paid by any redemptioner of the property as a condition of redemption.

SECTION 7. That Section 63-1124, Idaho Code, be, and the same is hereby amended 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)~~ three (3) 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)~~ three (3) 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 8. That Section 63-1139, Idaho Code, be, and the same is hereby amended to read as follows:

63-1139. EFFECT OF TAX DEED AS CONVEYANCE. The deed conveys to the grantee the absolute title to the land described therein, free of all encumbrances except mortgages of record to the holders of which notice has not been sent as provided in section 63-113426B, Idaho Code, any lien for taxes which may have attached subsequently to the assessment and any lien for special assessments.

SECTION 9. That Section 63-1141, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 63-1142, Idaho Code, be, and the same is hereby amended to read as follows:

63-1142. ~~SIX~~ THREE YEARS' POSSESSION UNDER TAX DEED CONCLUSIVE AS TO REGULARITY OF PROCEEDINGS. Any and all tax deeds issued by counties, or any other municipal or quasi municipal corporations of the state of Idaho, authorized by law to issue deeds for delinquent taxes or assessment, shall, when the property has been sold by such counties or other municipal or quasi municipal corporations and held and peaceably possessed by the purchaser or his successors in interest for more than ~~six~~ three (3) years and upon which the purchaser or his successors in interest have paid all taxes lawfully assessed thereon for such period, be conclusive as to the regularity and validity of all proceedings required by law to be done in making the levy, assessment, or sale of such property for the tax or assessment for which such property was sold.

SECTION 11. That Section 63-1143, Idaho Code, be, and the same is hereby amended to read as follows:

63-1143. ACTION TO CONTEST VALIDITY BARRED AFTER ~~SIX~~ THREE YEARS. No action shall be maintained to contest any tax or assessment, or the proceedings upon which the tax deed has been issued after such property has been sold by the taxing agency, and the purchaser or his successors in interest have paid all taxes legally levied or assessed thereon for a period of ~~six (6)~~ three (3) years, and such purchaser's deed from such county or other taxing agency, shall be conclusive evidence of the doing of each and all of the acts and taking of each and all proceedings required by law as to the issuance of a valid tax deed to such property; provided, that in case the period of ~~six (6)~~ three (3) years shall have elapsed before this act shall become effective, then and in that event, any person desiring to contest the validity of any such tax deed or proceeding must commence his action within one (1) year after the date this act shall become effective.

SECTION 12. That Chapter 33, Title 63, Idaho Code, be, and the same is hereby repealed.

SECTION 13. This act shall be in full force and effect on and after January 1, 1990.

Approved March 27, 1989.

CHAPTER 101
(S.B. No. 1078)

AN ACT
RELATING TO COUNTY SURVEYORS; AMENDING SECTION 31-2705, IDAHO CODE, TO ELIMINATE REFERENCE TO ENGINEERS; AND AMENDING SECTION 31-2707, IDAHO CODE, TO ELIMINATE REFERENCE TO ENGINEERS.

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

SECTION 1. That Section 31-2705, Idaho Code, be, and the same is hereby amended to read as follows:

31-2705. ESTABLISHMENT OF COUNTY LINES. Whenever it shall be ordered by an act of the legislature to establish the boundary line between two (2) counties, the board of county commissioners of each county interested in the boundary shall jointly select and retain the services of a ~~registered~~ professional land surveyor ~~or engineer~~ to establish said boundary line, or each county shall select and retain the services of a ~~registered~~ professional land surveyor ~~or engineer~~ who shall ~~to~~ jointly establish said boundary, and firmly plant and

mark corners and monuments of imperishable material, also to prepare plats and field notes jointly, one (1) copy of which shall be filed with the auditor and recorder of each of the counties so interested. The fees and compensations for such surveys, plats and field notes, shall be paid out of the county treasury upon the order of the county commissioners of each county to the respective surveyors ~~or engineers~~ so employed.

SECTION 2. That Section 31-2707, Idaho Code, be, and the same is hereby amended to read as follows:

31-2707. COUNTY SURVEYS TO BE MADE BY ~~REGISTERED~~ PROFESSIONAL LAND SURVEYOR ~~OR ENGINEER~~. All surveys, maps and plats ordered by the board of county commissioners shall be made by a ~~registered~~ professional land surveyor ~~or engineer~~ retained by the board who shall be paid such fee as may be fixed and agreed upon.

Approved March 27, 1989.

CHAPTER 102
(S.B. No. 1079)

AN ACT

RELATING TO PLATS AND VACATIONS; AMENDING SECTION 50-1305, IDAHO CODE, TO ELIMINATE THE REFERENCE TO ENGINEER; AMENDING SECTION 50-1309, IDAHO CODE, TO ELIMINATE THE REFERENCE TO ENGINEER; AND AMENDING SECTION 50-1327, IDAHO CODE, TO CORRECT A REFERENCE.

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

SECTION 1. That Section 50-1305, Idaho Code, be, and the same is hereby amended to read as follows:

50-1305. VERIFICATION. The county shall choose and require a legally qualified professional land surveyor ~~or engineer~~ to perform land surveying in Idaho to sufficiently check the plat and computations thereon to determine that the requirements herein are met, and said ~~engineer or~~ professional land surveyor shall certify such compliance on the plat. For performing such service the county shall collect from the subdivider a fee as provided by local ordinance reasonably related to the cost of providing such service.

SECTION 2. That Section 50-1309, Idaho Code, be, and the same is hereby amended to read as follows:

50-1309. CERTIFICATION OF PLAT -- 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 acknowledgments and shall be indorsed on the plat. The professional land 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. That Section 50-1327, Idaho Code, be, and the same is hereby amended to read as follows:

50-1327. FILING OR RECORDING OF NONCOMPLYING MAP OR PLAT PROHIBITED. No person shall offer for recording, or cause to be recorded, a plat not containing a sanitary restriction, unless there is submitted for record at the same time the certificate of the state board of health as required in section ~~1~~50-1326, Idaho Code. The filing and recording of a noncomplying plat shall in no way invalidate a title conveyed thereunder.

Approved March 27, 1989.

CHAPTER 103
(S.B. No. 1080)

AN ACT

RELATING TO THE CORNER PERPETUATION AND FILING ACT; AMENDING SECTION 55-1612, IDAHO CODE, TO CORRECT A CODE CITATION AND TO ELIMINATE THE EXEMPTION FROM PENALTY FOR GOVERNMENT SURVEYORS.

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

SECTION 1. That Section 55-1612, Idaho Code, be, and the same is hereby amended to read as follows:

55-1612. PENALTY. ~~(a)~~ Surveyors failing to comply with the provisions hereof shall be deemed to be within the purview of section 54-1220~~(b)~~, Idaho Code, and shall be subject to the revocation or suspension of their certificate as in said section provided.

~~(b)--Government surveyors shall be exempt from the--provisions--of section 55-1612(a) of this act.~~

Approved March 27, 1989.

CHAPTER 104
(S.B. No. 1085)

AN ACT

RELATING TO CONDITIONS FOR RELEASE OF PRISONERS FOR PRIVATE EMPLOYMENT; AMENDING SECTION 20-614, IDAHO CODE, TO CLARIFY THE REQUIREMENT THAT RELEASE OF PRISONERS FOR PRIVATE EMPLOYMENT SHALL OCCUR ONLY IF ORDERED BY THE COMMITTING JUDGE.

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

SECTION 1. That Section 20-614, Idaho Code, be, and the same is hereby amended to read as follows:

20-614. PRISONERS MUST BE ACTUALLY CONFINED EXCEPT ON ORDER OF COURT FOR PRIVATE EMPLOYMENT. 1. A prisoner committed to the county jail by any court for trial or examination, or upon conviction for a public offense, must be actually confined in the jail until he is legally discharged unless the court specifies otherwise; and if he is permitted to go at large out of the jail, except by virtue of a legal order or process it is an escape.

2. If the committed person has been regularly employed, the sheriff shall, if ordered by the committing judge, arrange for a continuation of said employment in so far as possible without interruption. Any prisoner so employed shall be paid a fair and reasonable wage for such work and shall work at fair and reasonable employment and hours per day and per week.

3. Whenever the prisoner is not employed, and between the hours or periods of his employment, he shall be confined in jail as an ordinary prisoner, unless the court shall direct otherwise.

4. The earnings of the prisoner shall be collected under the direction of the sheriff. From such earnings the sheriff shall pay the prisoner's board and personal expenses both inside and outside the jail, and to the extent directed by the court pay the support of his dependents, if any, and, if sufficient funds are available after making the foregoing payments, pay in whole or in part the pre-existing debts of the prisoner. Any balance shall be retained until his discharge, whereupon such balance shall be paid to him.

5. In case of any violation of the conditions laid down for his conduct, custody and employment the prisoner shall be returned to the court, and the court may then require the balance of his sentence be spent in actual confinement and may cancel any earned diminution of his term.

6. The sheriff shall receive such extra compensation and mileage for the administration of this act as the county commissioners determine.

7. The court may also by its order authorize the use of a jail in a contiguous or other county where the prisoner is employed, and while the prisoner is so employed under this act such prisoner shall be in the other county's custody.

Approved March 27, 1989.

CHAPTER 105
(S.B. No. 1093)

AN ACT
RELATING TO RECORDING TRANSFERS OF REAL PROPERTY; AMENDING SECTIONS 55-601 AND 55-818, IDAHO CODE, TO REQUIRE A COMPLETE MAILING ADDRESS OF THE GRANTEE ON ANY INSTRUMENT.

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

SECTION 1. That Section 55-601, Idaho Code, be, and the same is hereby amended to read as follows:

55-601. CONVEYANCE -- HOW MADE. A conveyance of an estate in real property may be made by an instrument in writing, subscribed by the party disposing of the same, or by his agent thereunto authorized by writing. The name of the grantee and his ~~current~~ complete mailing address must appear on such instrument.

SECTION 2. That Section 55-818, Idaho Code, be, and the same is hereby amended to read as follows:

55-818. RECORDING OF SUMMARY OF INSTRUMENT -- EFFECT. A summary of any instrument creating an interest in, or affecting the title to or possession of real property, may be recorded under this chapter or the laws of this state if the requirements of this section are substantially met. A summary of the instrument shall be signed and acknowledged by all parties to the original instrument. The summary of the instrument shall clearly state: the names of the parties to the original instrument, the complete mailing address of the grantee, the title and date of the instrument, a description of the interest or interests in real property created by the instrument, and the legal description of the property. Other elements of transaction may be stated in the summary. If the requirements of this section are met, the summary of the instrument may be recorded under the provisions of this chapter and, as to the contents of the summary only, it shall have the same force and effect as if the original instrument had been recorded, and constructive notice shall be deemed to be given concerning the contents of the summary and the existence of the instrument to any subsequent purchasers, mortgagees or other persons or entities that acquire an interest in the real property.

Approved March 27, 1989.

CHAPTER 106
(S.B. No. 1112)

AN ACT
RELATING TO RECREATIONAL ACTIVITIES; AMENDING SECTION 67-7101, IDAHO

CODE, TO DELETE REPETITIVE AND UNNEEDED DEFINITIONS, AND TO MAKE DEFINITIONS CONSISTENT THROUGHOUT THE CHAPTER; AMENDING SECTION 67-7103, IDAHO CODE, TO INCLUDE DEFINED TERMS, AND TO REQUIRE REGISTRATION OF SNOWMOBILES AT THE TIME OF SALE BY A RETAIL DEALER AND TO PROVIDE FOR AN AMENDED TRANSFER FEE; AMENDING SECTION 67-7106, IDAHO CODE, TO INCLUDE DEFINED TERMS AND TO PROVIDE A CORRECT SECTION REFERENCE; AMENDING SECTION 67-7112, IDAHO CODE, TO REQUIRE THAT ALL TERRAIN VEHICLES USING GROOMED SNOWMOBILE TRAILS BE REGISTERED AS SNOWMOBILES; AMENDING CHAPTER 71, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7113, IDAHO CODE, TO PROVIDE MISDEMEANOR PENALTIES FOR VIOLATION OF PROVISIONS GOVERNING REGISTRATION, USE, AND OPERATION OF SNOWMOBILES; AMENDING SECTION 67-7115, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATION OF WINTER RECREATIONAL PARKING PROVISIONS AND TO CORRECT A REFERENCE; AMENDING SECTION 67-7116, IDAHO CODE, TO MAKE SPECIFIC REFERENCE TO WINTER RECREATIONAL PARKING PERMITS, TO CORRECT A GRAMMATICAL ERROR AND TO DELETE REPETITIVE LANGUAGE; AMENDING SECTION 67-7118, IDAHO CODE, TO MAKE SPECIFIC REFERENCE TO WINTER RECREATIONAL PARKING PERMITS; AMENDING SECTION 67-7119, IDAHO CODE, TO CLARIFY REFERENCES TO CROSS-COUNTRY SKIING ADVISORY COMMITTEES; AMENDING SECTION 67-7122, IDAHO CODE, TO CHANGE THE DATE OF RENEWAL OF REGISTRATION FOR MOTORBIKES AND ALL TERRAIN VEHICLES, TO REQUIRE THE REGISTRATION OF ALL TERRAIN VEHICLES USED OFF PUBLIC HIGHWAYS, TO INCREASE OFF-HIGHWAY VEHICLE REGISTRATION AND VENDOR FEES, AND TO CHANGE REFERENCES TO THE VEHICLES REQUIRED TO BE REGISTERED; AMENDING SECTION 67-7124, IDAHO CODE, TO PROVIDE A CORRECT SECTION REFERENCE; AMENDING SECTION 67-7125, IDAHO CODE, TO PROVIDE A CORRECT SECTION REFERENCE; AMENDING SECTION 67-7126, IDAHO CODE, TO REAPPORTION DISTRIBUTION OF OFF-HIGHWAY VEHICLE REGISTRATION RECEIPTS AND TO INCLUDE DEFINED TERMS; AMENDING SECTION 67-7127, IDAHO CODE, TO MAKE REFERENCES CONSISTENT; REPEALING SECTION 67-7128, IDAHO CODE; AMENDING CHAPTER 71, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7128, IDAHO CODE, TO PROVIDE FOR THE CREATION OF AN OFF-ROAD MOTOR VEHICLE ADVISORY COMMITTEE, TERMS OF OFFICE, DUTIES, AND COMPENSATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-7101, Idaho Code, be, and the same is hereby amended to read as follows:

67-7101. DEFINITIONS. In this chapter:

(1) ~~"Agent"-means-any-person-authorized-by-the-department-to-sell registrations;~~

~~(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) 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;~~

(42) "Board" means the park and recreation board created under authority of section 67-4221, Idaho Code.

(53) "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.~~

(74) "Dealer" means any person who engages in the retail sales of or rental of snowmobiles, ~~or~~ motorbikes, or all terrain vehicles.

(85) "Department" means the Idaho department of parks and recreation.

(96) "Designated parking area" means an area located, constructed, maintained, and signed with the approval of the land manager or owner.

(107) "Director" means the director of the department of parks and recreation.

(118) "Highway." (See section 40-109, Idaho Code, but excepting public roadway as defined in this section).

(120) "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.

(130) "Operator" means any person who is in physical control of a motorbike, all terrain vehicle, or snowmobile.

(141) "Owner" means every person holding record title to a motorbike, all terrain vehicle, or snowmobile and entitled to the use or possession thereof, other than a lienholder or other person having a security interest only.

(152) "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.

(163) "Public roadway" means all portions of any highway which are controlled by an authority other than the Idaho transportation department.

(174) "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.

(185) "Vendor" means ~~a--county-assessor,-a-dealer-or-individual~~ any entity authorized by the department to sell ~~motorbike~~ recreational registrations ~~and-winter-recreational-parking-stickers.~~

(196) "Winter recreational parking locations" mean designated parking areas established and maintained with funds acquired from the cross-country skiing account.

SECTION 2. That Section 67-7103, Idaho Code, be, and the same is hereby amended to read as follows:

67-7103. APPLICATION FOR NUMBER -- ATTACHMENT OF NUMBER -- CER-

TIFICATE -- APPLICATION FOR TRANSFER OF CERTIFICATE -- TRANSFER OF CERTIFICATE FEE -- TEMPORARY NUMBER -- FEES. (1) On or before November 1 of each year 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 (6~~7~~) of this section, be accompanied by a fee of ten dollars ($10.00). Upon receipt of the application the department shall issue to the applicant a certificate of number stating the number 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 a manner as may be prescribed by rules and regulations of the department. The number shall be completely visible 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 the snowmobile is in operation.

(2) The department may issue any certificate of number directly or may authorize any persons to act as ~~agent~~ vendor for the issuance. In the event a person accepts the authorization, he may be assigned a block of numbers and certificates which upon issue, in conformity with this chapter and with any rules and regulations of the department, shall be valid as if issued directly by the department.

(3) All records of the department made or kept pursuant to this section shall be public records.

(4) Each snowmobile must be registered before it leaves the premises at the time of sale from any retail snowmobile dealer.

(5) The purchaser of a snowmobile shall, within fifteen (15) days immediately after acquisition, make application to the department for transfer to him of the certificate of number issued to the snowmobile, giving his name, address and the number of the snowmobile and shall at the same time pay to the department a fee of ~~ten~~ three dollars ($~~10~~3.00). Upon receipt of the application and fee, the department shall transfer the certificate of number issued for the snowmobile to the new owner or owners. Unless the application is made and fee paid within fifteen (15) days, the snowmobile shall be considered to be without a certificate of number and it shall be unlawful for any person to operate that snowmobile until the certificate is issued.

(5~~6~~) No number other than the number issued to a snowmobile pursuant to this chapter shall be painted, attached, or otherwise displayed on the snowmobile, except a temporary number may be attached to identify a snowmobile for the purpose of racing or other sporting events.

(6~~7~~) 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 3. That Section 67-7106, Idaho Code, be, and the same is hereby amended to read as follows:

67-7106. DISTRIBUTION OF MONEYS COLLECTED -- COUNTY SNOWMOBILE FUND -- STATE SNOWMOBILE ACCOUNT. (1) Each ~~county assessor and autho-~~

~~rized agent~~ vendor shall not later than the fifteenth day of each month remit all moneys collected under the provisions of ~~this chapter~~ section 67-7103, Idaho Code, to the state treasurer for credit to the state snowmobile account, established in the dedicated fund, to be administered by the director.

(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~~ Vendors 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 these moneys shall be made prior to the second Monday of August of that registration period.

SECTION 4. That Section 67-7112, Idaho Code, be, and the same is hereby amended to read as follows:

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 by law~~ a snowmobile under the provisions of section 67-7103, Idaho Code. Counties shall have the option to allow all terrain vehicles, if registered, to use snowmobile trails in the county.

SECTION 5. That Chapter 71, 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 67-7113, Idaho Code, and to read as follows:

67-7113. VIOLATIONS -- MISDEMEANOR -- ACCOUNTABLE FOR PROPERTY DAMAGE. Any person who violates any provision of sections 67-7102 through section 67-7112, Idaho Code, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. In addition thereto the operator and/or owner of the snowmobile shall be

responsible and held accountable to the owner of any lands where trees, shrubs or other property have been damaged as the result of travel over their premises.

SECTION 6. That Section 67-7115, Idaho Code, be, and the same is hereby amended to read as follows:

67-7115. 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 67-7103, Idaho Code, be entitled to receive from the department a parking permit 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. The department shall require the presentation of suitable identification to verify that the certificate was issued to the person requesting the permit.

(~~4~~5) No parking permit shall be required under the provisions of this ~~chapter~~ section for a vehicle owned and operated by the United States, any state or a political subdivision of a state, or 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.

(~~5~~6) The fact that a motor vehicle which is illegally parked under the provisions of this chapter is registered in the name of a person shall be considered prima facie evidence that the person was in control of the vehicle at the time of parking.

SECTION 7. That Section 67-7116, Idaho Code, be, and the same is hereby amended to read as follows:

67-7116. PRINTING, DISTRIBUTION AND SALE OF WINTER RECREATIONAL PARKING PERMITS. (1) The department shall print the parking permits 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 the~~ according to rules and regulations of the department. The department may require that the authorized vendors shall be bonded in accordance with 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-committees;-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 8. That Section 67-7118, Idaho Code, be, and the same is hereby amended to read as follows:

67-7118. DISTRIBUTION OF FEES. The moneys collected by or for the board on the sale of each winter recreational parking 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) Fifteen per cent (15%) shall be allotted to the department for the production of the parking permits and necessary administration expenses incurred by the department in carrying out the provisions of section 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 9. That Section 67-7119, Idaho Code, be, and the same is hereby amended to read as follows:

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 cross-country skiing committees of at least three (3) persons to serve in an advisory capacity to the commissioners on matters relating to the establishment and maintenance of winter recreational parking facilities. The persons selected 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 compensa-

tion or expenses for their services.

SECTION 10. That Section 67-7122, Idaho Code, be, and the same is hereby amended to read as follows:

67-7122. REQUIREMENTS -- REGISTRATION -- PROCEDURE. Commencing January ~~2~~1, 1987 and on or before January ~~2~~1 of each subsequent year, the owner of any all terrain vehicle or motorbike as defined in section 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~~ six dollars ($~~5~~6.00) shall be charged for each registration, which fee includes a one dollar ($1.00) vendor fee. At the time of sale from any dealer, each motorbike or all terrain vehicle must be registered before it leaves the premises. Application blanks and stickers shall be supplied by the department and 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~~ vehicle 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~~1 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 11. That Section 67-7124, Idaho Code, be, and the same is hereby amended to read as follows:

67-7124. NONRESIDENT -- EXEMPTION. The provisions of ~~this chapter~~ section 67-7122, Idaho Code, 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 law.

SECTION 12. That Section 67-7125, Idaho Code, be, and the same is hereby amended to read as follows:

67-7125. NOISE ABATEMENT. All vehicles subject to registration under ~~this chapter~~ section 67-7122, Idaho Code, and all nonresident vehicles operated on public lands of the state shall comply with the noise abatement provisions specified by law, the same as though they were highway operated vehicles.

SECTION 13. That Section 67-7126, Idaho Code, be, and the same is hereby amended to read as follows:

67-7126. 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~~ six dollar ($~~5~~6.00) fee collected for off-highway vehicle registration stickers shall be allocated as follows:

(1) ~~Authorized--v~~Vendors ~~and county assessors~~ shall charge ~~fifty cents (50¢)~~ one dollar ($1.00) 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~~ four dollars and ~~seventy~~ twenty-five cents ($~~3.75~~4.25) shall be transmitted to the state treasur~~er's office~~ for deposit to the credit o~~f the moto~~rbike recreation account, all such moneys to be transmitted to the state treasurer on or before the 10th day of each month.

SECTION 14. That Section 67-7127, Idaho Code, be, and the same is hereby amended to read as follows:

67-7127. USE OF MONEYS IN ACCOUNT. The 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~~ off-highway vehicle activity;

(2) For the securing, maintenance, construction or development of trails and other recreational facilities for off-~~road-motorbike~~ highway vehicle use on state and federal lands;

(3) To finance the formulation and implementation under the board's direction of an off the road rider education program.

(4) To acquire applicable federal matching funds.

SECTION 15. That Section 67-7128, Idaho Code, be, and the same is hereby repealed.

SECTION 16. That Chapter 71, 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 67-7128, Idaho Code, and to read as follows:

67-7128. OFF-ROAD MOTOR VEHICLE ADVISORY COMMITTEE -- CREATION -- SELECTION -- TERM OF OFFICE -- DUTY. (1) The park and recreation board shall appoint an off-road motor vehicle advisory committee (ORMV) of nine (9) members. The membership of the advisory committee shall consist of three (3) members each from northern Idaho, southwestern Idaho, and southeastern Idaho. Two (2) members from each area shall represent the following groups: motorbikes or ATV riders and snowmobilers. One (1) member interested in ORMV projects shall be appointed from each area without regard to the recreational activity in which that member participates and shall represent interests other than motorbike or ATV riders and snowmobilers. Each member of the advisory 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 committee shall be a qualified elector of the state. Duties shall include:

(a) Representing the best interests of the ORMV users and activities which they represent in the district from which they are appointed;

(b) Advising the department as to whether proposed ORMV projects meet the needs of ORMV users in that area;

(c) Advising the department as to how funds can be used to rehabilitate areas on public or private lands and how the department can assist in the enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho;

(d) The three (3) motorbike or all terrain vehicle representatives from the ORMV advisory committee shall advise the department on matters relating to the use of moneys in the motorbike recreation account as provided for in section 67-7127, Idaho Code.

(2) The department may reimburse members of the ORMV advisory committee for reasonable expenses incurred in the conduct of their official duties prescribed in section 59-509(b), Idaho Code, and authorized by the department.

SECTION 17. 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 27, 1989.

CHAPTER 107
(S.B. No. 1149)

AN ACT

RELATING TO TRANSFERS OF REAL PROPERTY; AMENDING SECTION 55-606, IDAHO CODE, TO CLARIFY THE EFFECT OF A VALID JUDGMENT LIEN REGARDING A GRANT OR CONVEYANCE OF AN ESTATE IN REAL PROPERTY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 55-606, Idaho Code, be, and the same is hereby amended to read as follows:

55-606. CONCLUSIVENESS OF CONVEYANCE -- BONA FIDE PURCHASERS. Every grant or conveyance of an estate in real property is conclusive against the grantor, also against every one subsequently claiming under him, except a purchaser or encumbrancer, who in good faith, and for a valuable consideration, acquires a title or lien by an instrument or valid judgment lien that is first duly recorded.

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 27, 1989.

CHAPTER 108
(S.B. No. 1153)

AN ACT
RELATING TO THE DEFINITION OF RESIDENCY FOR THE PURPOSE OF TUITION PAYMENT AT STATE COLLEGES AND UNIVERSITIES; AMENDING SECTION 33-3717, IDAHO CODE, TO MODIFY THE DEFINITION OF RESIDENT STUDENT.

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

SECTION 1. That Section 33-3717, Idaho Code, be, and the same is hereby amended to read as follows:

33-3717. TUITION AT STATE COLLEGES AND UNIVERSITIES NOT REQUIRED -- EXCEPTIONS. (1) Any student who shall be a full time regularly enrolled resident student in any degree granting program at a state college or university now or hereafter established shall not be required to pay tuition in said college or university, excepting in a professional college, school, or department, or for extra studies or for part-time enrollment. The state board of education and board of regents for the University of Idaho may prescribe rates of tuition for nonresident students, and shall adopt uniform regulations, including a standard definition of a full time regularly enrolled student, applicable to all said colleges and universities.

(a) Tuition shall be defined as the cost of instruction at the colleges and universities. The cost of instruction shall not include those costs associated with said colleges and universities, such as maintenance and operation of physical plant, student services and institutional support, which are complementary to, but not a part of the instructional program.

(b) Matriculation fees shall be defined as the fee charged to students for educational costs excluding the cost of instruction. The state board of education and board of regents for the University of Idaho may prescribe matriculation fees for resident students.

(c) Terms used in this subsection shall be defined as they are defined in the Idaho College and Universities Statewide Cost Study: General Education Funds (Final Costs Analysis).

(2) For purposes of this section, a resident student is:

(a) Any student ~~whose~~ has one (1) or more parent or parents or court-appointed guardians who are domiciled in the state of Idaho ~~and--provide--more--than-fifty-percent-(50%)-of-his-support~~. Domicile, in the case of a parent or guardian, means ~~an~~ that individual's true, fixed and permanent home and place of habita-

tion. It is the place where ~~he~~ that individual intends to remain, and to which ~~he~~ that individual expects to return when ~~he~~ that individual leaves without intending to establish a new domicile elsewhere. To qualify under this section, the parent, parents or guardian must be residing in the state on the opening day of the term for which the student matriculates.

(b) Any student, who receives less than fifty percent (50%) of ~~his~~ the student's support from a parent, parents or legal guardians who are not residents of this state for voting purposes ~~and who~~ , but which student has continuously resided in the state of Idaho for twelve (12) months next preceding the opening day of the ~~period of instruction~~ term during which ~~he~~ the student proposes to attend the college or university.

(c) Any student who is a graduate of an accredited secondary school in the state of Idaho, and who matriculates at a college or university in the state of Idaho during the term immediately following such graduation regardless of the residence of ~~his~~ the student's parent or guardian.

(d) The spouse of a person who is classified, or is eligible for classification, as a resident of the state of Idaho for the purposes of attending a college or university.

(e) A member of the armed forces of the United States, stationed in the state of Idaho on military orders.

(f) A student whose parent or guardian is a member of the armed forces and stationed in the state of Idaho on military orders and who receives fifty percent (50%) or more of support from parents or legal guardians. The student, while in continuous attendance, shall not lose ~~his~~ that residence when ~~his~~ the student's parent or guardian is transferred on military orders.

(g) A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of service, who at the time of separation designates the state of Idaho as ~~his~~ their intended domicile or who has Idaho as the home of record in service and enters a college or university in the state of Idaho within one (1) year of the date of separation.

(h) Any individual who has been domiciled in the state of Idaho, has qualified and would otherwise be qualified under the provisions of this statute and who is away from the state for a period of less than one (1) calendar year and has not established legal residence elsewhere provided a twelve (12) month period of continuous residence has been established immediately prior to departure.

(3) The state board of education and board of regents of the University of Idaho shall adopt uniform and standard rules and regulations applicable to all state colleges and universities now or hereafter established to determine residence status of any student and to establish procedures for review of that status.

(4) Appeal from a final determination denying resident status may be initiated by the filing of an action in the district court of the county in which the affected college or university is located; an appeal from the district court shall lie as in all civil actions.

(5) Nothing contained herein shall prevent the state board of

education and board of regents of the University of Idaho from waiving tuition to be paid by nonresident students.

(6) Nothing contained in this act shall apply to junior colleges now or hereafter established, or to post-secondary vocational-technical schools now or hereafter established not connected to or a part of a state college or university.

(7) Nothing contained herein shall prevent the state board of education and board of regents of the University of Idaho from establishing quotas, standards for admission, standards for readmission, or other terms and requirements governing persons who are not residents for purposes of higher education.

(8) For students who apply for special graduate and professional programs including, but not limited to the WAMI (Washington, Alaska, Montana, Idaho) Regional Medical Program, the WICHE Student Exchange Programs, Creighton University School of Dental Science, the University of Utah College of Medicine, and the Washington, Oregon, Idaho (WOI) Regional Program in Veterinary Medical Education, no applicant shall be certified or otherwise designated as a beneficiary of such special program who has not been a resident of the state of Idaho for at least one (1) calendar year previous to the application date.

Approved March 27, 1989.

CHAPTER 109
(S.B. No. 1160)

AN ACT

RELATING TO SOIL CONSERVATION COMMISSIONERS; AMENDING SECTION 22-2718, IDAHO CODE, TO INCREASE THE PER DIEM OF SOIL CONSERVATION COMMISSIONERS.

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

SECTION 1. That Section 22-2718, Idaho Code, be, and the same is hereby amended to read as follows:

22-2718. STATE SOIL CONSERVATION COMMISSION. A. There is hereby established and created in the department of lands of the state of Idaho the state soil conservation commission which shall in cooperation with the director of the department of lands perform all functions conferred upon it by this chapter. The commission shall consist of five (5) members appointed by the governor, but no more than three (3) members shall be a member of the same political party. The term of office of each commission member shall be five (5) years; except that upon July 1, 1967, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years and one (1) member for a term of five (5) years. From

and after the initial appointment the governor shall appoint a member of the commission to serve in office for a term of five (5) years commencing upon July 1 of that year. A vacancy which occurs in an unexpired term shall be filled for its remainder by the governor's appointment. Any commissioner may be removed during his term of office by the governor. Any commissioner so removed shall have notice of the same in writing, specifying the reasons for the removal. Each vacancy on the commission shall be filled by appointment by the governor. Such appointments shall be confirmed by the senate. The commission may invite the state conservationist of the United States department of agriculture soil conservation service, the president of the Idaho association of soil conservation districts and the dean of the College of Agriculture of the University of Idaho or his designated representative to serve as nonvoting advisory members of the commission. The commission shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules as may be necessary for the execution of its functions under this act.

B. The state soil conservation commission may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The commission may call upon the attorney general of the state for such legal services as it may require, or may employ its own counsel. It shall have authority to delegate to its chairman, to one (1) or more of its members, or to one (1) or more agents or employees, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations, and shall be furnished with the necessary supplies and equipment. Upon request of the commission, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning shall insofar as may be possible under available appropriation, and having due regard to the needs of the agency to which the request is directed, assign or detail to the commission members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the commission may request.

C. The commission shall designate its chairman, and may from time to time, change such designation. A majority of the commission shall constitute a quorum, and the concurrency of a majority in any matter within their duties shall be required for its determination. The chairman and members of the commission shall be compensated as provided by section 59-509(~~f~~h), Idaho Code. The commission shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

D. In addition to the duties and powers hereinafter conferred upon the state soil conservation commission, it shall have the following responsibilities:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided here-

inafter, in the carrying out of any of their powers and programs.
(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.
(3) To coordinate the progress of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation.
(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts.
(5) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts in areas where their organization is desirable.

Approved March 27, 1989.

CHAPTER 110
(S.B. No. 1161)

AN ACT

RELATING TO THE CHERRY COMMISSION; REPEALING SECTION 22-3707, IDAHO CODE; AMENDING CHAPTER 37, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3707, 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 22-3707, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 37, 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 22-3707, Idaho Code, and to read as follows:

22-3707. 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, 1990, 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 27, 1989.

CHAPTER 111
(S.B. No. 1192)

AN ACT

RELATING TO COSMETOLOGY; AMENDING SECTION 54-802, IDAHO CODE, TO INCLUDE ESTHETICS WITHIN THE DEFINITION OF ELECTROLOGY.

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

SECTION 1. 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/esthetics" 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/esthetician" means any person licensed to practice electrology/esthetics 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.

Approved March 27, 1989.

CHAPTER 112
(S.B. No. 1260)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 54, LAWS OF 1988; 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 54, Laws of 1988, there is hereby appropriated to the Department of Administration the following amounts to be expended for the named programs according to the designated expense classes from the listed accounts for the period July 1, 1988, through June 30, 1989:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. GENERAL SERVICES:				
FROM:				
General Account			$70,000	$70,000
Interagency Billing and Receipts Account	$20,000	$15,000		35,000
TOTAL	$20,000	$15,000	$70,000	$105,000
B. PURCHASING:				
FROM:				
General Account	$ 5,000	$10,000	$37,800	$ 52,800

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 27, 1989.

CHAPTER 113
(H.B. No. 60, As Amended in the Senate)

AN ACT

RELATING TO ABANDONED MOTOR VEHICLES; AMENDING SECTION 49-106, IDAHO CODE, TO REDEFINE "EXTRAORDINARY CIRCUMSTANCES"; AMENDING SECTION 49-1814, IDAHO CODE, TO REQUIRE THE AGENCY WHICH REQUESTED THE TOW TO SUBMIT A STATEMENT REGARDING THE FAILURE TO RECEIVE A DECLARATION OF OPPOSITION; AND AMENDING SECTION 49-1815, IDAHO CODE, TO DELETE THE REQUIREMENT FOR A PREADDRESSED ENVELOPE IN THE NOTIFICATION TO PERSONS HAVING AN INTEREST IN A TOWED VEHICLE, AND SUBSTITUTING THE AGENCY WHICH REQUESTED THE TOW FOR THE POSSESSORY LIEN HOLDER.

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

SECTION 1. That Section 49-106, Idaho Code, be, and the same is hereby amended to read as follows:

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 vehicle 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~~ and 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; or

(e) Has been stolen but not yet reported as recovered; or

(f) Is not registered, or displays a license plate registration tag which has been expired for a period in excess of thirty (30)

days.

SECTION 2. That Section 49-1814, Idaho Code, be, and the same is hereby amended to read as follows:

49-1814. DISPOSITION OF LOW-VALUED VEHICLES. (1) If the vehicle is appraised at a value not exceeding two hundred dollars ($200), the provisions of sections 49-1809 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 department of the removal of the vehicle;

(b) Prepare a certificate 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 department a declaration of opposition contesting the claim which gives rise to the lien~~ The agency which requested the tow has submitted certified statement that a declaration of opposition has not been received.

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 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 department.

(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 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 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 3. That Section 49-1815, Idaho Code, be, and the same is hereby amended to read as follows:

49-1815. 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 lien holder has made a request to the 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 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-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~~ agency which requested the tow 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~~ agency which requested the tow 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~~ agency which requested the tow 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.

Approved March 27, 1989.

CHAPTER 114
(H.B. No. 148)

AN ACT

RELATING TO THE TIME FOR APPLICATION FOR APPEAL OF JUDGMENT; AMENDING SECTION 7-1309, IDAHO CODE, TO PROVIDE THE TIME FOR APPLICATION FOR APPEAL OF JUDGMENT.

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

SECTION 1. That Section 7-1309, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ forty-two (~~30~~42) days after the time of the rendition of such judgment.

Approved March 27, 1989.

CHAPTER 115
(H.B. No. 160, As Amended in the Senate)

AN ACT

RELATING TO THE LEASE OF COUNTY PROPERTY; AMENDING SECTION 31-836, IDAHO CODE, TO SPECIFY THE CIRCUMSTANCES UNDER WHICH PUBLIC AUCTIONS ARE NOT REQUIRED, AND TO ALLOW THE LEASE OF CERTAIN COUNTY PROPERTY TO A NONPROFIT CORPORATION FOR USE AS AN ANIMAL SHELTER; AND DECLARING AN EMERGENCY.

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:

(1) Without public auction 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~~ for a term not exceeding thirty (30) years. 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~~;-provided;-however;-that-any~~.

(2) 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 by the board without public auction 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~~

(3) Without public auction the board of county commissioners may lease any property belonging to the county and not necessary for its use to the state of Idaho or any political subdivision thereof for any public purpose, 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~~ an armed conflict entered into by the United States, or to any hospital district organized under title 39, chapter 13, Idaho Code, for use in furthering the purposes of said district or to any nonprofit corporation or association organized for the purpose of erecting and maintaining an animal shelter. 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~~ shall, by its provisions, terminate when the property so leased ceases to be used for any public purpose, as an animal shelter, as a play field, recreation park or stadium serving as a memorial, or by the hospital district for its purposes.

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 27, 1989.

CHAPTER 116
(H.B. No. 380)

AN ACT

APPROPRIATING MONEYS FOR GENERAL EDUCATION PROGRAMS AT BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, LEWIS-CLARK STATE COLLEGE, THE UNIVERSITY OF IDAHO AND FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1990; LIMITING THE APPROPRIATION FOR THE OFFICE OF THE STATE BOARD OF EDUCATION; MAKING CERTAIN CODE PROVISIONS SPECIFICALLY AVAILABLE TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO; 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, the University of Idaho, and the Office of the State Board of Education the following amount, to be expended for the designated program from the listed accounts for the period July 1, 1989, through June 30, 1990:

FOR:	
General Education Programs	$140,216,900
FROM:	
General Account	$115,500,000
State Endowment Funds	6,342,100
Interagency Billing and Receipts Account	18,374,800
TOTAL	$140,216,900

SECTION 2. The appropriation for the Office of the State Board of Education in Section 1 of this act is to be used for system-wide needs and shall not exceed twenty-five hundredths per cent of the General Account for the period July 1, 1989, through June 30, 1990.

SECTION 3. 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, 1989, through June 30, 1990, the provisions of Section 67-3516(1), (3) and (4), Idaho Code, notwithstanding.

SECTION 4. 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 374, Laws of 1988, to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990.

Approved March 27, 1989.

CHAPTER 117
(S.B. No. 1050)

AN ACT

RELATING TO ADULT DAY CARE; AMENDING SECTION 67-5005, IDAHO CODE, TO ADD ADULT DAY CARE TO LEGISLATIVE INTENT; AMENDING SECTION 67-5006, IDAHO CODE, TO ADD DEFINITIONS FOR IN-HOME RESPITE CARE AND ADULT DAY CARE; AMENDING SECTION 67-5008, IDAHO CODE, TO ALLOW ADDITIONAL TYPES OF IN-HOME SERVICES; AND AMENDING CHAPTER 50, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5010, IDAHO CODE, TO ALLOW GRANTS FOR DEMONSTRATION PROJECTS.

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

SECTION 1. That Section 67-5005, Idaho Code, be, and the same is hereby amended to read as follows:

67-5005. LEGISLATIVE INTENT. The legislature hereby finds and recognizes the need to provide basic necessities to its older people in their later years and particularly in providing efficient community services, including access transportation, adequate nutrition, ~~and~~ in-home services, and adult day care, designed to permit its older people to remain independent and to be able to avoid institutionalization; and that these services be provided in a coordinated manner and be readily available when needed and accessible to all older people.

This act shall be known as the "Idaho Senior Services Act."

SECTION 2. That Section 67-5006, Idaho Code, be, and the same is hereby amended to read as follows:

67-5006. DEFINITIONS. For the purposes of this act, the following terms are defined as follows:

(1) "Transportation" -- services designed to transport older persons to and from community facilities and resources for the purpose of applying for and receiving services, reducing isolation, or otherwise promoting independent living, but not including a direct subsidy for an overall transit system or a general reduced fare program for a public or private transit system.

(2) "In-home services" -- provide care for older persons in their own homes and help them maintain, strengthen, and safeguard their personal functioning in their own homes. These services shall include, but not be limited to case management, homemakers, chores, telephone reassurance, home delivered meals, friendly visiting and shopping assistance, and in-home respite care.

(3) "Congregate meals" -- Mmeals prepared and served in a congregate setting which ~~provide~~ older persons with assistance in maintaining a well-balanced diet, including diet counseling and nutrition education.

(4) "Older persons" -- individuals sixty (60) years of age or older.

(5) "Adult day care" -- a structured day program which provides individually planned care, supervision, social interaction and supportive services for frail older persons in a protective setting, and provides relief and support for care givers.

SECTION 3. That Section 67-5008, Idaho Code, be, and the same is hereby amended to read as follows:

67-5008. PROGRAMS FOR OLDER PERSONS. The Idaho office on aging shall upon reviewing recommendations from local area councils on aging, as required by the Older Americans Act of 1965, as amended, allocate to local designated area agencies grants for the following purposes:

(1) Transportation -- For operating expenses only.

(2) Congregate meals -- For direct costs to provide nutritionally balanced meals to older persons at congregate meal sites.

(3) In-home services -- For direct provision of case management, homemaker, chore, telephone reassurance, home delivered meals, friendly visiting, shopping assistance, in-home respite and other in-home services to older persons living in non-institutional circumstances. Fees for specific services shall be based upon a variable schedule, according to regulations established by the Idaho office on aging, based upon ability to pay for such services.

(4) Adult day care -- For direct services to older persons and their care givers.

(5) Any increases in state funding for the state senior services program after state fiscal year 1982 must be expended for in-home services or adult day care.

SECTION 4. 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 67-5010, Idaho Code, and to read as follows:

67-5010. GRANTS FOR DEMONSTRATION PROJECTS. The Idaho office on aging may, based on needs identified in Idaho's community based service system for the elderly through its state planning process and at its discretion, enter into contracts with service providers to demonstrate new or more effective methods of delivering the services listed in section 67-5008, Idaho Code. These one (1) time demonstration grants will not adversely affect the grants provided to local area agencies on aging described in section 67-5007, Idaho Code.

Approved March 28, 1989.

CHAPTER 118
(S.B. No. 1151)

AN ACT

RELATING TO EDUCATION INCENTIVES; AMENDING SECTION 33-3722, IDAHO CODE, TO PROVIDE ENCOURAGEMENT AND ASSISTANCE TO POTENTIAL REGISTERED NURSES AMONG GRADUATES OF IDAHO SECONDARY SCHOOLS TO ENROLL IN IDAHO POSTSECONDARY INSTITUTIONS, AND TO PROVIDE INCENTIVES FOR POTENTIAL REGISTERED NURSES TO SERVE IN RURAL IDAHO.

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

SECTION 1. That Section 33-3722, Idaho Code, be, and the same is hereby amended to read as follows:

33-3722. STUDENT EDUCATION INCENTIVE LOAN FORGIVENESS 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 or professional nursing career within this state to enroll in an Idaho postsecondary institution and to work in Idaho.

(2) Any Idaho student may sign a loan forgiveness contract ~~to waive~~ and promissory note for payment of all full-time undergraduate ~~education~~ matriculation, 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 or write the licensure examination approved by the board of nursing for registered nurse upon completion of his studies; and

(e) Will pursue a ~~career of~~ licensed professional nursing career or a teaching school career within the state of Idaho for a minimum of two (2) years, which time requirement will commence upon obtaining a teaching position or within one (1) year after professional nursing license is obtained.

(3) Availability of student education incentive contracts for potential teachers 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; for potential registered nurses, contracts will be limited to thirteen (13) each year, with three (3) to

be let 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) Preference in selecting potential registered nurses will be given to applicants who indicate willingness to practice in rural Idaho.

(b) 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.

(bc) The length of each contract and promissory note 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 loan forgiveness program 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 and collect and account for any necessary repayment of funds. Upon successful completion of the terms of the contract, the promissory note shall be forgiven. The state board of education shall annually determine interest rate for new promissory notes. Loan repayments shall be allocated to support new student incentive loan forgiveness contracts.

(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 March 28, 1989.

CHAPTER 119
(S.B. No. 1051)

AN ACT

RELATING TO RULE-MAKING AUTHORITY FOR THE IDAHO ELECTRICAL BOARD; AMENDING SECTION 54-1006, IDAHO CODE, TO PROVIDE EXPRESS AUTHORITY FOR THE IDAHO ELECTRICAL BOARD TO PRESCRIBE AND AMEND RULES AND REGULATIONS, SAVING THE EFFECTIVENESS OF REGULATIONS PREVIOUSLY ADOPTED FOR UP TO ONE HUNDRED AND EIGHTY DAYS FROM THE EFFECTIVE DATE OF THIS ACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1006, Idaho Code, be, and the same is hereby amended to read as follows:

54-1006. IDAHO ELECTRICAL BOARD. (1) The Idaho electrical board,

hereinafter known as the board, is hereby created and made a part of the electrical division of the department of labor and industrial services. It shall be the responsibility and duty of the director of the department of labor and industrial services to administer and enforce the provisions of this act, to serve as secretary to the Idaho electrical board, and to appoint the chief electrical inspector, who shall be the division administrator.

(2) The board shall consist of seven (7) members to be appointed by the governor with power of removal for cause. Board members shall be appointed for a term of four (4) years. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be citizens of the United States, residents of this state for not less than two (2) years and shall be qualified by experience, knowledge and integrity in formulating rules and regulations for examinations, in passing on the fitness and qualifications of applicants for electrical contractor and journeyman electrician licenses and in establishing standards for electrical products to be used in electrical installations coming under the provisions of this act.

(4) The members of the board shall, at their first regular meeting following the effective date of this act and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. In the event the chairman is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the board shall constitute a quorum.

(5) The board is authorized and directed to prescribe and amend rules and regulations consistent with this act for the administration of this chapter and to effectuate the purpose thereof, and for the licensing of electrical contractors and the examination and licensing of journeyman electricians. The board shall also establish the fees to be charged for permits and inspections of electrical systems.

(6) Each member of the board not other~~wise compen~~sated by public moneys shall be compensated as provided by section 59-509(g), Idaho Code.

SECTION 2. All rules and regulations which were in place on March 31, 1984, or which have been adopted between March 31, 1984, and the effective date of this act, by the authority of the director of the Department of Labor and Industrial Services, and which authority has been transferred to the Idaho Electrical Board, are hereby continued in full force and effect for not to exceed 180 days, or for such shorter period of time as the Idaho Electrical Board needs to promulgate and adopt rules and regulations.

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

Approved March 27, 1989.

CHAPTER 120
(S.B. No. 1090, As Amended)

AN ACT

RELATING TO PUBLIC DOCUMENTS; AMENDING SECTION 9-332, IDAHO CODE, TO REDUCE THE PERIOD OF TIME THAT THE ORIGINAL OF CERTAIN PUBLIC DOCUMENTS OR WRITINGS MUST BE RETAINED BY COUNTIES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 9-332, Idaho Code, be, and the same is hereby amended to read as follows:

9-332. DESTRUCTION OF ORIGINALS WHEN NOT LESS THAN ~~10--YEARS~~ ONE YEAR OLD. Any such document, plat, paper, written instrument or book reproduced as provided in section 9-331, Idaho Code, the original of which is not less than ~~10 years~~ one (1) year old, can be disposed of or destroyed only upon order of the district court having jurisdiction, and the reproductions substituted therefor as public records. Written notice shall be given the Idaho State Historical Society sixty (60) days prior to the destruction of any such original.

SECTION 2. This act shall be in full force and effect on and after July 1, 1990.

Approved March 27, 1989.

CHAPTER 121
(H.B. No. 161)

AN ACT

RELATING TO SCHOOL DISTRICT TRUSTEE ZONES; AMENDING SECTION 33-313, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT DETERMINATION OF TRUSTEE ZONE POPULATIONS BE LIMITED TO QUALIFIED ELECTORS, AND TO PROVIDE A CORRECT CODE CITATION.

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

SECTION 1. That Section 33-313, Idaho Code, be, and the same is hereby amended to read as follows:

33-313. TRUSTEE ZONES. Each elementary school district shall be divided into three (3) trustee zones and each other school district shall be divided into no fewer than five (5) or more than nine (9) trustee zones according to the provisions of section 33-501, Idaho Code. Any proposal to define the boundaries of the several trustee zones in each such school district shall include the determination,

where appropriate, of the number of trustee zones in such district, and the date of expiration of the term of office for each trustee. The boundaries of the several trustee zones in each such school district shall be defined and drawn so that, as reasonably as may be, each such zone shall have approximately the same population. ~~For the purpose of this act, population shall be construed to be the legal residents of the district and children of such legal residents as provided in article VI, section 2 of the constitution of the state of Idaho.~~

Whenever the area of any district has been enlarged by the annexation of all or any part of another district, or by the correction of errors in the legal description of school district boundaries, any such additional territory shall be included in the trustee zone or zones contiguous to such additional territory until such time as the trustee zones may be redefined and changed. Trustee zones may be redefined and changed, but not more than once every two (2) years in the manner hereinafter provided.

A proposal to redefine and change trustee zones of any district may be initiated by its board of trustees, and submitted to the state board of education, or by petition signed by not less than fifty (50) school electors residing in the district, and presented to the board of trustees of the district. Within sixty (60) days following the receipt of a petition to redefine and change the trustee zones of a district the board of trustees shall prepare a proposal for a change which will equalize the population in each zone in the district and shall submit the proposal to the state board of education. Any proposal, or petition, shall include a legal description of each trustee zone as the same would appear as proposed, a map of the district showing how each trustee zone would then appear, and the approximate population each would then have, should the proposal to change any trustee zones become effective.

Within sixty (60) days after it has received the said petition and plan the state board of education may approve or disapprove any proposal to redefine and change trustee zones and shall give notice thereof in writing to the board of trustees of the district wherein the change is proposed. Should the state board of education approve the proposal, the board of trustees shall within sixty (60) days after notification of the approval of such proposal submit to the school district electors residing in the district, in an election to be held not less than thirty (30) days prior to the date of the next ensuing annual election of school district trustees, the question of approving or disapproving the proposal to change trustee zones. Notice of such election shall be posted and published, the election shall be held and conducted and the ballots canvassed, as provided in ~~sections 33-401--33-406~~ chapter 4, title 33, Idaho Code. If a majority of the school district electors residing in the district, and voting in the election, should approve the proposal, the trustee zones shall be changed in accordance with the proposal.

At the next regular meeting of the board of trustees following the approval of the proposal the board shall appoint from its membership or from the patrons resident in each trustee zone, a person from that zone to serve as trustee until the next annual meeting. At the annual election a trustee shall be elected to serve during the term specified

in the election for the zone. The elected trustee shall assume office at the annual meeting of the school district next following the election.

Approved March 28, 1989.

CHAPTER 122
(H.B. No. 178)

AN ACT

RELATING TO TEACHER CERTIFICATION; REPEALING SECTIONS 33-1209, 33-1255, 33-1256 AND 33-1257, IDAHO CODE; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1209, IDAHO CODE, TO PROVIDE FOR PROCEEDINGS TO REVOKE, SUSPEND OR DENY A TEACHING CERTIFICATE.

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

SECTION 1. That Sections 33-1209, 33-1255, 33-1256 and 33-1257, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 12, 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 33-1209, Idaho Code, and to read as follows:

33-1209. PROCEEDINGS TO REVOKE, SUSPEND OR DENY -- COMPLAINT -- SUBPOENA POWER -- HEARING. (1) The professional standards commission may conduct investigations on any signed allegation of unethical practice of any teacher brought by:

(a) An individual with a substantial interest in the matter, except a student in an Idaho public school; or

(b) A local board of trustees.

The allegation shall state the specific ground or grounds for revocation or suspension. The executive committee of the professional standards commission shall review the circumstances of the case and determine whether probable cause exists to warrant the filing of a complaint and the requesting of a hearing.

(2) Proceedings to revoke or suspend any certificate issued under section 33-1201, Idaho Code, shall be commenced by a written complaint against the holder thereof. Such complaint shall be made by the chief certification officer stating the ground or grounds for revocation and proposing that the certificate be revoked. A copy of the complaint shall be served upon the certificate holder, either by personal service or by certified mail.

(3) Not more than thirty (30) days after the date of service of any complaint, the person complained against may request, in writing, a hearing upon the complaint. Any such request shall be made and addressed to the state superintendent of public instruction; and if no

request for hearing is made, the grounds for suspension or revocation stated in the complaint shall be deemed admitted. Upon a request for hearing, the chief certification officer, shall give notice, in writing, to the person requesting the hearing, which notice shall state the time and place of the hearing. The time of such hearing shall not be less than five (5) days from the date of notice thereof. Any such hearing shall be informal and shall conform with the administrative procedure act, section 67-5201 et seq., Idaho Code. The hearing will be held within the school district in which any teacher complained of shall teach, or at such other place deemed most convenient for all parties.

(4) Any such hearing shall be conducted by three (3) or more panel members appointed by the chairman of the professional standards commission, a majority of whom shall hold a position of employment the same as the person complained against. No commission member who participated in the probable cause determination process in a given case shall serve on the hearing panel. All hearings shall be held with the object of ascertaining the truth. Any person complained against may appear in person and may be represented by legal counsel, and may produce, examine and cross-examine witnesses, and, if he chooses to do so, may submit for the consideration of the hearing panel a statement, in writing, in lieu of oral testimony, but any such statement shall be under oath and the affiant shall be subject to cross-examination.

(5) The state superintendent of public instruction, as authorized by the state board of education, has the power to issue subpoenas and compel the attendance of witnesses and compel the production of pertinent papers, books, documents, records, accounts and testimony. The state board or its authorized representative may, if a witness refuses to attend or testify or to produce any papers required by such subpoena, report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that a due notice has been given of the time and place of attendance of the witnesses, or the production of the papers, that the witness has been properly summoned, and that the witness has failed and refused to attend or produce the papers required by this subpoena before the board, or its representative, or has refused to answer questions propounded to him in the course of the proceedings, and ask and order of the court compelling the witness to attend and testify and produce the papers before the board. The court, upon the petition of the board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in the order, the time to be not more than ten (10) days from the date of the order, and then and there shall show cause why he has not attended and testified or produced the papers before the board or its representative. A copy of the order shall be served upon the witness. If it shall appear to the court that the subpoena was regularly issued by the board and regularly served, the court shall there upon order that the witness appear before the board at the time and place fixed in the order and testify or produce the required papers. Upon failure to obey the order, the witness shall be dealt with for contempt of court. The subpoenas shall be served and witness fees and mileage paid as allowed in civil cases in the district courts of this state.

(6) At the conclusion of any hearing dealing with the revocation, suspension or denial of a certificate, the hearing panel shall submit to the chief certification officer, a concise statement of the proceedings, a summary of the testimony, and any documentary evidence offered, together with the findings of fact and recommendation. The chief certification officer shall submit these documents to the state board of education. The board shall review the record so made, as well as its own records before making its determination. The board may adopt the panel's recommended decision, reverse or alter the decision, or it may order another hearing before the same or other persons, or before the board.

(7) The determination of the state board of education, upon any hearing, shall be entered in its records, and written notice of its determination shall be given to the person complained against by the state superintendent of public instruction, which notice shall be a part of the records of the state board of education.

(8) Pursuant to section 67-5215, Idaho Code, the final determination of the state board of education may be reviewed by writ of review in the district court of the county in which the holder of a revoked certificate has been last employed as a teacher, but application for writ of review shall be made not more than thirty (30) days from the date of notice of revocation.

(9) Whenever any certificate has been refused or revoked, the state board of education may, upon a clear showing that the cause constituting grounds for refusal or revocation no longer exists, issue a certificate or reinstate a revoked certificate either conditionally or unconditionally.

Approved March 28, 1989.

CHAPTER 123
(H.B. No. 208)

AN ACT

RELATING TO THE SCHOOL DISTRICT BUILDING ACCOUNT; AMENDING SECTION 33-905, IDAHO CODE, TO PROVIDE CRITERIA FOR PAYMENTS TO SCHOOL DISTRICTS, AND TO PROVIDE FOR TRANSFER OF UNENCUMBERED BALANCES IN EXCESS OF TEN MILLION DOLLARS.

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 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 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 district 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 thirty six hundredths of one percent (.36%) or more~~ a substantial and serious need based upon the district's classroom student-teacher ratios, past efforts to levy for such construction, physical condition of existing structures, and the total assessed market value of the district, all of which shall be further defined by actual need criteria established by the state board of education.

(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~~ ten million dollars ($510,000,000) 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 28, 1989.

CHAPTER 124
(H.B. No. 237)

AN ACT

RELATING TO ESTABLISHMENT OF THE IDAHO WORK STUDY PROGRAM; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 44, TITLE 33, IDAHO CODE, TO ESTABLISH THE IDAHO WORK STUDY PROGRAM, TO PROVIDE A STATEMENT OF PUBLIC POLICY AND DESIGNATE THE ADMINISTRATIVE AGENCY, TO DEFINE TERMS, TO STATE THE PURPOSE OF THE PROGRAM, TO PROVIDE PROGRAM REQUIREMENTS, TO SPECIFY LIMITATIONS, TO DESCRIBE ELIGIBLE TYPES OF EMPLOYMENT, TO PROVIDE FOR PAYMENTS, AND TO SPECIFY RECORD KEEPING REQUIREMENTS.

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

SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 44, Title 33, Idaho Code, and to read as follows:

CHAPTER 44
IDAHO WORK STUDY PROGRAM

33-4401. IDAHO WORK STUDY PROGRAM ESTABLISHED. There is hereby established for the state of Idaho the Idaho work study program.

33-4402. PUBLIC POLICY -- ADMINISTRATIVE AGENCY. The legislature hereby recognizes and declares that it is in the public interest to assure educational opportunity to Idaho postsecondary students. The Idaho work study program is an employment program designed to allow resident needy students to earn funds to assist in attending accredited institutions of higher education in Idaho, pursuant to this chapter.

The state board of education is hereby designated as the administrative agency for the work study program. The board shall allocate funds appropriated to the program to eligible institutions based upon fall full-time equivalent enrollment in a manner established by board rule.

33-4403. DEFINITIONS. As used in this chapter:

(1) "Accredited institution of higher education" means any public or private university, college, or community college in Idaho accredited by the northwest association of schools and colleges, or any public vocational-technical school operated by the state of Idaho or any political subdivision thereof; provided, that no institution of higher education shall be eligible to participate in the program unless it agrees to and complies with program rules and regulations adopted by the board pursuant to chapter 52, title 67, Idaho Code.

(2) "Board" means the state board of education.

(3) "Needy student" means a post high school student in good standing at an accredited institution of higher learning who demonstrates to the institution the financial inability, either through the student's parents, family and/or personally, to meet the institutionally defined cost of education, and further demonstrates the ability and willingness to work in a student work study program, according to the stated needs of the institution.

(4) "Program" means the Idaho work study program established pursuant to this chapter.

(5) "Resident student" means an individual as defined in section 33-3717, Idaho Code.

(6) "Student" means an individual currently at an Idaho school enrolled in a post-secondary degree program, or a state supported vocational-technical program.

33-4404. PROGRAM PURPOSE. The purpose of the program is to expand employment opportunities for resident students. Employment may be in jobs at accredited institutions of higher education or in approved off-campus jobs. Students with financial need are to benefit through the program, and to do so while gaining work experience. Accordingly, efforts should be made whenever possible to provide job opportunities to students which relate to their academic and career goals.

Funds under this program may be used to pay up to eighty percent (80%) of earnings in on-campus jobs. Program funds may also be used to pay up to fifty percent (50%) of earnings for approved off-campus jobs where the jobs are directly related to the student's course of academic study and the employer pays fifty percent (50%) of the earnings. Program funds may also be used to fund up to ten percent (10%) of the total match required for the federal college work study program. Idaho program funds used as match will be governed by federal college work study policy. However, institutional funds used for federal matching purposes shall not be less than the amount allocated for the prior year.

33-4405. PROGRAM REQUIREMENTS. To be eligible for the program, a person must be an Idaho resident student enrolled at an accredited institution of higher education at least half-time, as defined by the eligible institution, and be in good standing and demonstrate academic progress according to the institution's published standards of satisfactory academic progress for financial aid purposes.

The entire allocation for the program must be used to provide employment to students with documented financial need. Requirements for determination of financial need shall be the same as those for the

federal college work study program. However, the financial aid office may adjust the federal financial need definition for unusual circumstances documented by the financial aid office. All application procedures for need-based programs, as defined by the institution, shall be followed.

33-4406. LIMITATIONS. Students shall work no more than twenty (20) hours per week of employment under the program when classes are in session. Students are not to earn more than their award. However, in recognition of administrative realities, overearnings of not more than two hundred dollars ($200) shall not constitute an overaward. Earnings in excess of two hundred dollars ($200) over the need or award may not be paid from program funds and must be counted a resource in subsequent periods of enrollment.

33-4407. ELIGIBLE TYPES OF EMPLOYMENT. Students may be employed either on-campus or off-campus at eligible accredited institutions of higher education. Employing organizations and agencies must be responsible and must have professional supervision. Discrimination by employers on the bases of sex, race, color, age, religion, natural origin, marital status, or handicap is prohibited.

Generally, employment which is allowable under the federal college work study program is also allowable under the Idaho program. This applies to both on-campus and off-campus employment, except that off-campus jobs for the program must be within Idaho. Likewise, employment which is not allowable under federal regulations is not eligible under the Idaho program.

Opinions from federal officials as to the legitimacy of a particular job under the federal college work study program may be assumed to be applicable to the Idaho program. However, approval to use Idaho program funds for particular jobs should not be construed as permission to institutions to use federal work-study funds to employ students in such jobs.

The financial aid office at the institution is responsible for ensuring that disbursements are made only for work performed in accordance with the written job description, with adequate supervision, and with proper documentation for the hours worked.

33-4408. PAYMENT PROVISIONS. Students shall be compensated on an hourly basis for actual time on the job at a rate commensurate with the duties and responsibilities of the job. Student employees must be paid at least monthly. Individual checks payable to the student, or similar instruments which may be cashed by students on their own endorsement without further restrictions, are required. With written permission from the student, the institution may credit earnings to the student's account to defray institutional educational costs.

33-4409. RECORD KEEPING REQUIREMENTS. The institution office responsible for student referral and placement must maintain written job descriptions which include rates of pay, or ranges or pay, for each position for which program funds are used. The job descriptions shall be reviewed and updated on an annual basis.

Written records shall be maintained for all employment referrals, indicating acknowledgment of the hiring party that the student has been given the position, or reasons why the student was not hired.

Written records showing the time worked must be maintained for all program employees, and must be signed by the student and supervisor, and submitted on at least a monthly basis.

Approved March 28, 1989.

CHAPTER 125
(H.B. No. 260)

AN ACT

RELATING TO THE EDUCATIONAL SUPPORT PROGRAM; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITON OF A NEW SECTION 33-1002E, IDAHO CODE, TO PROVIDE FOR COMPUTATION OF ALTERNATIVE HIGH SCHOOL SECONDARY SUPPORT UNITS.

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

SECTION 1. That Chapter 10, 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 33-1002E, Idaho Code, and to read as follows:

33-1002E. COMPUTATION OF ALTERNATIVE HIGH SCHOOL SECONDARY SUPPORT UNITS. For the purpose of determining the alternative high school secondary support units for the educational support program described in section 33-1002, Idaho Code, the following table shall be used for the computation of the alternative high school secondary support units of alternative high schools as defined and approved by the state board of education.

28 Weeks ADA	ADA Per Unit	Units Allowed
12 or more	12	1 or more as computed

Approved March 28, 1989.

CHAPTER 126
(H.B. No. 144)

AN ACT

RELATING TO SCHOOL ATTENDANCE AND AGE; AMENDING SECTION 33-201, IDAHO CODE, TO DEFINE SCHOOL AGE FOR RESIDENT EXCEPTIONAL CHILDREN.

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: before the beginning of the sixteenth day of September for the school year 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.

For resident exceptional children who are physically handicapped, developmentally delayed, mentally retarded, emotionally disturbed, chronically ill or who have visual or auditory handicaps, or speech impairments, "school age" shall begin at the attainment of age three (3) for the school year beginning in 1989 and for each school year thereafter.

Approved March 28, 1989.

CHAPTER 127
(H.B. No. 190)

AN ACT

RELATING TO CERTAIN TRUST ACCOUNTS AND THE IDAHO INCOME TAX; AMENDING SECTION 63-3067A, IDAHO CODE, TO PROVIDE THAT AFTER THE FIRST YEAR OF COLLECTIONS, THE STATE TAX COMMISSION MAY RETAIN THREE THOUSAND DOLLARS OR TWENTY PERCENT OF THE MONEYS REMITTED TO A TRUST ACCOUNT DURING THE FISCAL YEAR, WHICHEVER IS LESS.

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

SECTION 1. That Section 63-3067A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067A. DESIGNATION BY INDIVIDUALS -- TRUST ACCOUNTS. (a) Every individual who:

(i) Has a refund due and payable for overpayment of taxes under this act may designate all or any portion thereof to be deposited in a trust account specified in subsection (c) below; or

(ii) Has an income tax liability may, in addition to his tax

obligation, include a donation to be deposited in a trust account specified in subsection (c) of this section.

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

(c) The trust accounts authorized to receive moneys designated under subsection (a) of this section are:

(i) The fish and game trust account created by section 36-107, Idaho Code;

(ii) The Idaho ag in the classroom account created by section 57-815, Idaho Code;

(iii) The drug enforcement donation account created by section 57-816, Idaho Code;

(iv) The children's trust account created by section 39-6007, Idaho Code; and

(v) The United States olympic account created by section 57-817, Idaho Code, but no donation shall exceed five dollars ($5.00).

(d) Prior to the distribution of funds into any of the trust accounts specified in subsection (c) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the accounts as follows: three thousand dollars ($3,000) from each account for start-up costs during the first year of collections, and three thousand dollars ($3,000) or twenty percent (20%) of the moneys remitted to each account during the fiscal year, whichever is less, from each account during each fiscal year thereafter, which amounts are hereby appropriated to the tax commission.

Approved March 28, 1989.

CHAPTER 128
(H.B. No. 25)

AN ACT

RELATING TO COMMERCIAL FISHING; AMENDING SECTION 36-802, IDAHO CODE, TO PROVIDE FOR A NONRESIDENT LICENSE, AND TO ESTABLISH A FEE FOR EACH NONRESIDENT LICENSE.

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

SECTION 1. That Section 36-802, Idaho Code, be, and the same is hereby amended to read as follows:

36-802. COMMERCIAL FISHING AUTHORIZED. 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 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. No person shall conduct, operate or manage a commercial fishing operation without obtaining a commercial fishing license and commercial gear tags from the director 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 one hundred dollars ($100) for each resident license and the sum of two hundred dollars ($200) for each nonresident license. Said licenses 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).

Approved March 28, 1989.

CHAPTER 129
(H.B. No. 201)

AN ACT

RELATING TO COMMISSION ON SALES FOR FISHING AND HUNTING LICENSES, TAGS, AND PERMITS; AMENDING SECTION 36-306, IDAHO CODE, TO INCLUDE CRAYFISH OR MINNOW TRAPS ALONG WITH OTHER TAGS ON WHICH A VENDOR COMMISSION IS CHARGED FOR EACH TRANSACTION RATHER THAN ON EACH TAG.

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 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 crayfish or minnow traps, 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.

Approved March 28, 1989.

CHAPTER 130
(H.B. No. 184)

AN ACT

RELATING TO MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS; AMENDING SECTION 41-4402, IDAHO CODE, TO CLARIFY THE DEFINITION OF MEDICARE SUPPLEMENT POLICY; AMENDING SECTION 41-4403, IDAHO CODE, TO PROVIDE THAT NO MEDICARE SUPPLEMENT INSURANCE POLICY SHALL CONTAIN BENEFITS WHICH DUPLICATE BENEFITS PROVIDED BY MEDICARE, AND TO DELETE REFERENCE TO THOSE ELIGIBLE FOR MEDICARE BY REASON OF AGE; AMENDING SECTION 41-4404, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR SHALL PROMULGATE REASONABLE REGULATIONS PERTAINING TO CLAIMS PAYMENTS; AMENDING SECTION 41-4405, IDAHO CODE, TO PROVIDE THAT EVERY MEDICARE SUPPLEMENT INSURER SHALL FILE A COPY OF THE MASTER POLICY, AND TO PROVIDE THAT THE DIRECTOR SHALL PROMULGATE REGULATIONS ESTABLISHING MINIMUM STANDARDS FOR LOSS RATIOS, AND TO LIMIT THE COMPENSATION TO AGENTS FOR RENEWAL OF AN EXISTING POLICY; AMENDING SECTION 41-4406, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR MAY PROMULGATE REGULATIONS PERTAINING TO REPLACEMENT OF ACCIDENT AND SICKNESS POLICIES, AND TO DELETE REFERENCE TO THOSE ELIGIBLE FOR MEDICARE BY REASON OF AGE; AMENDING SECTION 41-4408, IDAHO CODE, TO PROVIDE FOR A THIRTY DAY "FREE LOOK" PERIOD FOR ALL TYPES OF MEDICARE SUPPLEMENT INSURANCE POLICIES, AND TO DELETE REFERENCE TO THOSE ELIGIBLE FOR MEDICARE BY REASON OF AGE; AMENDING CHAPTER 44, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4410, IDAHO CODE, TO PROVIDE THAT ALL ADVERTISING OR SALES LITERATURE SHALL BE SUBMITTED TO THE DIRECTOR FOR APPROVAL; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-4402, Idaho Code, be, and the same is hereby amended to read as follows:

41-4402. DEFINITIONS. (1) "Medicare supplement policy" means a group, blanket, or individual policy of disability insurance or a subscriber contract or combination of subscriber contracts of hospital and medical service associations or a health maintenance contract of health maintenance organizations which is designed primarily to supplement medicare, or is advertised, marketed, or otherwise purported to be a supplement to medicare. Such term does not include:

(a) A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more

employers or labor organizations, or combination thereof, for employees or former employees or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) A policy or contract of 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 actively engaged in the same profession, trade or occupation;

(ii) has been maintained in good faith for purposes other than obtaining insurance; and

(iii) has been in existence for at least two (2) years prior to the date of its initial offering of such policy or plan to its members.

(2) "Certificate" means, for the purposes of this act, a certificate issued under a group medicare supplement policy, which certificate has been delivered or issued for delivery in this state.

(3) "Medicare" means the "health insurance for the aged act," title XVIII of the social security amendments of 1965, as then constituted or later amended.

SECTION 2. That Section 41-4403, Idaho Code, be, and the same is hereby amended to read as follows:

41-4403. STANDARDS FOR POLICY PROVISIONS. (1) No medicare supplement insurance policy, contract or certificate in force in the state shall contain benefits which duplicate benefits provided by medicare.

(2) The director shall issue reasonable regulations to establish specific standards that set forth the content of policies providing coverage of persons eligible for medicare ~~by reason of age~~. Such standards shall be in addition to and in accordance with applicable laws of this state, and may cover, but shall not be limited to:

(a) Terms of renewability, which may not provide that the policy may be cancelled by the insurer solely on the grounds of deterioration of health;

(b) Initial and subsequent conditions of eligibility;

(c) Nonduplication of coverage;

(d) Preexisting conditions;

(e) Probationary periods;

(f) Limitations, exceptions and reductions, which shall not include those which are more restrictive than those of medicare for any type of care covered under the policy;

(g) Elimination periods;

(h) Requirements for replacement;

(i) Recurrent conditions;

(j) Definition of terms, including the terms accident, benefit period, hospital, nurse, physician, and skilled nursing facility.

(~~2~~3) The director may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute, which in the opinion of the director, are unjust, unfair, or unfairly discriminatory to the policyholder, beneficiary or any person insured under a medicare supplement policy.

SECTION 3. That Section 41-4404, Idaho Code, be, and the same is hereby amended to read as follows:

41-4404. MINIMUM STANDARDS FOR BENEFITS AND CLAIMS PAYMENTS. (1) The director shall issue reasonable regulations to establish minimum standards for benefits ~~for~~ and claims payments under medicare supplement policies~~,-other-than-conversion-policies--issued--pursuant--to--a contractual--conversion--privilege--under-a-group-or-individual-policy when-such-group-or-individual-policy--contains--provisions--which--are inconsistent--with--the-requirements-of-this-act,-or-to-policies-being issued-to-employees-or-members-being-added-to-franchise-plans-in-existence-on-the-effective-date-of-this-act-or-any-regulation-issued--pursuant-to-this-act.~~

(2) The director shall prescribe the method of identification of medicare supplement policies based upon coverages provided.

SECTION 4. That Section 41-4405, Idaho Code, be, and the same is hereby amended to read as follows:

41-4405. LOSS RATIO STANDARDS. ~~Medicare-supplement-policies-shall be--expected-to-return-to-policyholders-in-the-form-of-aggregate-benefits-under-the-policy,-as-estimated-for-the-entire--period--for--which rates--are--computed--to--provide--coverage,--on-the-basis-of-incurred claims-experience-and-earned-premiums-for-such-period--and--in--accordance-with-accepted-actuarial-principles-and-practices:~~

~~(1)--At--least--seventy-five-percent-(75%)-of-the-aggregate-amount of-premiums-collected-in-the-case-of-group-policies;-and~~

~~(2)--At-least-sixty-percent-(60%)-of-the-aggregate-amount-of--premiums-collected-in-the-case-of-individual-policies.~~

~~For--purposes-of-this-section,-medicare-supplement-policies-issued as-a-result-of-solicitations-of-individuals-through-the-mail--or--mass media--advertising,--including--both--print-and-broadcast-advertising, shall-be-deemed-to-be-individual-policies~~ (1) Every insurer providing group medicare supplement insurance benefits to a resident of this state shall file a copy of the master policy and any certificate used in this state in accordance with the filing requirements and procedures applicable to group medicare supplement policies issued in this state. Provided, however, that no insurer shall be required to make a filing earlier than thirty (30) days after insurance was provided to a resident of this state under a master policy issued for delivery outside this state.

(2) Medicare supplement policies shall return to policyholders benefits which are reasonable in relation to the premium charged. The director shall issue reasonable regulations to establish minimum standards for loss ratios of medicare supplement policies on the basis of incurred claims experience, or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than a reimbursement basis, and earned premiums in accordance with accepted actuarial principles and practices. Every entity providing medicare supplement policies or certificates in this state shall file annually its rates, rating schedule, and supporting documentation

demonstrating that it is in compliance with the applicable loss ratio standards of this state. All filing of rates and rating schedules shall demonstrate that the actual and expected losses in relation to premiums comply with the requirements of this chapter.

(3) No entity shall provide compensation to its agents or other producers which is greater than the renewal compensation which would have been paid on an existing policy if the existing policy is replaced by another policy with the same company where the new policy benefits are substantially similar to the benefits under the old policy and the old policy was issued by the same insurer or insurer group.

SECTION 5. That Section 41-4406, Idaho Code, be, and the same is hereby amended to read as follows:

41-4406. FULL AND FAIR DISCLOSURE. (1) The director shall issue reasonable regulations to establish specific standards of full and fair disclosure for the sale of policies providing coverage of persons eligible for medicare ~~by reason of age~~.

(2) In order to provide for full and fair disclosure in the sale of medicare supplement policies, no individual medicare supplement policy shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group medicare supplement policy delivered or issued for delivery in this state unless the outline of coverage described in subsection (3) of this section is delivered to the applicant for such policy or such certificate at the time application is made. In the event an individual medicare supplement policy is issued on a basis other than that applied for, the outline of coverage properly describing the policy must accompany the policy when it is delivered and clearly state that it is not the policy.

(3) The director shall prescribe the format and content of the outline of coverage required by subsection (2) of this section. For purposes of this section, "format" means style, arrangements and overall appearance, including such items as the size, color and prominence of type and the arrangement of text and captions. Such outline of coverage shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the exceptions, reductions and limitations contained in the policy;

(c) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums;

(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.

(4) The director may further prescribe by regulation a standard form and the contents of an informational brochure for persons eligible for medicare ~~by reason of age~~, which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of medicare. Except in the case of direct response insurance policies, the director may require by regulation that the information brochure be provided to any prospective insureds

eligible for medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the director may require by regulation that the prescribed brochure must be provided to any prospective insureds eligible for medicare ~~by--reason-of-age~~ upon request, but in no event later than the time of policy delivery.

(5) The director may further promulgate reasonable regulations to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts or certificates by persons eligible for medicare.

SECTION 6. That Section 41-4408, Idaho Code, be, and the same is hereby amended to read as follows:

41-4408. "FREE LOOK" PROVISIONS. Medicare supplement policies or certificates~~,--other--than--those--issued--pursuant-to-direct-response solicitation,-shall-have-a-notice-prominently--printed--on--the--first page--of--the-policy-or-attached-thereto-stating-in-substance-that-the policyholder-or-certificate-holder-shall-have-the-right-to-return--the policy-or-certificate-within-ten-(10)-days-of-its-delivery-and-to-have the--premium--refunded-if,-after-examination-of-the-policy-or-certificate,-the-insured-person-is-not-satisfied--for--any--reason.--Medicare supplement--policies--or--certificates,--issued--pursuant--to-a-direct response-solicitation-to-persons-eligible-for-medicare--by--reason--of age,--shall--have--a--notice--prominently-printed-on-the-first-page-or attached-thereto-stating-in-substance-that-the-policyholder-or-certificate-holder-shall-have-the-right-to-return-the-policy-or--certificate 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~~ shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Any refund made pursuant to this section shall be paid directly to the applicant by the insurer in a timely manner.

SECTION 7. That Chapter 44, 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 41-4410, Idaho Code, and to read as follows:

41-4410. FILING REQUIREMENTS FOR ADVERTISING. Every insurer, health care service plan or other entity providing medicare supplement insurance or benefits in this state shall provide a copy of any medicare supplement advertisement intended for use in this state whether through written, radio or television medium to the director of the department of insurance prior to such intended use in this state, and the director may promulgate regulations for the review and approval of all medicare supplement advertisements.

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 28, 1989.

CHAPTER 131
(H.B. No. 107)

AN ACT

RELATING TO THE TELETYPEWRITER COMMUNICATIONS BOARD; AMENDING SECTION 19-5203, IDAHO CODE, TO PROVIDE THAT A MEMBER OF THE IDAHO DEPARTMENT OF LAW ENFORCEMENT SHALL BE A PERMANENT MEMBER OF THE BOARD.

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

SECTION 1. That Section 19-5203, Idaho Code, be, and the same is hereby amended to read as follows:

19-5203. TELETYPEWRITER COMMUNICATIONS BOARD -- CREATION -- COMPOSITION -- TERMS -- RULES AND REGULATIONS -- COMPENSATION OF MEMBERS. (1) There is hereby created within the department of law enforcement a teletypewriter communications board which shall be composed of five (5) members appointed by the governor.

The members of the teletypewriter communications board shall be composed of the following:

(a) Two (2) incumbent county sheriffs;

(b) Two (2) incumbent city chiefs of police;

(c) One (1) member of the Idaho ~~state-police~~ department of law enforcement.

(2) The term of office of the first board shall be staggered with the one (1) appointment expiring January 1, 1972; one (1) appointment expiring January 1, 1973; one (1) appointment expiring January 1, 1974; one (1) appointment expiring January 1, 1975; and one (1) appointment expiring January 1, 1976.

Thereafter, the term of office of each chief of police, sheriff and member of the Idaho ~~state-police~~ department of law enforcement shall be for a term of five (5) years.

The director of the department of law enforcement shall be an ~~ex officio~~ permanent member of the board.

In the event any chief of police, sheriff or member of the Idaho ~~state-police~~ department of law enforcement ceases to be such chief of police, sheriff, or member of the Idaho ~~state-police~~, department of law enforcement his appointment to said board shall terminate and cease immediately and the governor shall appoint a qualified person in such category to fill the unexpired term of such member.

(3) The board shall, upon their appointment, adopt such rules, regulations, procedures and methods of operation as may be necessary

to establish and put into use the most efficient and economical statewide teletypewriter communications network and shall publish and distribute said rules, regulations and procedures to each participating department, agency or office.

(4) The teletypewriter communications board shall have exclusive management control over the entire Idaho law enforcement teletypewriter system (ILETS) which includes all hardware, software, electronic switches, peripheral gear, microwave links, circuitry, and terminal devices which make up the network and any access thereto. The term Idaho law enforcement teletypewriter system (ILETS) shall mean the teletypewriter system established by the director of the department of law enforcement pursuant to subsection (1) of section 19-5202, Idaho Code, and shall not apply to any type of voice-oriented transmission whether it be by mobile radio, microwave or telephone.

(5) Salaries and expenses. Members of said board shall be compensated as provided by section 59-509(b), Idaho Code, which expenses shall be paid from moneys appropriated for the funding of this act.

The performance of duties under this act by a member of the board shall be deemed to be in performance of his duties as an employee of his particular branch of government.

(6) Federal funding, gifts, donations. The director is authorized to apply for and accept federal funds granted by the congress of the United States, or by executive order, all of which must be deposited in the teletypewriter communication network account, and which may be expended only after a legislative appropriation. The director may accept gifts and donations from individuals and private organizations or foundations for all or any of the purposes of chapter 52, title 19, Idaho Code.

Approved March 28, 1989.

CHAPTER 132
(H.B. No. 81)

AN ACT

RELATING TO LIBRARY DISTRICTS; AMENDING SECTION 33-2704, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR FORMATION OF A LIBRARY DISTRICT BY PETITION; REPEALING SECTION 33-2704A, IDAHO CODE; AMENDING SECTION 33-2705, IDAHO CODE, TO PROVIDE PROPER REFERENCES; AMENDING SECTION 33-2722, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER REFERENCES; AMENDING SECTION 33-2722A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER REFERENCES; AMENDING SECTION 33-2722B, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER REFERENCES; AMENDING SECTION 33-2722C, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER REFERENCES; AMENDING SECTION 33-2720, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A TIME LIMIT FOR DISSOLUTION OF A DISTRICT AFTER FORMATION; AMENDING SECTION 33-2717, IDAHO CODE, TO REDESIGNATE

THE SECTION; AMENDING SECTION 33-2709, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR THE TERM OF OFFICE OF A DISTRICT TRUSTEE; AMENDING SECTION 33-2710, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR THE RECALL OF DISTRICT TRUSTEES; AMENDING SECTION 33-2710A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO STRIKE OBSOLETE LANGUAGE; AMENDING SECTION 33-2710B, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 33-2711, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR MEETINGS OF THE BOARD OF TRUSTEES; AMENDING SECTION 33-2712, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR POWERS AND DUTIES OF THE BOARD OF TRUSTEES; AMENDING SECTION 33-2713, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR EMPLOYEES OF A DISTRICT; AMENDING SECTION 33-2715, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR DUTIES OF THE TREASURER, AND TO PROVIDE FOR APPOINTMENT OF A CLERK; AMENDING SECTION 33-2716, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 33-2714, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER REFERENCES; AMENDING SECTION 33-2713A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 33-2718, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR AUDITS; AMENDING SECTION 33-2719, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR PURCHASE AND SALE OF LIBRARY SERVICES; REPEALING SECTION 33-2721, IDAHO CODE; AND AMENDING SECTION 33-2723, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Section 33-2704, Idaho Code, be, and the same is hereby amended to read as follows:

33-2704. PETITION -- VERIFICATION -- NOTICE AND HEARING. (1) A petition or petitions, signed by fifty (50) or more qualified electors residing in the proposed library district, giving the name of the proposed district, which shall include the words "free library," and describing the boundaries thereof and praying for the organization of the territory therein described as a free library, shall be filed with the clerk of the board of county commissioners of the county in which the proposed district is situate.

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

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

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

(a) The form of the petition;

(b) The genuineness of the signatures;

(c) The legality of the proceedings; and

(d) Any other matters in regard to the creation of the library district.

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

SECTION 2. That Section 33-2704A, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 33-2705, Idaho Code, be, and the same is hereby amended to read as follows:

33-2705. CONDUCT OF ELECTION. Upon the county commissioners having made the order referred to in ~~subparagraph c,~~ subsection (4) of section 33-2704~~A~~, Idaho Code, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held for the purpose of determining whether or not the proposed library district shall be organized under the provisions of ~~sections 33-2704 and 33-2704A~~ this chapter. The date of this election shall be not later than sixty (60) days after the issuance of the above mentioned order. Whenever more than one (1) petition is presented to the county commissioners calling for an election to create library districts, the first presented shall take precedence. Notice of ~~said~~ the election shall be given, the election shall be conducted, and the returns thereof canvassed as provided for elections for the consolidation of school districts. The ballot shall contain the word "(Name) Free Library District--Yes" and "(Name) Free Library District--No," each followed by a box wherein the voter may express his choice by marking a cross "X." The board or boards of election shall make returns and certify the results to the boards of county commissioners within three (3) days after the election, and said board shall, within seven (7) days after the election, canvass the returns. If a majority of all votes cast be in the affirmative, the board shall enter an order declaring the library district established and designating its boundaries and name.

SECTION 4. That Section 33-2722, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~22~~09. ALTERNATE METHODS OF ORGANIZING A LIBRARY DISTRICT. An alternate method of organization of a library district may be initiated upon a petition or petitions, signed by resident electors equal in number to fifty-one per cent (51%) of those voting in the last gubernatorial election in the area involved.

Each petition shall be verified by an elector, which verification shall state that the affiant knows that all of the parties whose names are signed to the petition are electors of the proposed district and that their signatures to the petition were made in his presence. The verification may be made before any notary public.

Each petition shall give the name of the proposed district and describe the boundaries thereof.

On the filing with the clerk of the board of county commissioners of the county in which the proposed district is located, of such petition or petitions requesting the creation of a library district, the board of county commissioners shall thereupon by resolution declared that a petition to create a library district has been filed with the board and shall thereupon comply with ~~subparagraphs a and b,~~ subsections (2) and (3) of section 33-2704~~A~~, Idaho Code.

Upon the date fixed for the hearing the board of county commissioners shall canvass the petition or petitions for the purpose of determining that such petition or petitions have been signed by the required number of resident electors. The county commissioners shall make, after the hearing, a resolution in compliance with ~~subparagraph c,~~ subsection (4) of section 33-2704~~A~~, Idaho Code; such resolution shall be duly recorded and complete the creation of the district.

Within five (5) days from entry of the order creating a library district, the board of county commissioners shall appoint the members of the first board of trustees, who shall serve until the next annual election of trustees and until their successors are elected and qualified.

A library district established under this section shall in all succeeding matters function in accordance with provisions regarding the government of library districts as prescribed in this chapter.

SECTION 5. That Section 33-2722A, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~22A~~10. ADDITION OF A PART OF A COUNTY TO AN EXISTING LIBRARY DISTRICT. A part of a county which does not have a public or district library established under the provisions of law, but which is contiguous to an existing library district within said county, may become a part of said district by following the alternate method of organizing a library district provided in section 33-27~~22~~09, Idaho Code.

The petition or petitions, to be signed by the resident electors of the area desiring to join the existing library district, shall state that the petitioners desire to have the described boundaries added to the ".... Library District," and desire that the larger district formed thereby be known as the ".... Library District."

A true copy of the petition shall be transmitted to the board of trustees of the library district which the petitioners seek to join.

The board of trustees may approve or disapprove such petition, on the basis of concept, judgment on desirability of said expansion, and on proposed name. The trustees need not verify the names on the petition, but may for the purpose of entering the board's approval or disapproval assume that all signatures on the petition are valid.

The board of trustees shall give notice of its decision to the board of county commissioners. When said notice carries the approval of the board of trustees of the existing library district, the trustees shall forward the petitions to the clerk of the board of county commissioners, who shall verify the required signatures thereon, and shall file the petitions. Thereupon, the board of county commissioners shall proceed with the required hearing and resolution as outlined in section~~s 33-2722 and 33-2704A~~ 33-2709, Idaho Code.

In the order granting the petition and establishing the enlarged library district, the board of county commissioners shall amend the boundaries of the district to include the added territory, and shall certify the name of the enlarged district.

A copy of the said order shall be transmitted to the board of trustees of the library district, and to the Idaho state library board.

Such other notices as may be required by law shall be filed, including a legal description and map of altered boundaries to be filed with the state tax commission within ten (10) days of the effective date of the change.

Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs appointments shall be made as provided in section 33-27~~10~~6, Idaho Code.

SECTION 6. That Section 33-2722B, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~22B~~11. ADJUSTMENT OF BOUNDARY LINES OF LIBRARY DISTRICTS. When there are two (2) or more library districts, which have at least one (1) common boundary, established in one (1) county, the boards of trustees of said library districts, meeting together, may determine that it is in the best interest of library service in the county that the boundary lines be adjusted, as herein provided.

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

The petition shall be signed by all members of the boards of trustees of the library districts involved in the boundary adjustment.

The petition shall be forwarded to the clerk of the board of county commissioners, who shall verify the signatures of the trustees thereon, and shall file the petition. Thereupon, the board of county commissioners shall proceed with the hearing and resolution as outlined in section ~~33-2722 and~~ 33-27~~04A~~9, Idaho Code, for the organiza-

tion of a library district.

In the order granting the petition and adjusting the boundaries, the board of county commissioners shall certify the new boundaries and the name of the district or districts.

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

Such other notices as may be required by law shall be filed, including a legal description and map of altered boundaries to be filed with the state tax commission within ten (10) days of the effective date of the change.

Following the boundary adjustment, the board of county commissioners within five (5) days shall take action to reaffirm members of the board of trustees, or to appoint members of the board or boards, who may be chosen from the members of the boards initiating the boundary adjustment. These trustees shall serve until the next annual election of trustees or until their successors are elected and qualified. The board or boards of trustees shall be sworn by a member of the board of county commissioners.

If the property and assets of a library district become a matter of dispute, the state library board shall make the final decision as to their disposition, in accordance with procedures outlined in section 33-27~~2~~13, Idaho Code.

SECTION 7. That Section 33-2722C, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~2~~12C. NOTICE OF FILING OF PETITION OR PETITIONS FOR ORGANIZING A LIBRARY DISTRICT, FOR ADDING TO OR ADJUSTING BOUNDARIES OF LIBRARY DISTRICTS -- CONFIRMATION OF EXISTING LIBRARY DISTRICTS. When a petition or petitions are filed with the board of county commissioners requesting the creation of a library district, the addition of a part of a county to an existing library district, or the adjustment of boundary lines of library districts, as provided in this chapter ~~27, title 33, Idaho Code~~, the sending of post card notices as outlined in section 31-863, Idaho Code, shall apply. All existing library districts on ~~the effective date of this act~~ July 1, 1989, organized pursuant to this chapter ~~27, title 33, Idaho Code~~, are hereby confirmed in organization and operation, notwithstanding that the county commissioners may not have caused postcard notices to be sent as provided in section 31-863, Idaho Code.

SECTION 8. That Section 33-2720, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~2~~13. DISSOLUTION OF LIBRARY DISTRICT. A library district may be dissolved according to procedures followed in its original organization, but not earlier than four (4) years after the date of its establishment. If the library district embraces territory in more than one (1) county, an election for its dissolution shall be deemed approved only if a majority of the votes cast in each such county were cast in the affirmative. If, upon the canvass of ballots, it be deter-

mined that the proposition has been approved, the board of county commissioners of the home county shall enter its order to that effect and transmit a copy of said order to the board of county commissioners in any other county affected, and said order shall by them be made a matter of record. When any library district is dissolved, all property and assets of the library district shall be disposed of by the board of county commissioners of the home county. Receipts from the sale of assets and all unpaid taxes, when collected, shall be first used to retire any indebtedness of the district. Any remainder shall be apportioned to the counties embraced in the library district in proportion to the assessed valuation of each which was included in the library district, and placed in the respective county general expense fund. If, after the application of the tax monies and sale proceeds, indebtedness remains, the board of county commissioners of the home county shall provide for the payment of the remaining indebtedness from special levies certified to each county in proportion to the assessed valuation of each which was included in the district. The tax shall be collected by each county and remitted to the home county for payment of the remaining indebtedness.

SECTION 9. That Section 33-2717, Idaho Code, be, and the same is hereby amended to read as follows:

33-271~~7~~4. LIBRARY DISTRICTS -- PUBLIC CORPORATIONS. Each library district shall be a public corporation, may sue and be sued in its corporate name and may contract and be contracted with.

SECTION 10. That Section 33-2709, Idaho Code, be, and the same is hereby amended to read as follows:

33-270~~9~~15. BOARD OF TRUSTEES -- SELECTION -- NUMBER -- QUALIFICATIONS -- TERM -- OATH -- APPOINTMENT OF FIRST BOARD. Each library district shall be governed by a board of trustees of five (5) members elected or appointed as provided by law, who at the time of their selection and during their terms of office shall be qualified electors of the district and if trustee zones have been established under section 33-271~~0~~8B, Idaho Code, shall be a resident of the trustee zone. One (1) trustee shall be elected at each annual trustee election. The regular term of a trustee shall be for five (5) years, or until his successor has been elected and qualified. Within ten (10) days after his ~~election--or~~ appointment an appointed trustee shall qualify and assume the duties of his office ~~as of the date of such qualification which shall be~~. An elected trustee shall qualify and assume the duties of his office at the annual meeting. All trustees qualify by taking the oath of office required of state officers, to be administered by one (1) of the present trustees or by a trustee retiring.

Following the initial establishment of a library district, the board of county commissioners of the home county within five (5) days shall appoint the members of the first board of trustees, who shall serve until the next annual election of trustees or until their successors are elected and qualified. Addition of new territory to an existing library district shall not be considered an initial estab-

lishment. Said first board of trustees shall be sworn by a member of the board of county commissioners of the home county of the district.

At its first meeting, and after each trustee election, the board shall organize and elect from its membership a chairman and such other officers as may be deemed necessary to conduct the affairs of the district.

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

SECTION 11. That Section 33-2710, Idaho Code, be, and the same is hereby amended to read as follows:

33-271~~0~~6. BOARD OF TRUSTEES -- NOMINATION AND ELECTION -- RECALL. (1) The procedure for nomination and election of trustees of a library district shall be as provided for the nomination and election of trustees of a school district pursuant to chapter 4, title 33, Idaho Code. This shall include notice requirements, conduct of election, ~~qualifications--of--electors,~~ provision for absentee voting, nominations, uniform date of election, and declaration and filling of vacancies.

(2) Notwithstanding the limitations of chapter 17, title 34, Idaho Code, each library district trustee shall be subject to recall following procedures as closely as possible to the procedures described for the recall of county commissioners pursuant to chapter 17, title 34, Idaho Code.

Individuals signing a petition to recall a library trustee or voting in an election to recall a library trustee shall meet the requirements of section 33-2702, Idaho Code.

If, pursuant to section 33-2717, Idaho Code, no election was held for the trustee being recalled:

(a) The number of district electors required to sign the petition seeking a recall election must be not less than fifty (50), or twenty per cent (20%) of the number of votes cast in the last trustee election held in the library district, whichever is the greater.

(b) To recall any trustee, a majority of the votes cast at the recall election must be in favor of such recall, and additionally, the number of votes cast in the recall election must equal or exceed the number of votes cast in the last trustee election held in the library district.

SECTION 12. That Section 33-2710A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2710A7. BOARD OF TRUSTEES -- ONE NOMINATION -- NO ELECTION. In any election for trustees if, after the expiration of the date for filing written nominations for the office of trustee, it appears that only one (1) qualified candidate has been nominated for each position to be filled, it shall not be necessary to hold an election, and the board of trustees shall within three (3) days after expiration of the date for filing written nominations declare such candidate elected as

trustee, and the secretary shall immediately make and deliver to such person a certificate of election ~~signed by him and bearing the seal of the district~~. The procedure set forth in this section shall not apply to any other library district election.

SECTION 13. That Section 33-2710B, Idaho Code, be, and the same is hereby amended to read as follows:

33-2710~~B~~8. CREATION OF TRUSTEE ZONES. Each library district may be divided into five (5) trustee zones with each zone having approximately the same population. In order for a library district to be divided into trustee zones, the board of trustees shall pass a motion declaring the district to be divided into trustee zones and present a legal description of each trustee zone. The board of trustees shall transmit the motion along with the legal description of the trustee zones to the board or boards of county commissioners in the county or counties where the library district is contained. The board or boards of county commissioners shall have forty-five (45) days from the receipt of the motion and legal description to reject, by adoption of a motion, the establishment of trustee zones proposed by formal motion of the board of trustees of the library district. If the board or boards of county commissioners do not reject the establishment of the trustee zones within the time limit specified, they shall be deemed to be in full force and effect. If a library district is contained in more than one (1) county, a motion of rejection adopted by one (1) board of county commissioners shall be sufficient to keep the trustee zone plan from going into effect. A board of county commissioners shall notify the board of trustees in writing if a proposal is rejected.

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

At the next regular meeting of the board of trustees of the library district following the approval of a trustee zone proposal by the board or boards of county commissioners, the board shall appoint from its membership or from patrons resident in each trustee zone, a person from that zone to serve as a trustee until the next regularly scheduled trustee election from that zone. All other matters relating to library district trustee zones shall be as provided in chapters 4 and 5, title 33, Idaho Code, relating to school district trustee zones.

SECTION 14. That Section 33-2711, Idaho Code, be, and the same is hereby amended to read as follows:

33-271~~1~~9. BOARD OF TRUSTEES -- MEETINGS. The annual meeting of a library district board shall be on the date of its first regular meeting following each trustee election. The purposes of the annual meeting are to administer the oath of office to the newly elected or

re-elected trustee or trustees, to elect the officers of the board, to establish a regular meeting date, and to review, amend, repeal or adopt bylaws, policies and procedures. The regular meetings of the board of trustees shall be held at least once in each quarter, at such uniform day of such uniform month as the board of trustees shall determine at its annual meeting. Special or adjourned meetings may be held from time to time as the board may determine, but written notice thereof shall be given to the members at least two (2) days prior to the day of the meeting. A quorum shall consist of three (3) members, but a smaller number may adjourn.

SECTION 15. That Section 33-2712, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~1~~20. POWERS AND DUTIES OF THE BOARD OF TRUSTEES. It is the duty of each trustee to attend all meetings of the board of trustees. The board of trustees of each library district shall have the following powers and duties consistent with the laws of the state of Idaho:

1. To ~~make-rules-and-regulations~~ establish bylaws for its own government ~~and-that-of-the-library-or-libraries-under-its-control~~;

2. To establish policies for the government of the library or libraries under its control;

3. To establish and locate libraries, branch libraries or stations to serve the district and to provide suitable rooms, structures, facilities, furniture, apparatus and appliances necessary for the conduct thereof;

~~3~~4. To acquire by purchase, devise, lease, or otherwise, and to own and hold real and personal property and to construct buildings for the use and purposes of the library district, and to sell, exchange or otherwise dispose of property real or personal, when no longer required by the district, and to insure the real and personal property of the district;

~~4~~5. To accept gifts of real or personal property under such terms as may be a condition of the gift;

~~5~~6. To purchase and distribute ~~books,-pamphlets,-documents-or publications~~ library materials;

~~6~~7. To issue warrants, if used, in the manner specified for the issuance of warrants by school districts;

~~7~~8. To invest any funds of the district in ~~the-manner-specified for-investment-of-funds-by-school-districts,-or--in--savings--accounts insured-by-the-federal-deposit-insurance-corporation,-to-the-extent-of such-insurance~~ accordance with the public depository law;

~~8~~9. To pay actual and necessary expenses of members of the library staff when on business of the district;

10. To see to the proper conduct of library district elections;

~~9~~11. To exercise such other powers, not inconsistent with law, necessary for the effective use and management of the library.

SECTION 16. That Section 33-2713, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~2~~13. LIBRARIAN ~~AND-OTHER~~ -- EMPLOYEES. The board of trustees

of each library district shall appoint the chief librarian, who shall serve as administrator of the library district and as the secretary ~~of~~ for the board without voting rights. With the recommendation of the chief librarian, the board shall employ such other persons as may be necessary in the administration of the affairs of the library district. The board may fix and pay their salaries and compensation, classify employees and adopt schedules of salaries~~; determine their number and prescribe their duties~~, and discharge any librarian or other employee for cause.

SECTION 17. That Section 33-2715, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~1~~522. TREASURER -- CLERK. The board of trustees of each library district shall appoint some qualified person ~~in the library district~~, who may or may not be a member of the board of trustees, to act as treasurer of the library district. Such person shall, on taking office, give bond to the library district, with sureties approved by the board of trustees, in the amount of ~~one~~ at least five thousand dollars ($~~1~~5,000), which bond shall be paid for by the district, and shall be conditioned upon faithful performance of the duties of his office and his accounting for all moneys of the library district received by him or under his control. The treasurer shall supervise a~~A~~ll moneys raised for the library district by taxation or received by the district from any other sources ~~shall be paid over to him, and he shall disburse the~~ and shall supervise all disbursements of funds of the district ~~upon warrants drawn thereon~~ by order of the board of trustees ~~pursuant to vouchers approved by the board~~.

Under the direction of the board of trustees, t~~T~~he treasurer shall ~~deposit~~ have all moneys of the district deposited in accordance with the ~~P~~public ~~D~~depository ~~L~~law.

The board of trustees of each library district shall appoint some qualified person, who may or may not be a member of the board of trustees, to act as clerk of the library board. The clerk shall conduct library district elections, other than for excision, annexation, consolidation, or division; shall prepare and distribute legal notices; and shall have such other duties as the board may prescribe.

SECTION 18. That Section 33-2716, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~1~~623. STATE TREASURER TRUSTEE OF LIBRARY FUNDS WHEN REQUIRED. ~~W~~When the conditions of the grant or appropriation so require, the state treasurer shall serve as trustee of funds appropriated to the state from any appropriation made by the federal government, the state, or any other agency for providing and equalizing library service in Idaho.

SECTION 19. That Section 33-2714, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~1~~24. TAXES FOR THE SUPPORT OF LIBRARY DISTRICT. Any tax

levied for library district purposes shall be a lien upon the property against which the tax is levied. The board of trustees shall determine and levy a tax ~~in--mills~~ upon each dollar of assessed valuation of property within the district for the ensuing fiscal year as shall be required to satisfy all maturing bond, bond interest, and judgment obligations. For the maintenance and operation of the library district, the board of trustees may also levy upon the taxable property within the district a tax not to exceed ~~three (3) mills~~ six hundredths per cent (.06%) of market value for assessment purposes. Said levies shall be certified to the clerk of the board of county commissioners of each county in which the district may lie, not later than the second Monday in September of each year.

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

SECTION 20. That Section 33-2713A, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~13A~~25. LIBRARY DISTRICT BUDGET -- PUBLIC HEARING -- NOTICE. The board of trustees of each library district shall prepare for the ensuing fiscal year a budget and prior to its adoption shall have called and caused to be held a public hearing thereon. Notice of the time and place of the hearing shall be published at least once in a newspaper printed, or having general circulation within the district or in the county in which the library district may lie. The board of trustees of each library district shall also prepare and publish, as a part of such notice, a summary statement of the budget for the ensuing year prepared in a manner consistent with standard accounting practices and indicating amounts previously budgeted for the then current year for purposes of comparison.

SECTION 21. That Section 33-2718, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~18~~26. FISCAL YEAR -- ANNUAL REPORTS -- AUDIT. The fiscal year of each library district shall commence on the first day of October of each year. The board of trustees of each library district shall annually, not later than the first day of January, file with the state library board a report of the operations of the district for the fiscal year just ended. The report shall be of such form and contain such information as the state library board may require, but in all cases must include a complete accounting of all financial transactions for the fiscal year being reported.

At intervals of not more than two (2) years the board of trustees of each library district shall cause to be made a full and complete audit of the books and accounts of the district. ~~Upon~~ The audit shall be made by and under the direction of the library board by an independent auditor, in accordance with the generally accepted industry audit guide, generally accepted audit standards, or generally accepted gov-

ernmental audit standards, as applicable. Within ten (10) days of acceptance of the audit report by the board a copy thereof shall ~~forthwith~~ be filed with the ~~state library board~~ legislative auditor.

SECTION 22. That Section 33-2719, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~19~~27. PURCHASE AND SALE OF LIBRARY SERVICES -- CONTRACTS. In lieu of, or in addition to, establishing an independent library, the board of trustees may purchase specified library services by contract from any taxing unit, or public or private agency maintaining a library, providing that such unit or agency shall file an annual report with the board of trustees of the library district showing in detail the manner in which the funds of the library district have been spent.

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

Any such purchase or sale of library services shall be under contract for a term of three (3) years, which contract shall be automatically renewed at the end of said three- (3) year period unless either party thereto gives notice not less than six (6) months before the termination of any existing contract, of intention not to renew said contract.

SECTION 23. That Section 33-2721, Idaho Code, be, and the same is hereby repealed.

SECTION 24. That Section 33-2723, Idaho Code, be, and the same is hereby amended to read as follows:

33-2723~~8~~. BOND ELECTION. The purposes for which bonds may be issued shall be: To acquire, purchase, or improve a library site or sites; to build a library or libraries, or other building or buildings; to demolish or remove buildings; to add to, remodel or repair any existing building; to furnish and equip any building or buildings, including all facilities and appliances necessary to maintain and operate the buildings of the library; and to purchase motor vehicles for use as bookmobiles.

The library district may issue bonds in an amount not to exceed four-tenths percent (.4%) of the market value for assessment purposes of property within the district, less any aggregate outstanding indebtedness.

The board of trustees of any library district, upon approval of a majority thereof, may call a bond election on the question as to whether the board shall be empowered to issue ~~negotiable coupon~~ bonds of the district in an amount and for a period of time to be stated in the notice of election. The notice of bond election, the qualification of bond electors, the conduct of the election, the canvass of election and determination of the result of election, the issuance of bonds, the expenditure of bond proceeds and the repayment of the bonds shall all be determined and done in accordance with the laws of Idaho with

respect to the authorization and issuance of bonds by school districts.

Approved March 28, 1989.

CHAPTER 133
(H.B. No. 242)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING CHAPTER 14, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-1438, IDAHO CODE, TO PROVIDE LIABILITY FOR THE PAYMENT OF INDEBTEDNESS EXISTING AT THE TIME OF WITHDRAWAL FOR TERRITORY WITHDRAWN FROM A FIRE PROTECTION DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 14, 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 31-1438, Idaho Code, and to read as follows:

31-1438. LIABILITY FOR INDEBTEDNESS OF FIRE PROTECTION DISTRICTS AFTER BOUNDARY CHANGES. Territory withdrawn from any fire protection district shall continue to be subject to taxation for the payment of the principal of and interest on any indebtedness, whether evidenced by bonds, notes, or other similar evidences of indebtedness created by election outstanding upon the effective date of withdrawal as fully as though the territory had not been withdrawn. For the purpose of discharging the indebtedness and interest thereon and other obligations, the territory shall be considered a part of the district the same as though not withdrawn. All provisions which could have been used to compel the payment by the withdrawn territory of its portion of the indebtedness and interest thereon had the withdrawal not occurred can be used to compel the payment on the part of the withdrawn territory of the portion for which it is liable. Provided, however, by mutual agreement, the entity annexing or withdrawing territory from the district may acquire the capital assets which represent the proceeds of the indebtedness and pay off or assume the indebtedness to the extent otherwise permitted by law and the terms of the underlying obligation.

SECTION 2. This act shall be in full force and effect on and after October 1, 1989.

Approved March 28, 1989.

CHAPTER 134
(H.B. No. 301)

AN ACT

RELATING TO ANNEXATIONS; AMENDING CHAPTER 2, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-222A, IDAHO CODE, TO PROVIDE FOR THE ANNEXATION OF CERTAIN NONCONTIGUOUS TERRITORY.

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

SECTION 1. That Chapter 2, 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 50-222A, Idaho Code, and to read as follows:

50-222A. ANNEXATION OF NONCONTIGUOUS TERRITORY. A city may annex territory that is not contiguous to the city and is occupied by a municipally owned or operated airport or landing field. However, a city may not annex any other territory adjacent to such noncontiguous facilities which is not otherwise annexable pursuant to section 50-222, Idaho Code.

Approved March 28, 1989.

CHAPTER 135
(H.B. No. 323)

AN ACT

AMENDING SECTION 2, CHAPTER 364, LAWS OF 1988, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE DEPARTMENT OF HEALTH AND WELFARE, FOR DEPOSIT IN THE WATER POLLUTION CONTROL ACCOUNT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 364, Laws of 1988, be, and the same is hereby amended to read as follows:

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	$ 2,693,300
Cooperative Welfare Account	1,681,100	1,351,700	57,000	12,297,500	15,387,300
Cancer Control Account	19,000	356,000			375,000
Central Tumor Registry Account				100,000	100,000
County Medical Indigency Suspense Account	7,000	2,200			9,200
TOTAL	$ 2,569,300	$2,744,300	$ 58,700	$13,192,500	$ 18,564,800
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~~
		449,100			1,330,400
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~~
		631,900			2,399,100
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					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Account	$ ~~4,535,700~~	~~$1,065,300~~	$ 56,300		$ ~~6,457,300~~
	4,562,600	1,884,000			6,502,900
Cooperative Welfare					
Account	~~4,262,000~~	~~2,551,000~~	71,500		~~6,886,100~~
	4,289,800	2,570,500			6,931,800
County Medical Indigency Suspense Account		28,200			28,200
TOTAL	$ ~~8,790,500~~	~~$4,445,300~~	$127,800		$ ~~13,371,600~~
	8,852,400	4,482,700			13,462,900
F. MEDICAL ASSISTANCE PAYMENTS:					
FROM:					
General					
Account	$ ~~342,700~~	$ ~~414,000~~		~~$27,009,700~~	$ ~~27,847,200~~
	358,300	536,300	8,800	30,939,700	31,843,100
Medical Assistance Account				15,000	15,000
Liquor Account				650,000	650,000
Cooperative Welfare					
Account	~~846,400~~	~~1,246,000~~	$ ~~7,500~~	~~79,290,000~~	~~81,390,700~~
	981,300	1,468,000	16,200	90,519,800	92,985,300
County Medical Indigency Suspense Account	67,500	46,200		2,328,800	2,442,500
TOTAL	$ ~~1,256,600~~	~~$1,707,000~~	$ ~~7,500~~	~~$109,301,500~~	~~$112,353,400~~
	1,407,100	2,050,500	25,000	124,453,300	127,935,900
G. ADULT AND A.D.C. ASSISTANCE PAYMENTS:					
FROM:					
General					
Account		$ 92,400		$ 9,726,300	$ 9,818,700
Cooperative Welfare					
Account	$ 2,309,700	1,207,900	$264,400	~~24,753,000~~	~~28,535,000~~
				25,832,300	29,614,300
TOTAL	$ 2,309,700	$1,300,300	$264,400	~~$34,400,100~~	$ ~~38,354,500~~
				35,558,600	39,433,000
H. SOCIAL SERVICES:					
FROM:					
General					
Account	$ 2,414,100	$ 359,800		$ 1,868,900	$ 4,642,800
Cooperative Welfare					
Account	~~8,640,500~~	~~2,070,400~~	$234,300	9,832,500	~~20,793,700~~
	8,720,500	2,079,500			20,866,800
County Medical Indigency Suspense Account		5,400			5,400
TOTAL	~~$11,062,600~~	~~$2,443,600~~	$234,300	$11,701,400	$ ~~25,441,900~~
	11,134,600	2,444,700			25,515,000
I. AIR QUALITY:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$ 267,500	$ 72,300	$ 10,700		$ 350,500
Cooperative Welfare Account	380,100	173,600	900	$ 15,600	570,200
Hazardous Waste Monitoring Account		70,000			70,000
State Agricultural Smoke Management Account		8,000	12,000		20,000
TOTAL	$ 647,600	$ 323,900	$ 23,600	$ 15,600	$ 1,010,700
J. WATER QUALITY AND HAZARDOUS MATERIALS:					
FROM:					
Cooperative Welfare Account	$ ~~1,574,600~~	$1,119,300	$ ~~0,900~~	$ 133,800	$ ~~2,036,600~~
	1,623,100		15,900		2,892,100
Water Pollution Control Account	1,733,100	~~709,300~~	95,400	~~7,775,700~~	~~10,313,500~~
		756,300		10,685,600	13,270,400
Hazardous Waste Monitoring Account	323,500	77,900	56,500	33,200	491,100
TOTAL	$ ~~3,631,200~~	$~~1,906,500~~	$~~160,000~~	$ ~~7,942,700~~	$ ~~13,641,200~~
	3,679,700	1,953,500	167,800	10,852,600	16,653,600
K. INDIRECT SUPPORT SERVICES:					
FROM:					
General Account	$ 2,285,400	$2,130,000	$ 24,800		$ 4,440,200
Cooperative Welfare Account	2,187,600	1,968,800	31,800		4,188,200
County Medical Indigency Suspense Account		46,800			46,800
TOTAL	$ 4,473,000	$4,145,600	$ 56,600		$ 8,675,200
L. COMMUNITY MENTAL HEALTH SERVICES:					
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~~
		900,300			2,431,900
TOTAL	$ 4,964,000	$~~1,385,300~~	$ 60,500	$ 558,700	$ ~~6,960,500~~
		1,543,200			7,126,400
M. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
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~~
	~~1,729,700~~	~~99,300~~		~~1,700,700~~	~~3,529,700~~
TOTAL	~~$ 5,032,600~~	~~$1,320,600~~	~~$106,400~~	~~$ 2,606,400~~	~~$ 9,066,000~~
	5,254,900	1,244,100		2,597,100	9,202,500
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~~
	1,413,700
State Hospital South Income Account	697,300
TOTAL	~~$ 7,490,300~~
	7,810,900

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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
S. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Domestic Violence Account	$70,600	$25,500		$ 89,600	$ 185,700
Cooperative Welfare Account		12,000		254,500	266,500
TOTAL	$70,600	$37,500		$344,100	$ 452,200
T. COMMISSION ON ALCOHOL-DRUG ABUSE:					
FROM:					
General Account	$35,600	$37,700			$ 73,300
GRAND TOTAL					~~$289,355,600~~ 310,309,600

SECTION 2. There is hereby appropriated from the General Account to the Department of Health and Welfare the following amount for deposit in the Water Pollution Control Account to be expended according to Section 39-3606, Idaho Code.

FOR:	
Trustee and Benefit Payments	$2,000,000
FROM:	
General Account	$2,000,000

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

Approved March 28, 1989.

CHAPTER 136
(H.B. No. 198)

AN ACT

RELATING TO DOMESTIC VIOLENCE PREVENTION; AMENDING SECTION 39-6302, IDAHO CODE, TO MODIFY LEGISLATIVE INTENT; AMENDING SECTION 39-6303, IDAHO CODE, TO REDEFINE FAMILY OR HOUSEHOLD MEMBER; AMENDING SECTION 39-6304, IDAHO CODE, TO PROVIDE FOR RELIEF IF A HOUSEHOLD MEMBER, WHETHER AN ADULT OR CHILD IS THE VICTIM OF DOMESTIC VIOLENCE AND TO MODIFY REQUIREMENTS WHERE A PETITION MAY BE FILED; AMENDING SECTION 39-6306, IDAHO CODE, TO PROVIDE FOR OBTAINING LEGAL COUNSEL FOR EITHER PARTY AND TO PROVIDE PROCEDURES FOR RENEWAL OF A PROTECTION ORDER; AMENDING SECTION 39-6308, IDAHO CODE, TO PROVIDE FOR THE GRANTING OF AN EX PARTE PROTECTION ORDER

BASED UPON AFFIDAVIT, TO ALLOW FOR A HEARING BY TELEPHONE, AND TO PROVIDE A PROCEDURE FOR SHORTENING THE TIME PERIOD WHEN A REQUIRED HEARING MUST BE HELD; AND AMENDING SECTION 39-6311, IDAHO CODE, TO PROVIDE FOR THE RENEWAL OF A PROTECTION ORDER UPON MOTION FOR A TIME CERTAIN, AND TO ALLOW THE MOTION FOR RENEWAL OF AN ORDER TO BE GRANTED WITHOUT HEARING UPON CERTAIN FACTORS.

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

SECTION 1. That Section 39-6302, Idaho Code, be, and the same is hereby amended to read as follows:

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~~,~~ and prosecutors and by appropriate attention and concern by 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.

SECTION 2. That Section 39-6303, Idaho Code, be, and the same is hereby amended to read as follows:

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.

SECTION 3. That Section 39-6304, Idaho Code, be, and the same is hereby amended to read as follows:

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, whether an adult or a child, 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.

(6) A petition shall be filed in the county of the respondent's residence, the petitioner's residence, or where the petitioner is temporarily residing.

SECTION 4. That Section 39-6306, Idaho Code, be, and the same is hereby amended to read as follows:

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. If either party is represented by counsel at a hearing seeking entry of a protection order, the court shall permit a continuance, if requested, of the proceedings so that counsel may be obtained by the other party. If the court finds that it is necessary for both parties to be represented by counsel, the court shall enter appropriate orders to insure that counsel is retained. The order entered may require either the petitioner or respondent, or both, to pay for costs of counsel. 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; provided, that an order obtained pursuant to this chapter may, upon motion, be renewed for an additional three (3) months if the requirements of this chapter are met. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered.

(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.

SECTION 5. That Section 39-6308, Idaho Code, be, and the same is hereby amended to read as follows:

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 may grant an ex parte temporary protection order based upon the affidavit submitted or otherwise 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) An ex parte hearing to consider the issuance of a temporary protection order may be conducted by telephone in accordance with procedures established by the Idaho supreme court.

(3) 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~~4) The court shall hold an ex parte hearing on the day the petition is filed or on the following judicial day.

(~~4~~5) 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. If the ex parte temporary protection order substantially affects the respondent's rights to enter the domicile or the respondent's right to custody or visitation of the respondent's children and the ends of justice so require, the respondent may move the court for an order shortening the time period within which the hearing required under the provisions of section 39-6306, Idaho Code, must be held. Motions seeking an order shortening the time period must be served upon the petitioner at least two (2) days prior to the hearing on the motion.

SECTION 6. That Section 39-6311, Idaho Code, be, and the same is

hereby amended to read as follows:

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. A protection order may, upon motion, be renewed for an additional three (3) months if the requirements of this chapter are met. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered. 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.

Approved March 28, 1989.

CHAPTER 137
(H.B. No. 14)

AN ACT

RELATING TO EXEMPTIONS FROM SALES TAX; REPEALING SECTION 63-3622Y, IDAHO CODE.

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

SECTION 1. That Section 63-3622Y, Idaho Code, be, and the same is hereby repealed.

Approved March 28, 1989.

CHAPTER 138
(H.B. No. 139)

AN ACT

RELATING TO PREPAID FUNERAL ARRANGEMENTS; REPEALING SECTIONS 54-1122, 54-1123, 54-1124 AND 54-1125, IDAHO CODE; AMENDING CHAPTER 11, TITLE 54, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 54-1129, 54-1130, 54-1131, 54-1132, 54-1133, 54-1134, 54-1135, 54-1136, 54-1137 AND 54-1138, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE THE SCOPE OF LEGISLATION AND EXCEPTIONS, TO DEFINE TERMS, TO PROVIDE FOR A CERTIFICATE OF AUTHORITY, TO PROVIDE FOR THE FORM AND CONTENT OF CONTRACTS, TO PROVIDE FOR TRUST FUND DEPOSITS, TO PROVIDE FOR CANCELLATION AND REFUNDS, TO PROVIDE FOR SOLICITATION, TO PROVIDE FOR SUBSTITUTIONS, TO PROVIDE FOR ENFORCEMENT AND PENALTY; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 39, TITLE 54, IDAHO CODE, TO CREATE A BOARD OF CEMETERIANS, TO PROVIDE POWERS AND DUTIES OF THE BOARD OF CEMETERIANS, TO PROVIDE LICENSE FEES, TO PROVIDE FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSES, TO PROVIDE FOR WRITTEN COMPLAINTS AND A PROCEDURE FOR SUSPENSION OF REVOCATION OF A LICENSE; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Sections 54-1122, 54-1123, 54-1124 and 54-1125, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 11, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 54-1129, 54-1130, 54-1131, 54-1132, 54-1133, 54-1134, 54-1135, 54-1136, 54-1137 and 54-1138, Idaho Code, and to read as follows:

54-1129. DECLARATION OF INTENT. It is the purpose of sections 54-1129 through 54-1138, Idaho Code, to provide for the certification of persons selling or offering for sale prearrangement sales contracts, to provide for the creation and administration of prearrangement sales contract trust funds to assure funds for the performance to purchasers who contract through prearrangement sales contracts for the purchase of funeral and cemetery merchandise and funeral and cemetery services, and to provide for the disbursement and allocation of trust funds upon the certified person's performance of his contractual obligations. The sections of Idaho Code specified herein shall not affect the provisions of sections 54-1101 through 54-1121 and sections 54-1126 through 54-1128, Idaho Code.

54-1130. SCOPE AND EXCEPTIONS. A. Sections 54-1129 through 54-1138, Idaho Code, apply to all persons who sell or offer for sale prepaid funeral or cemetery merchandise or services.

B. Sections 54-1133, 54-1134 and 54-1135, Idaho Code, do not apply to:

(1) Agreements to sell or sales made for rights of interment or entombment in a cemetery section, lawn crypt section, mausoleum or columbarium which are in existence at the time of initial payment on the contract, or

(2) Agreements to sell or sales made for monuments and grave markers that will be delivered and installed upon performance of payment.

54-1131. DEFINITIONS. As used in sections 54-1132 through 54-1143, Idaho Code:

A. "Beneficiary" means the person who is to receive the funeral or cemetery merchandise or funeral or cemetery services.

B. "Certified person or seller" means any person holding a certificate of registration or who is registered to sell or offer for sale prearrangement sales contracts.

C. "Funeral or cemetery merchandise" means personal property normally and customarily sold by funeral service establishments, cemeteries, and crematoriums including, but not limited to, caskets or other primary containers, burial vaults, casket-vaults, grave liners, funeral clothing or accessories, monuments, grave markers and cremation urns. It shall include:

(1) Merchandise identified for the purchaser or the beneficiary to be manufactured for future delivery and use.

(2) Merchandise that has been manufactured and held by the manufacturer for future delivery and use.

(3) Merchandise that has been manufactured and delivered to and in the possession of the seller, who has placed it, until needed, in storage.

D. "Funeral or cemetery services" mean those services normally and customarily performed by a funeral service practitioner, embalmer, funeral service establishment, cemetery or crematorium in conjunction with funeral or memorial services, interment, entombment or cremation.

E. "Guaranteed contract" means a written prearrangement sales contract that guarantees the beneficiary funeral or cemetery services or funeral or cemetery merchandise contained in the contract and under which no charges other than the sales price contained in the contract shall be required upon delivery of the merchandise or performance of the funeral and cemetery services.

F. "Nonguaranteed contract" means a written prearrangement sales contract that does not guarantee the beneficiary any specific funeral or cemetery merchandise or services. Any funds paid under this contract are only a deposit to be applied toward the final cost of the funeral or cemetery merchandise or services.

G. "Prepaid prearrangement sale or prearrangement sales contract" means any sale, other than a contract of life insurance entered into by an insurance company, that has as its purpose the furnishing of funeral or cemetery merchandise or funeral or cemetery services in connection with the final disposition or commemoration of the memory of a dead human body, for use at a time determinable by the death of the person or persons whose body or bodies are to be disposed and where the sale terms require payment or payments to be made at a currently determinable time.

H. "Primary container" means a casket, rental casket, casket-vault, chapel-vault or other container which serves as the repository for dead human remains.

I. "Public cemetery" means a cemetery owned and operated by a cemetery district organized under Idaho law, or by a municipal corporation or political subdivision of the state of Idaho.

J. "Purchaser" means a beneficiary or a person acting on behalf of a beneficiary who enters into a prearrangement sales contract with a certified person under which any payment or payments made under the contract are required to be deposited in trust.

K. "Secondary container" means a vault, grave liner, urn or other container purchased by the buyer for a burial or required by the cemetery which will be the repository for the primary container.

L. "Trustee" means any bank, trust company or savings institution authorized to do business in the state of Idaho where accounts are insured with the federal deposit insurance corporation, the federal savings and loan insurance corporation or other similar agency of the United States government.

54-1132. CERTIFICATE OF AUTHORITY -- REQUIREMENTS -- DISPLAY OF CERTIFICATE. A. No individual, firm, partnership, corporation, association, or sales entity or business entity of whatever kind or type, may sell a prepaid contract or provide funeral or cemetery merchandise or funeral or cemetery services pursuant to a prepaid contract without first obtaining a valid certificate of authority.

A certificate of authority for public cemeteries shall be issued by the governing board, city council or board of county commissioners having overall supervision and control of the cemetery. A certificate of authority for privately owned cemeteries shall be issued by the Idaho board of cemeterians. A certificate of authority for persons or entities licensed under chapter 11, title 54, Idaho Code, shall be issued by the state board of morticians.

B. Any individual, firm, partnership, corporation, association or sales business entity seeking to obtain a certificate of authority must submit a statement which includes the following:

(1) The types of prepaid contracts to be written;

(2) The name and address of the place of business of the individual, firm, partnership, corporation, or association offering the contract; and

(3) Any information deemed necessary by the certificating authority to show evidence of good moral character, a reputation for fair dealing in business matters, and the absence of a criminal record.

C. Upon issuance, the certificate of authority shall be posted conspicuously in the holder's place of business.

D. Any individual or sales or business entity holding a certificate shall present a copy of the certificate to the purchaser before engaging in the activity of selling a prearrangement sales contract.

54-1133. FORM AND CONTENT OF CONTRACT -- PRICE DISCLOSURE. A. Each contract shall be written in clear understandable language and shall be printed or typed in easy-to-read type, size, and style.

B. Each contract shall identify the seller, seller's certificate of authority number, purchaser, and the beneficiary if other than the purchaser.

C. Each contract shall specify the services and/or merchandise to be provided, as well as a statement of the law regarding substitution as provided in section 54-1137, Idaho Code.

D. Each contract shall set forth the purchase price and the terms under which it is to be paid.

E. Each contract shall conform to other state or federal regulations, including price disclosure. It is the contract seller's duty to comply with such regulations.

F. Each contract shall state clearly whether it is a guaranteed price contract or a nonguaranteed price contract.

G. Each contract shall state clearly whether it is a revocable or nonrevocable trust.

H. Each contract shall state the amount of money to be placed in trust and the name of the trustee, but the contract may provide that the seller may designate a new trustee to obtain higher interest earnings on the trust funds.

I. Each contract shall explain the disposition of the interest and include a statement of the fees, expenses and taxes which may be deducted from the interest pursuant to section 54-1134, Idaho Code, and a statement of the purchaser's responsibility for taxes owed on the interest.

J. Each contract shall explain the purchaser's cancellation rights pursuant to section 54-1135, Idaho Code.

54-1134. PREARRANGEMENT TRUST FUND DEPOSITS. A. Within ten (10) business days of receipt, funds received by the seller in payments of the prepaid contract shall be deposited in trust as follows:

(1) Fifty per cent (50%) of the amount received in payment for a marker, monument or secondary container shall be deposited with the trustee to be held in trust; provided however, the first fifty per cent (50%) of the fifty per cent (50%), or twenty-five per cent (25%) of the total, may be collected, accounted for and applied to the seller's cost of purchase with the remainder to be deposited in trust. No amount need be held in trust for those items which are fully purchased by the seller and stored for the purchaser at seller's expense in a bonded warehouse.

(2) Upon the sale of all other funeral or cemetery merchandise or services there shall be deposited in trust the amount of eighty-five per cent (85%) of the amounts received.

B. Funds deposited in trust shall be identified in the records of the trustee by the name of the purchaser and beneficiary and adequate records shall be maintained to allocate all earnings to each prearrangement sales contract. Nothing shall prevent the trustee from commingling the deposits in any such trust fund account for purposes of managing and investing the funds. A common trust fund account shall be identified by the name of the trustee.

C. The certificating authority shall as often as it deems reasonably necessary, examine the trust account, records, documents and contracts of the seller. The certificating authority shall determine the

reasonable cost of such examination, which shall be paid to the certificating authority by the seller. Each seller is hereby required to file not less than annually with the certificating authority a certified audit report revealing the number of such contracts or agreements executed by him during the preceeding year, the total value of said contracts or agreements, the amount of money collected and paid in trust pursuant to said contracts or agreements and the name of the trustee.

D. The interest income from the trust on all contracts may be used to pay reasonable trustee fees and administrative expenses incurred in the administration of the trust and taxes. The certificating authority shall, by rule, establish a limit on the amount of fees and expenses which may be deducted from the interest income and the trustee shall not exceed said limit.

E. At the time of providing the services and/or merchandise, any interest income remaining after payment of trustee fees, administrative expenses and taxes shall be disbursed as follows:

(1) On a guaranteed price prepaid contract, to the seller.

(2) On a nonguaranteed price prepaid contract, to the purchaser or the purchaser's estate.

F. Any person engaging in prearrangement sales who enters into a combination sale which involves the sale of items subject to trust and any item not subject to trust shall be prohibited from increasing the sales price of those items not subject to trust with the purpose of allocating a lesser sales price to items which require a trust deposit.

54-1135. CANCELLATION OF CONTRACT -- REFUND OF TRUST DEPOSITS. A. At any time prior to the death of the beneficiary under a revocable prearrangement sales contract trust, the purchaser may cancel the contract and be entitled to a refund of all payments made, plus accrued interest thereon, less reasonable administrative expenses and taxes incurred in the operation of the trust.

B. Prearrangement sales contracts which are irrevocable pursuant to the terms of such contract shall not be cancellable by the purchaser or by the beneficiary.

54-1136. SOLICITATION -- LIMITATIONS. A. The right of a seller to lawfully advertise shall not be restrained, nor shall general advertising be prohibited.

B. Advertising and marketing of prearrangement sales contracts is permitted provided that:

(1) The seller clearly identifies himself and his product.

(2) The seller shows his certificate of authority as provided in section 54-1132, Idaho Code. If the marketing is by telephone, the seller must disclose his certificate of authority.

(3) The seller makes an appointment with the prospective buyer if the meeting is at a place other than the seller's place of business.

C. Advertising and marketing of prearrangement sales contracts is permitted provided that any contract seller or agent or employee or person acting in behalf of any such person shall not:

(1) Directly or indirectly call upon or employ any agent, assistant, employee, independent contracting person or any other person to call upon individuals or persons in hospitals, rest homes, or similar institutions for the purpose of soliciting prepaid contracts for making funeral or cemetery or final disposition arrangements without first having been specifically requested to do so by such person or by his next of kin.
(2) Solicit for dead human bodies for the purpose of providing funeral or cemetery services, final disposition, or cemetery or funeral merchandise when such solicitation occurs where death is reasonably pending or after death.
(3) Solicit or accept or pay any consideration for recommending specified persons to cause a dead human body to be provided funeral or cemetery services or funeral or cemetery merchandise, or the services of a crematory, mausoleum or cemetery except where such arrangement is subject to a prepaid contract.
(4) Be involved in solicitation which comprises an uninvited invasion of personal privacy at the personal residence of a person unless the solicitation has been previously and expressly requested by the person solicited.

54-1137. SUBSTITUTIONS -- MERCHANDISE, SERVICES OR PROVIDER. A. If the particular merchandise or service specified in the contract is unavailable at the time of delivery, the seller shall furnish merchandise and services similar in style and at least equal in quality of material and workmanship.

B. The evaluation of quality shall be based on objective criteria.

C. The person making arrangements for the funeral of the contract beneficiary shall choose the goods and/or services to be substituted and this choice must be reasonable based on the standards in subsections A and B of this section.

D. If the seller is unable to provide merchandise and services or acceptable substitute merchandise or services under the terms of the contract, then the person responsible for arrangements for the funeral of the contract beneficiary may choose another provider and the funds in the trust shall be used to pay for the merchandise and services of the substitute provider.

54-1138. ENFORCEMENT PENALTY -- DISCLOSURE OF CONTRACTS UPON SALE OF BUSINESS. A. Sections 54-1129 through 54-1138, Idaho Code, shall be enforced by the Idaho state board of morticians or by the Idaho state board of cemeterians, depending upon whether the seller is a mortician or cemeterian, who shall have authority to promulgate rules and regulations to enforce the provisions.

B. Any person violating the provisions of sections 54-1129 through 54-1137, Idaho Code, shall be guilty of a misdemeanor unless such act is punishable as a felony elsewhere under law.

C. No funeral service or funeral merchandise provider, be it funeral home or cemetery or third party seller, shall go out of business or sell a substantial part or all of its assets to any other person or firm without first disclosing the full particulars of all pre-

arrangement sales contracts entered into by such seller, including the date of such contract, the purchaser thereof, the beneficiary, the amount of the trust, the name and location of trustee, and the merchandise or services to be provided under the terms of the contract.

SECTION 3. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 39, Title 54, Idaho Code, and to read as follows:

CHAPTER 39
BOARD OF CEMETERIANS

54-3901. BOARD OF CEMETERIANS. There is hereby established in the department of self-governing agencies a state board of cemeterians to be composed of three (3) members appointed by the governor in the manner hereinafter set forth. Each member of the board shall be a cemeterian and resident of the state of Idaho for a period of at least five (5) years next preceding his appointment, during which time he shall have been continuously engaged in the cemetery business. No person shall be eligible for appointment to the board of cemeterians who is financially interested, directly, or indirectly, in any embalming college, wholesale funeral supply business, or casket manufacturing business.

The governor shall appoint the members of the board from a list of qualified cemeterians of triple the number of persons to be appointed, who shall be proposed and submitted to him by the Idaho cemetery association, inc., or other statewide organization or association of cemeterians whose membership is composed of a majority of all cemeterians of the state.

All members of the board of cemeterians shall be appointed to serve for a term of three (3) years, to expire on May 1 of the year of termination of their term, and until their successors have been appointed and qualified; provided, however, the governor is hereby granted the power to alter the term of office of the members of the board first appointed hereunder so that the term of office of not more than one (1) member of the board shall terminate in any one (1) year. In case of a vacancy occurring on said board of cemeterians by reason of the death of any member, or his resignation, incapacity, neglect or refusal to act, or in any other way, the governor shall appoint a qualified member for the remainder of the unexpired term of the vacant office from a list of duly qualified cemeterians prepared and submitted in the manner prescribed herein for the initial appointment of members to the board. Any member of the board of cemeterians who willfully fails to properly discharge his duties may be removed by the governor.

The board shall meet, not less than annually, to elect a chairman, vice chairman, and secretary and take official board action on pending matters by majority vote of all the members of the board of cemeterians, and in doing so a majority of the members of said board shall at all times constitute a quorum. Notice of any meeting shall be given by the chairman to all members of the board at least ten (10) days in advance of each meeting unless such notice is waived in writ-

ing by all of the members of the board.

Each member of the board of cemeterians shall be compensated as provided by section 59-509(g), Idaho Code.

54-3902. POWERS AND DUTIES OF BOARD. The state board of cemeterians shall have the following powers and duties:

A. To prepare, conduct, and grade examinations of applicants for cemeterian licenses.

B. To certify the results of examinations of applicants and certify the applicant as having "passed" or "failed".

C. To conduct hearings and proceedings in connection with the suspension or revocation of licenses.

D. To make findings and recommendations to the governor on any and all matters relating to the enforcement of the provisions of this act.

E. To perform all duties and exercise all other powers granted under this act, or the laws of the state of Idaho.

F. To authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest.

54-3903. LICENSE FEES. There shall be paid with the filing of any application for an original license, or the application for any renewal of a license, the following license fees:

A. Twenty-five dollars ($25.00) for a cemeterian license.

B. Thirty-five dollars ($35.00) for a cemetery establishment license.

C. Fifteen dollars ($15.00) for a resident trainee license. All licenses shall be issued on a calendar or fiscal year basis, as determined by the board, and there shall be no proration of fees for a part year license.

All fees shall be paid to the bureau of occupational licenses.

54-3904. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES -- GROUNDS -- PROBATION. The board may refuse to issue or may refuse to renew or may suspend or may revoke any license, or may place the holder thereof on a term of probation, after proper hearing, upon finding that the holder of such license committed any of the following acts or omissions:

A. Conviction of, being found guilty of, pleading guilty to or receiving withheld judgment for a crime involving moral turpitude.

B. Conviction of, being found guilty of, pleading guilty to or receiving withheld judgment for a felony.

C. Unprofessional conduct, which is hereby defined to include:

(1) Misrepresentation or fraud in the conduct of cemetery services;

(2) False or misleading advertising as a holder of a license for the advertising or using the name of an unlicensed person in connection with that of any cemetery establishment;

(3) Employment directly or indirectly, of any resident trainee, agent, assistant, employee, or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned

over to a particular cemetery establishment;
(4) Gross immorality;
(5) Aiding or abetting an unlicensed person to engage in practice as a cemeterian;
(6) Violation of any of the provisions of section 54-1116, Idaho Code.
(7) Violation of any state law, or municipal or county ordinance, or regulation authorized under this act affecting the handling, custody, care, processing or transportation of dead human bodies;
(8) Fraud or misrepresentation in obtaining or renewing a license;
(9) Violation of statutes of any state having to do with prearrangement or prefinancing of cemetery supplies or services.

54-3905. WRITTEN COMPLAINT -- PROCEDURE FOR SUSPENSION OR REVOCATION OF LICENSE. Upon a written complaint filed with the board of cemeterians, or any other person, the board shall cause to be held a hearing to determine whether a license of any person issued under this act should be suspended or revoked, or the issuance or renewal thereof refused, because of a violation of any of the causes set forth in section 54-3904, Idaho Code. At least fifteen (15) days prior to the date set for such hearing, the board shall cause written notice to be sent by certified mail to the licensee or applicant at his last known address, which notice shall contain a statement of the charges made, and the date, time and place set for hearing. The board shall hear the testimony of witnesses, under oath administered by the board, and stenographic report of the proceedings shall be taken and transcribed and kept in the file of the board. The accused applicant or licensee shall have the right to be present in person or by counsel at such hearing and confront all witnesses and cross-examine them in connection with the charges made against him.

Within ten (10) days from the conclusion of the hearing, the board of cemeterians shall declare their written findings and recommendations as to what action should be taken with regard to the issuance or renewal of a license, or the revocation or suspension thereof, and mail a copy thereof to the applicant or licensee under review. The board shall, within ten (10) days from declaring its findings and recommendations issue its decision and action upon the complaint and mail copies thereof by certified mail to the applicant or licensee under review and each of the members of the board of cemeterians.

SECTION 4. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved March 28, 1989.

CHAPTER 139
(H.B. No. 278)

AN ACT

RELATING TO CORPORATIONS; AMENDING SECTION 30-1601, IDAHO CODE, TO FURTHER DEFINE THE TERM ISSUING PUBLIC CORPORATION; AND AMENDING SECTION 30-1701, IDAHO CODE, TO FURTHER DEFINE THE TERM ISSUING PUBLIC CORPORATION.

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

SECTION 1. That Section 30-1601, Idaho Code, be, and the same is hereby amended to read as follows:

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 associate 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 to 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 corpora-

tion, 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~~ two hundred fifty (250~~0~~) 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 number of employees shall be computed by including all employees of subsidiaries or affiliates of the publicly held corporation. 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.

SECTION 2. That Section 30-1701, Idaho Code, be, and the same is hereby amended to read as follows:

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 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 dis-

solution 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~~ two hundred fifty (250) 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 number of employees shall be computed by including all employees of subsidiaries or affiliates of the publicly held corporation. 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 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.

(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.

Approved March 28, 1989.

CHAPTER 140
(H.B. No. 99)

AN ACT

RELATING TO TRADE PRACTICES AND FRAUDS; AMENDING CHAPTER 13, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1332, IDAHO CODE, TO PROVIDE FOR THE RETURN OF UNEARNED PREMIUM FOR DISABILITY INSURANCE POLICIES.

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

SECTION 1. That Chapter 13, 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 41-1332, Idaho Code, and to read as follows:

41-1332. RETURN OF UNEARNED PREMIUM FOR DISABILITY POLICIES. Upon the death of a disability policyholder, the insurer shall immediately return any applicable unearned premium on a prorated basis for the period beginning with the month after the month of death for which there is no risk or loss to the company. Violation of the provisions of this section shall subject the insurer to an administrative penalty not to exceed five thousand dollars ($5,000) for deposit in the general account of the state of Idaho. The provisions of this section shall not apply to credit disability insurance policies.

Approved March 28, 1989.

CHAPTER 141
(H.B. No. 100)

AN ACT

RELATING TO THE INSURANCE CONTRACT; AMENDING SECTION 41-3419, IDAHO CODE, TO ALLOW SIXTY DAYS FOR THE DIRECTOR TO APPROVE OR DISAPPROVE OF FORMS PERTAINING TO SERVICE CORPORATIONS THAT ARE FILED WITH THE DEPARTMENT OF INSURANCE, AND TO ALLOW AN ADDITIONAL SIXTY DAYS FOR THE DIRECTOR TO APPROVE OR DISAPPROVE SUCH FILINGS UPON GIVING WRITTEN NOTICE TO THE SERVICE CORPORATION.

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

SECTION 1. That Section 41-3419, Idaho Code, be, and the same is hereby amended to read as follows:

41-3419. FILING AND APPROVAL OF AGREEMENTS AND CONTRACTS. (1) No service corporation shall issue or use any basic form of service agreement or subscriber's contract, or application, identification, supplement, or endorsement to be connected with any such agreement or contract, until such form has been filed with the director and approved by him. This provision shall not apply to agreements, contracts, applications, identification, supplements, endorsements or other forms of unique character designed for and used with relation to a particular set of circumstances.

(2) The director shall approve any such form unless disapproved by him on one or more of the grounds set forth in subsection (3) below. If not so approved or disapproved by order transmitted to the filing service corporation within ~~thirty (30)~~ sixty (60) days after the date filed, the form shall be deemed to have been approved, provided, however, that the director may extend by not more than an additional sixty (60) days the period within which he may so affirmatively approve or disapprove any such form, by giving notice to the service corporation of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The director may at any time, after notice and for cause shown, withdraw any such approval.

(3) The director shall disapprove any proposed form referred to in subsection (1) above which:

(a) Is in any respect not in compliance with or in violation of law; or

(b) Contains any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the services or benefits purported to be provided for in the general terms of the agreement or contract; or

(c) Has any indication of its provisions which is misleading; or

(d) Is printed or otherwise reproduced in such manner as to render any provision of the form substantially illegible.

(4) In any order of disapproval the director shall state the particulars of the grounds for disapproval.

Approved March 28, 1989.

CHAPTER 142
(H.B. No. 185)

AN ACT

RELATING TO LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS; AMENDING SECTION 41-1927, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF INTEREST TO POLICYHOLDERS WHEN AN INSURER DEFERS PAYMENT OF CASH SURRENDER VALUES AND TO PROVIDE A CORRECT REFERENCE; AND AMENDING

SECTION 41-1927A, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF INTEREST WHEN AN INSURER DEFERS PAYMENT OF CASH SURRENDER BENEFITS.

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

SECTION 1. That Section 41-1927, Idaho Code, be, and the same is hereby amended to read as follows:

41-1927. STANDARD NONFORFEITURE LAW -- LIFE INSURANCE. (1) This section shall be known as the standard nonforfeiture law for life insurance.

(2) Nonforfeiture provisions: In the case of policies issued on or after the operative date of this section as defined in subsection (14) of this section, no policy of life insurance, except as set forth in subsection (13) of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection (12) of this law:

(a) That in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified. In lieu of such stipulated paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(b) That upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance, and five (5) full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

(d) That if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance, or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) In the case of policies which cause, on a basis guaranteed in

the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(3) Any of the provisions or portions thereof set forth in subdivisions (a) through (f) of the foregoing subsection (2) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy. If the insurer defers payment of a cash surrender value under the provisions of this section, the insurer shall pay interest to the policyholder at the rate specified in section 28-22-104(2), Idaho Code, as established and in existence at the time of the surrender demand.

(4) Cash surrender value: Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (2) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

(a) The then present value of the adjusted premiums as defined in subsections (6) through (9) of this section, corresponding to pre-

miums which would have fallen due on and after such anniversary, and

(b) The amount of any indebtedness to the insurer on account of or secured by the policy. Provided, however, that for any policy issued on or after the operative date of subsection (9)(d) as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision. Provided, further, that for any family policy issued on or after the operative date of subsection (9)(d) as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one (71), the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments, or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(5) Paid-up nonforfeiture benefits: Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the conditions that premiums shall have been paid for at least a specified period.

(6) The adjusted premium: This subsection (6) shall not apply to policies issued on or after the operative date of subsection (9)(d) as defined therein. Except as provided in subsection (8) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal

to the sum of:

(a) The then present value of the future guaranteed benefits provided for by the policy;

(b) Two per cent (2%) of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy;

(c) Forty per cent (40%) of the adjusted premium for the first policy year;

(d) Twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less, provided, however, that in applying the percentages specified in subdivisions (c) and (d) above, no adjusted premiums shall be deemed to exceed four per cent (4%) of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of issue of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purposes of this subsection shall be the date as of which the rated age of the insured is determined.

(7) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of the preceding subsection (6) shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten (10) were the amount provided by such policy at age ten (10).

(8) The adjusted premiums for any policy providing term insurance benefits by any rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in subsections (6) and (7) except that, for the purposes of subdivisions (b), (c) and (d) of subsection (6), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (4)(a).

(9)(a) Except as provided in subdivisions (b), (c) and (d) of this subsection, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1941 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated, at the option of the insurer according to an age not more than three (3) years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent (3 1/2%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty per cent (130%) of the rates of mortality according to such applicable table, provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

(b) This subsection (9)(b) shall not apply to ordinary policies issued on or after the operative date of subsection (9)(d) as defined therein. In the case of ordinary policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1977, and a rate of interest not exceeding five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after July 1, 1977, except that for any single premium whole life or endowment insurance policy at a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six (6) years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1958 extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

On or after the operative date of this section as defined in subsection (14) of this section, any insurer may file with the director a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such insurer), this subdivision shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1966.

(c) This subsection (9)(c) shall not apply to industrial policies issued on or after the operative date of subsection (9)(d) as defined therein. In the case of industrial policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1977, and a rate of interest not exceeding five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after July 1, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1961 industrial extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer anyd approved by the director.

After the effective date of this amendatory act, any insurer may file with the director a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such insurer), this subdivision shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1968.

(d) (i) Subsection (9)(d) shall apply to all policies issued on or after the operative date of this subsection (9)(d) as defined herein. Except as provided in paragraph vii of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy

for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (A) the then present value of the future guaranteed benefits provided for by the policy; (B) one per cent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and (C) one hundred twenty-five per cent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (C) above, no nonforfeiture net level premium shall be deemed to exceed four per cent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(ii) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one (1) per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(iii) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(iv) Except as otherwise provided in paragraph vii of this subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly

defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of the sum of (A) the then present value of the then future guaranteed benefits provided for by the policy and (B) the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(v) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (A) one per cent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (B) one hundred twenty-five per cent (125%) of the increase, if positive, in the nonforfeiture net level premium.

(vi) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where

(A) equals the sum of

1. the nonforfeiture net level premium applicable prior to the change, times the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

2. the present value of the increase in future guaranteed benefits provided for by the policy, and

(B) equals the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(vii) Notwithstanding any other provisions of this subsection to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values, for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(viii) All adjusted premiums and present values referred to in this section shall, for all policies of ordinary insurance, be calculated on the basis of (A) the commissioners 1980 standard ordinary mortality table or (B) at the election of the insurer for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors; shall, for all policies of industrial insurance, be calculated on the basis

of the commissioners 1961 standard industrial mortality table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection, for policies issued in that calendar year. Provided, however, that:

1. At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year.

2. Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (2) shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

3. An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

4. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance.

5. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

6. Any ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the director for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table.

7. Any industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substi-

tuted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

(ix) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five per cent (125%) of the interest rate used in determining the minimum standard for the valuation of such policy as defined in the standard valuation law, rounded to the nearer one-quarter of one per cent (1/4 of 1%).

(x) Notwithstanding any other provision in this code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(xi) After the effective date of subsection (9)(d), any insurer may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1989.

(10) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on the then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsections (2) through (9) herein, then:

(a) The director must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections (2) through (9) herein;

(b) The director must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(c) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this standard nonforfeiture law for life insurance, as determined by regulations promulgated by the director.

(11) Calculation of values: Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (4) through (9) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding the provisions of subsection (4) of this section,

additional benefits payable:

(a) In the event of death or dismemberment by accident or accidental means,

(b) In the event of total and permanent disability,

(c) As reversionary annuity or deferred reversionary annuity benefits,

(d) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply,

(e) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six (26), is uniform in amount after the child's age is one (1), and has not become paid-up by reason of the death of a parent of the child, and

(f) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(12) This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one per cent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years, from the sum of:

(a) The greater of zero and the basic cash value hereinafter specified; and

(b) The present value of any existing paid-up additions less the amount of any indebtedness to the insurer under the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the insurer, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (4) or (8), whichever is applicable, shall be the same as are the effects specified in subsection (4) or (8), whichever is applicable, on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (6) or (9)(d), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

(a) Must be the same percentage for each policy year between the

second policy anniversary and the later of (i) the fifth policy anniversary and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one per cent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and

(b) Must be such that no percentage after the later of the two (2) policy anniversaries specified in the preceding paragraph (a) may apply to fewer than five (5) consecutive policy years.

Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection (6) or (9)(d), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall, for a particular policy, be calculated on the same mortality and interest basis as are used in demonstrating the policy's compliance with the other subsections of this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections (2), (3), (4), (5), (9)(d) and (11). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as items (~~i~~a) through (~~vi~~f) in subsection (11) shall conform with the principles of this subsection (12).

(13) Exceptions. This section shall not apply to any of the following:

(a) Reinsurance,

(b) Group insurance,

(c) Variable life insurance,

(d) Pure endowment,

(e) Annuity or reversionary annuity contract,

(f) Term policy of uniform amount which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy,

(g) Term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subsections (6) through (9) of this section, is less than the adjusted premiums so calculated on a policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of

the policy;

(h) Policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections (4) through (9) of this section, exceeds two and one-half per cent (2 1/2%) of the amount of insurance at the beginning of the same policy year;

(i) Policy which shall be delivered outside this state through an agent or other representative of the insurer issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

(14) Operative date. After January 1, 1962, any insurer may file with the director a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1963. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer) this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be January 1, 1963.

SECTION 2. That Section 41-1927A, Idaho Code, be, and the same is hereby amended to read as follows:

41-1927A. STANDARD NONFORFEITURE LAW FOR INDIVIDUAL DEFERRED ANNUITIES. (1) This section shall be known as the standard nonforfeiture law for individual deferred annuities.

(2) This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer issuing the contract.

(3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12) of this section, no contract of annuity, except as stated in subsection (2) of this section shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract.

(a) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8) and (10) of this section.

(b) If a contract provides for a lump sum settlement at maturity,

or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8) and (10) of this section. The insurer shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract. If the insurer defers payment of a cash surrender benefit under this section, the insurer shall pay interest at the rate specified in section 28-22-104(2), Idaho Code, as established and in existence at the time of the surrender demand.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars ($20.00) monthly, the insurer may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(4) The minimum values as specified in subsections (5), (6), (7), (8) and (10) of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three per cent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of (i) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three per cent (3%) per annum and (ii) the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars ($30.00) and less a collection charge of one dollar and twenty-five cents ($1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five per cent (65%) of the net consideration for the first contract year and eighty-seven and one-half per cent (87 1/2%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five per cent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five per cent (65%).

(b) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five per cent (65%) of the net consideration for the first contract year plus twenty-two and one-half per cent (22 1/2%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

2. The annual contract charge shall be the lesser of (i) thirty dollars ($30.00) or (ii) ten per cent (10%) of the gross annual considerations.

(c) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety per cent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars ($75.00).

(5) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(6) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the

contract, such present value being calculated on the basis of an interest rate not more than one per cent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(8) For the purpose of determining the benefits calculated under subsections (6) and (7) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(9) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(10) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(11) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the

minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (5), (6), (7), (8) and (10) of this section, additional benefits payable (i) in the event of total and permanent disability, (ii) as reversionary annuity or deferred reversionary annuity benefits, or (iii) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(12) After the effective date of this section any insurer may file with the director a written notice of its election to comply with the provisions of this section after a specified date before the second anniversary of the effective date of this section. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such insurer, this section shall become operative with respect to annuity contracts thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be the second anniversary of the effective date of this section.

Approved March 28, 1989.

CHAPTER 143
(H.B. No. 138)

AN ACT

RELATING TO THE COORDINATION OF BENEFITS IN GROUP DISABILITY INSURANCE POLICIES; AMENDING SECTION 41-2216, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR SHALL PROMULGATE RULES THAT ARE IN ACCORDANCE WITH THE MODEL REGULATIONS OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS RELATING TO THE COORDINATION OF BENEFITS IN GROUP DISABILITY INSURANCE POLICIES.

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

SECTION 1. That Section 41-2216, Idaho Code, be, and the same is hereby amended to read as follows:

41-2216. COORDINATION OF BENEFITS -- COORDINATION WITH SOCIAL SECURITY BENEFITS. (1) The director shall promulgate rules that are in accordance with the model regulations of the national association of insurance commissioners relating to coordination of benefits provisions in group disability insurance policies. This section shall apply

to all policies of group disability insurance issued in this state pursuant to the provisions of chapter 22, title 41, Idaho Code, as well as to group disability policies issued by hospital and medical service corporations, health maintenance organizations, and benefit insurers. These rules may establish uniformity in the permissive use of coordination of benefits provisions in order to avoid claim delays and misunderstandings that otherwise result from the use of inconsistent or incompatible provisions among the several insurers and nonprofit hospital, medical service, and health care plans.

(2) Any provision contained in a policy of group or blanket disability insurance providing for a reduction of benefits payable under the policy during a policy benefit period due to an increase in benefits payable under the federal social security act, as amended, shall be null and void with respect to any such increase which occurs on or after the effective date of this act.

Approved March 28, 1989.

CHAPTER 144
(H.B. No. 153)

AN ACT

RELATING TO TAXES; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 42, TITLE 63, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE A TAX ON MARIJUANA AND CONTROLLED SUBSTANCES, TO PROVIDE THAT THE TAX COMMISSION SHALL ISSUE STAMPS, TO PROVIDE THAT STAMPS SHALL BE PLACED ON MARIJUANA AND CONTROLLED SUBSTANCES, TO PROVIDE A CIVIL PENALTY AND A STATUTE OF LIMITATIONS, TO AUTHORIZE THE COMMISSION TO ADMINISTER THE TAX, TO PROVIDE THAT NO IMMUNITY FROM CRIMINAL PROSECUTION IS GRANTED PURSUANT TO THIS CHAPTER, AND TO PROVIDE FOR THE DISTRIBUTION OF THE REVENUES.

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

SECTION 1. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 42, Title 63, Idaho Code, and to read as follows:

CHAPTER 42
ILLEGAL DRUG STAMP TAX ACT

63-4201. SHORT TITLE. This chapter is known as the "Illegal Drug Stamp Tax Act."

63-4202. DEFINITIONS. As used in this chapter:

(1) "Commission" means the state tax commission.

(2) "Controlled substance" means any drug or substance, whether real or counterfeit, as defined in section 37-2701, Idaho Code, that

is held, possessed, transported, transferred, sold, or offered to be sold in violation of Idaho laws. It does not include marijuana.

(3) "Dealer" means a person who, in violation of Idaho law, manufactures, produces, ships, transports, or imports into Idaho or in any manner acquires or possesses more than forty-two and one-half (42 1/2) grams of marijuana, or seven (7) or more grams of any controlled substance, or ten (10) or more dosage units of any controlled substance which is not sold by weight.

(4) "Marijuana" means any marijuana, whether real or counterfeit, as defined in section 37-2701, Idaho Code, that is held, possessed, transported, transferred, sold, or offered to be sold in violation of Idaho laws.

63-4203. TAX IMPOSED ON MARIJUANA AND CONTROLLED SUBSTANCES. (1) A tax is imposed on marijuana and controlled substances as defined under this chapter at the following rates:

(a) On each gram of marijuana, or each portion of a gram, three dollars and fifty cents ($3.50);

(b) On each gram of controlled substance, or each portion of a gram, two hundred dollars ($200); and

(c) On each fifty (50) dosage units of a controlled substance that is not sold by weight, or portion thereof, two thousand dollars ($2,000).

(2) For the purpose of calculating the tax under this chapter, a quantity of marijuana or other controlled substance is measured by the weight of the substance, whether pure or impure or dilute, or by dosage units when the substance is not sold by weight, in the dealer's possession. A quantity of a controlled substance is dilute if it consists of a detectable quantity of pure controlled substance and any excipients or fillers.

63-4204. STAMPS, EVIDENCING TAX PAID TO BE PROVIDED AND SOLD BY THE COMMISSION. (1) The commission shall adopt a uniform system of providing, affixing and displaying official stamps, official labels, or other official indicia for marijuana and controlled substances on which a tax is imposed.

(2) A dealer may not possess any marijuana or controlled substance upon which a tax is imposed by this chapter, unless the tax has been paid on the marijuana or other controlled substance as evidenced by a stamp or other official indicia.

(3) Official stamps, labels, or other indicia to be affixed to all marijuana or controlled substances shall be purchased from the commission. The purchaser shall pay one hundred percent (100%) of face value for each stamp, label, or other indicia at the time of the purchase.

63-4205. STAMPS TO BE AFFIXED TO MARIJUANA AND CONTROLLED SUBSTANCE -- ANONYMITY PROVIDED WHEN PURCHASING STAMPS. (1) When a dealer purchases, acquires, transports, or imports into this state marijuana or controlled substances, he shall permanently affix the official indicia on the marijuana or controlled substances evidencing the payment of the tax required under this chapter. No stamp or other offi-

cial indicia may be used more than once.

(2) Taxes imposed upon marijuana or controlled substances by this chapter are due and payable immediately upon acquisition or possession in this state by a dealer.

(3) Payments required under this chapter shall be made to the commission on forms provided by the commission. Dealers are not required to give their name, address, social security number, or other identifying information on the form. The commission shall collect all taxes imposed under this chapter.

63-4206. CIVIL PENALTY -- CRIMINAL PENALTY -- STATUTE OF LIMITATIONS -- BURDEN OF PROOF. (1) Any dealer violating the provisions of this chapter is subject to a penalty of one hundred percent (100%) of the tax in addition to the tax imposed by section 63-4203, Idaho Code. The penalty shall be collected as part of the tax.

(2) In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, be fined not more than ten thousand dollars ($10,000), or both.

(3) Notwithstanding any other provision of the criminal laws of this state, an information, indictment, or complaint may be filed upon any criminal offense under this chapter within six (6) years after the commission of this offense.

(4) Any tax and penalties assessed by the commission are presumed to be valid and correct. The burden is on the taxpayer to show their incorrectness or invalidity.

63-4207. COMMISSION TO ADMINISTER TAX -- NO CRIMINAL IMMUNITY FOR DEALERS. (1) The commission shall administer the provisions of this chapter and may adopt rules necessary to enforce the provisions of this chapter.

(2) Nothing in this chapter requires persons lawfully in possession of marijuana or a controlled substance to pay the tax required under this chapter.

(3) Nothing in this chapter provides immunity of any kind for a dealer from criminal prosecution under Idaho law.

63-4208. DISTRIBUTION OF TAX REVENUES. The revenues received from the taxes imposed by section 63-4203, Idaho Code, and any penalties, interest, or deficiency additions, shall be distributed periodically as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the tax by the commission, as determined by it 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 of collecting, administering and enforcing the tax by the commission or in excess of any amount required to be distributed by subsection (b) of this section shall, at the end of each fiscal year, be distributed to the substance abuse treatment account.

(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 from the state refund account and those moneys are hereby continuously appropriated for that purpose.

Approved March 28, 1989.

CHAPTER 145
(H.B. No. 116)

AN ACT

RELATING TO COUNTY INSURANCE PROGRAMS; AMENDING SECTION 31-814, IDAHO CODE, TO PROVIDE THAT A BOARD OF COUNTY COMMISSIONERS MAY CREATE OR PARTICIPATE IN SELF-INSURED RISK PROGRAMS; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 31-814, Idaho Code, be, and the same is hereby amended to read as follows:

31-814. INSURANCE OF COUNTY PROPERTY. Where in the discretion of the commissioners it is desirable, they are hereby authorized to make contracts of insurance with any insurance company authorized to transact business within the state providing for insurance against loss by fire, and against any and all hazards on any or all property belonging to the county, including insurance to cover liability for damages to property and for bodily injury arising as a result of the ownership, operation or use of county vehicles. In consideration of the premium at which any such policy shall be written, it shall be a part of the policy contract between the county and the insurance company that the insurance company shall not be entitled to the defense of governmental immunity of the insured. Immunity of the county, against liability damages, is hereby waived to the extent of the liability insurance carried by the county on such vehicles. Nothing herein contained shall be construed to require the making of such contracts of insurance by the commissioners on behalf of the county; provided that the board may create or participate in a self-insured risk program with a fund balance which may be carried over from year to year, said fund balance not to exceed ten million dollars ($10,000,000).

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1989.

Approved March 28, 1989.

CHAPTER 146
(H.B. No. 248)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-432, IDAHO CODE, TO PROVIDE A PROCEDURE FOR ELECTORS WHO HAVE BEEN CHALLENGED TO PRESENT INFORMATION REGARDING QUALIFICATION.

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

SECTION 1. That Section 34-432, Idaho Code, be, and the same is hereby amended to read as follows:

34-432. CORRECTION OF ELECTION REGISTER FROM CHALLENGES AT ELECTION. (1) Within sixty (60) days after each election, the county clerk shall examine the election register and note the challenges as described in section 34-431, Idaho Code. The county clerk shall mail a written inquiry to the challenged elector at his mailing address as indicated on his registration card. Such inquiry shall state the nature of the challenge and provide a suitable form for reply.

(2) Within twenty (20) days from date of mailing of the written inquiry the elector may, in person or in writing, state that the information on his registration card is correct or he may request a change in the information on his registration card. Upon receipt of such a statement or request the county clerk shall ~~consider the challenge satisfied. If the elector fails to do either of these things, the county clerk shall cancel the registration of the challenged elector~~ determine whether the information satisfies the challenge. If the county clerk determines that the challenge has not been satisfied, the county clerk shall schedule a hearing on the challenge and shall notify the elector of the place and time of the hearing. The hearing shall be held no later than twenty (20) days after notice is given. At the hearing, the challenged elector may present evidence of qualification. If the county clerk, upon the conclusion of the hearing, determines that the challenged elector's registration is not valid, the county clerk shall cancel the registration. If a challenged elector fails to make the statement or request in response to the inquiry, the county clerk shall cancel the registration.

(3) The county clerk may make inquiry into the validity of any registration at any time. The inquiry shall proceed as provided in this section.

Approved March 28, 1989.

CHAPTER 147
(H.B. No. 249)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-107, IDAHO CODE, TO PROVIDE THAT ONE OF THE FACTORS DETERMINING A PERSON'S RESIDENCE IS WHERE THE PERSON TAKES HIS HOMEOWNER'S EXEMPTION FOR TAX PURPOSES.

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

SECTION 1. That Section 34-107, Idaho Code, be, and the same is hereby amended to read as follows:

34-107. "RESIDENCE" DEFINED. (1) "Residence," for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

(2) In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section 63-105DD, Idaho Code, is filed, and motor vehicle registration.

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

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

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

Approved March 28, 1989.

CHAPTER 148
(H.B. No. 21, As Amended)

AN ACT

RELATING TO THE REAL ESTATE COMMISSION; AMENDING SECTION 54-2029, IDAHO CODE, TO PROVIDE PROPER REFERENCES AND TO INCREASE EXAMINATION FEES; AND AMENDING SECTIONS 54-2035 AND 54-2035A, IDAHO CODE, TO PROVIDE PROPER REFERENCES.

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~~ fifty dollars ($35~~0~~.00) which shall not be refunded, shall be assessed to each applicant who has preregistered for the examina-

tion. If the applicant has not preregistered, an examination fee in an amount not to exceed ~~forty-five~~ sixty dollars ($45~~60~~.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; 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 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 one hundred dollars ($100) 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.

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 shall be for a two (2) year period and the license fee therefor shall be in an amount not to exceed two hundred dollars ($200).

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 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 two hundred dollars ($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.

~~F~~G. Subsections ~~F,~~ G, H, ~~and~~ I and J 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~~H. The commission may substitute all or a portion of the course work required by subsection ~~F~~ G 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~~I. An extension of the time for completing the education requirements in accordance with subsection ~~F~~ G 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~~J. Failure to provide the commission evidence of meeting the education requirement as set forth in subsection ~~F~~ G 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.

SECTION 2. That Section 54-2035, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035. REAL ESTATE RECOVERY ACCOUNT ESTABLISHED. There is hereby created in the state treasury the real estate recovery account in the dedicated fund. A balance of not more than twenty thousand dollars ($20,000) shall be maintained in the account, to be used for satisfying claims against persons licensed under this chapter, as provided in sections 54-2035 through 54-2035~~J~~I, Idaho Code, inclusive. Effective July 1, 1980, any balance over twenty thousand dollars

($20,000) shall be deposited in the special real estate account and subject to appropriation by the legislature for the use of the commission to carry out the provisions of this chapter.

SECTION 3. That Section 54-2035A, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035A. AUGMENTATION OF ACCOUNT. Upon the original application or renewal of every real estate broker's, associate real estate broker's, and real estate salesman's license effective January 1, 1971, and every year thereafter, every licensed broker, associate broker, and salesman, when renewing any such license, shall pay, in addition to the renewal fee, a fee of ten dollars ($10.00) per year. Such additional fee and all education fees charged and collected for tuition or registration and course materials shall be paid into the state treasury and credited to the real estate recovery account, and shall be used solely for the purposes provided in sections 54-2035 through 54-2035~~J~~I, Idaho Code, inclusive.

Effective July 1, 1980, upon the original application or renewal of every real estate broker's, associate broker's and salesman's license for a two (2) year period, the licensee shall pay in addition to the original or renewal license fee, a fee of twenty dollars ($20.00). Such additional fees and all education fees charged and collected for tuition or registration, course materials and such other fees involved with the commission education programs shall be paid into the state treasury and credited to the special real estate account as provided in section 54-2037, Idaho Code, except for such funds as are required to maintain a balance of twenty thousand dollars ($20,000) in the real estate recovery account as provided for in section 54-2035, Idaho Code.

Approved March 28, 1989.

CHAPTER 149
(H.B. No. 275)

AN ACT

RELATING TO CONFIDENTIAL COMMUNICATIONS WITH ACCOUNTANTS; AMENDING SECTION 9-203A, IDAHO CODE, TO PERMIT CERTAIN CONFIDENTIAL COMMUNICATIONS WITH AN ACCOUNTANT TO BE DISCLOSED FOR PURPOSES OF PROCEEDINGS BY THE BOARD OF ACCOUNTANCY OR QUALITY REVIEW PROGRAMS.

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

SECTION 1. That Section 9-203A, Idaho Code, be, and the same is hereby amended to read as follows:

9-203A. CONFIDENTIAL COMMUNICATIONS WITH ACCOUNTANTS. 1. Any licensed public accountant, or certified public accountant, ~~can--not~~

cannot, without the consent of his client, be examined as a witness as to any communication made by the client to him, or his advice given thereon in the course of professional employment.

2. Notwithstanding the provisions of subsection 1 of this section, as part of a proceeding or investigation conducted by the board of accountancy or quality review program required, implemented, conducted or approved by the board of accountancy, a certified public accountant or a licensed public accountant may be examined and may disclose any communication made by a client to the certified public accountant or licensed public accountant, or any advice given by that accountant in the course of his professional employment.

3. Any person participating in a proceeding or investigation by the board of accountancy or in the conduct of a quality review program required, implemented, conducted or approved by the board of accountancy shall only be entitled to use the information disclosed by the certified public accountant or licensed public accountant for purposes related to the proceeding, investigation or quality review program and otherwise cannot, without the consent of the accountant's client disclose or be examined regarding the information obtained from the accountant in the course of the proceeding, investigation or quality review program except in connection with the proceeding, investigation or quality review program. In addition, any person participating in the proceeding, investigation or quality review program cannot, without the consent of the accountant's client, disclose or be examined regarding their analysis of the information provided by the accountant pursuant to the proceeding, investigation or quality review program, except in connection with the proceeding, investigation or quality review program.

4. The word "client" used herein shall be deemed to include a person, a corporation or an association. The word "communication" as used herein shall be deemed to include but shall not be limited to, reports, financial statements, tax returns, or other documents relating to the client's personal and/or business financial status, whether or not said reports or documents were prepared by the client, the licensed public accountant or certified public accountant, or other person who prepared said documents at the direction of and under the supervision of said accountants.

Approved March 28, 1989.

CHAPTER 150
(H.B. No. 338)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 57, LAWS OF 1988; 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 57, Laws of 1988, there is hereby appropriated to the Department of Labor and Industrial Services the following amount to be expended for the named program according to the designated expense 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
SAFETY COMPLIANCE:				
FROM:				
General Account	$40,000	$10,000		$50,000
Manufactured Housing Account	16,700	7,200	$18,100	42,000
TOTAL	$56,700	$17,200	$18,100	$92,000

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 28, 1989.

CHAPTER 151
(H.B. No. 381)

AN ACT
APPROPRIATING MONEYS TO THE HISPANIC COMMISSION FOR FISCAL YEAR 1990.

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

SECTION 1. There is hereby appropriated to the Hispanic Commission in the Department of Self-governing Agencies the following amount, to be expended according to the designated expense class from the listed accounts for the period July 1, 1989, through June 30, 1990:

FOR:	
Operating Expenditures	$9,900
FROM:	
General Account	9,800
Hispanic Commission Account	100
TOTAL	$9,900

Approved March 29, 1989.

CHAPTER 152
(H.B. No. 297)

AN ACT

RELATING TO AUTOMOBILE INSURANCE; AMENDING CHAPTER 25, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2515, IDAHO CODE, PROVIDING FOR A REDUCTION IN CERTAIN AUTOMOBILE INSURANCE PREMIUMS FOR PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER WHO HAVE COMPLETED AN APPROVED MOTOR VEHICLE ACCIDENT PREVENTION COURSE, PROVIDING FOR ISSUANCE OF A CERTIFICATE OF COMPLETION OF AN APPROVED COURSE, PROVIDING THE FREQUENCY WHEN AN APPROVED MOTOR VEHICLE ACCIDENT PREVENTION COURSE MUST BE TAKEN AND COMPLETED, AND PROVIDING GROUNDS FOR CANCELLATION OF AN AUTOMOBILE INSURANCE POLICY BY AN INSURER, AND PERMITTING PRIVATE COMPARABLE PREMIUM REDUCTIONS.

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

SECTION 1. That Chapter 25, 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 41-2515, Idaho Code, and to read as follows:

41-2515. DISCOUNT FOR CERTAIN AGE GROUPS. (1) Any insurer offering for sale an automobile insurance policy, as policy is defined in subsection (a) of section 41-2506, Idaho Code, in which there is insured a principal operator who is sixty-five (65) years of age or older, shall provide for an appropriate reduction in premium charges for liability, medical payments and collision coverages if the principal operator sixty-five (65) years of age or older has successfully completed a motor vehicle accident prevention course which meets criteria established by the motor vehicle bureau of the transportation department. However, there shall be no reduction in premiums for completion of a self-instructed course or a course which does not provide for actual classroom or field driving instruction. Any discount used by an insurer shall be presumed appropriate unless credible evidence data demonstrates otherwise.

(2) Upon successful completion of an approved motor vehicle accident prevention course, each participant shall be issued, by the course's sponsoring entity, a certificate of completion which shall be the basis of the qualification for the discount on the automobile insurance.

(3) The premium reduction required in this section shall be effective for an insured for a three (3) year period after successful completion of the approved course, except that the insurer may require, as a condition of providing and maintaining the discount, that the insured for a three (3) year period after course completion, not be involved in an accident for which the insured is at fault or be found guilty of a moving traffic violation.

(4) The provisions of this section shall not apply in the event the approved course is specified by a court or other governmental entity resulting from a moving traffic violation.

(5) Each participant shall take an approved course every three (3) years to continue to be eligible for the reduction in premiums.

(6) Nothing in the provisions of this section shall be deemed to prohibit an insurer from canceling or not renewing an automobile insurance policy for grounds enumerated in section 41-2507, Idaho Code, or in chapter 25, title 41, Idaho Code.

(7) The provisions of this section shall not apply in the event that such an insurer offers a premium reduction which is substantially comparable to the premium reduction required in this section and in no event shall such insurer be required to provide both comparable premium reductions on a cumulative basis.

Approved March 29, 1989.

CHAPTER 153
(H.B. No. 295)

AN ACT

RELATING TO WATER QUALITY; AMENDING CHAPTER 36, TITLE 39, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 39-3614, 39-3615, 39-3616, 39-3617 AND 39-3618, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR THE PROTECTION OF THE WATER QUALITY OF OUTSTANDING RESOURCE WATERS AND TO PROVIDE A PROCESS FOR THE DESIGNATION OF OUTSTANDING RESOURCE WATERS, TO PROVIDE THE EFFECT OF RULES AND REGULATIONS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 36, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 39-3614, 39-3615, 39-3616, 39-3617 and 39-3618, Idaho Code, and to read as follows:

39-3614. DEFINITIONS. As used in sections 39-3614, 39-3615, 39-3616 and 39-3617, Idaho Code:

(1) "Lower water quality" means a measurable change in a chemical, physical, or biological parameter of water relevant to a beneficial use, and which can be expressed numerically. Measurable adverse change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter.

(2) "Nonpoint source activities" include grazing, crop production, silviculture, log storage or rafting, construction, mining, recreation, septic tank disposal, and other activities not subject to regulation under the federal national pollutant discharge elimination system.

(3) "Outstanding resource water" means a high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. It constitutes an outstanding national

or state resource that requires protection from nonpoint source activities that may lower water quality.

39-3615. RESTRICTION OF NONPOINT SOURCE ACTIVITIES ON OUTSTANDING RESOURCE WATERS. No person shall conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of an outstanding resource water, except for short-term or temporary nonpoint source activities which do not alter the essential character or special uses of a segment, allocation of water rights, or operation of water diversions or impoundments.

39-3616. CONTINUATION OF EXISTING NONPOINT SOURCE ACTIVITIES ON OUTSTANDING RESOURCE WATERS. Existing nonpoint source activities may continue and shall be conducted in a manner that maintains and protects the current water quality of an outstanding resource water. The provisions of this section shall not affect short-term or temporary activities that do not alter the essential character or special uses of a segment, allocation of water rights, or operations of water diversions or impoundments, provided that such activities shall be conducted in conformance with applicable laws and regulations.

39-3617. DESIGNATION OF OUTSTANDING RESOURCE WATERS. Any person may request, in writing to the board of health and welfare, that a stream segment may be considered for designation as an outstanding resource water. The board shall recommend to the legislature those stream segments the board proposes for designation as outstanding resource waters. The legislature shall determine by law which such stream segments to designate as outstanding resource waters. Stream segments so designated shall be included in a list of outstanding resource waters to be compiled and updated by the department of health and welfare in its rules and regulations governing water quality standards.

39-3618. EFFECT OF RULES AND REGULATIONS. Every rule and regulation promulgated within the authority conferred by this act shall be of temporary effect and shall become permanent only by enactment by statute at the regular session first following adoption of the rule or regulation. Rules and regulations not approved in the above manner shall be rejected, null, void and of no force and effect on July 1, following submission of the rules and regulations to the legislature.

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 when the Attorney General certifies to the Secretary of State the lawsuit entitled Idaho Conservation League et al vs. Russell et al, case no. CV87-1326, has been dismissed with prejudice. The Attorney General's required certification must be made prior to October 1, 1989. If the certification is not made, then this act shall be null, void and of no force and effect.

Approved March 29, 1989.

CHAPTER 154
(H.B. No. 289)

AN ACT

RELATING TO FOREST PRACTICES AND WATER QUALITY; AMENDING SECTION 38-122, IDAHO CODE, TO REQUIRE AN INITIAL PURCHASER OF WOOD PRODUCTS WHICH HAVE BEEN CUT FROM IDAHO LANDS TO PURCHASE THE PRODUCTS FROM A PERSON OR ENTITY HAVING A FORMAL ACCEPTANCE OF NOTIFICATION; AMENDING SECTION 38-1303, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AMENDING SECTION 38-1305, IDAHO CODE, TO INCREASE THE NUMBER OF PERSONS ON THE FOREST PRACTICES ADVISORY COMMITTEE TO PROVIDE THAT A MEMBER OF THE COMMITTEE SHALL BE QUALIFIED BY TRAINING AND EXPERIENCE AS A FISHERIES BIOLOGIST, AND TO PROVIDE FOR AGREEMENTS WITH LANDOWNERS; AMENDING SECTION 38-1306, IDAHO CODE, TO REQUIRE FORMAL ACCEPTANCE OF NOTIFICATIONS BY THE DEPARTMENT OF LANDS AND TO PROVIDE PROCEDURES; AND AMENDING CHAPTER 13, TITLE 38, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 38-1314, IDAHO CODE, TO PROVIDE PROCEDURES WHEN FOREST PRACTICES CANNOT FULLY PROTECT BENEFICIAL STREAM USES.

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

SECTION 1. That Section 38-122, Idaho Code, be, and the same is hereby amended to read as follows:

38-122. PROTECTION BY LOGGING OUTFITS -- FIRE SUPPRESSION ACCOUNT -- LIABILITY FOR FIRE SUPPRESSION COSTS -- PENALTY. (1) Everyone engaged, or about to engage, in the cutting of any forest product or potential forest product upon lands within the state of Idaho shall provide for the management and reduction of the fire hazard thus created or to be created by first securing a certificate of compliance from the director of the department of lands or his agent, said compliance to provide the option of entering into a fire hazard reduction agreement as provided in sections 38-401 through 38-410, Idaho Code, inclusive, or by posting a cash bond to the state of Idaho in such form and for such amount as may be prescribed by the director of the department of lands: provided, however, that the amount of the bond so prescribed shall not be in excess of the amount which such person would be required to pay under said sections 38-401 through 38-410, Idaho Code, inclusive, and that the bond shall be conditioned upon full and faithful compliance with all requirements under said sections 38-401 through 38-410, Idaho Code, inclusive, and the faithful reduction of such fire hazards in the manner prescribed by law. Provided further that the initial purchaser of ties, logs, posts, cordwood, pulpwood and other similar forest products which have been cut from lands within the state of Idaho shall make no such purchase from anyone not having a proper compliance under this section and formal acceptance of notification under subsection (2) of section 38-1306, Idaho Code. When a person elects to have hazard reduction money withheld in lieu of posting a cash bond, the purchaser of forest products shall withhold the money and said money so withheld in any one (1)

calendar month shall be paid to the director of the department of lands or his agent on or before the last day of the next calendar month. After sending such moneys to the director of the department of lands the purchaser shall not be further liable to the state of Idaho or to the person from whom the money was withheld. The director of the department of lands, upon receipt of the cash bond or transmittal of withheld money, shall promptly deposit the same with the state treasurer to be held in trust until the hazard has been reduced as required by law. Such hazard reduction shall be accomplished by the responsible party within the terms set forth in the certificate of compliance or such additional time as may be granted by the director of the department of lands, and upon completion thereof, the director of the department of lands or his agent shall issue a certificate of clearance, stating that all the terms of this section have been complied with and such clearance shall constitute reason for the release of said hazard reduction money and payment to the person entitled thereto or release of the cash bond posted, except that three percent (3%) of the hazard reduction money or bond shall be deposited in a special account to be known as the fire suppression account, which is hereby created in the dedicated fund of the state treasury, and which shall be used by the department of lands to help pay the cost of suppressing forest fires. In the event the hazard reduction shall not be accomplished within said period of time, the money shall be released by the state treasurer on direction from the director of the department of lands less the three percent (3%) deduction specified for the fire suppression account, and credited to the "forest management account" for the management and reduction of any fire hazard and for the protection of forest resources as provided by section 38-408, Idaho Code.

(2) With the exception of cases of negligence on the part of the landowner, operator or their agents, liability for the cost of suppressing fires that originate on or pass through a slashing area shall remain with the state forester if one of the following alternatives is executed by the landowner or operator: (a) the slashing area is covered by a certificate of compliance and all hazard money payments are current or a proper bond is in place; (b) the landowner or operator treats the slash in accordance with rules and regulations adopted by the state board of land commissioners that are in effect during the period covered by the certificate of compliance or approved extensions; or (c) the landowner or operator elects to enter into a contract with the state forester for the management of the slash and liability of fire suppression costs in accordance with section 38-404, Idaho Code.

Should the landowner or operator choose not to treat the slash or not enter into a contract with the state forester in accordance with section 38-404, Idaho Code, the landowner or operator shall, in addition to forfeiting the bond provided for in section 38-122, Idaho Code, be subject to the provisions of section 38-123, Idaho Code, and his liability, if any, for fire suppression costs up to the limits set by the state forester, shall exist for a period of five (5) years following completion of the operation for all fires that originate in or pass through the landowner's or operator's slashing area, except that

the landowner or operator may choose to pay an additional fee, to be determined by the director, upon payment of which the director will assume the liability for the cost of suppressing fires that originate in or pass through the slashing area.

(3) A violation of any of the provisions of this section shall be deemed a petty misdemeanor.

SECTION 2. That Section 38-1303, Idaho Code, be, and the same is hereby amended to read as follows:

38-1303. DEFINITIONS. Unless the context requires otherwise, in this chapter:

(1) "Forest practice" means (a) the harvesting of forest tree species; (b) road construction associated with harvesting of forest tree species; (c) reforestation; (d) use of chemicals or fertilizers for the purpose of growing or managing forest tree species; or (e) the management of slashings resulting from harvest, management or improvement of forest tree species.

(2) "Forest land" means state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes state and private land from which forest tree species have been removed but have not yet been restocked, but it does not include land affirmatively converted to uses other than the growing of forest tree species.

(3) "Operator" means a person who conducts or is required to conduct a forest practice.

(4) "Harvesting" means a commercial activity related to the cutting or removal of forest tree species to be used as a forest product. A commercial activity does not include the cutting or removal of forest tree species by a person for his own personal use.

(5) "Rules" mean rules adopted by the board pursuant to section 38-1304, Idaho Code.

(6) "Landowner" means a person, partnership, corporation, or association of whatever nature that holds an ownership interest in forest land, including the state.

(7) "Timber owner" means a person, partnership, corporation, or association of whatever nature, other than the landowner, that holds an ownership interest in forest tree species on forest land.

(8) "Forest regions" means two (2) regions of forest land, one (1) region being north of the Salmon River and one (1) being south of the Salmon River.

(9) "Director" means the director of the Idaho department of lands.

(10) "Department" means the Idaho department of lands.

(11) "Board" means the Idaho board of land commissioners.

(12) "State" means the state of Idaho or any political subdivision thereof.

(13) "Forest practices advisory committee to the board" means that committee appointed by the director as provided in subsection (2)(a) of section 38-1305, Idaho Code.

(14) "Contract area" means the entire acreage which is subject to

a single contract as specified in the notification of forest practices, pursuant to section 38-1306, Idaho Code.

(15) "Best management practice (BMP)" means a practice or combination of practices determined by the board, in consultation with the department and the forest practices advisory committee, to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices.

(16) "Stream segment of concern" means a specific stream segment or body of water that has been published in a final basin area report and subsequently published every two (2) years as an addendum to the water quality standards and waste water treatment requirements of the department of health and welfare.

SECTION 3. That Section 38-1305, Idaho Code, be, and the same is hereby amended to read as follows:

38-1305. DUTIES, POWERS OF DEPARTMENT. The department:

(1) Shall administer and enforce this act;

(2) (a) Shall, through the director, appoint a forest practices advisory committee to the board for the purpose of providing technical advice to the board in carrying out the board's powers and duties as set forth in section 38-1304, Idaho Code. The forest practices advisory committee is composed of ~~seven~~ eight (~~7~~8) members, three (3) residing in the north forest region and three (3) residing in the south forest region. The remaining member shall be residing in Idaho. Members of the committee shall be qualified by experience and/or training to provide technical advice related to forest practices. One (1) member residing in each forest region shall be a private landowner, a private timber owner, or authorized representative of the landowner or timber owner who regularly engages in forest practices. One (1) member residing in each forest region shall be an operator. One (1) member residing in each forest region shall be a representative of the general public. One (1) member shall be qualified by training and experience as a fisheries biologist. Members of the forest practices advisory committee shall be appointed by the director for three (3) year terms. Appointments under this subsection shall be made by the director within sixty (60) days after the effective date [July 1, 1975] of this section. If there is a vacancy, for any cause, the director shall make an appointment to become immediately effective for the unexpired term. Said appointee shall possess the same qualifications under this act as the person being replaced. The committee shall select a chairman from among its members. A member of the department of lands shall be designated by the director to serve as secretary, without voting power, for the committee.

(b) Notwithstanding the terms of the committee members specified by subsection (2)(a) of this section, of the members first appointed to each such committee:

(A) Two (2) shall serve for a term of one (1) year;

(B) Two (2) shall serve for a term of two (2) years;

(C) Three (3) shall serve for a term of three (3) years.

(3) Shall advise and assist the board in the discharge of its

duties as set forth in this act;

(4) Shall achieve coordination among state agencies which are concerned with the forest environment;

(5) Shall cooperate with and provide advice to landowners and timber owners in the management of forest lands;

(6) May enter into cooperative agreement or contracts which may be necessary in the administration of this act.

(7) May enter into written agreements with landowners incorporating site-specific BMPs which the director has determined are necessary to protect water quality in an affected stream segment of concern. Such agreements shall be binding on all parties and enforceable in an action for specific performance.

SECTION 4. That Section 38-1306, Idaho Code, be, and the same is hereby amended to read as follows:

38-1306. NOTIFICATION OF FOREST PRACTICE. (1) Before commencing a forest practice, the department shall be notified as required by subsection (2) of this section. The notice shall be given by the operator; however, the timber owner or landowner satisfies the responsibility of the operator under this subsection. When more than one (1) forest practice is to be conducted in relation to harvesting of forest tree species, one (1) notice including each forest practice to be conducted shall be filed with the department. A woodland management plan prepared by the woodland foresters of the department or approved by the board of supervisors of a soil conservation district shall constitute suitable notification of a forest practice when filed with the department, provided the woodland management plan contains the information required by subsection (2) of this section.

(2) The notification required by subsection (1) of this section shall be on forms prescribed and provided by the department and shall include the name and address of the operator, timber owner, and landowner, the legal description of the area in which the forest practice is to be conducted, whether the forest practice borders a stream segment of concern and other information the department considers necessary for the administration of the rules adopted by the board under section 38-1304, Idaho Code. All notifications must be formally accepted by the department before any forest practice may begin. If the forest practice will be conducted in an area bordering a stream segment of concern, this notice must be received by the department no less than ten (10) business days before the commencement of the forest practice. If there is no written agreement between the landowner and/or the operator and the department concerning implementation of site specific BMPs which the department has determined are necessary to protect water quality in the affected stream segment of concern, the department shall not accept the notification until emergency rules have been enacted establishing the site-specific BMPs. The director shall have the authority to adopt emergency rules pursuant to section 67-5203(b), Idaho Code. The initial purchaser of ties, logs, posts, cordwood, pulpwood and other similar forest products which have been cut from lands within the state of Idaho shall make no such purchase from anyone not having a proper acceptance of forest practice notice.

Promptly upon ~~receipt~~ formal acceptance of the notice, but not more than fifteen (15) days from ~~receipt~~ formal acceptance of the notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notification. The department shall make available to the operator, the timber owner, and landowner a copy of the rules.

(3) An operator, timber owner, or landowner, whichever filed the original notification, shall notify the department of any subsequent change in the information contained in the notification within thirty (30) days of the change. Promptly upon receipt of notice of change, but not to exceed fifteen (15) days from receipt of notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notice of change.

(4) The notification is valid for a period not to exceed two (2) years from the date of original notification. At the expiration of the two (2) year period, if the forest practice is continuing, the notification shall be renewed annually using the same procedures provided for in this section.

(5) If the notification required by subsection (1) of this section indicates that at the expiration of two (2) years from the date of notification that the forest practice will be continuing, the operator, timber owner, or landowner, at least thirty (30) days prior to the expiration of the two (2) year period, shall notify the department and obtain a renewal of the notification. Promptly upon receipt of the request for renewal, but not to exceed fifteen (15) days from receipt of the request, the department shall mail a copy of the renewed notification to whichever of the operator, timber owner, or landowner that did not submit the request for renewal.

SECTION 5. That Chapter 13, 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 38-1314, Idaho Code, and to read as follows:

38-1314. FOREST PRACTICES WHICH CANNOT FULLY PROTECT BENEFICIAL STREAM USES. If through the concurrence of the directors of the department, the department of health and welfare and the department of fish and game, it is determined that, notwithstanding a landowner's agreement to comply with best management practices which exceed those required by this act and the rules and regulations promulgated thereunder, beneficial uses of a particular stream segment of concern will not be fully protected, then such activity shall be deemed an imminent or substantial threat as provided by subsection 8 of section 39-108, Idaho Code.

Approved March 29, 1989.

CHAPTER 155
(H.B. No. 197)

AN ACT

RELATING TO THE JUVENILE JUSTICE SYSTEM OF THE STATE; AMENDING SECTION 16-1801, IDAHO CODE, TO PROVIDE FURTHER LEGISLATIVE INTENT; AMENDING SECTION 16-1802, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 16-1805, IDAHO CODE, TO ALLOW FOR RETENTION OF JURISDICTION UNTIL A CHILD BECOMES AGE TWENTY-ONE; AMENDING SECTION 16-1807, IDAHO CODE, TO PROVIDE THE EFFECT OF SERVICE OF A PETITION UPON THE PARENTS, LEGAL GUARDIAN OR PERSON OR PERSONS HAVING CUSTODY OR CONTROL OF A CHILD; AMENDING SECTION 16-1814, IDAHO CODE, TO PROVIDE ADDITIONAL DISPOSITIONAL ALTERNATIVES TO COURTS FOR JUVENILE DELINQUENTS; AMENDING CHAPTER 18, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1814B, IDAHO CODE, TO ALLOW THE COURT TO ENTER INTO A PROBATIONARY CONTRACT WITH A JUVENILE DELINQUENT'S PARENTS, LEGAL GUARDIAN OR CUSTODIAN; AMENDING CHAPTER 18, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1814C, IDAHO CODE, TO PROVIDE FOR SCREENING TEAMS TO GIVE ASSISTANCE WHERE POSSIBLE AND PRACTICABLE TO COURTS PRIOR TO THE COURT MAKING DISPOSITIONS; REPEALING SECTIONS 16-1821, 16-1826, 16-1827, 16-1829, 16-1830, 16-1831, 16-1832, 16-1833, 16-1834, 16-1836, 16-1840, 16-1841, 16-1842, 16-1843, 16-1844 AND 16-1845, IDAHO CODE; AMENDING CHAPTER 18, TITLE 16, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 16-1826, 16-1827, 16-1828, 16-1829, 16-1830, 16-1831, 16-1832, 16-1833, 16-1834, 16-1835, 16-1836, 16-1837, 16-1838, 16-1839, 16-1840, 16-1841, 16-1842, 16-1843, 16-1844, 16-1845, 16-1846, 16-1847, 16-1848, 16-1849 AND 16-1850, IDAHO CODE, TO PROVIDE FOR POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR SECURE FACILITIES, TO PROVIDE TERMS OF COMMITMENTS AND REVIEW OF THE COMMITMENTS, TO ESTABLISH CONDITIONAL RELEASE, TO PROVIDE PROCEDURES FOR REVOCATION OF CONDITIONAL RELEASE, TO PROVIDE THAT A CONDITIONAL RELEASE DOCUMENT SHALL SPECIFY CONDITION OF CONDITIONAL RELEASE AND IS TO BE SIGNED BY THE YOUTH OFFENDER, TO PROVIDE FOR DISCHARGE, TO PROVIDE FOR ESTABLISHMENT OF COMMUNITY BASED CORRECTION PROGRAMS, TO PROVIDE FOR CASE MANAGEMENT STAFF AND TO PROVIDE THEIR DUTIES, TO PROVIDE FOR DIAGNOSTIC AND OBSERVATION PROGRAMS, TO PROVIDE FOR FURNISHING OF INFORMATION BY PROBATION SECTIONS OF THE MAGISTRATE DIVISION OF THE DISTRICT COURT TO THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR REVIEW AND CERTIFICATION OF PROGRAMS FOR JUVENILES, TO PROVIDE FOR CONTRACTS WITH PRIVATE PROVIDERS OF SERVICES FOR YOUTH OFFENDERS, TO PROVIDE FOR CONTROL OF RECORDS, TO PROVIDE FOR RESTITUTION TO VICTIMS OF YOUTH OFFENDERS, TO CREATE THE YOUTH CORRECTIONS VICTIM RESTITUTION ACCOUNT, TO PROVIDE FOR AN ORDER OF PAYMENT FOR COSTS OF SUPPORT AND MAINTENANCE DURING A YOUTH'S TERM OF COMMITMENT, TO PROVIDE THE EFFECT OF A DISCHARGE BY THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR REPORTS BY THE DEPARTMENT OF HEALTH AND WELFARE TO THE COMMITTING COURT, TO PROVIDE THE EFFECT ON AN APPEAL, TO PROVIDE PENALTIES, TO PROVIDE FOR A SPECIAL COMMISSIONER AND HIS DUTIES, TO CREATE THE YOUTH CORRECTIONS

ACCOUNT, AND TO PROVIDE FOR CITATION OF THIS ACT; AMENDING SECTION 18-1502, IDAHO CODE, TO PROVIDE FOR SUSPENSION OF DRIVING PRIVILEGES FOR PERSONS SEVENTEEN YEARS OF AGE OR YOUNGER FOR POSSESSION OF ALCOHOLIC BEVERAGES, CONTROLLED SUBSTANCES OR SIMULATED CONTROLLED SUBSTANCES, TO PROVIDE FOR ALCOHOL AND DRUG COUNSELING, AND TO PROVIDE FOR DISPOSITION UNDER THE YOUTH REHABILITATION ACT; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1510, IDAHO CODE, TO PROVIDE CRIMINAL PENALTIES FOR PROVIDING SHELTER TO RUNAWAY CHILDREN, TO PROVIDE EXCEPTIONS AND TO PROVIDE AFFIRMATIVE DEFENSES; AMENDING SECTION 72-102, IDAHO CODE, TO DEFINE THE TERM COMMUNITY SERVICE WORKER; AMENDING SECTION 72-205, IDAHO CODE, TO PROVIDE THAT A COMMUNITY SERVICE WORKER IS CONSIDERED TO BE AN EMPLOYEE IN PUBLIC EMPLOYMENT FOR PURPOSES OF RECEIVING WORKMEN'S COMPENSATION BENEFITS WHICH SHALL BE THE COMMUNITY SERVICE WORKER'S EXCLUSIVE REMEDY FOR ALL INJURIES AND OCCUPATIONAL DISEASES UNDER THE STATE'S WORKMEN'S COMPENSATION LAW; AMENDING SECTION 72-438, IDAHO CODE, TO PROVIDE A CORRECT CITATION; AMENDING CHAPTER 7, TITLE 8, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 8-705, IDAHO CODE, TO PROVIDE A WAGE ASSIGNMENT PROCEDURE FOR SUPPORT AND CARE OF A DELINQUENT CHILD; AMENDING CHAPTER 22, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2223, IDAHO CODE, TO PROVIDE FOR TRAINING FOR MAGISTRATE JUDGES HANDLING JUVENILE DELINQUENCY CASES; AMENDING SECTION 16-1812, IDAHO CODE, TO PROVIDE THAT COUNTY COMMISSIONERS SHALL PROVIDE A DETENTION HOME OR HOMES FOR DETENTION OF CHILDREN; AMENDING SECTION 16-1812A, IDAHO CODE, TO PROVIDE MINIMUM STANDARDS FOR DETENTION OF CHILDREN; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE A COURT-ORDERED PUPIL TUITION-EQUIVALENCY ALLOWANCE FOR SCHOOL DISTRICTS WHICH EDUCATE PUPILS PLACED BY IDAHO COURT ORDER IN A JUVENILE DETENTION FACILITY; AMENDING CHAPTER 20, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2009, IDAHO CODE, TO PROVIDE FOR THE EDUCATION OF CHILDREN IN JUVENILE DETENTION FACILITIES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 16-1801, Idaho Code, be, and the same is hereby amended to read as follows:

16-1801. ~~POLICY~~ LEGISLATIVE INTENT. The policy of the state of Idaho is hereby declared to be the establishment of a legal framework conducive to the constructive judicial processing of children's cases where the child's conduct is in conflict with the law; and the providing of professional assistance to courts handling children's cases, through a coordinated program of rehabilitation, thereby insuring integrated treatment and assistance to communities throughout the state in their programs of prevention and control of juvenile delinquency; to provide due process of law for each child alleged or adjudicated to be delinquent under this act; to divert the child into a program of treatment, counseling, rehabilitation and restitution prior to court action where the interests of the child and the community would best be served by such diversion; and to consider the needs and

best interests of the child as well as the need for protection of the community and to achieve the foregoing purposes in the least restrictive setting necessary, with a preference at all times for the family home and the integration of parental responsibility for the child into the treatment and counseling program. In enacting this legislation, the legislature finds that the state of Idaho needs to evolve into a system for juvenile justice that encompasses the following aspects: case management, day treatment, community programs, observation and assessment programs, secure facilities and multi-use facilities and assistance to counties for youth not committed to the custody of the department of health and welfare.

The following is a brief description of what the legislature intends to become the components of Idaho's juvenile justice system:

Case management. Every youth ordered into department of health and welfare custody would be assigned a case manager. Case management would often entail twenty-four (24) hour on call responsibility for youth and a continual monitoring of their activities. Case managers would be responsible for direct treatment of individual youth and their families, close supervision of youths' activities, supervision of restitution and coordination of other services provided to youth.

Day treatment. Day treatment programs would be time limited nonresidential treatment and educational programs. Included in these programs would be trackers who would provide intensive supervision of youth through daily contact and by counseling youth regarding employment, education, courts, family and life skills. Family treatment would be provided by family therapists who deal with dysfunctional family dynamics and antisocial behaviors. Educational and day treatment programs and vocational services would help prepare the seriously delinquent youth for the work world with its demands and responsibilities. Finally, nonresidential alcohol and drug programs would provide outpatient assessment and counseling for youth with substance abuse problems.

Community programs. It is intended that community programs would exist throughout the state to provide twenty-four (24) hour residential supervision and treatment options to youth in close proximity to their families and their community. These programs would provide the department of health and welfare with a continuum of supervision and treatment options. It is intended that these programs would provide strong community linkages with family, school and employment and emphasize helping youth generalize appropriate behavior into their environment.

Observation assessment. Three (3) regional observation and assessment centers would be provided, hopefully on a contract basis, to provide assessment and treatment planning in a short-term residential experience. It is intended that these programs would maintain standardized home and daily routines with intensive daily programming. Here the youth would receive a complete psychological, educational and physical assessment to help recommend appropriate future placements to magistrate judges handling the juvenile's case.

Secure facilities. Secure facilities that would provide secure confinement, education and treatment of the most seriously delinquent youth; the program at the secure facilities would be designed to help

the youth recognize accountability for delinquent behavior by confronting delinquent norms, criminal thinking and antisocial behavior and repaying victims through a restitution program. Secure facilities, as may be possible and practicable, should be in close proximity to the youth offender's home and family.

Multi-use facilities. Idaho has areas that are predominantly rural and a long distance from another population base. For these areas it is hoped that a combination short-term detention facility with a shelter home could be built.

It is the further intent of the legislature that the primary purpose of this act is to provide a continuum of supervision and rehabilitation programs which meet the needs of the youthful offender in a manner consistent with public safety. These services and programs will individualize treatment and control the youthful offender for the benefit of the youth and the protection of society. It is legislative intent that the department of health and welfare be operated within the framework of the following principles to accomplish this mission:

1. Provide the least restrictive and most appropriate setting for the youthful offender while adequately protecting the community.

2. Provide humane, secure and therapeutic confinement to a youth who has demonstrated that he or she presents a danger to the community.

3. Provide a diversity of community-based and secure correctional programs which, whenever possible and appropriate, would be in close proximity to the youth's community and family.

4. Strengthen rehabilitative opportunities by expanding linkages to human service programs and community resources.

5. Hold youth accountable for their criminal behavior in a manner consistent with their long-term individual needs through such means as victim restitution, community service programs and the sharing of correctional costs.

6. Promote a functional relationship between a youth and his or her family.

7. Provide assistance to the magistrate division of the district courts in development of and implementation of appropriate juvenile offender dispositions.

8. Provide for efficient and effective juvenile correctional programs within the framework of professional correctional standards, legislative intent and available resources.

9. Provide for a diversity of innovative and effective programs through research on delinquent behavior and the continuous evaluation of correctional programs.

10. Provide assistance to counties in establishing meaningful programs for juveniles who have come into the juvenile justice system but who have not been committed to the custody of the department of health and welfare.

11. Provide programs to increase public awareness and participation in the juvenile justice system of the state.

SECTION 2. That Section 16-1802, Idaho Code, be, and the same is hereby amended to read as follows:

16-1802. DEFINITIONS. When used in this ~~act~~ chapter, unless context otherwise requires:

~~d~~a. "Adult" means a person eighteen (18) years of age or older.

~~e~~b. "Board" means the state department of health and welfare.

c. "Child" means a person less than eighteen (18) years of age, and is synonymous with juvenile and youth offender.

~~g~~d. "Commit" means to transfer legal custody.

e. "Community-based program" means an in-home detention program or a nonsecure or staff secure residential or nonresidential program operated to supervise and rehabilitate youth offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state.

f. "Conditional release" means a release of a youth offender from residency in a secure facility to live outside that facility under the supervision of the department of health and welfare or other person designated by the department prior to relinquishment of departmental jursidiction.

~~a~~g. "Court" means district court or magistrate's division thereof.

~~j~~h. "Department" means the state department of health and welfare.

~~h~~i. "Detention" means the temporary care of children who require secure custody for their own or the community's protection in physically restricting facilities ~~pending court disposition~~.

j. "Detention center" means a facility established pursuant to sections 16-1812 and 16-1812A, Idaho Code.

k. "Discharge" means a written order of the department removing a youth offender from its jurisdiction.

~~i~~l. "Diversion" means the utilization of local community resources~~, churches,~~ counseling for the child and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.

~~b~~m. "Judge" means district judge or a magistrate.

~~f~~n. "Legal custody" means the relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the child, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

o. "Observation and diagnostic program" means any state-operated or purchased service program responsible for temporary custody of youth offenders for observation.

p. "Recision" means a written order of the department rescinding a conditional release date.

q. "Revocation of conditional release" means the written order of the department terminating conditional release supervision of a youth offender and directing return of the youth offender to the custody of a secure facility because of a violation of the conditions of conditional release.

r. "Secure facility" means any state-operated facility or facility operated under contract with the state which provides twenty-four (24) hour supervision and confinement for youth offenders committed to

the department for custody and rehabilitation.

s. "Termination" means a written order of the department terminating a youth offender from conditional release.

t. "Youth offender" means a person under age eighteen (18), committed or admitted by the court to the custody, care and jurisdiction of the department for confinement in a secure facility or supervision in the community following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult.

u. "Work program" means a public service work project administered by the department which employs youth offenders at a reasonable wage for the purpose of reimbursing victims of the youth offender's delinquent behavior.

SECTION 3. That Section 16-1805, Idaho Code, be, and the same is hereby amended to read as follows:

16-1805. RETENTION OF JURISDICTION. Jurisdiction obtained by the court in the case of a child shall be retained by it for the purposes of this act until he becomes ~~nineteen~~ twenty-one (21) years of age, unless terminated prior thereto. If a child under the jurisdiction of the court and after attaining eighteen (18) years of age, is charged with a felony, he shall be treated as any other adult offender. If a child eighteen (18) years of age or older already under court jurisdiction is convicted of a felony that conviction shall terminate the jurisdiction of the court, provided, however, nothing herein contained shall prohibit any court from proceeding as provided in section 16-1806(2) ~~of this act~~, Idaho Code.

SECTION 4. That Section 16-1807, Idaho Code, be, and the same is hereby amended to read as follows:

16-1807. INFORMATION -- INVESTIGATION -- PETITION. Any peace officer, any prosecuting attorney, or any authorized representatives of the board of trustees of school districts of this state, having knowledge of a child who is within the purview of this act may file a petition with the court in such form as may be required by the court. Said individual or agency shall be responsible for providing the evidence to support the allegations made in the petition, provided this in no way shall relieve peace officers from enforcement of the law as set forth in section 31-2227, Idaho Code. The court shall make a preliminary inquiry to determine whether the interests of the public or of the child require that further action be taken. Such inquiry may be made through the county probation officer, if available, or the field agent of the board. Thereupon, the court may make such informal adjustment as is practicable, or dismiss the petition, or set the matter for hearing. If an informal adjustment is made, it shall provide for full or partial restitution in the manner and form prescribed by the court when the offense involves loss or damage of property of another. Probation officers shall not file a petition unless the child has previously been under the jurisdiction of the court. The petition and all subsequent court documents shall be entitled "In the interest of ..., a child under eighteen (18) years of age." The petition may be

made upon information and belief but it shall be made under oath. It shall set forth plainly: (1) the facts which bring the child within the purview of this act; (2) the name, age, and residence of the child; (3) the names and residences of his parents and spouse, if any; (4) the name and residence of his legal guardian, if there be one, or the person or persons having custody or control of the child, or of the nearest known relative if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner the petition shall so state.

Service of a petition upon the parents, legal guardian or person or persons having custody or control of the child shall subject the parents, legal guardian or person or persons having custody or control of the child to the provisions of this chapter.

SECTION 5. That Section 16-1814, Idaho Code, be, and the same is hereby amended to read as follows:

16-1814. DISPOSITION HEARING. (1) Upon the entry of an order finding the child is within the purview of the act, the court shall then hold a disposition hearing in the manner prescribed by the Idaho juvenile rules to determine the treatment, rehabilitation or detention sentence that will best serve the needs of the child and the public interest. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court shall request and shall receive a report containing the results of an inquiry into the home environment, past history, rehabilitation or prevention of out of home placement services provided, social, physical and mental condition of the child. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to the disposition of the case as follows:

1. Place the child on formal probation for a period not to exceed ~~one (1)~~ three (3) years from the date of the order;

2. Commit the child to a period of detention, pursuant to this act, for a period of time not to exceed thirty (30) days for each unlawful or criminal act the child is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the child has been adjudicated as an habitual status offender~~.~~;

3. If the child has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the child to detention for a period not to exceed thirty (30) days with up to ninety (90) additional days detention suspended for each unlawful or criminal act. If the child violates conditions of probation, the court may commit the child to detention for all or a portion of the period originally suspended;

4. If the child has committed an unlawful or criminal act which would be a felony if committed by an adult and if the child has previously been found by a court to be within the purview of this chapter had all or a portion of the sentence suspended, the court may commit the child to detention for a period not to exceed one hundred twenty (120) days. Whenever a court commits a child to a

period of detention it shall notify the school district where the detention facility is located. No child who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless such an adjudication has been made that the child is an habitual status offender;

~~3~~5. Commit the child to detention and suspend the sentence on specific probationary conditions;

~~4~~6. Commit the child to the legal custody of the department of health and welfare for an indeterminate period of time not to exceed his or her nineteenth birthday, unless extended jurisdiction is necessary to complete the rehabilitation goals of the department~~;--for--appropriate--disposition.-When-such-a-commitment order-is-entered,-the-child-shall-be-transported-to--the--facility designated--by--the--department-by-the-sheriff-of-the-county-where the-child-resides-or-is-committed,-or--by--appointed--agent.---Any order--of--commitment-to-the-department-shall-be-subject-to-review at-least-once-every-six-(6)-months.-When-committing-a-child-to-the department-the-court-shall-at-once-forward--to--the--department--a certified-copy-of-the-order-of-commitment~~;

7. The court shall encourage the development of employment, work or community service programs, to enable children to fulfill their obligations under subsection (3) of this section and for other purposes when deemed desirable by the court;

8. Restrain the child from driving for such periods of time as the court deems necessary, and the court may take possession of the child's driver license;

9. The court may order that the child be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the child in a hospital or other suitable facility;

10. In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the child, his legal guardian or custodian, or any other person who has been made a party to the proceedings including, but not limited to restrictions of visitation by the parents or one (1) parent, restrictions on the child's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

11. The court may order that a petition be filed pursuant to chapter 20, title 16, Idaho Code, for the termination of parental rights;

12. The court may make any other reasonable order which is in the best interest of the child or is required for the protection of the public, except that no person under the age of eighteen (18) may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 16-1812A, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to sections 16-1806 and 16-1806A, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

13. An order under the provisions of this section for probation or placement of a child with an individual or an agency shall include a date certain for a review of the case by the court, with a new date to be set upon each review;

~~5~~14. Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

~~6~~15. Order the case and all documents and records connected therein transferred to the magistrate division of the district court for the county where the child and/or parents reside if different than the county where the child was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

~~7.--Order--medical-care-or-psychological-examination-and-treatment for-the-child;~~

~~8~~16. Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the child and the community~~.~~;

17. The court shall assess a ten dollar ($10.00) charge against the youth offender for every petition filed where there has been an adjudication that the youth offender is within the purview of this chapter. All moneys raised pursuant to this subsection shall be transmitted by the court for deposit in the youth corrections account which is created in section 16-1849, Idaho Code.

18. Notwithstanding any other provision of this section, a court may not commit a youth offender under the age of ten (10) years to a period of detention or to the custody of the department of health and welfare for placement in secure confinement.

(2) When an order is entered pursuant to this section, the child shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the child resides or is committed, or by an appointed agent. Any order of commitment to the department to a program other than a secure facility shall be subject to review at least once every six (6) months. When committing a child to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the child or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the child's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code.

SECTION 6. That Chapter 18, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1814B, Idaho Code, and to read as follows:

16-1814B. SUSPENSION OF SENTENCE -- JURISDICTION OVER PARENTS. Whenever a child is found to come under the purview of this chapter and the court suspends any or all of a sentence pursuant to section 16-1814, Idaho Code, the court shall have jurisdiction and authority

to have the child and the child's parent(s), legal guardian or custodian sign a probationary contract with the court containing terms and conditions that the child and the child's parent(s), legal guardian or custodian must adhere to as a condition of the child's probation. The probationary contract may contain a clause that if the child or the child's parent(s), legal guardian, or custodian violates or breaches the terms and conditions of the probationary contract, that the child's parent(s), legal guardian or custodian shall be liable to the court for a specific monetary sum not in excess of one thousand dollars ($1,000) for the breach of contract and the resulting impact the breach will have on the state's juvenile justice system. All such moneys shall be payable to the court and shall be in addition to any other fines, penalties or other sanctions provided by law. Any moneys received by the court pursuant to this section shall be paid into the youth corrections account created in section 16-1849, Idaho Code.

SECTION 7. That Chapter 18, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1814C, Idaho Code, and to read as follows:

16-1814C. SCREENING TEAMS TO PROVIDE ASSISTANCE TO COURT. In order to provide assistance to a court in making a disposition pursuant to section 16-1814, Idaho Code, a screening team shall, if possible and practicable, meet and provide a recommendation to the court for disposition of the case pursuant to this chapter. The screening team shall consist of an employee of the department of health and welfare and a probation officer employed by or contracted with the court. The recommendation of the screening team shall be nonbinding and shall be presented in writing to the court. If the screening team cannot arrive at a decision regarding recommended disposition, it shall so state in writing to the court along with the reasons why it could not arrive at a consensus.

SECTION 8. That Sections 16-1821, 16-1826, 16-1827, 16-1829, 16-1830, 16-1831, 16-1832, 16-1833, 16-1834, 16-1836, 16-1840, 16-1841, 16-1842, 16-1843, 16-1844 and 16-1845, Idaho Code, be, and the same are hereby repealed.

SECTION 9. That Chapter 18, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 16-1826, 16-1827, 16-1828, 16-1829, 16-1830, 16-1831, 16-1832, 16-1833, 16-1834, 16-1835, 16-1836, 16-1837, 16-1838, 16-1839, 16-1840, 16-1841, 16-1842, 16-1843, 16-1844, 16-1845, 16-1846, 16-1847, 16-1848, 16-1849 and 16-1850, Idaho Code, and to read as follows:

16-1826. DUTIES OF DEPARTMENT OF HEALTH AND WELFARE. (1) The department shall have jurisdiction over all youth committed to it pursuant to chapter 18, title 16, Idaho Code.

(2) The department is responsible for all youth offenders committed to it by courts of this state for secure confinement or supervi-

sion and treatment in the community. The department shall also establish minimum standards for detention, care and certification of approved detention facilities based upon such standards.

(3) The department shall establish and administer all community programs within judicial district boundaries for all youth offenders committed to the department.

(4) The department shall establish and administer all secure residential facilities including the state youth services center for youth offenders.

(5) The department shall place youth offenders committed to it in the most appropriate program for supervision and treatment in the community.

(6) In any order committing a youth offender to the department, the court shall specify whether the youth offender is being committed for secure confinement or placement in a community based program; provided, however, that a youth offender shall not be recommended for secure confinement unless the recommendation is in accordance with standards adopted by order of the Supreme Court. The department shall place the youth in the most appropriate program within the category specified by the court.

(7) The department shall employ staff necessary to supervise youth offenders on conditional release and to supervise and coordinate treatment of youth offenders committed to the department for placement in community-based programs.

(8) The department shall establish observation and assessment programs as necessary to serve youth offenders committed to it by a court for short-term observation pursuant to this chapter.

(9) The director of the department of health and welfare shall appoint case management staff within the various judicial districts.

(10) The department shall establish and operate work programs designed to employ youth offenders in public service work projects for the purpose of reimbursing victims of the youth offender's delinquent behavior.

(11) The department shall establish regional places for examination and study of persons committed to the department or referred by courts prior to disposition as provided in section 16-1814, Idaho Code.

(12) The department is hereby authorized and may place children committed to it pursuant to this chapter on a ranch, in a forestry camp or similar facility for care and for work, if possible; provided, that person, agency or association operating the facility has been approved and has otherwise complied with all applicable state and local laws. A child placed in a forestry camp or similar facility may be required to work on fire prevention, forestation and reforestation, recreational works, forest roads and on other works on or off the grounds of such facility and may be paid wages.

(13) The department shall establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities and programs which provide services to juveniles who have committed a delinquent act, in this state or in any other state, which would constitute a felony or misdemeanor if committed by an adult. The standards shall be no more stringent than standards imposed

for facilities operated by the department or for detention facilities operated by counties.

(14) The department shall assist counties in establishing meaningful programs for youth offenders who either have been found to come under the purview of this chapter or who have had their case informally diverted pursuant to section 16-1807A, Idaho Code, and who have not been committed to the legal custody of the department.

(15) In order to prevent over utilization of its facilities for youth offenders, the department shall prescribe by rule and regulation the maximum number of commitments pursuant to this chapter, to the department that may originate from a county during a calendar year based on the number of children residing in the county who are below the age of eighteen (18). If a county exceeds its quota during a year, the director of the department may issue a waiver in writing on a case by case basis to allow additional commitments to the department from that county.

16-1827. SECURE FACILITIES. (1) The department shall maintain and operate secure facilities for the custody and rehabilitation of youth offenders who pose a danger of serious bodily harm to others or who have engaged in a pattern of serious criminal offenses, and who cannot be controlled in a less secure setting.

(2) A supervisor shall be appointed for each secure facility operated by the department by the director of the department. The supervisor shall be a person who has experience in social work, law, criminology, corrections, or a related field, and experience in administration.

(3) The department shall provide or make available to youth offenders in secure facilities, instruction appropriate to the age, needs and range of abilities of the youth. An assessment shall be made of each youth at the secure facility to determine abilities, learning disabilities, interests, attitudes and similar matters. Prevocational education shall be provided to acquaint youth offenders with vocations, their requirements and opportunities.

(4) The department shall place youth offenders committed to the department for secure confinement and rehabilitation in a state or privately operated secure facility that is appropriate to insure that humane care and rehabilitation opportunities are afforded the youth offender.

(5) The department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. Such standards, policies and procedures shall not be inconsistent with law. Policies shall be subject to approval of the board of health and welfare and shall be promulgated as rules and regulations in compliance with chapter 52, title 67, Idaho Code.

16-1828. TERM OF COMMITMENT -- REVIEW AFTER COMMITMENT. A youth offender committed to a secure facility shall remain until the offender reaches age twenty-one (21), or is conditionally released or discharged. A youth offender committed to a secure facility shall appear before the department within ninety (90) days after commitment, for review of treatment plans and establishment of conditional release

guidelines.

16-1829. CONDITIONAL RELEASE ESTABLISHED. (1) The department shall determine an appropriate conditional release date, based upon guidelines established by the board of health and welfare for youth offenders commited to secure confinement. The board of health and welfare shall review and update policy guidelines annually.

(2) Youth offenders may be conditionally released to their own home, to a residential community based program, to a nonresidential community based treatment program, to an approved independent living setting, or to other appropriate residences, but shall remain on conditional release until the conditional release is terminated by the department.

(3) Case management staff of the department shall implement conditional release plans and supervise youth offenders while on conditional release.

(4) The department shall determine when and under what conditions youth offenders committed to a secure facility are eligible for conditional release. The youth offender shall be served a notice of any conditional release hearings, and shall have the right to personally appear for conditional release consideration. Orders and decisions of the department shall be in writing and the youth offender shall be provided written notice of the department's reasoning and decision in his case.

(5) When the department is considering conditional release for a youthful offender committed to the department for secure confinement, the department shall notify the prosecuting attorney of the county from which the youthful offender was committed to secure confinement, the judge whose order caused the youthful offender to be committed to secure confinement and the victims of the youthful offender's unlawful conduct.

16-1830. REVOCATION OF CONDITIONAL RELEASE -- ORDER OF DEPARTMENT TO RETAKE ESCAPEE OR CONDITIONAL RELEASE VIOLATOR -- PREREVOCATION HEARING PROCEDURE. (1) The department may revoke the conditional release of a youth offender upon a determination that there has been a violation of law or of a condition of conditional release by the youth offender which warrants his return to a secure facility.

(2) The department may issue an order of reconfinement to order any peace officer or employee of the department to retake a youth offender alleged to be in violation of conditional release conditions. The department may issue an order of reconfinement to any peace officer or employee of the department to retake a youth offender alleged to be in violation of court-ordered community placement, or who has escaped from a secure facility. Based upon such an order of reconfinement, a youth offender may be held in a local detention facility for no longer than forty-eight (48) hours (excluding weekends and legal holidays) to allow time for court review of allegations of community placement violations or a prerevocation hearing of the alleged violation of the terms of a conditional release, or in the case of an escapee, to arrange transportation to the secure facility.

16-1831. CONDITIONAL RELEASE DOCUMENT TO SPECIFY CONDITIONS OF CONDITIONAL RELEASE -- SIGNATURE BY YOUTH OFFENDER -- AFTER CARE SERVICES. Conditions of conditional release shall be specified in writing and agreed to by the youth offender evidenced by the signature of the youth offender affixed to the conditional release document. The department shall provide appropriate after-care services for youth offenders on conditional release in the form of monitoring and tracking.

16-1832. DISCHARGE. A youth offender may be discharged at any time from the jurisdiction of the department by written order of the department upon a finding that no further purpose would be served by secure confinement or supervision in a community setting. Discharge shall be in accordance with policies approved by the board of health and welfare. The discharge shall be a complete release of all penalties incurred by adjudication of the offense for which a youth offender was committed.

16-1833. COMMUNITY BASED CORRECTION PROGRAMS -- ESTABLISHMENT -- STANDARDS -- PLACEMENT OF YOUTH OFFENDERS. (1) The department shall provide residential and nonresidential community based corrections programs in the various judicial districts to provide care, treatment and supervision for conditionally released youth offenders and youth offenders committed to the department by courts for supervision in nonsecure programs.

(2) The department shall adopt, with the approval of the board of health and welfare, minimum standards for the organization and operation of community based corrections programs for youth offenders. Standards approved by the board of health and welfare shall be promulgated for implementation of such programs and shall be promulgated in compliance with the provisions of chapter 52, title 67, Idaho Code.

(3) The department shall place youth offenders committed to it for nonsecure supervision and treatment in the most appropriate private or public program based upon the department's evaluation of the youth offender's needs and available resources.

(4) The department in its role as planner for juvenile justice and delinquency prevention services shall establish or enter into agreements for the establishment of community based prevention and diversionary youth services programs which may include, but not be limited to: emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, recruitment and training of volunteers, consultation, brokerage of services and agency coordination with emphasis on keeping youth with a high potential for delinquency out of the traditional juvenile justice process.

(5) In establishing and implementing programs pursuant to this section, the department shall, whenever it is possible and feasible, enter into contracts or agreements with private providers for the provision of services or facilities, or both, as long as the public safety would not be adversely affected thereby.

16-1834. CASE MANAGEMENT STAFF REQUIRED -- DUTIES. (1) The department shall provide a sufficient number of case management staff

to provide care, treatment and supervision for youth offenders on conditional release and for youth offenders committed to the department by courts for out-of-home supervision in a community based program.

(2) Case management staff shall develop treatment programs for each youth offender in the community, provide appropriate services and monitor individual progress. Progress reports shall be filed at least every three (3) months with the committing court for each youth offender committed to the department for out-of-home placement and with the department for each conditional releasee. The department, in the case of conditional releasees, or the court, in case of youth committed to the department for placement in community programs, shall be notified in writing immediately of any violations of law or conditions of conditional release or placement.

(3) Case management staff shall conduct investigations and make reports requested by the courts to aid them in determining appropriate case dispositions. Case management staff shall also conduct investigations and make reports requested by the department to aid it in making appropriate dispositions in cases of conditional release, revocation and termination. Upon notification of an escape from a secure facility, the case management staff shall initiate action to locate and apprehend escapees.

(4) Case management staff shall make reports to the parent, guardian or custodian of a youth offender about the youth's progress in the program at the same time the report is filed with the court.

16-1835. DIAGNOSTIC AND OBSERVATION PROGRAMS. The department shall operate diagnostic and observation programs necessary to evaluate youth committed to it pursuant to this chapter. Whenever possible, this program shall be conducted in settings separate and distinct from secure facilities for youth offenders.

16-1836. MAGISTRATE COURT PROBATION SECTIONS TO FURNISH INFORMATION TO DEPARTMENT. Probation sections of the magistrate division of the district court shall render full and complete cooperation to the department in supplying the department with all pertinent information relating to youth offenders committed to the department. This information may include, but not be limited to, prior criminal history, social history, psychological evaluations, and identifying information specified by the department.

16-1837. REVIEW OF PROGRAMS FOR JUVENILES -- CERTIFICATION. The department shall annually review all state operated or state contracted programs which provide services to juveniles who have committed a delinquent act, in this state or in any other state, which would constitute a felony or misdemeanor if committed by an adult, and certify compliance with standards provided by the board of health and welfare. Written reviews shall be provided to the managers of those programs. Based upon policies established by the board of health and welfare, those programs which are unable or unwilling to comply with approved standards may not be certified. Persons owning or operating a private facility which through a willful act fails to comply with the standards established by the department shall be guilty of a misde-

meanor.

16-1838. CONTRACTS WITH PRIVATE PROVIDERS OF SERVICES FOR YOUTH OFFENDERS -- CERTIFICATION REQUIRED. Nothing in this chapter shall prohibit the department from contracting with private providers or other entities for the provision of care, treatment and supervision of youth offenders committed to the care of the department, if these programs are certified as in compliance with department standards as adopted by the board of health and welfare within six (6) months after commencing operation.

16-1839. PROGRAM RECORDS AS PROPERTY OF DEPARTMENT -- CONTROL OF RECORDS. All records maintained by programs under contract to the department providing services to youth offenders are the property of the department and shall be returned to it when the youth offenders are terminated from the programs. The department shall maintain an accurate audit trail of information provided to other programs or agencies regarding youth offenders under its jurisdiction.

16-1840. RESTITUTION TO VICTIMS OF YOUTH OFFENDERS -- DUTIES OF DEPARTMENT. (1) The department shall make reasonable efforts to ensure that restitution is made to the victim of the youth offender. Restitution may be made through the employment of youth offenders in work programs or directly to the person; provided, however, that reimbursement to the victim is conditional upon the youth offender's involvement in such program.

(2) Restitution may be made a condition of release, placement, or conditional release by the department. In the event of conditional release revocation or where there is no court order requiring restitution to the victim and the loss to the victim has been determined, the department shall evaluate whether restitution is appropriate and, if so, the amount or type of restitution to which the victim is entitled.

(3) The department shall notify the court of all restitution paid to victims through the employment of youth offenders in work programs.

16-1841. CREATION OF ACCOUNT. There is hereby created in the dedicated fund of the state treasury an account known as the "Youth Corrections Victim Restitution Account," which shall be administered by the department. Moneys in the account shall consist of wage payments made to youth offenders in work programs, appropriations and moneys received from whatever source. Moneys in the account shall be utilized to provide full or partial restitution to victims of the youth offender's delinquent behavior.

16-1842. ORDER FOR PAYMENT OF COSTS. On commitment of a youth offender to the department, and on recommendation of the department to the court, the court shall, whenever possible, order the youth or the youth's parent, guardian or custodian, to share in the costs of support and maintenance for the youth during the youth's term of commitment.

16-1843. EFFECT OF DISCHARGE BY DEPARTMENT. Whenever a person

committed to the department by a court is discharged from its control such discharge shall, when so ordered by the department, restore such person to all civil rights and shall have the effect of setting aside the conviction, provided, however, that when a child is placed on probation under the department, such commitment shall be automatically discharged at the expiration of said term, unless the court shall grant an extension. Such conviction shall not operate to disqualify him for any future examination, appointment or application of public service within the state. The records of commitment to the department shall be withheld from public inspection except with the consent of the board of health and welfare or the department, but such records concerning any child under eighteen (18) years of age shall be open, at all reasonable times, to the inspection of the child, his parents, guardian or attorney. A commitment to the department shall not be received in evidence or used in any way in any proceeding in any court except in subsequent proceedings or a law violation against the same youth offender, and except when imposing sentence in any criminal proceeding against the same person.

16-1844. REPORTS BY DEPARTMENT. When a youth offender has been committed to the department pursuant to this chapter, the department shall supply a report of the youth offender's educational and rehabilitation progress to the committing court as often as the court deems necessary in its order of commitment, but not less frequently than every three (3) months.

16-1845. APPEAL NOT TO STAY COMMITMENT, EXCEPTION. When a person who has been convicted of a felony and committed to the department appeals from the conviction, the execution of commitment to the department shall not be stayed by taking of the appeal except he may be admitted to bail upon discretion of the court or left at liberty, under conditions as in the court's opinion will insure his cooperation in reasonable expedition of the appellate proceedings and his submission to control of the department at the proper time.

16-1846. PENALTY CLAUSE. Any person responsible for duties under this chapter who wilfully fails, refuses or neglects to execute such duties shall be guilty of a misdemeanor.

16-1847. SPECIAL COMMISSIONER -- DUTIES. The court shall be authorized to appoint a special commissioner to assist in the conduct of proceedings under this chapter. In any case in which the court refers a petition to the commissioner, the commissioner shall promptly cause the matter to be investigated and on the basis thereof shall either recommend dismissal of the petition or hold a hearing as provided in this act and make recommendation to the court regarding the disposition of the matter and such commissioner shall be paid for the services rendered on order of the court from county funds such amount as is determined by the court.

16-1848. CONSTRUCTION OF ACT. This act shall be liberally construed to the end that the legislative policy expressed herein is

achieved.

16-1849. YOUTH CORRECTIONS ACCOUNT -- CREATION. There is hereby created in the dedicated fund of the state treasury, the youth corrections account. Moneys in the account shall be utilized by the board of health and welfare for construction and administration of secure facilities and community based programs under the jurisdiction of the department of health and welfare, for assistance to a county or series of counties in constructing, contracting for or administering detention facilities for juveniles, and for alternative programs designed to help juveniles avoid the traditional juvenile justice system. All moneys in the account may be expended only pursuant to appropriation by the legislature.

16-1850. CITATION OF ACT. This act may be cited as the "Juvenile Justice Reform Act of 1989."

SECTION 10. That Section 18-1502, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502. BEER, WINE OR OTHER ALCOHOL AND TOBACCO AGE VIOLATIONS -- FINES. (a) Whenever a person is in violation, on the basis of age, of any federal, state, or municipal law or ordinance pertaining to the use, possession, procurement, or attempted procurement, or dispensing of any beer, wine or other alcoholic beverage or tobacco product, the violation shall constitute a misdemeanor.

(b) Every person convicted of a misdemeanor under this section shall be punished by a fine of not more than one hundred dollars ($100). The second conviction under this section shall be punished by a fine of not more than two hundred dollars ($200). The third and subsequent convictions under this section shall be punished by a fine of not more than three hundred dollars ($300), or up to thirty (30) days in jail or both.

(c) ~~The--transportation--department--shall-suspend-the-operator's license-or-permit-to-drive-and-any-nonresident's-driving-privileges-in the-state-of-Idaho-for-sixty-(60)-days-of-any-person-under--twenty-one (21)--years--of--age-who-is-found-guilty-or-convicted-of-violating-the law-pertaining-to-the-use,-possession,-procurement,-attempted-procurement-or-dispensing-of-any-beer,-wine-or-other--alcoholic--beverage.~~ A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.

(d) Whenever a person who is seventeen (17) years of age or younger, who is convicted, found guilty or receives a withheld judgment for any offense described in this subsection or is determined by a court to have committed one (1) of the described offenses, the court in which the person is before shall suspend the driving privileges of the person. The provisions of this subsection apply to any crime, violation, infraction or other offense involving the possession, use, procurement, attempted procurement or dispensing of any beer, wine, or

other alcoholic beverage. If a court has issued an order of suspension under this section the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(1) The court may not withdraw an order for a period of ninety (90) days following the issuance of the order if it is the first such order issued with respect to the person. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(2) The court may not withdraw an order for a period of one (1) year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(3) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

Whenever a person is found to have committed any crime, violation, infraction or other offense involving the possession, use, procurement, attempted procurement or dispensing of any beer, wine or other alcoholic beverage, the court, it its discretion, may also order the individual to undergo and complete an alcohol evaluation and to complete an alcohol treatment or education program in the same manner that persons sentenced pursuant to section 18-8005, Idaho Code, are required to undergo and complete.

Whenever a person seventeen (17) years of age and under is found to have committed any crime, violation, infraction or other offense involving the possession, use, procurement, attempted procurement or dispensing of any beer, wine or other alcoholic beverage, the court, in its discretion, may order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 18, title 16, Idaho Code, in lieu of any penalties or sanctions set forth in this section.

SECTION 11. 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 18-1510, Idaho Code, and to read as follows:

18-1510. PROVIDING SHELTER TO RUNAWAY CHILDREN. (1) A person who knowingly or intentionally provides housing or other accommodations to a child seventeen (17) years of age or younger without the authority of: (a) the custodial parent or guardian of the child; (b) the state of Idaho or a political subdivision thereof; or (c) the one having legal custody of the child shall be guilty of a misdemeanor. Nothing contained in this section shall be construed to prevent the lawful detention of a minor child or the rendering of emergency aid or assistance to a minor child. It shall be an affirmative defense to the provisions of this section that the person providing housing or other accommodations to the child has notified the custodial parent or guardian or the county sheriff or city police of the child's whereabouts. It shall also be an affirmative defense to the provisions of

this section that the person providing housing or other accommodations to the child notices reasonable evidence that the child has been abused by the custodial parent or guardian.

(2) A person convicted of a violation of the provisions of this section shall be punished by imprisonment for a period not in excess of six (6) months, a fine not in excess of five thousand dollars ($5,000) or by both such fine and imprisonment. Additionally, any real property utilized in violation of the provisions of this section may be declared a public nuisance pursuant to chapter 1, title 52, Idaho Code.

SECTION 12. That Section 72-102, Idaho Code, be, and the same is hereby amended to read as follows:

72-102. DEFINITIONS. Words and terms used in the workmen's compensation law, unless the context otherwise requires, are defined in the subsections which follow.

(1) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(2) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this law.

(3) "Burial expenses" means a sum, not to exceed three thousand dollars ($3,000) for funeral and burial or cremation, together with the actual expenses of transportation of the employee's body to his place of residence within the United States or Canada.

(4) "Commission" means the industrial commission.

(5) "Community service worker" means any person who has been convicted of a criminal offense, any juvenile who has been found to be within the purview of chapter 18, title 16, Idaho Code, and who has been informally diverted under the provisions of section 16-1807A, Idaho Code, or any person or youth who has been diverted from the criminal or juvenile justice system and who performs a public service for any department, institution, office, college, university, authority, division, board, bureau, commission, council, or other entity of the state, or any city, county, school district, irrigation district or other taxing district authorized to levy a tax or an assessment or any other political subdivision.

(6) "Compensation" used collectively means any or all of the income benefits and the medical and related benefits and medical services.

(67) "Death" means death resulting from an injury or occupational disease.

(78) Dependency limitations.

(a) "Adopted" and "adoption" include cases where persons are treated as adopted as well as those of legal adoption unless legal adoption is specifically provided.

(b) "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption.

(c) "Child" includes adopted children, posthumous children, and acknowledged illegitimate children, but does not include stepchildren unless actually dependent.

(d) "Grandchild" includes children of legally adopted children and children of stepchildren, but does not include stepchildren of children, stepchildren of stepchildren, or stepchildren of adopted children unless actually dependent.

(e) "Parent" includes stepparents and parents by adoption.

(f) "Grandparent" includes parents of parents by adoption, but does not include parents of stepparents, stepparents of parents, or stepparents of stepparents.

(~~8~~9) "Disability," for purposes of determining total or partial temporary disability income benefits, means a decrease in wage-earning capacity due to injury or occupational disease, as such capacity is affected by the medical factor of physical impairment, and by pertinent nonmedical factors as provided in section 72-430, Idaho Code.

(~~9~~10) "Employee" is synonymous with "workman" and means any person who has entered into the employment of, or who works under contract of service or apprenticeship with, an employer. It does not include any person engaged in any of the excepted employments enumerated in section 72-212, Idaho Code, unless an election as provided in section 72-213, Idaho Code, has been filed. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to his dependents as herein defined, if the context so requires, or, where the employee is a minor or incompetent, to his committee or guardian or next friend.

(~~10~~11) "Employer" means any person who has expressly or impliedly hired or contracted the services of another. It includes contractors and subcontractors. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workmen there employed. If the employer is secured, it means his surety so far as applicable.

(~~11~~12) "Gender and number." The masculine gender includes the feminine and neuter; "husband" or "wife" includes "spouse"; the singular number includes plural and the plural the singular.

(~~12~~13) "Income benefits" means payments provided for or made under the provisions of this law to the injured employee disabled by an injury or occupational disease, or his dependents in case of death, excluding medical and related benefits.

(~~13~~14) "Independent contractor" means any person who renders service for a specified recompense for a specified result, under the right to control or actual control of his principal as to the result of his work only and not as to the means by which such result is accomplished.

(~~14~~15) "Injury" and "accident."

(a) "Injury" means a personal injury caused by an accident arising out of and in the course of any employment covered by the workmen's compensation law.

(b) "Accident" means an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it

occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury.

(c) "Injury" and "personal injury" shall be construed to include only an injury caused by an accident, which results in violence to the physical structure of the body. The terms shall in no case be construed to include an occupational disease and only such nonoccupational diseases as result directly from an injury.

(15~~5~~6) "Medical and related benefits" means payments provided for or made for medical, hospital, burial and other services as provided in this law other than income benefits.

(16~~6~~7) "Medical services" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities and supplies.

(17~~7~~8) "Occupational diseases."

(a) "Occupational disease" means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment.

(b) "Contracted" and "incurred," when referring to an occupational disease, shall be deemed the equivalent of the term "arising out of and in the course of" employment.

(c) "Disablement," except in the case of silicosis, means the event of an employee's becoming actually and totally incapacitated because of an occupational disease from performing his work in the last occupation in which injuriously exposed to the hazards of such disease, and "disability" means the state of being so incapacitated.

(d) "Disablement," in the case of silicosis, means the event of first becoming actually incapacitated, because of such disease, from performing any work in any remunerative employment; and "disability" means the state of being so incapacitated.

(e) "Silicoses" means the characteristic fibrotic condition of the lungs caused by the inhalation of silicon dioxide (SiO) dust.

(18~~8~~9) "Outworker" means a person to whom articles or materials are furnished to be treated in any way on premises not under the control or management of the person who furnished them.

(1~~9~~20) "Person" means the state or any political subdivision thereof, or any individual, partnership, firm, association, trust, corporation, including the state insurance fund, or any representative thereof.

(20~~1~~1) "Physician" means medical physicians and surgeons, ophthalmologists, otorhinolaryngologists, dentists, osteopaths, osteopathic physicians and surgeons, optometrists, podiatrists, chiropractic physicians, and members of any other healing profession licensed or authorized by the statutes of this state to practice such profession within the scope of their practice as defined by the statutes of this state and as authorized by their licenses.

(21~~2~~2) "Secretary" means the secretary of the commission.

(22~~3~~3) "Self-insurer" means an employer who has been authorized under the provisions of this law to carry his own liability to his employees covered by this law.

(234) "State" includes any state, district, commonwealth, zone or territory of the United States or any province of Canada.

(245) "Surety" means any insurer authorized to insure or guarantee payment of workmen's compensation liability of employers in any state; it also includes the state insurance fund, a self-insurer and an inter-insurance exchange.

(256) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone and the territories of the United States.

(267) "Wages" and "wage earning capacity" prior to the injury or disablement from occupational disease means the employee's money payments for services as calculated under section 72-419, Idaho Code, and shall additionally include the reasonable market value of board, rent, housing, lodging, fuel, and other advantages which can be estimated in money which the employee receives from the employer as part of his remuneration, and gratuities received in the course of employment from others than the employer. "Wages" shall not include sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.

(278) "Wages" and "wage earning capacity" after the injury or disablement from occupational disease shall be presumed to be the actual earnings after the injury or disablement, which presumption may be overcome by showing that those earnings do not fairly and reasonably represent wage earning capacity; in such a case wage earning capacity shall be determined in the light of all factors and circumstances which may affect the worker's capacity to earn wages.

(289) "Workmen's compensation law" means and includes the workmen's compensation law of this state and any like or similar law of any state, United States, territory, or province of Canada.

SECTION 13. That Section 72-205, Idaho Code, be, and the same is hereby amended to read as follows:

72-205. PUBLIC EMPLOYMENT GENERALLY -- COVERAGE. The following shall constitute employees in public employment and their employers subject to the provisions of this law:

(1) Every person in the service of the state or of any political subdivision thereof, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties, except officials of athletic contests involving secondary schools, as defined by section 33-119, Idaho Code.

(2) Every person in the service of a county, city, or any political subdivision thereof, or of any municipal corporation.

(3) Members of the Idaho national guard while on duty, and participants in the Idaho youth conservation project under the supervision of the Idaho state forester.

(4) Every person who is a member of a volunteer fire or police department shall be deemed, for the purposes of this law, to be in the employment of the political subdivision or municipality where the department is organized.

(5) Every person who is a regularly enrolled volunteer member or

trainee of the department of disaster and civil defense, or of a civil defense corps, shall be deemed, for the purposes of this law, to be in the employment of the state.

(6) A community service worker, as that term is defined in section 72-102, Idaho Code, is considered to be an employee in public employment for purposes of receiving workmen's compensation benefits, which shall be the community service worker's exclusive remedy for all injuries and occupational diseases as provided under chapters 1 through 8, title 72, Idaho Code.

SECTION 14. That Section 72-438, Idaho Code, be, and the same is hereby amended to read as follows:

72-438. OCCUPATIONAL DISEASES. Compensation shall be payable for disability or death of an employee resulting from the following occupational diseases:

(1) Poisoning by lead, mercury, arsenic, zinc, or manganese, their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(2) Carbon monoxide poisoning or chlorine poisoning in any process or occupation involving direct exposure to carbon monoxide or chlorine in buildings, sheds, or inclosed places.

(3) Poisoning by methanol, carbon bisulphide, hydrocarbon distillates (naphthas and others) or halogenated hydrocarbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(4) Poisoning by benzol or by nitro, amido, or amino-derivatives of benzol (dinitro-benzol, anilin and others) or their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(5) Glanders in the care or handling of any equine animal or the carcass of any such animal.

(6) Radium poisoning by or disability due to radioactive properties of substances or to Roentgenray (X-ray) in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(7) Poisoning by or ulceration from chromic acid or bichromate of ammonium, potassium, or sodium or their preparations, or phosphorus preparations or compounds, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(8) Ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound product, or residue of any of these substances, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(9) Dermatitis venenata, that is, infection or inflammation of the skin, furunculosis excepted, due to oils, cutting compounds, lubricants, liquids, fumes, gases, or vapors in any occupation involving direct contact therewith, handling thereof or exposure thereto.

(10) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, skins, or bodies of animals either alive or dead.

(11) Silicosis in any occupation involving direct contact with,

handling of, or exposure to dust of silicon dioxide (SiO).

(12) Cardiovascular or pulmonary or respiratory diseases of a paid fireman, employed by a municipality, village or fire district as a regular member of a lawfully established fire department, caused by overexertion in times of stress or danger or by proximate exposure or by cumulative exposure over a period of four (4) years or more to heat, smoke, chemical fumes or other toxic gases arising directly out of, and in the course of, his employment.

Recognizing that additional toxic or harmful substances or matter are continually being discovered and used or misused, the above enumerated occupational diseases are not intended to be exclusive, but such additional diseases shall not include hazards which are common to the public in general and which are not within the meaning of section 72-102(178)(a), Idaho Code, and the diseases enumerated in subsection (12) pertaining to paid firemen shall not be subject to the limitations prescribed in section 72-439, Idaho Code.

SECTION 15. That Chapter 7, Title 8, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 8-705, Idaho Code, and to read as follows:

8-705. WAGE ASSIGNMENT FOR SUPPORT AND CARE OF DELINQUENT CHILD. In any proceeding where the court has ordered a parent, legal guardian, or custodian to pay any amount for the care, support or maintenance of a child adjudged to be within the purview of chapter 18, title 16, Idaho Code, and through the adjudication has rendered a liability upon the parent, legal guardian or custodian to pay damages or to pay for the child's support and care, the following procedure may be utilized for collection. The court may order the parent, legal guardian or custodian to assign a sum as the court may determine to be equitable or as may otherwise be provided by statute or contract to the county clerk, probation officer or other office of the court or county officer designated by the court to receive such payment. The assignment shall be that portion of salary or wages of the parent, legal guardian or custodian the court deems would be due in the future to apply on the amount ordered by the court for the care, support or maintenance of the delinquent child or for breach of contract caused by the child's delinquency. The order shall be binding upon an employer and until further order of the court. Any such order may be modified or revoked at any time by the court. Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court. All sums collected pursuant to the provisions of this section shall be remitted as may be provided by law.

SECTION 16. That Chapter 22, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2223, Idaho Code, and to read as follows:

1-2223. MAGISTRATE JUDGES HANDLING JUVENILE DELINQUENCY CASES.

(1) Each magistrate judge in a judicial district who is assigned juvenile delinquency matters shall receive instruction in a course designed for training of judges of juvenile courts.

(2) Each magistrate judge to whom this section applies shall attend instruction provided when it is offered for the first time after his appointment, election or assignment, unless he is excused by written order of the supreme court.

(3) The administrative director of the courts shall arrange for giving appropriate instruction to magistrate judges as required by the provisions of this section.

(4) On and after July 1, 1991, no magistrate judge shall be assigned juvenile delinquency matters unless certified by the supreme court as having received adequate training and being qualified to handle juvenile delinquency matters.

SECTION 17. That Section 16-1812, Idaho Code, be, and the same is hereby amended to read as follows:

16-1812. DETENTION ACCOMMODATIONS. 1. The county commissioners shall provide a detention home or homes for the ~~temporary~~ detention of children to be conducted by the court, or, subject to the approval of the court, by other appropriate public agency, provided that such detention shall comply with the provisions of section 16-1812A, Idaho Code; or within the limits of funds provided by the county commissioners the court may arrange for the use of private homes for such detention, subject to the supervision of the court or other agency, or may arrange with any institution or agency to receive for temporary care and custody children within the jurisdiction of the court, provided said private individual or agency facilities, except relatives of the child, shall meet the licensing requirements of the state department of health and welfare for care of children. Nothing herein shall prevent a jail facility from being utilized as a detention home if the detention facility complies with the provisions of section 16-1812A, Idaho Code.

2. For the purpose of carrying out the provisions of this section, the county commissioners may enter into contracts or agreements with public or private agencies, individuals, other counties, or the state department of health and welfare which may include the expenditures of moneys outside the county boundaries. If the county in which the court is located has made an agreement with another governmental unit or agency located outside the county or the judicial district for the detention of children under this act, then any court in the county may order a child detained outside of the county or outside of the judicial district in the detention facility described in such agreement.

3. The county wherein any court has entered an order for the detention of a child outside of the county or outside of the judicial district as provided by subsection 2 of this section shall pay all direct and indirect costs of the detention of the child to the governmental unit or agency owning or operating the detention facility in which the child was detained. The amount of such cost may be determined on a per day per child basis by agreement between the county

wherein the court entered the order of detention and the county or governmental unit or agency owning or operating such detention facility.

4. All funds appropriated by the state for the planning and design of regional detention facilities shall be administered and distributed by the director of the department of administration for the planning and design of regional detention facilities in accordance with the requirements or directives of such appropriation. In administering such fund, the director of the department of administration shall consult with the designated county officials of every county involved or affected by a proposed regional detention facility and shall abide by the decision of the designated representatives of each of the counties so involved or affected.

SECTION 18. That Section 16-1812A, Idaho Code, be, and the same is hereby amended to read as follows:

16-1812A. STANDARDS FOR DETENTION. The following shall be minimum standards for the temporary detention of children provided for in section 16-1812, Idaho Code:

(1) Juvenile detention facilities must be so constructed and/or maintained as to keep children segregated from adult offenders or those being treated as adult offenders under sections 16-1806 or 16-1806A, Idaho Code, with there to be no contact as to sight and/or sound between the two (2) classes.

(2) Juvenile detention facilities must provide supervision and observation of juvenile detainees sufficient to protect the physical and mental health of the detainees.

(3) Juveniles held in detention must be provided with at least three (3) adequate and nutritional meals per day.

(4) Juveniles held in detention must have access to reading materials on a regular and systematic basis. Detained juveniles may receive books, newspapers and periodicals from any source including delivery to the detention facilities by family members, subject to the right of detention authorities to inspect and remove dangerous or harmful materials. Detention authorities may forbid the introduction into holding quarters of obscene books or periodicals.

(5) A visiting program shall be established in juvenile detention facilities which will allow for family visits to each juvenile for at least two (2) hours each week.

SECTION 19. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

1. State and County Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues and any balance or deficit in the county school fund to determine the total state and county funds. From the total state and county funds subtract the amount needed for the state's share of transportation support program

as provided in section 33-1006, Idaho Code, and the amount needed for the state's share of the exceptional education support program as provided in section 33-1007, Idaho Code, to secure the state and county educational support funds.

2. Local Districts' Contribution. a. Without including any allowance as a credit for prepaid taxes, as provided by section 63-1607, Idaho Code, the local districts' contribution shall be:

(1) Thirty hundredths percent (.30%) during fiscal year, 1987-1988;

(2) Thirty-one and one-half hundredths percent (.315%) during fiscal year, 1988-1989;

(3) Thirty-three and one-tenth hundredths percent (.331%) during fiscal year, 1989-1990;

(4) Thirty-four and seven-tenths hundredths percent (.347%) during fiscal year, 1990-1991;

(5) Thirty-six hundredths percent (.36%) during fiscal year, 1991-1992 and each year thereafter,

of the total state adjusted market value for assessment purposes for the previous year and:

(1) Thirty hundredths percent (.30%) during fiscal year, 1987-1988;

(2) Thirty-one and one-half hundredths percent (.315%) during fiscal year, 1988-1989;

(3) Thirty-three and one-tenth hundredths percent (.331%) during fiscal year, 1989-1990;

(4) Thirty-four and seven-tenths hundredths percent (.347%) during fiscal year, 1990-1991;

(5) Thirty-six hundredths percent (.36%) during fiscal year, 1991-1992 and each year thereafter,

of the equivalent valuation for the previous year as defined in section 33-1014, Idaho Code.

b. The educational support program shall provide from state sources to each school district on a support unit basis, an amount that is equal to, or greater than, the amount of the state's share which was provided during the preceding fiscal year.

3. Educational Support Program Distribution Funds. Add the local districts' contribution and the state and county educational support program funds together to secure the total educational support program distribution funds.

4. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules and regulations setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. In computing the average daily attendance the entire school year shall be used except that the twenty-eight (28) weeks having the best average daily attendance, not necessarily consecutive, may be used. When a school is closed because of storm, flood, failure of the heating plant, loss or damage to the school building, quarantine or order of any city, county or state health agency, or for reason believed by the board of trustees to be

in the best interests of the health, safety or welfare of the pupils, the board of trustees having certified to the state department of education the cause and duration of such closure, the average daily attendance for such day or days of closure shall be considered as being the same as for the days when the school actually was in session. For illness or accident that necessitates an absence from school for more than ten (10) consecutive school days, the school district may include homebound students in its total attendance, provided that academic instruction has been given by appropriate certified professional staff employed by the district.

5. Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of elementary support units, computation of secondary support units, computation of kindergarten support units, and computation of exceptional education support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Units Allowed
41 or more	40.....	1 or more as computed
31 _ 40.99 ADA....	-.....	1
26 _ 30.99 ADA....	-.....	.85
21 _ 25.99 ADA....	-.....	.75
16 _ 20.99 ADA....	-.....	.6
8 _ 15.99 ADA....	-.....	.5
1 _ 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Minimum Units Allowed
300 or more ADA	....23.....	15
160 to 299.99 ADA	....20.....	8.4
110 to 159.99 ADA	....19.....	6.8
71.1 to 109.99 ADA	....16.....	4.7
51.7 to 71.0 ADA	....15.....	4.0
33.6 to 51.6 ADA	....13.....	2.8
16.6 to 33.5 ADA	....12.....	1.4
1.0 to 16.5 ADA	....n/a.....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Minimum Units Allowed
750 or more	18.5.....	47
400 _ 749.99 ADA....	16.....	28
300 _ 399.99 ADA....	14.5.....	22
200 _ 299.99 ADA....	13.5.....	17
100 _ 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Units Allowed
14 or more	14.5.....	1 or more as computed
12 - 13.99....	-.....	1

8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education support units shall be applicable only for programs approved by the state department of education following the rules and regulations established by the state board of education.

6. State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations for border district approved contracts as provided in section 33-1403, Idaho Code, and exceptional child approved contracts as provided in section 33-2004(2), Idaho Code, by the total state support units to secure the state distribution factor per support unit.

7. District Share of State and County Funds for Educational Support Program. Ascertain a district's share of state and county funds for the educational support program as follows:

a. District Contribution Calculation. Without including any allowance as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, the district contribution calculation shall be the rate determined under subsection 2. of this section.

b. District Support Units. The number of support units for each school district in the state shall be determined as follows:

(1) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the actual average daily attendance of all kindergarten, elementary and secondary students approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for the subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(3) The total number of support units of the district shall be the sum of the total support units for regular students, subsection 7b(1) of this section, and the support units allowance for the approved exceptional child program, subsection 7b(2) of this section.

c. Border District Allowance. In any school district which abuts upon the border of another state, and the resident pupils of the district attend school in the other state as provided in section 33-1403, Idaho Code, the state superintendent of public instruction shall determine the approved costs necessary to meet the educational needs of the students. The approved costs shall be allowed as a part of the district's total educational support program.

d. Exceptional Child Approved Contract Allowance. In any district where resident exceptional children are educated by contract as provided in section 33-2004(2), Idaho Code, the state superintendent of public instruction shall determine the approved costs. The approved costs shall be allowed as a part of the district's total educational support program.

e. ~~Nonresident~~ Court-ordered Pupil Tuition-Equivalency Allowance. Districts which educate ~~nonresident~~ pupils placed by Idaho court order in licensed group homes, agencies ~~or~~, institutions or juvenile detention facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per pupil. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.

f. Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit and to this product add the approved amount of border district contracts and the approved amount for the exceptional child contracts to secure the district's total allowance for the educational support program.

g. District Share. To secure the district's share of state and county apportionment, subtract the amount of the local district contribution calculation, subsection 7a of this section, from the amount of the total district allowance, subsection 7e of this section. The contract salary of every noncertificated teacher shall be subtracted from the district's share.

h. Exceptional Child Tuition-Equivalency Allowance. Districts which educate school age exceptional children residing in state institutions, licensed and certified intermediate care facilities, or licensed private nonprofit residential facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per child. This district allowance shall be in addition to exceptional child unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.

SECTION 20. That Chapter 20, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-2009, Idaho Code, and to read as follows:

33-2009. EDUCATION OF CHILDREN HOUSED IN JUVENILE DETENTION

FACILITIES. Every public school district in this state within which is located a detention facility housing juvenile offenders pursuant to court order shall provide, subject to rules and regulations of the state board of education, instruction in accredited courses, by a qualified instructor, for the juvenile offenders under twenty-one (21) years of age who are housed in the detention facility for juvenile offenders, and shall upon satisfactory completion of required public school courses or correspondence course from a state institution of higher learning in Idaho, issue credits or a diploma evidencing such achievement. Every student served by a public school district pursuant to this section shall be counted as an exceptional child by the district for purposes of state reimbursement.

SECTION 21. This act shall be in full force and effect on and after January 15, 1990.

Approved March 29, 1989.

CHAPTER 156
(S.B. No. 1261)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 43, LAWS OF 1988; APPROPRIATING MONEYS FOR THE IDAHO HUMAN RIGHTS COMMISSION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 94, LAWS OF 1988; 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 43, Laws of 1988, there is hereby appropriated to the Office of the Governor for the Public Employee Retirement System the following amount to be expended 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
FROM:				
Public Employee Retirement System Account	$24,100	$44,100	$242,400	$310,600
General Account	24,900	6,800	7,300	39,000
TOTAL	$49,000	$50,900	$249,700	$349,600

SECTION 2. In addition to the appropriation made by Section 1, Chapter 94, Laws of 1988, there is hereby appropriated to the Office of the Governor for the Idaho Human Rights Commission the following amount to be expended 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	TOTAL
FROM:			
General Account	$3,600	$400	$4,000
Human Rights Federal Account	1,000	100	1,100
TOTAL	$4,600	$500	$5,100

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

Approved March 28, 1989.

CHAPTER 157
(S.B. No. 1265)

AN ACT

AMENDING SECTION 2, CHAPTER 60, LAWS OF 1988, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 60, Laws of 1988, be, and the same is hereby amended to read as follows:

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~~

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
	339,400				358,200
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	$ ~~054,700~~	$ 234,000	$ 71,300		$ ~~1,160,000~~
	875,700				1,181,000
C. PLANT INDUSTRY:					
FROM:					
General Account	$ ~~141,500~~	$ ~~215,400~~			$ ~~356,900~~
	145,000	218,400			363,400
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	$~~1,301,000~~	$ ~~537,000~~	$ 34,800		$ ~~1,074,400~~
	1,305,300	540,800			1,880,900
D. AGRICULTURAL INSPECTIONS:					
FROM:					
General Account	$ ~~504,500~~	$ ~~114,000~~	$ 39,100		$ ~~650,400~~
	507,500	195,400			742,000
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
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~~
	5,920,600	800,100			7,131,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
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	~~32,000~~	~~46,400~~	$ 3,000		~~82,200~~
	52,800	76,400			132,200
Rural Rehabilitation Account		~~21,400~~		$150,000	~~171,400~~
	13,000	13,400			176,400
TOTAL	$ ~~90,500~~	$ ~~80,400~~	$ 3,000	$150,000	$ ~~331,900~~
	123,500	110,400			386,900
GRAND TOTAL	$~~8,611,900~~	$~~1,729,400~~	$325,100	$478,200	$~~11,144,600~~
	8,672,400	1,835,000			11,310,700

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 28, 1989.

CHAPTER 158
(S.B. No. 1273)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 122, LAWS OF 1988; 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 122, Laws of 1988, there is hereby appropriated to the Attorney General for State Legal Services the following amount to be expended 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 CAPITAL OUTLAY	TOTAL
FROM:			
General Account		$38,500	$38,500
Interagency Billing and Receipts Account	$25,000		25,000
TOTAL	$25,000	$38,500	$63,500

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 28, 1989.

CHAPTER 159
(S.B. No. 1274)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 130, LAWS OF 1988; 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 130, Laws of 1988, there is hereby appropriated to the State Board of Education for the Idaho State Historical Society the following amount to be expended for the named program according to the designated expense class from the listed account for the period July 1, 1988, through June 30, 1990:

I. HISTORICAL PRESERVATION AND EDUCATION:

FOR:	
Operating Expenditures	$40,000
FROM:	
General Account	$40,000

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

Approved March 28, 1989.

CHAPTER 160
(S.B. No. 1281)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION; AMENDING SECTION 2, CHAPTER 100, LAWS OF 1988, APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 306, LAWS OF 1988; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 100, Laws of 1988, be, and the same is hereby amended to read as follows:

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~~ 2,100,600	$~~1,442,700~~ 1,780,100	$ 91,100	$ ~~611,300~~ 1,228,800	$ ~~4,194,700~~ 5,200,600
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
Interagency Billing and Receipts Account	8,500	30,000			38,500
TOTAL	$ ~~2,366,100~~ 2,425,600	$~~1,516,600~~ 1,884,000	$ 91,100	$ ~~611,300~~ 1,228,800	$ ~~4,585,100~~ 5,629,500
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ ~~5,738,400~~ 5,760,400	$1,288,200	$141,000		$ ~~7,167,600~~ 7,189,600
Penitentiary Income Account		805,000			805,000
Interagency Billing					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
and Receipts					
Account	47,600	79,500			127,100
TOTAL	$ ~~5,706,000~~	$2,172,700	$141,000		$ ~~8,099,700~~
	5,808,000				8,121,700
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General					
Account	$ ~~1,193,200~~	$ 491,500	$ 31,300	$ 20,400	$ ~~1,736,400~~
	1,234,100				1,777,300
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General					
Account	$ ~~779,200~~	$ 506,400	$ 37,600		$ ~~1,323,200~~
	783,300				1,327,300
E. FIELD AND COMMUNITY SERVICES:					
FROM:					
General					
Account	$ ~~2,463,100~~	$ 471,200	$ 62,100		$ ~~2,996,400~~
	2,528,100				3,061,400
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~~
	2,994,600				3,705,500
F. PAROLE COMMISSION:					
FROM:					
General					
Account	$ ~~94,000~~	$ 28,400	$ 500		$ ~~122,900~~
	97,700				126,600
G. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Account	$ ~~776,900~~	$ 310,500	$ 25,000		$ ~~1,112,400~~
	777,200				1,112,700
Interagency Billing and Receipts					
Account	11,100	59,000			70,100
TOTAL	$ ~~700,000~~	$ 369,500	$ 25,000		$ ~~1,102,500~~
	788,300				1,182,800
GRAND TOTAL	$~~13,936,100~~	$~~5,733,900~~	$388,600	$ ~~631,700~~	$~~20,690,300~~
	14,131,600	6,101,300		1,249,200	21,870,700

SECTION 2. In addition to the appropriation made by Section 1, Chapter 306, Laws of 1988, there is hereby appropriated to the Department of Correction the following amount to be expended for the designated programs according to the 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	TOTAL
A. Idaho Correctional Institution - Orofino				
FROM:				
General Account	$ 26,600	$ 49,800	$ 19,900	$ 96,300
B. Maximum Security Institution - Boise				
FROM:				
General Account	$ 86,900	$194,700	$366,400	$648,000
GRAND TOTAL	$113,500	$244,500	$386,300	$744,300

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 28, 1989.

CHAPTER 161
(S.B. No. 1283)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO GEOLOGICAL SURVEY PROGRAM FOR FISCAL YEAR 1990; 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, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$389,000
Operating Expenditures	56,600
TOTAL	$445,600
FROM:	
General Account	$445,600

SECTION 2. There is hereby reappropriated to the Idaho Geological

Survey Program any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 168, Laws of 1988, to be used for nonrecurring expenditures only for the period of July 1, 1989, through June 30, 1990.

Approved March 28, 1989.

CHAPTER 162
(S.B. No. 1284)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1990; 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 from the listed account for the period July 1, 1989, through June 30, 1990:

FROM:

General Account $769,100

SECTION 2. There is hereby reappropriated to the State Board of Education for the Office of the State Board of Education, any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 304, Laws of 1988, to be used for nonrecurring expenditures only, for the period of July 1, 1989 through June 30, 1990.

Approved March 28, 1989.

CHAPTER 163
(S.B. No. 1285)

AN ACT

APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

FROM:
General Account $6,688,400

Approved March 28, 1989.

CHAPTER 164
(S.B. No. 1067, As Amended in the House)

AN ACT
RELATING TO RETAIL LIQUOR LICENSES; AMENDING SECTION 23-903, IDAHO CODE, TO FURTHER DEFINE CONVENTION CENTER.

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

SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby amended to read as follows:

23-903. LICENSE TO RETAIL LIQUOR. The director of the department of law enforcement is hereby empowered, authorized, and directed to issue licenses to qualified applicants, as herein provided, whereby the licensee shall be authorized and permitted to sell liquor by the drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink, but only in accordance with the rules and regulations promulgated by the director and the provisions of this chapter. No license shall be issued for the sale of liquor on any premises outside the incorporated limits of any city except as provided in this chapter and the number of licenses so issued for any city shall not exceed one (1) license for each one thousand five hundred (1,500) of population of said city or fraction thereof, as established in the last preceding census, or any subsequent special census conducted by the United States bureau of the census, except that upon proper application thereof not more than two (2) licenses may be issued for each incorporated city with a population of one thousand five hundred (1,500) or less, unless the retail licensing of liquor by the drink has been previously disapproved under the provisions of sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided, however, that any license heretofore issued may be renewed from year to year without regard to the population of the city for which such license is issued. Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide golf course, or ski resort, or to the lessee of any premises situate thereon, no part of which said golf course or ski resort or the premises thereon is situate within the incorporated limits of any city. For the purpose of this section a golf course shall comprise an actual, bona fide golf course, which is regularly used for the playing of the game of golf, and having not less than nine (9) tees, fairways and greens laid out and used in the usual and regular manner of a golf course. Nine (9) hole courses must have a total yardage of at least one thousand

(1,000) yards, and eighteen (18) hole courses must have a total yardage of at least two thousand (2,000) yards as measured by totaling the tee-to-green distance of all holes. The course must be planted in grass except that it may provide artificial tee mats. Where any such golf course is owned or leased by an association of members and is used or enjoyed by such members, or their guests, none of the disqualifications contained in section 23-910, Idaho Code, shall apply to such association as a licensee where such disqualifications, or any of them, would apply only to a member of such association where such member has no interest therein except as a member thereof. Also for the purpose of this section a ski resort shall comprise real property of not less than ten (10) acres in size, exclusive of the terrain used for skiing and upon which the owner, operator, or lessee of the ski resort has made available himself, or through others, including but not limited to the owners of condominiums, permanent bona fide overnight accommodations available to the general public for one hundred (100) persons or more, and which real property is contiguous to or located within the area in which skiing occurs, and which real property is regularly operated as a ski resort in the winter time, and where the owner, operator, or lessee of the ski resort is also the owner, operator, or lessee of the area served by a bona fide chair ski lift facility or facilities. The fees for licenses granted to ski resorts shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed premises shall be permitted on any golf course or any ski resort or within the area comprising the same.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of an actual, bona fide equestrian facility located on not less than forty (40) contiguous acres, with permanently erected seating of not less than six thousand (6,000) seats, no part of which equestrian facility or the premises thereon is situate within the incorporated limits of any city, and which facility shall have at least three (3) days per year of a professionally sanctioned rodeo. Not more than one (1) licensed premises shall be permitted at any equestrian facility or within an area comprising such a facility. The license shall be solely for the equestrian facility and shall not be transferred to any other location. The fees for licenses granted to equestrian facilities shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of a restaurant operated on an airport owned or operated by a county or municipal corporation or on an airport owned or operated jointly by a county and municipal corporation, and which said airport is served by a trunk or local service air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board of the United States of America. Not more than one (1) license shall be issued on any airport.

Nothing herein contained shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members

of the club, and to serve and to sell alcoholic beverages for consumption to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this section will revert to the director when, in his judgment, the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club which on July 1, 1983, holds a liquor license, may continue to possess that license. Any club which possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (a), (b) and (c) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(f), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses, shall pertain to club licenses. The burden of producing sufficient documentation of qualifications for club licensure shall be with the club applicant.

Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide convention center which is within the incorporated limits of a city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid convention center license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least thirty-five thousand (35,000) square feet of floor space or a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room which will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, as and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (c) of section 23-904, Idaho Code. No license issued to a convention center hereunder shall be transferable to another location or facility, nor shall the holder of a convention center license be eligible for the issuance of a license in the same city pursuant to any other provision of this chapter. For purposes of this section, the term holder shall include an owner, operator or lessee and shall include a stockholder, director, or officer of a corporation, or a partner in a partnership, which corporation or partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as herein defined.

Approved March 28, 1989.

CHAPTER 165
(H.B. No. 276)

AN ACT
RELATING TO INVESTMENT ADVISORS; AMENDING SECTION 30-1402, IDAHO CODE, TO EXEMPT ACCOUNTANTS REGULATED BY THE BOARD OF ACCOUNTANCY FROM ADDITIONAL REGULATION BY THE DEPARTMENT OF FINANCE.

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

SECTION 1. That Section 30-1402, Idaho Code, be, and the same is hereby amended to read as follows:

30-1402. DEFINITIONS. When used in this act, unless the context otherwise requires:

(1) "Director" means the director of the department of finance.

(2) "Salesman" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, but "salesman" does not include an individual who represents an issuer in:

(a) effecting a transaction in a security exempted by subsections (1), (2), (3), (6), (9), (10) or (11) of section 30-1434, Idaho Code,

(b) effecting transactions exempted by section 30-1435, Idaho Code, or

(c) effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer or director of a broker-dealer or issuer is a "salesman" only if he otherwise comes within this definition.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) a salesman, issuer, bank, savings institution, trust company, credit union or insurance company,

(b) a person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts or other financial institutions or institutional buyers, whether acting for themselves or as trustee, or

(c) a person who has no place of business in this state if during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in subsection (3)(b) of this section.

(4) "Guaranteed" means guaranteed as to payment of principal, interest or dividends.

(5) "Full business day" means all calendar days except Saturdays, Sundays and all legal holidays as defined by statute.

(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others either directly or through publications or writings as to the value of securities or as to the advisability of investing in, purchasing or selling securities or, who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(a) a bank, savings institution, trust company or insurance company.

(b) a certified public accountant or licensed public accountant who holds himself out to the public as a certified public accountant or licensed public accountant.

(c) a lawyer, ~~accountant,~~ engineer or teacher whose performance of these services is solely incidental to the practice of his profession.

(~~c~~d) a broker-dealer.

(~~d~~e) a publisher of any bona fide newspaper, news magazine or business or financial publication of general, regular and paid circulation.

(~~e~~f) a person whose advice, analyses or reports relate only to securities exempted by section 30-1434, Idaho Code.

(~~f~~g) a person who has no place of business in this state if

(1) his only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trust or other financial institutions or institutional buyers whether acting for themselves or as trustees, or

(2) during any period of twelve (12) consecutive months he does not direct business communications into this state in any manner to more than five (5) resident clients other than those specified in subsection (6)(~~f~~g)(1) of this section, or

(~~g~~h) such other persons not within the intent of this subsection as the director may by rule or order designate.

(7) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates or collateral-trust certificates or with respect to certificates of interest or shares in any unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(8) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(9) "Person," for the purpose of this act, means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a

security, an unincorporated organization, a government or a political subdivision of a government.

(10) "Sale" or "sell" includes every contract of sale or contract to sell or dispose of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, and every solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of or the levying of an assessment on assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(11) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes identified by those names as amended before or after the effective date of this act.

(12) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, or, in general, any interest or instrument commonly known as a "security" or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money, either in a lump sum, or periodically for life or some other specified period.

(13) "State" means any state, territory or possession of the United States, the District of Columbia and Puerto Rico.

Approved March 29, 1989.

CHAPTER 166
(S.B. No. 1262)

AN ACT

APPROPRIATING MONEYS TO THE HISPANIC COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Hispanic Commission 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, 1990:

FOR:

Operating Expenditures	$3,100

FROM:

Hispanic Commission Account	$3,100

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 29, 1989.

CHAPTER 167
(S.B. No. 1296)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE PERMANENT BUILDING ACCOUNT; APPROPRIATING MONEYS FROM THE PERMANENT BUILDING ACCOUNT TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSE SPECIFIED; EXEMPTING THE APPROPRIATION IN SECTION 2 FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the General Account to the Permanent Building Account the sum of $800,000.

SECTION 2. There is hereby appropriated from the Permanent Building Account to the Permanent Building Fund Advisory Council and the Division of Public Works the following amount, or so much thereof as may be necessary, for the purpose of paying the cost of any land, building, equipment, furnishings, or the rebuilding, renovation or repair, of the following building, facility or structure named and listed in this section.

Southeast Idaho Veterans Home	$800,000

SECTION 3. All appropriations made in Section 2 shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 4. 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, 1989.

CHAPTER 168
(S.B. No. 1297)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH EXTENSION SERVICE FOR FISCAL YEAR 1990; 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 Extension Service Program the following amount from the listed accounts, for the period July 1, 1989, through June 30, 1990:

FROM:	
General Account	$13,191,500
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	226,600
TOTAL	$17,555,600

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Agricultural Research Extension Service Program, any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 312, Laws of 1988, to be used for nonrecurring expenditures only for the period of July 1, 1989, through June 30, 1990.

Approved March 29, 1989.

CHAPTER 169
(S.B. No. 1298)

AN ACT

APPROPRIATING MONEYS FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	$193,900	$ 88,600	$282,500
Human Rights Federal Account	47,400	22,700	70,100
TOTAL	$241,300	$111,300	$352,600

Approved March 29, 1989.

CHAPTER 170
(S.B. No. 1263)

AN ACT
APPROPRIATING MONEYS FOR THE COMMISSION ON WOMEN'S PROGRAMS FOR FISCAL YEAR 1990; 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 accounts for the period July 1, 1989, through June 30, 1990:

FOR:	
Operating Expenditures	$12,700
FROM:	
General Account	$12,200
Commission on Women's Programs Account	500
TOTAL	$12,700

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 29, 1989.

CHAPTER 171
(S.B. No. 1300)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR IDAHO NATIONAL ENGINEERING LABORATORY OVERSIGHT IN ADDITION TO THE

APPROPRIATION MADE BY SECTION 2, CHAPTER 364, LAWS OF 1988; EXPRESSING LEGISLATIVE INTENT; 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 364, Laws of 1988, there is hereby appropriated to the Department of Health and Welfare for Idaho National Engineering Laboratory oversight, $193,000 from the Cooperative Welfare Account for the period July 1, 1988, through June 30, 1989.

SECTION 2. The Director of the Department of Health and Welfare shall be granted authority to appoint a coordinator-manager for Idaho National Engineering Laboratory oversight who shall be exempt from the provisions of Chapter 53, Title 67, Idaho Code, and who shall be accountable directly to the Governor. The coordinator-manager shall hire the staff deemed necessary. Further, the appointed coordinator-manager shall produce an annual report to be presented to the Governor and the Legislature on past activities and future recommendations.

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 29, 1989.

CHAPTER 172
(S.B. No. 1136, As Amended)

AN ACT
RELATING TO THE LAVA HOT SPRINGS FOUNDATION; AMENDING SECTION 67-4401, IDAHO CODE, TO INCREASE THE NUMBER OF MEMBERS OF THE LAVA HOT SPRINGS FOUNDATION, AND TO PROVIDE RESIDENCY REQUIREMENTS.

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

SECTION 1. That Section 67-4401, Idaho Code, be, and the same is hereby amended to read as follows:

67-4401. MANAGEMENT AND CONTROL. All right to the operation, management and control, and to the maintenance and improvement of the lands and property belonging to the state of Idaho situated within and near the city of Lava Hot Springs, in Bannock County, state of Idaho, hereinafter more particularly described is hereby vested in the Lava Hot Springs Foundation which shall be an agency within the department of parks and recreation. Said foundation shall consist of ~~three (3)~~ five (5) members who shall be appointed by the governor and who shall hold office for a term of six (6) years, save and except the first

members who shall be appointed by the governor as follows: one (1) to be appointed for a term of six (6) years, one (1) to be appointed for a term of four (4) years and one (1) to be appointed for a term of two (2) years, and thereafter as their terms expire the governor to appoint their successors for terms of six (6) years. At least one (1) member shall be a resident of the city of Lava Hot Springs. The members shall be compensated as provided by section 59-509(g), Idaho Code. The said foundation shall not receive any property from, nor operate any school, college or institution of learning.

Approved March 29, 1989.

CHAPTER 173
(S.B. No. 1305)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 285, LAWS OF 1988; EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1990; AND DECLARING AN EMERGENCY FOR SECTION 1.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 285, Laws of 1988, there is hereby appropriated to the Idaho Transportation Department the following amount to be expended for a new Coeur d'Alene District Headquarters Complex, within the Highways Program according to the designated expense class from the listed account for the period July 1, 1988, through June 30, 1990:

FOR:	
Capital Outlay	$3,705,000
FROM:	
State Highway Account	$3,705,000

SECTION 2. It is legislative intent that the expenditures for the Idaho Transportation Department not exceed the following amount for the period July 1, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$ 56,945,600
Operating Expenditures	36,365,800
Capital Outlay	155,643,300
Trustee & Benefit Payments	2,347,800
TOTAL	$251,302,500
FROM:	
State Highway Account	$248,201,100
Idaho Traffic Safety Commission Account	836,000
State Aeronautics Account	1,114,900
Interagency Billing and Receipts	1,150,500
TOTAL	$251,302,500

SECTION 3. 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, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. GENERAL SUPPORT:					
FROM:					
State Highway Account	$13,751,800	$ 7,300,200	$ 981,500	$ 338,100	$ 22,371,600
B. HIGHWAYS:					
FROM:					
State Highway Account	$42,492,500	$27,579,400	$154,601,200		$224,673,100
Idaho Traffic Safety Commission Account				$ 836,000	836,000
TOTAL	$42,492,500	$27,579,400	$154,601,200	$ 836,000	$225,509,100
C. AERONAUTICS:					
FROM:					
State Aeronautics Account	$ 465,200	$ 401,100	$ 48,600	$ 200,000	$ 1,114,900
D. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Account	$ 98,100	$ 72,600	$ 12,000	$ 973,700	$ 1,156,400
E. INTER AND INTRA-DEPARTMENTAL SERVICES:					
FROM:					
Interagency Billing and Receipts	$ 138,000	$ 1,012,500			$ 1,150,500
GRAND TOTAL	$56,945,600	$36,365,800	$155,643,300	$2,347,800	$251,302,500

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 shall be in full force and effect on and after its passage and approval.

Approved March 29, 1989.

CHAPTER 174
(S.B. No. 1018)

AN ACT

RELATING TO SENTENCING CRITERIA IN UNIFORM CONTROLLED SUBSTANCES ACT CASES; REPEALING SECTION 37-2738, IDAHO CODE; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2738, IDAHO CODE, TO PROVIDE SENTENCING GUIDELINES FOR PERSONS WHO HAVE COMMITTED CERTAIN VIOLATIONS OF THE UNIFORM CONTROLLED SUBSTANCES ACT.

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

SECTION 1. That Section 37-2738, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 27, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-2738, Idaho Code, and to read as follows:

37-2738. SENTENCING CRITERIA IN DRUG CASES. (1) Any person who pleads guilty to, is found guilty of or has a judgment of conviction entered upon a violation of the provisions of subsections (a), (b), (c) or (e), of section 37-2732, Idaho Code, shall be sentenced according to the criteria set forth herein.

(2) Prior to sentencing for a violation enumerated in section (1) above, the defendant shall undergo, at his own expense (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code), a substance abuse evaluation at a facility approved by the Idaho department of health and welfare. In the event the substance abuse evaluation indicates the need for substance abuse treatment, the evaluation shall recommend an appropriate treatment program, together with the estimated costs 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 to determine 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 substance abuse treatment is needed unless it is shown 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 or report an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, the person or facility performing the evaluation shall not be the person or facility that provides the treatment, unless this requirement is waived by the sentencing court, and with the exception of federally recognized Indian tribes or federal military installations where diagnoses 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 substance abuse treatment for indigent defendants.

(3) When sentencing an individual for the crimes enumerated in section (1) of this section, the court shall not enter a withheld judgment unless it finds by a preponderence of the evidence that:

(a) The defendant has no prior finding of guilt for any felony, any violation of chapter 80, title 18, Idaho Code, or subsections (a), (b), (c) or (e), of section 37-2732, Idaho Code, whatsoever; and

(b) The sentencing court has an abiding conviction that the defendant will successfully complete the terms of probation; and

(c) The defendant has satisfactorily cooperated with law enforcement authorities in the prosecution of drug related crimes of which the defendant has previously had involvement.

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of the Idaho Code identified in subsection (1) of this section shall, when granted a probationary period of any sort whatsoever, be required by the court to complete a period of not less than one hundred (100) hours of community service work.

Approved March 29, 1989.

CHAPTER 175
(S.B. No. 1019)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES; AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE AN ADDITIONAL CITATION AND TO ALLOW A WAIVER BY THE SENTENCING COURT TO ALLOW THE PERSON OR FACILITY DOING THE ALCOHOL EVALUATION TO BE THE PERSON OR FACILITY PROVIDING ALCOHOL TREATMENT.

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

SECTION 1. 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 subse-

quent 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, or of one (1) or more violations of section 18-8006, 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 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~~ an 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 unless this requirement is waived by the sentencing court, 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.

Approved March 29, 1989.

CHAPTER 176
(S.B. No. 1144)

AN ACT

RELATING TO THE LAVA HOT SPRINGS FOUNDATION; AMENDING SECTION 67-4408, IDAHO CODE, TO PROVIDE A CORRECT TERM, AND TO PROVIDE THAT THE LAVA HOT SPRINGS FOUNDATION MAY ALSO EXPEND ANY OTHER MONEYS THAT

MAY BE APPROPRIATED, DONATED, BEQUEATHED OR GRANTED FOR THE USE OF THE FOUNDATION.

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

SECTION 1. That Section 67-4408, Idaho Code, be, and the same is hereby amended to read as follows:

67-4408. APPROPRIATION FOR OPERATION WHEN NOT LEASED. There is hereby appropriated out of the Lava Hot Springs ~~fund~~ account the entire receipts of and from any sources whatsoever that may hereafter inure to the benefit of the Lava Hot Springs Foundation through its operation of the property of the said foundation, bathing facilities, pleasure resort, hospital or sanitarium~~, together with the further sum of $1,000 or so much thereof as may be necessary, out of any moneys in the general fund of the state of Idaho not otherwise appropriated, for the use of the said foundation~~. The foundation may also expend any other moneys that may be appropriated, donated, bequeathed or granted for the use of the foundation. Provided; that the appropriation herein made shall not be effective or the funds appropriated available during any period when the provisions of the Lava Hot Springs Foundation Act, Chapter 5 of the 1935 Session Laws, amendatory of Chapter 41, Title 65, Idaho Code Annotated, [sections 67-4401 - 67-4405] shall be suspended as herein provided.

Approved March 29, 1989.

CHAPTER 177
(S.B. No. 1057)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTIONS 37-2705, 37-2711 AND 37-2713, IDAHO CODE, TO CONFORM WITH FEDERAL REGULATIONS; AND AMENDING SECTION 37-2707, IDAHO CODE, TO INCLUDE ADDITIONAL PRECURSORS TO AMPHETAMINE AND METHAMPHETAMINE.

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

SECTION 1. That Section 37-2705, Idaho Code, be, and the same is hereby amended to read as follows:

37-2705. SCHEDULE I. (a) The controlled substances listed in this section are included in schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;
(23) Allylprodine;
(34) Alphacetylmethadol;
(45) Alphameprodine;
(56) Alphamethadol;
(67) Alpha-methylfentanyl;
(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
(79) Benzethidine;
(810) Betacetylmethadol;
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-i eridin 1]-N- hen 1 ro anamide);
(12) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
(913) Betameprodine;
(1084) Betamethadol;
(115) Betaprodine;
(126) Clonitazene;
(137) Dextromoramide;
(148) Diampromide;
(159) Diethylthiambutene;
(1620) Difenoxin;
(217) Dimenoxadol;
(1822) Dimepheptanol;
(1923) Dimethylthiambutene;
(284) Dioxaphetyl butyrate;
(215) Dipipanone;
(226) Ethylmethylthiambutene;
(237) Etonitazene;
(248) Etoxeridine;
(259) Furethidine;
(2630) Hydroxypethidine;
(2731) Ketobemidone;
(328) Levomoramide;
(2933) Levophenacylmorphan;
(384) 3-Methylfentanyl;
(35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
(316) Morpheridine;
(327) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(338) Noracymethadol;
(349) Norlevorphanol;
(3540) Normethadone;
(3641) Norpipanone;
(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
(437) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
(3844) Phenadoxone;
(3945) Phenampromide;
(486) Phenomorphan;
(417) Phenoperidine;
(428) Piritramide;

(~~49~~) Proheptazine;
(~~44~~50) Properidine;
(~~45~~1) Propiram;
(~~46~~52) Racemoramide;
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
(~~47~~) Tilidine;
(~~48~~55) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine (except hydrochloride salt);
(11) Heroin;
(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Methyldihydromorphine;
(15) Morphine methylbromide;
(16) Morphine methylsulfonate;
(17) Morphine-N-Oxide;
(18) Myrophine;
(19) Nicocodeine;
(20) Nicomorphine;
(21) Normorphine;
(22) Pholcodine;
(23) Thebacon.

(d) 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 (PMA);
(4) 5-methoxy-3,4-methylenedioxy-amphetamine;
(5) 4-methyl-2,5-dimethoxy-amphetamine (DOM, STP);
(6) 3,4-methylenedioxy amphetamine;
(7) 3,4-methylenedioxymethamphetamine (MDMA);
(8) 3,4,5-trimethoxy amphetamine;
(9) Bufotenine;
(10) Diethyltryptamine (DET);

(11) Dimethyltryptamine (DMT);
(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) ~~N-[1-(1-methyl-2-phenyl)ethyl-4-piperidyl]-N-phenylacetamide~~

~~(acetyl-alpha-methylfentanyl),--its--optical--isomers,--salts--and salts-of-isomers.~~
~~(2)--N-(1-(1-methyl-2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide(alpha-methylthiofentanyl),-its-optical-isomers,--salts--and salts-of-isomers.~~
~~(3)~~ N-([1-benzyl-4-piperidyl)]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers.
~~(4)--N-(1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl)-N-phenylpropanamide(beta-hydroxyfentanyl),--its--optical-isomers,-salts-and-salts of-isomers.~~
~~(5)--N-[3-methyl-1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide(beta-hydroxy-3-methylfentanil),-its-optical--and--geometric-isomers,-salts-and-salts-of-isomers.~~
~~(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.~~
~~(7~~2) N-([1-(2-thienyl)methyl-4-piperidyl)]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.
~~(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.~~
(3) N,N-dimethylamphetamine (N,N,alpha-trimethylbenzene-ethanamine or N,N,alpha-trimethylphenethylamine).
(4) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE and MDEA).
(5) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxyalpha-methyl-3,4-(methylenedioxy)phenethylamine and N-hydroxy MDA).
(6) 4-methylaminorex (also known as 2-amino-4-methyl-5-phenyl-2-oxazoline).

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;
(3) Anileridine;
(4) Bezitramide;
(5) Bulk Dextropropoxyphene (nondosage forms);
(6) Dihydrocodeine;
(7) Diphenoxylate;
(8) Fentanyl;
(9) Isomethadone;
(10) Levomethorphan;
(11) Levorphanol;
(12) Metazocine;
(13) Methadone;
(14) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(15) Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl propane-carboxylic acid;

(16) Pethidine (meperidine);
(17) Pethidine--Intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine;
(18) Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate;
(19) Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
(20) Phenazocine;
(21) Piminodine;
(22) Racemethorphan;
(23) Racemorphan;
(24) 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.
(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) Anthranilic acid
(~~c~~b) Ephedrine
(c) Lead acetate
(~~b~~d) Methylamine
(~~e~~) Methyl formamide
(f) N-methylephedrine
(g) Phenylacetic acid

(ah) Phenylacetone
(di) 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;
(35) Nitrazepam;
(36) Nordiazepam;
(37) Oxazepam;
(38) Oxazolam;
(39) Paraldehyde;
(40) Petrichloral;
(41) Phenobarbital;
(42) Pinazepam;
(43) Prazepam;
(44) Temazepam;
(45) Tetrazepam;
(46) 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) Cathine ((+)-norpseudoephedrine)

(2) Fencamfamin
(3) Fenproporex
(4) Mefenorex
(~~1~~5) Pentazocine.

(g) The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 4. That Section 37-2713, Idaho Code, be, and the same is hereby amended to read as follows:

37-2713. SCHEDULE V. (a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(1) Buprenorphine.

(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(d) 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) Propylhexedrine
(2) Pyrovalerone.

Approved March 29, 1989.

CHAPTER 178
(S.B. No. 1124)

AN ACT

RELATING TO THE PRACTICE OF PHARMACY; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 54-1740, 54-1741, 54-1742, 54-1743, 54-1744, 54-1745, 54-1746, 54-1747, 54-1748 AND 54-1749, IDAHO CODE, TO PROVIDE A SHORT TITLE; TO PROVIDE A LEGISLATIVE DECLARATION; TO DEFINE OUT-OF-STATE MAIL SERVICE PHARMACY; TO PROVIDE LICENSE REQUIREMENTS FOR AN OUT-OF-STATE MAIL SERVICE PHARMACY; TO PROVIDE FOR NOTIFICATIONS; TO PROVIDE FOR INSPECTIONS; TO PROVIDE FOR PRODUCT SELECTION OF PRESCRIBED DRUGS; TO PROVIDE FOR PATIENT COMMUNICATION; TO PROVIDE VIOLATIONS AND PENALTIES; AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Chapter 17, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 54-1740, 54-1741, 54-1742, 54-1743, 54-1744, 54-1745, 54-1746, 54-1747, 54-1748 and 54-1749, Idaho Code, and to read as follows:

54-1740. SHORT TITLE. This act shall be known as the "Out-of-State Mail Service Pharmacy Licensing Act."

54-1741. LEGISLATIVE DECLARATION. The legislature recognizes that with the proliferation of alternate methods of health delivery, there has arisen among third-party payers and insurance companies the desire to control the cost and utilization of pharmacy services through a variety of mechanisms, including the use of mail service pharmacies located outside the state of Idaho.

As a result, the legislature finds and declares that to continue to protect the Idaho consumer-patient, all out-of-state pharmacies that provide service to Idaho residents shall be licensed with the board, disclose specific information about their services, and provide pharmacy services at a high level of protection and competence. This act shall be liberally construed to carry out these objects and purposes.

54-1742. DEFINITION -- OUT-OF-STATE MAIL SERVICE PHARMACY. For purposes of this act "out-of-state mail service pharmacy" means a pharmacy located outside the state that:

(1) Ships, mails, or delivers by any lawful means a dispensed legend drug to a resident in this state pursuant to a legally issued prescription;

(2) Provides information to a resident of this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(3) Counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

54-1743. LICENSE REQUIREMENTS. Every out-of-state mail service pharmacy shall be licensed by the board. In order to be licensed by the board to do business in the state of Idaho and for annual renewal of the license, every out-of-state mail service pharmacy:

(1) Shall be licensed in good standing by the state in which its dispensing facilities are located and shall comply with all applicable laws, regulations, and standards of such state and the United States;

(2) Submit an application in form and content as determined by the board but including the following minimum information:

(a) Ownership;

(b) Location;

(c) Identity of a pharmacist licensed to practice pharmacy in the state of domicile, who shall be the pharmacist in charge of the out-of-state mail service pharmacy, and such further information as the board may deem necessary.

(3) Pay a fee for the initial license in the amount of two hundred fifty dollars ($250) and annual renewal in an amount not to exceed the amount set forth in section 54-1720, Idaho Code;

(4) Submit evidence satisfactory to the board that its physical facilities, records and operations are in accordance with the laws and regulations of the state in which the facilities are located;

(5) Submit certification satisfactory to the board that it will cooperate with all lawful requests and directions from the regulatory board or licensing authority of its state of domicile relating to the shipment, mailing or delivery of dispensed legend drugs to Idaho residents;

(6) Submit to the board, at the beginning of each calendar quarter, the following information acceptable to the board in form and substance, by the pharmacist-in-charge, concerning each prescription for a scheduled controlled substance shipped, mailed or delivered to an Idaho resident:

(a) Name of patient;

(b) Name of practitioner;

(c) Number of prescription;

(d) Date of prescription;

(e) Name of drug; and

(f) Strength and quantity of dosage.

(7) In lieu of providing the information required in subsection (6) of this section to the board, the out-of-state mail service pharmacy may submit to on-site inspection by the board.

54-1744. NOTIFICATIONS. Every out-of-state mail service pharmacy shall report to the board the occurrence of any of the events set forth in section 54-1731, Idaho Code, within (10) working days of any such occurrence.

54-1745. INSPECTIONS. If the regulatory board or licensing authority of the state in which an out-of-state mail service pharmacy is domiciled or, if the matter is within the jurisdiction of the drug enforcement administration of the United States, fails or refuses to conduct an inspection of the out-of-state mail service pharmacy, after

a reasonable request by the board, that is substantially equivalent to the inspection that the board would conduct in accordance with this chapter, or fails to obtain records or reports required under this chapter, the board, upon notice to the out-of-state board of pharmacy, shall conduct such inspection. The out-of-state mail service pharmacy shall submit to the inspection by making available all pertinent records, reports, documents and other material or information necessary to complete the inspection.

54-1746. PRODUCT SELECTION OF PRESCRIBED DRUGS. (1) No out-of-state mail service pharmacy shall substitute a prescription drug unless the substitution is made in compliance with the provisions of this chapter and the rules and regulations of the board relating to product selection.

(2) In addition to the requirements of this section, each out-of-state mail service pharmacy dispensing a substituted drug product into this state shall notify the patient of substitution either by telephone or in writing.

54-1747. PATIENT COMMUNICATION. Every out-of-state mail service pharmacy shall, during its regular hours of operation, but not less than six (6) days per week, and for a minimum of forty (40) hours per week, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

54-1748. VIOLATIONS AND PENALTIES. (1) The board may impose on the license of an out-of-state mail service pharmacy, any of the penalties in section 54-1728, Idaho Code, for any violation of this act.

(2) The board may impose any of the penalties provided in section 54-1728, Idaho Code, for conduct which causes serious bodily or serious psychological injury to a resident of this state if the board has referred the matter to the regulatory or licensing agency in the state in which the out-of-state mail service pharmacy is located and the regulatory or licensing agency fails to initiate an investigation within forty-five (45) days of the referral. The board shall obtain and maintain a record of referrals pursuant to this subsection and any action taken thereon.

(3) It is unlawful for any out-of-state mail service pharmacy which is not licensed pursuant to this act to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of an out-of-state mail service pharmacy which has not licensed with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

(4) Any person or out-of-state mail service pharmacy violating the provisions of this act, upon conviction, shall be guilty of a misdemeanor, subject to imprisonment in the county jail for a period not to exceed one (1) year and/or a fine in an amount not to exceed one thousand dollars ($1,000). Each such violation shall constitute a sep-

arate offense.

54-1749. 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, 1989.

CHAPTER 179
(S.B. No. 1184)

AN ACT

RELATING TO ATHLETIC TRAINERS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 39, TITLE 54, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT, TO PROVIDE DEFINITIONS, TO REQUIRE REGISTRATION OF PERSONS OFFERING TO PRACTICE AS AN ATHLETIC TRAINER, TO PROVIDE EXCEPTIONS FROM REGISTRATION, TO PROVIDE QUALIFICATIONS FOR REGISTRATION, TO PROVIDE FOR AN EXAMINATION FOR REGISTRATION, TO PROVIDE FOR ESTABLISHING FEES, TO PROVIDE FOR REGISTRATION BY APPLICATION FOR PERSONS ACTIVELY ENGAGED, TO PROVIDE FOR PROVISIONAL REGISTRATION, TO PROVIDE FOR ISSUANCE OF A REGISTRATION, TO PROVIDE FOR RENEWAL OF REGISTRATION, TO PROVIDE FOR SUSPENSION AND REVOCATION OF REGISTRATION AND FOR REFUSAL TO RENEW REGISTRATION, TO PROVIDE FOR A BOARD OF ATHLETIC TRAINERS, TO PROVIDE FOR POWERS AND DUTIES OF THE BOARD OF MEDICINE AND THE BOARD OF ATHLETIC TRAINERS, TO PROVIDE FOR COMPENSATION OF MEMBERS OF THE BOARD OF ATHLETIC TRAINERS, TO PROVIDE FOR ADMINISTRATIVE PROVISIONS, TO PROVIDE PENALTIES, AND TO PROVIDE FOR SEVERABILITY.

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

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 39, Title 54, Idaho Code, and to read as follows:

CHAPTER 39
ATHLETIC TRAINERS

54-3901. LEGISLATIVE INTENT. In order to promote the public health, safety, and welfare, to promote the highest degree of professional conduct on the part of athletic trainers, and to assure the availability of athletic trainer services of high quality to persons in need of such services, it is the purpose of this chapter to provide for the registration of persons offering athletic trainers services to the public.

54-3902. DEFINITIONS. As used in this chapter:

(1) "Athlete" is a person who is associated with and/or is training for an individual or a team competitive activity which is sponsored by an educational institution, amateur or professional group or other recognized organization.

(2) "Athletic trainer", or such other term as recognized by the board, means a person with the specific qualifications for registration set forth pursuant to this chapter, who, upon the direction of the team physician and/or consulting physician, carries out the practice of prevention, care and reconditioning of physical injuries incurred by athletes, employing the application of cold, heat, electrical stimulation, and/or exercise.

(3) "Board" means the Idaho state board of medicine.

(4) "Board of athletic trainers" means the Idaho board of athletic trainers established in this chapter.

54-3903. REGISTRATION REQUIRED. It shall be unlawful for any person to practice or to offer to practice as an athletic trainer, or to represent such person to be an athletic trainer unless such person is registered under the provisions of this chapter. Only an individual may be registered under this chapter.

54-3904. EXCEPTIONS TO REGISTRATION REQUIREMENT. Nothing in this chapter shall be construed as preventing or restricting the practice, services or activities or requiring registration pursuant to this chapter of:

(1) Any person licensed in this state by any other law, from engaging in the profession or occupation for which such person is licensed or registered; or

(2) Any person employed as an athletic trainer by the government of the United States or any agency thereof, if such person provides athletic trainer services solely under the direction or control of the government agency by which such person is employed; or

(3) Any person pursuing a supervised course of study leading to a degree or registration as athletic trainer in an accredited or approved educational program, if the person is designated by a title which clearly indicates a student or trainee status; or

(4) Any person fulfilling supervised fieldwork experience requirements as prescribed by the board; or

(5) For purposes of continuing education, consulting, and/or training, any person performing athletic trainer services in the state, if these services are performed for no more than sixty (60) days in a calendar year in association with an athletic trainer registered under this chapter, if:

(a) The person is registered or certified and in good standing as an athletic trainer in another state; or

(b) The person is certified and in good standing as an athletic trainer by the national athletic trainers association.

(6) Nothing herein shall be construed to require registration of elementary or secondary school teachers, coaches or authorized volunteers who do not hold themselves out to the public as athletic

trainers.

54-3905. QUALIFICATIONS FOR REGISTRATION. An applicant for an athletic trainer registration must possess the following qualifications:

(1) The applicant must have graduated from a college or university and completed the requirements established by the board of athletic trainers.

(2) The applicant must submit an application to the board of athletic trainers on forms prescribed by the board of athletic trainers.

(3) The applicant must successfully complete an examination administered by or approved by the board of athletic trainers.

(4) The applicant must pay the registration fee required under this chapter.

54-3906. EXAMINATION FOR REGISTRATION OF ATHLETIC TRAINERS. (1) Each applicant for registration shall be examined by written examination to test the person's knowledge of the basic and clinical sciences relating to athletic trainer techniques and methods, and such other subject as the board may require to determine the applicant's fitness to practice. The board shall approve and establish standards for acceptable performance.

(2) Applicants for registration shall be examined at a time and place and under such supervision as the board may require. The board shall give reasonable public notice of these examinations in accordance with its rules.

(3) Applicants may obtain their examination scores and may review their papers in accordance with such rules as the board may establish.

54-3907. FEES. The board of athletic trainers shall adopt rules establishing fees for the following:

(1) Initial registration fee;
(2) Renewal of registration fee;
(3) Provisional registration fee;
(4) Inactive registration fee;
(5) Examination fee.

54-3908. REGISTRATION BY APPLICATION. Any person actively engaged as an athletic trainer on the effective date of this chapter shall be issued a registration by submitting an application, paying the registration fee required by this chapter and complying with the professional standards established by the board. For the purpose of this section, a person is actively engaged as an athletic trainer if he is employed in Idaho on a salary basis by an educational/health care institution, professional/amateur athletic organization, or other bona fide athletic organization and performs the duties of athletic trainer as a responsibility of his employment. Applications for a registration under this section shall be submitted within ninety (90) days from the effective date of this chapter.

54-3909. PROVISIONAL REGISTRATION. The board, based upon the recommendation of the board of athletic trainers, may issue provisional

registration to applicants who are actively engaged in preparing themselves to meet the qualifications prescribed in this chapter. A provisional registration shall be valid for a term of one (1) year, but may be renewed only twice, at the discretion of the board of athletic trainers.

54-3910. ISSUANCE OF REGISTRATION. The board, based upon recommendation of the board of athletic trainers, shall issue a registration to any person who meets the requirements of this chapter upon payment of the prescribed fees.

54-3911. RENEWAL OF REGISTRATION. (1) Any registration issued under this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the rules of the board. The board may reinstate a registration cancelled for failure to renew upon compliance with requirements of the board for renewal of registrations.

(2) Upon application, the board shall grant inactive status to a registered athletic trainer who:

(a) Does not practice as an athletic trainer; or

(b) Maintains any continuing competency requirements established by the board.

54-3912. SUSPENSION AND REVOCATION OF REGISTRATION -- REFUSAL TO RENEW. (1) Subject to the provisions of chapter 52, title 67, Idaho Code, the board, upon recommendation of the board of athletic trainers, may deny registration or refuse to renew a registration, or may suspend or revoke a registration or may impose probationary conditions if the applicant for registration has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to:

(a) Obtaining registration by means of fraud, misrepresentation, or concealment of material facts;

(b) Being guilty of unprofessional conduct as defined by the rules established by the board, or violating the code of ethics adopted and published by the board;

(c) Being convicted of a felony by a court of competent jurisdiction;

(d) The unauthorized practice of medicine;

(e) Violating any provisions of this chapter or any of the rules promulgated by the board under the authority of this chapter.

(2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a registered athletic trainer may be ordered by the board after a hearing in the manner provided by the rules adopted by the board. An application for reinstatement may be made to the board one (1) year from the date of the revocation of registration. The board shall:

(a) Accept or reject an application for reinstatement; and

(b) Hold a hearing to consider such reinstatement.

54-3913. BOARD OF ATHLETIC TRAINERS -- CREATED -- APPOINTMENT --

TERMS. (1) A board of athletic trainers is hereby created and made a part of the Idaho state board of medicine.

(2) The board of athletic trainers shall consist of four (4) members, three (3) of whom shall be registered athletic trainers and one (1) of whom shall be a lay person.

(3) The board shall appoint the members of the board of athletic trainers. In making appointments to the board of athletic trainers, the board shall give consideration to recommendations made by professional organizations of athletic trainers and physicians.

(4) All members of the board of athletic trainers shall have been residents of the state of Idaho for one (1) year immediately preceding appointment. In appointing the athletic trainer members of the first board of athletic trainers, the board may appoint any practicing athletic trainer who possesses the qualifications required by section 54-3905, Idaho Code.

(5) The board of athletic trainers shall be appointed within thirty (30) days after the effective date of this chapter for terms ending December 31. Of the first members of the board of athletic trainers appointed, one (1) member's term shall expire December 31, 1990; one (1) member's term shall expire December 31, 1991; one (1) member's term shall expire December 31, 1992; and one (1) member's term shall expire December 31, 1993. After the initial appointments, all terms shall be four (4) years, and a member may be reappointed. In the event of death, resignation or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment. The board may remove any member for cause at any time prior to the expiration of his term.

(6) The board of athletic trainers shall hold at least one (1) meeting each year. At the meeting, the board of athletic trainers shall elect from among its members for a term of one (1) year commencing on July 1 next, a chairperson. The board of athletic trainers may hold additional meetings on the call of the chairperson or at the written request of any two (2) members of the board of athletic trainers. The board of athletic trainers may appoint committees as it considers necessary to carry out its duties. The quorum required for any meeting of the board of athletic trainers is three (3) members. No action by the board of athletic trainers or its members has any effect unless a quorum of the board of athletic trainers is present.

54-3914. BOARD OF MEDICINE AND BOARD OF ATHLETIC TRAINERS — POWERS AND DUTIES. (1) The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications, and approve the examinations for registration under this chapter, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The board of athletic trainers shall conduct examinations of all applicants for registration and make recommendations to and consult with the board concerning issuance of registrations, revocation of registrations and rules and regulations to be promulgated under this chapter.

(2) The board shall, upon recommendation of the board of athletic

trainers, adopt rules and regulations, pursuant to chapter 52, title 67, Idaho Code, relating to professional conduct to carry out the policy of this chapter including, but not limited to, regulations relating to professional registration and to the establishment of ethical standards of practice, disciplinary proceedings, registration suspension proceedings, or registration revocation proceedings for persons registered to practice as an athletic trainer in this state.

(3) The board of athletic trainers shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.

(4) Every person registered as an athletic trainer in Idaho shall be subject to discipline pursuant to the powers set forth in section 54-1806A, Idaho Code.

54-3915. COMPENSATION. The members of the board of athletic trainers shall be compensated as provided in section 59-509(b), Idaho Code.

54-3916. BOARD OF MEDICINE -- ADMINISTRATIVE PROVISIONS. (1) The executive director of the Idaho state board of medicine shall serve as the executive director to the board of athletic trainers.

(2) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the state board of medicine account created by section 54-1809, Idaho Code, and all costs and expenses incurred by the board and the board of athletic trainers under the provisions of this chapter shall be a charge against and paid from said account for such purposes, and the moneys collected hereunder shall be immediately available for the administration of this chapter. In no instance shall the state board of medicine account be obligated to pay any claims which in aggregate with claims already allowed exceed the income to the state board of medicine account which has been derived from the application of this chapter.

Money paid into the state board of medicine account pursuant to this chapter is hereby continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and the board of athletic trainers in carrying out and enforcing the provisions of this chapter.

54-3917. PENALTIES. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor.

54-3918. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this chapter.

Approved March 29, 1989.

CHAPTER 180
(S.B. No. 1070)

AN ACT

RELATING TO INCOME TAX WITHHOLDING INFORMATION RETURNS FILED BY EMPLOYERS; AMENDING SECTION 63-3035, IDAHO CODE, TO CONFORM THE FILING DATE FOR CERTAIN INFORMATION RETURNS TO THE FEDERAL FILING DATE AND TO ADOPT BY REFERENCE REQUIREMENTS FOR CERTAIN EMPLOYERS TO USE MAGNETIC MEDIA OR OTHER MACHINE READABLE FORM.

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

SECTION 1. That Section 63-3035, Idaho Code, be, and the same is hereby amended to read as follows:

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee shall, at the time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this act. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

(1) shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section;

(2) must make return of and pay to the state tax commission monthly on or before the 20th day of the succeeding month, or at such other times as the state tax commission may allow, an amount of tax which, under the provisions of this act, he is required to deduct and withhold; and

(3) must, notwithstanding the provisions of paragraphs (1) and (2), if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds thirty-six thousand dollars ($36,000) per annum or an average of three thousand dollars ($3,000) per month per annum, make return of and pay to the state tax commission monthly on the following basis:

(A) For the withholding period May 1, 1983, through May 15, 1983, inclusive, payment and return must be made on or before May 20, 1983.

(B) Withholding periods for employers defined in this subsection 63-3035(a)(3), Idaho Code, shall, on and after May 16, 1983, begin on the 16th day of the month and end on the 15th day of the following month, and return and payment shall be made not later than five (5) days after the end of the withholding period.

(b) (1) Every employer shall, at the time of each payment made by him to the state tax commission, deliver to the state tax commission a return upon such form as shall be prescribed by said state tax commission showing the total amount of wages, salary, bonus or other emoluments paid to his employees, the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, and such pertinent and necessary information as the state tax commission may require.

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and ~~at the same time~~ on or before the last day of February every employer shall file a copy thereof with the state tax commission. Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media or in other machine readable form may be required by regulations of the state tax commission to file corresponding state returns on similar magnetic media or other machine readable form.

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money and every employer who deducts and retains any amount of money under the provisions of this act shall hold the same in trust for the state of Idaho and for the payment thereof to the state tax commission in the manner and at the times in this act provided. Any employer who does not possess real property situated within the state of Idaho, which, in the opinion of the state tax commission, is of sufficient value to cover his probable tax liability, may be required to post a surety bond in such sum as the state tax commission shall deem adequate to protect the state.

(d) The provisions of this act relating to additions to tax in case of delinquency, and penalties, shall apply to employers subject to the provisions of this section and for these purposes any amount deducted, or required to be deducted and remitted to the state tax commission under this section, shall be considered to be the tax of the employer and with respect to such amount he shall be considered the taxpayer.

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his taxable income

as computed under the provisions of this act, as the same has been or may hereafter be amended, or where his income is not taxable under this act, the state tax commission shall, after examining the annual return filed by the employee in accordance with this act, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted. No credit or refund shall be made to an employee who fails to file his return, as required under this act, within three (3) years from the due date of the return in respect of which the tax withheld might have been credited. In the event that the excess tax deducted is less than one dollar ($1.00), no refund shall be made unless specifically requested by the taxpayer at the time such return is filed.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this act, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

(g) An employee receiving wages shall on any day be entitled to the same number of withholding exemptions to which he is entitled under the Internal Revenue Code for federal income tax withholding purposes.

(h) An employer shall use the exemption certificate filed by the employee with the employer under the withholding exemption provisions of the Internal Revenue Code in determining the amount of tax to be withheld from the employee's wages or salary under this act. The tax commission may redetermine the number of withholding exemptions to which an employee is entitled under subsection (g), and the state tax commission may require such exemption certificate to be filed on a form prescribed by the commission in any circumstance where the commission finds that the exemption certificate filed for Internal Revenue Code purposes does not properly reflect the number of withholding exemptions to which the employee is entitled under this act. In no event shall any employee give an exemption certificate which claims a higher number of withholding exemptions than the number to which the employee is entitled by subsection (g) of this section.

Approved March 29, 1989.

CHAPTER 181
(S.B. No. 1073)

AN ACT

RELATING TO TECHNICAL CHANGES TO THE IDAHO INCOME TAX ACT; AMENDING SECTION 63-3022, IDAHO CODE, TO ADD BACK REQUIREMENTS ELIMINATED IN 1986, THEREBY EFFECTING THE FULL INTENT OF AMENDMENTS MADE BY CHAPTER 22, LAWS OF 1988; AMENDING SECTION 63-3022D, IDAHO CODE, TO CORRECT CROSS-REFERENCES TO THE INTERNAL REVENUE CODE; AMENDING SECTION 63-3027A, IDAHO CODE, TO CLARIFY THE COMPUTATION OF IDAHO ADJUSTED GROSS INCOME FOR NONRESIDENTS AND PART-YEAR RESIDENTS;

AMENDING SECTION 63-3030, IDAHO CODE, TO CORRECT CROSS-REFERENCES TO THE INTERNAL REVENUE CODE AND TO CLARIFY THE FILING REQUIREMENTS FOR CLAIMED DEPENDENTS WITH UNEARNED INCOME; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE DATE.

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

SECTION 1. That Section 63-3022, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(1) In the case of a corporation whose income is taxable under this chapter, no deduction shall be allowed for interest on indebtedness incurred or continued to purchase after January 1, 1983, or to carry obligations acquired after January 1, 1983, the interest of which is wholly exempt from the taxes imposed under this chapter. The amount of interest on indebtedness thus incurred or continued shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's average adjusted basis of the obligations mentioned in the preceding sentence bears to such average adjusted basis for all assets of the taxpayer, or, at the option of the taxpayer, an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year.

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

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

(c) Add the net operating loss deduction used in arriving at tax-

able income as defined in section 63 of the Internal Revenue Code.

(d) (1) A net operating loss for any taxable year commencing on or after January 1, 1983, shall be a net operating loss carryover to each of the ten (10) taxable years following the taxable year of such loss; provided, however, such net operating loss shall be subtracted in each succeeding year in order but the total subtracted in the succeeding taxable years shall not exceed the total of such net operating loss; provided, further, that a net operating loss not to exceed one hundred thousand dollars ($100,000) arising in a taxable year commencing on or after January 1, 1983, may, at the election of the taxpayer, be carried back to the three (3) immediately preceding taxable years, and if such loss is not entirely absorbed by the income of those years, the amount of loss not exhausted may be subtracted from taxable income arising in the next ten (10) years succeeding the taxable year in which the loss arises in order until exhausted. An election under this subsection must be in the manner prescribed in the regulations of the state tax commission and once made is irrevocable for the year in which it is made. In the event that the taxpayer elects to carryback any loss arising in a year commencing on or after January 1, 1983, any loss not exhausted may be subtracted from taxable income arising in the next succeeding ten (10) taxable years in order until exhausted.

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

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

(f) In the case of a corporation, subtract an amount equal to eighty per cent (80%) of the amount received during the taxable year as dividends, as limited by the rules of section 246(b)(1) of the Internal Revenue Code, from any corporation which has shown to the satisfaction of the state tax commission that more than fifty per cent (50%) of its taxable income for the taxable year immediately preceding the declaration of such dividends was taxable by the state of Idaho under the provisions of this act.

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

(h) In the case of a corporation with more than fifty per cent (50%) of its income taxable within this state, the salary, fee or other compensation of its nonresident officers or directors shall be treated as income from sources within the state. Whether or not any personal services have been performed by such nonresident officers or directors in this state, they shall be deemed to have a business situs in this state. If such salary, fee or other compensation is not

reported to this state as income, such corporation shall not deduct as part of its expenses for the taxable year any part of such salary, fee or other compensation in computing taxable income. When the salary, fee or other compensation paid to such nonresident officer is reported to this state as income by such nonresident officer, it shall be apportioned by applying to the total of such income the apportionment factor of the corporation paying the salary, fee or other compensation, as such factor is reported on the corporation's income tax return computed pursuant to section 63-3027, Idaho Code, or as subsequently modified. Provided, however, reasonable compensation paid to such nonresident officers or directors for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources.

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

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

(k) In the case of a corporation, add any capital loss deducted which loss was incurred during any year in which such corporation had no Idaho business situs. In the case of persons, other than corporations, add any capital loss deducted which was incurred in business activities not taxable by Idaho at the time such loss was incurred. In the case of a corporation having income from Idaho sources and having elected to file federal income tax returns thereon pursuant to Subchapter-S of the Internal Revenue Code, or a partnership having income from Idaho sources, salaries, wages, fees, and other compensation paid to nonresident shareholders or partners, and the items of income, loss, deduction, and credit allocated to each nonresident shareholder or partner shall be treated as having sources within the state. Whether or not any personal services have been performed in this state by such nonresident shareholders or partners, they shall be deemed to have a business situs in this state. When the salaries, wages, fees, and other compensations paid to such nonresident shareholders or partners or items of income, loss, deduction, and credit, or allocated to such shareholders or partners is reported to this state as taxable income pursuant to this subsection, such income shall be apportioned by applying to the total of such income the apportionment factor of the corporation or partnership. The apportionment fac-

tor of the corporation or partnership shall be computed pursuant to the provisions of section 63-3027, Idaho Code. If such items of income, loss, deduction, or credit, salaries, wages, fees or other compensation are not reported to this state by the nonresident shareholders or partners, such corporation or partnership shall report the same to this state and be taxable thereon at the corporate rate. Provided, however, reasonable compensation paid to such nonresident shareholders or partners for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources. In computing the income taxable to the corporation or partnership under this subsection, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (d) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

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

(1) a. The standard deduction as defined by section 63, Internal Revenue Code, plus contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus

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

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

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

c. Itemized expenditures of not to exceed one thousand dollars ($1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter A47, title 39, Idaho Code, but the cared for member need not be medicaid eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter

A47, title 39, Idaho Code; in order for the deduction under this paragraph c. to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.

(m) Deduct any amounts added to gross income under section 87 of the Internal Revenue Code for tax credits allowable to the taxpayer under section 40 of the Internal Revenue Code.

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

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

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

63-3022D. DEDUCTION OF EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES. Allowance of Deduction. In the case of an individual who maintains a household which includes as a member one (1) or more qualifying individuals (as defined in section ~~44A(c)(1)~~ 21(b)(1), Internal Revenue Code), there shall be allowed as a deduction the employment-related expenses (as defined in section ~~44A(c)(2)~~ 21(b)(2), Internal Revenue Code, and as further specified and limited by section ~~44A(d),-(e)-and-(f)~~ 21(c), (d), and (e), Internal Revenue Code).

SECTION 3. That Section 63-3027A, Idaho Code, be, and the same is hereby amended 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 Idaho 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~~, as computed under this chapter 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 4. That Section 63-3030, Idaho Code, be, and the same is hereby amended to read as follows:

63-3030. PERSONS REQUIRED TO MAKE RETURNS OF INCOME. (a) Returns with respect to taxes measured by income in this act shall be made by the following:

(1) (A) Every resident individual having for the current taxable year a gross income, as defined by section 61(a) of the Internal Revenue Code, of one thousand dollars ($1,000) or more, except that a return shall not be required of an individual (other than an individual referred to in section 6012(a)(1)(C) of the Internal Revenue Code)--

(i) who is not married (determined by applying section 7703 of the Internal Revenue Code), who is not a surviving spouse (as defined in section 2(a) of the Internal Revenue Code) and for the taxable year has a gross income of less than three thousand three hundred dollars ($3,300), or

(ii) who is a surviving spouse (as defined in section 2(a) of the Internal Revenue Code) and for the taxable year has a gross income of less than four thousand four hundred dollars ($4,400), or

(iii) who is entitled to make a joint return under section 6013 of the Internal Revenue Code and whose gross income, when combined with the gross income of his spouse is, for the taxable year, less than five thousand four hundred dollars ($5,400) but only if such individual and his spouse, at the close of the taxable year, had the the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(~~e~~c) of the Internal Revenue Code.

(B) The three thousand three hundred dollars ($3,300) amount specified in subparagraph (A)(i) shall be increased to four thousand three hundred dollars ($4,300) in the case of an individual entitled to an additional ~~personal exemption under section--151(c)(1)~~ standard deduction under section 63(f)(1) of the Internal Revenue Code, and the five thousand four hundred dollars ($5,400) amount specified in subparagraph (A)(iii) shall be increased by one thousand dollars ($1,000) for each ~~additional personal exemption to which the individual or his spouse is entitled under section 151(c)~~ individual entitled to an additional standard deduction under section 63(f)(1) of the Internal Revenue Code.

(2) An individual who is referred to in section 6012(a)(1)(C) of the Internal Revenue Code, who has income other than earned income

of one thousand dollars ($1,000) or more, or who has gross income of three thousand three hundred dollars ($3,300) or more for a taxable year.

(3) Any nonresident or part-year resident individual having for the current taxable year a gross income (as defined in section 61(a) of the Internal Revenue Code) from Idaho sources in excess of the amounts established in subsection (a)(1)(A) of this section;

(~~3~~4) Every corporation subject to taxation by this act; any corporation reporting as a subchapter S corporation pursuant to Internal Revenue Code sections 1371 through 1378 to the federal government and having business situs in this state or with one (1) or more of its shareholders residing in this state must report to the state of Idaho as a subchapter S corporation for and during the same period or periods in which its election to report as such a corporation is effective for federal tax purposes and must identify itself as a subchapter S corporation on its income tax return filed with this state;

(~~4~~5) Every estate, the residence of which estate is in Idaho, having a gross income (as defined in section 61(a) of the Internal Revenue Code) of six hundred dollars ($600) or more for the current taxable year;

(~~5~~6) Every estate, the residence of which is in a state other than Idaho, having a gross income (as defined in section 61(a) of the Internal Revenue Code) from Idaho sources in excess of six hundred dollars ($600);

(~~6~~7) Every trust, the residence of which trust is in Idaho, having gross income (as defined in section 61(a) of the Internal Revenue Code) of one hundred dollars ($100) or more for the current taxable year;

(~~7~~8) Every trust, the residence of which is in a state other than Idaho, having a gross income (as defined in section 61(a) of the Internal Revenue Code) from Idaho sources in excess of one hundred dollars ($100);

(~~8~~9) Every partnership having a resident partner and every partnership having a business situs in the state of Idaho. Such return shall be a supplemental information return and shall include the names and addresses of the individuals who would be entitled to share in the net income of the partnership if distributed and the amount of the distributive share of each individual. Such return shall be signed by one (1) of the partners.

(b) Returns of fiduciaries and receivers:

(1) Fiduciaries and receivers shall file returns with the state tax commission in accordance with the provisions of section 6012(b) of the Internal Revenue Code.

(c) Certain income earned abroad or from sale of residence: For purposes of this section, gross income shall be computed without regard to the exclusion provided for in section 121 of the Internal Revenue Code (relating to one-time exclusion of gain from sale of principal residence by an individual who has attained age fifty-five (55) and without regard to the exclusion provided for in section 911 of the Internal Revenue Code (relating to income earned abroad).

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, and retroactively to January 1, 1989.

Approved March 29, 1989.

CHAPTER 182
(S.B. No. 1074)

AN ACT

RELATING TO FAILURE TO FILE A PARTNERSHIP RETURN; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3046B, IDAHO CODE, TO PROVIDE FOR A PENALTY ASSESSMENT IF ANY PARTNERSHIP FAILS TO FILE AN IDAHO INCOME TAX RETURN WITHIN THE TIME LIMITS PRESCRIBED IN SECTION 63-3030, IDAHO CODE, AND TO PROVIDE FOR A PENALTY ASSESSMENT IF ANY PARTNERSHIP FILES AN IDAHO INCOME TAX RETURN WHICH FAILS TO SHOW THE INFORMATION REQUIRED UNDER SECTION 63-3030, IDAHO CODE.

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 63-3046B, Idaho Code, and to read as follows:

63-3046B. FAILURE TO FILE PARTNERSHIP RETURN. (a) Penalty. In addition to the penalty imposed by section 63-3075, Idaho Code, if any partnership required to file a return under section 63-3030, Idaho Code, for any taxable year:

(1) Fails to file such return at the time prescribed therefor by section 63-3030, Idaho Code, (determined with regard to any extension of time for filing); or

(2) Files a return which fails to show the information required under section 63-3030, Idaho Code, such partnership shall be liable for a penalty determined under subsection (b) of this section for each month (or fraction thereof) during which such failure continues (but not to exceed five (5) months), unless it is shown that such failure is due to reasonable cause.

(b) Amount per month. For purposes of subsection (a) of this section, the amount determined under this subsection for any month is the product of:

(1) Ten dollars ($10.00), multiplied by

(2) the number of persons who are partners in the partnership during any part of the taxable year.

(c) Assessment of penalty. The penalty imposed in subsection (a)

of this section shall be assessed against the partnership.

Approved March 29, 1989.

CHAPTER 183
(S.B. No. 1189)

AN ACT

RELATING TO THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 28-9-301, IDAHO CODE, TO PROVIDE THAT A SECURED PARTY HAS PRIORITY OVER A TRANSFEREE IN BULK OR A LIEN CREDITOR IF HE FILES WITHIN TWENTY-ONE DAYS OF WHEN THE DEBTOR RECEIVES POSSESSION OF THE COLLATERAL.

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

SECTION 1. That Section 28-9-301, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-301. PERSONS WHO TAKE PRIORITY OVER UNPERFECTED SECURITY INTERESTS -- RIGHT OF "LIEN CREDITOR." (1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of

(a) persons entitled to priority under section 28-9-312;

(b) a person who becomes a lien creditor before the security interest is perfected;

(c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business, or is a buyer of farm products in ordinary course of business, to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) in the case of accounts and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within ~~ten~~ twenty-one (21~~0~~) days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a security inter-

est is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within forty-five (45) days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.

Approved March 29, 1989.

CHAPTER 184
(S.B. No. 1054)

AN ACT

RELATING TO POST RETIREMENT ADJUSTMENT ALLOWANCES; AMENDING SECTION 59-1319A, IDAHO CODE, BY PROVIDING FOR AN INDEX MONTH THAT IS USED TO CALCULATE THE CONSUMER PRICE INDEX FOR RETIREMENT BENEFITS AND LIMITING PERMISSIBLE REDUCTION OF BENEFITS.

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

SECTION 1. That Section 59-1319A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1319A. POST RETIREMENT ALLOWANCE ADJUSTMENTS. (1) Each retirement allowance payment shall, subject to the provisions of this section, equal the inflation factor for the adjustment year of payment multiplied by the amount of the retirement allowance payment for March of the previous year. During any adjustment year for which the ratio of the consumer price index for ~~October~~ the index month of the previous year to the consumer price index for ~~October~~ the index month of the second previous year is not more than one hundred one per cent (101%), the inflation factor shall be such ratio or ninety-four per cent (94%), whichever is greater, which inflation factor shall not be subject to legislative approval. Otherwise the inflation factor during such adjustment year shall be one hundred one per cent (101%), except that the board, with legislative approval, may put into effect a greater factor which is no more than such ratio or one hundred six per cent (106%), whichever is smaller, if it finds the value of the actuarial assets of the system to be no less than its actuarial liabilities, including those created by the increased factor, and consistent with the requirements of section 59-1330, Idaho Code. The board's proposed inflation factor for any adjustment year shall be communicated by letter to the legislature by not later than January 15 prior to that year.

(2) During an adjustment year following one in which there was at least one (1) retirement allowance payment but none in March, each retirement allowance payment shall equal the partial factor multiplied by the amount of the monthly retirement allowance payment in the earlier year. The partial factor shall equal 1.000 plus one-twelfth (1/12) of the product of the number of months in the earlier adjust-

ment year in which member contributions were not made and the excess, if any, of the inflation factor for the later year over 1.000.

(3) During an adjustment year following one in which there was no retirement allowance payment, each retirement allowance payment shall equal the initial retirement allowance multiplied by the bridging factor between the first day of the month following the member's final contribution and the date of the first retirement allowance payment.

(a) Except as provided in paragraph (b) of this subsection, the bridging factor between any two (2) dates shall be the ratio of the amounts of retirement allowance payable on the two (2) dates for any member who retired on the earlier date immediately following his final contribution.

(b) For any member not making a final contribution subsequent to 1974 whose initial retirement allowance is a minimum allowance provided in section 59-1319(1)(b) or 59-1319(2)(b), Idaho Code, the bridging factor shall be computed as if the member had made his final contribution in 1974.

(4) The consumer price index shall be that for all urban consumers published by the bureau of labor statistics, United States department of labor.

(5) The adjustments provided under this section shall in no event reduce a benefit payment below its initial amount.

(6) An adjustment year shall extend from March through the following February. ~~Payments during January and February, 1987, shall be adjusted by the inflation factor for 1986. For the adjustment year commencing March, 1987, the board shall adopt a partial factor determined in a manner consistent with subsection (2) above.~~ The index month is October for adjustment years commencing before March, 1990, and is August for subsequent adjustment years.

(7) If, by the forty-fifth day of any regular legislative session, the legislature has not adopted a concurrent resolution rejecting or amending the proposed adjustments of the board allowed in subsection (1) above, such action on the part of the legislature shall constitute legislative approval of the board's adjustments.

Approved March 29, 1989.

CHAPTER 185
(S.B. No. 1055)

AN ACT

RELATING TO THE PUBLIC EMPLOYEES RETIREMENT SYSTEM CONFORMITY AS A QUALIFIED TAX PLAN; REPEALING SECTION 59-1311A, IDAHO CODE; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1311A, IDAHO CODE, BY PERMITTING THE BOARD OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM TO PROMULGATE REGULATIONS TO BRING THE SYSTEM INTO COMPLIANCE AS A QUALIFIED TAX PLAN; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 59-1311A, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 13, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1311A, Idaho Code, and to read as follows:

59-1311A. CONFORMITY WITH FEDERAL TAX CODE TO MAINTAIN QUALIFIED PLAN TAX STATUS. Chapter 13, title 59, and chapter 14, title 72, Idaho Code, shall be administered in a manner so as to comply with the requirements of 26 U.S.C. section 401(a)(8), (9), (16) and (25). The public employees retirement system board shall promulgate regulations and amend or repeal conflicting regulations in order to assure compliance with the requirements of this section. This act shall be in full force and effect on and after January 1, 1989, and thereafter only so long as conformity to section 401(a) of the internal revenue code, 26 U.S.C., section 401(a) is required for public retirement systems. If not required, this provision will cease to have any force or effect.

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, 1989.

Approved March 29, 1989.

CHAPTER 186
(S.B. No. 1056)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT FUND; AMENDING SECTION 59-1331, IDAHO CODE, TO PROVIDE FOR THE CREATION OF THE PORTFOLIO INVESTMENT EXPENSE ACCOUNT, TO DESCRIBE THE ACCOUNT AND TO PROVIDE FOR REPORTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1331, Idaho Code, be, and the same is hereby amended to read as follows:

59-1331. PUBLIC EMPLOYEE RETIREMENT FUND CREATED -- ADMINISTRATION -- PAYMENT OF BENEFITS -- PERPETUAL APPROPRIATION. (1) There is hereby established in the state treasury a special fund, the "Public Employee Retirement Fund," which shall be separate and apart from all public moneys or funds of this state, and shall be administered under the direction of the board exclusively for the purposes of this act.

The state treasurer shall maintain within the fund a clearing account, a portfolio investment expense account and an administration account. All moneys received from employers by the board on their account and on account of members shall be initially deposited in the clearing account. On or before the fifteenth of each month not more than one-twelfth (1/12) of the amount appropriated by the legislature to the board for that fiscal year shall be transferred to the administration account. Immediately after each transfer from the clearing account to the administration account, the remaining balance in the clearing account shall be forwarded to the portfolio investment expense account to be placed with a funding agent for investment and payment of investment expenses under its contract with the board.

(2) All benefits for members shall be payable directly from the clearing account or by the funding agent as they come due. If the amount of such benefits payable at any time exceeds the amount in the clearing account, the payment of all or part of such benefits may be postponed until the clearing account becomes adequate to meet all such payments, or the board may require a refund from the funding agent sufficient to meet all such payments.

(3) All moneys payable to the funding agent are hereby perpetually appropriated to the board, and shall not be included in ~~its~~ the departmental's administration account budget and shall be invested or used to pay for investment related expenses. The portion used for payment of investments and investment related expenses shall be called the portfolio investment expense account. The portfolio investment expense account shall include but not be limited to:

(a) Reporting services;

(b) Investment advisory services;

(c) Funding agent fees and money management fees; and

(d) Investment staff expenses including hiring of investment management personnel.

Investment management personnel shall be exempt from the provisions of chapter 53, title 67 and section 67-3519, Idaho Code, and shall be hired by and serve at the pleasure of the board. All expenses of the portfolio investment expense account shall be reported on a quarterly basis to the legislature and to the division of financial management in the office of the governor.

(4) All moneys transferred to the administration account shall be available to the board for the payment of administrative expenses only to the extent so appropriated by the legislature.

(~~4~~5) Moneys representing member entitlements which remain unclaimed after reasonable attempts to effect payment shall remain in the retirement fund available for payment to the member or other established rightful payee.

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, 1989.

CHAPTER 187
(S.B. No. 1096)

AN ACT

RELATING TO THE COSTS FOR NEW EMPLOYERS JOINING THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1309, IDAHO CODE, BY PROVIDING FOR EXCESS COST TO BE SPREAD OVER A PERIOD OF NO MORE THAN TWO YEARS IF APPROVED BY THE BOARD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1309, Idaho Code, be, and the same is hereby amended to read as follows:

59-1309. PROCEDURE FOR EMPLOYEES OF POLITICAL SUBDIVISIONS TO BE INCLUDED IN RETIREMENT SYSTEM. A political subdivision not participating in the system may, through its governing body, notify the board in writing that it elects to include its employees in the system. The board shall make a study and estimate the cost of including such employees in the system. Upon completion of the study and under the condition that the excess cost, if any, to include the employees as active members is paid upon admission, the political subdivision may apply for admission to the system. Payment of excess cost shall be made upon admission, unless the board in its sole discretion grants an extension. In no case shall an extension exceed two (2) years. Thereupon the board may upon such terms, not inconsistent with this act, as are set forth in a contract between the board and the political subdivision, integrate said political subdivision, and its employees into the system established by this act effective on the date of notice of election or later unless otherwise prohibited by law. The contract shall have no effect, however, until notice and hearing regarding it is afforded to such employees. Such contract shall provide for the appropriate funding of accrued benefits under any existing retirement program at the time the political subdivision is admitted to the 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 29, 1989.

CHAPTER 188
(S.B. No. 1098)

AN ACT

RELATING TO RETIREE MEDICAL INSURANCE COVERAGE; AMENDING SECTION 67-5340, IDAHO CODE, AS ENACTED IN CHAPTER 276, LAWS OF 1988, TO REDESIGNATE THE SECTION, TO PROVIDE FOR INTEREST RATES ON

ACCOUNTS, AND TO PROVIDE FOR PAYMENTS TO PARTICIPANTS WHO TERMINATE EMPLOYMENT BEFORE RETIREMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5340, Idaho Code, as enacted in Chapter 276, Laws of 1988, be, and the same is hereby amended to read as follows:

67-5340~~1~~. 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) only if the employer maintains a group medical insurance plan for retirees. 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.~~ ~~T~~the earnings shall accrue to the participant's account in a manner and at a rate prescribed by the board, 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. 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, 1989.

CHAPTER 189
(S.B. No. 1195)

AN ACT
RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO CHANGE THE DEFINITION FOR "EMPLOYEE."

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this act, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes for that same service.

(3) "Accumulated contributions" means the sum of amounts contrib-

uted by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Average monthly salary" means one-sixtieth (1/60) of a member's salary during any base period in which his salary is greater than or equal to his salary in any other base period. "Base period" means any period of sixty (60) consecutive months during which such member makes a like number of contributions pursuant to sections 59-1303--59-1305, Idaho Code. If no base period exists for a member, his average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection. To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965 or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" shall have the meaning given in this subsection. A member shall be considered to be disabled if the board shall find, on the basis of medical evidence:

(a) that he is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) that he will remain so disabled permanently and continuously during the remainder of his life.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often

than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this act shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) any person who normally works in excess of twenty (20) hours per week for an employer and who receives salary for services rendered for such employer; or

(b) elected officials or appointed officials of an employer.

(B) "Employee" does not include:

(a) persons rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) ~~seasonal,--emergency--or-casual~~ workers whose employment with any employer does not total five (5) consecutive months; or

(c) persons provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons; or

(d) inmates of a state institution or persons enrolled full time in a state institution principally for purposes of training, whether or not receiving compensation for services performed for the institution; or

(e) persons making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that those persons who receive separate remuneration for work currently performed for an employer and the United States government may elect to be members of the retirement system in accordance with rules of the board.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this act.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1303--59-1305, Idaho Code.

(16) "Fireman" means an employee whose primary occupation is that of preventing and extinguishing fires as determined by the rules of

the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this act.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this act.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means service with respect to which contributions are payable under sections 59-1303--59-1305 and 59-1310A, Idaho Code, and military service which occurs after the commencement of such contributions.

(23) "Military service" means active duty service in the armed forces of the United States. For the purposes of this act, military service shall not include any period ended by dishonorable discharge or during which termination of such service is available but not accepted, nor shall it include any period which commences more than ninety (90) days after the person ceases to be an employee or ends more than ninety (90) days before the person again becomes an employee unless such ninety (90) day requirements are waived by the board due to circumstances beyond the employee's control.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1302A, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965 of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for his service prior to July 1, 1965 on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this act upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1326--59-1329, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) "Salary" means the total salary or wages payable by all employers to an active member for personal services currently performed, including the cash value of all remuneration in any medium other than cash in the amount reported by all employers for income tax purposes and also including the amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means personal service rendered to an employer for a salary. Service of fifteen (15) days or more during any calendar month shall be credited as one (1) month of service. Service of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested retirement allowance" means the periodic payment becoming payable upon an inactive member's becoming eligible for vested retirement.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

Approved March 29, 1989.

CHAPTER 190
(S.B. No. 1201)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO REDEFINE "FUNDING AGENT."

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this act, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled

to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Average monthly salary" means one-sixtieth (1/60) of a member's salary during any base period in which his salary is greater than or equal to his salary in any other base period. "Base period" means any period of sixty (60) consecutive months during which such member makes a like number of contributions pursuant to sections 59-1303--59-1305, Idaho Code. If no base period exists for a member, his average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection. To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965 or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" shall have the meaning given in this subsection. A member shall be considered to be disabled if the board shall find, on the basis of medical evidence:

(a) that he is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) that he will remain so disabled permanently and continuously during the remainder of his life.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical

examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this act shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) any person who normally works in excess of twenty (20) hours per week for an employer and who receives salary for services rendered for such employer; or

(b) elected officials or appointed officials of an employer.

(B) "Employee" does not include:

(a) persons rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) seasonal, emergency or casual workers whose employment with any employer does not total five (5) consecutive months; or

(c) persons provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons; or

(d) inmates of a state institution or persons enrolled full time in a state institution principally for purposes of training, whether or not receiving compensation for services performed for the institution; or

(e) persons making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that those persons who receive separate remuneration for work currently performed for an employer and the United States government may elect to be members of the retirement system in accordance with rules of the board.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this act.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1303--59-1305, Idaho Code.

(16) "Fireman" means an employee whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this act.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this act.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means service with respect to which contributions are payable under sections 59-1303--59-1305 and 59-1310A, Idaho Code, and military service which occurs after the commencement of such contributions.

(23) "Military service" means active duty service in the armed forces of the United States. For the purposes of this act, military service shall not include any period ended by dishonorable discharge or during which termination of such service is available but not accepted, nor shall it include any period which commences more than ninety (90) days after the person ceases to be an employee or ends more than ninety (90) days before the person again becomes an employee unless such ninety (90) day requirements are waived by the board due to circumstances beyond the employee's control.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1302A, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965 of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for his service prior to July 1, 1965 on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this act upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1326--59-1329, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) "Salary" means the total salary or wages payable by all employers to an active member for personal services currently performed, including the cash value of all remuneration in any medium other than cash in the amount reported by all employers for income tax purposes and also including the amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means personal service rendered to an employer for a salary. Service of fifteen (15) days or more during any calendar month shall be credited as one (1) month of service. Service of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested retirement allowance" means the periodic payment becoming payable upon an inactive member's becoming eligible for vested retirement.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

Approved March 29, 1989.

CHAPTER 191
(S.B. No. 1163)

AN ACT

RELATING TO WORKMEN'S COMPENSATION; AMENDING SECTION 72-101, IDAHO CODE, TO CHANGE REFERENCES IN TITLE 72, IDAHO CODE, FROM "WORKMEN" TO "WORKER".

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

SECTION 1. That Section 72-101, Idaho Code, be, and the same is hereby amended to read as follows:

72-101. SHORT TITLE. (1) This law may be cited as the ~~workmen's~~ ~~worker~~'s compensation law.

(2) Wherever in title 72, Idaho Code, references appear to the term workmen's compensation this shall be deemed to mean worker's compensation.

Approved March 29, 1989.

CHAPTER 192
(S.B. No. 1002)

AN ACT

RELATING TO MOTOR VEHICLE SAFETY BELT USE; AMENDING SECTION 49-673, IDAHO CODE, TO PROVIDE AN EXEMPTION AND TO PROVIDE THAT FAILURE TO USE A SAFETY BELT SHALL NOT BE CONSIDERED AS EVIDENCE OF CONTRIBUTORY OR COMPARATIVE NEGLIGENCE; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE FOR SUBSECTION (2)(d) OF SECTION 49-673, IDAHO CODE.

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

SECTION 1. That Section 49-673, Idaho Code, be, and the same is hereby amended to read as follows:

49-673. SAFETY RESTRAINT USE. (1) Except as provided in section 49-672, Idaho Code, and subsection (2)(b) of 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 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 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 that vehicle;

(d) Mail carriers.

(3) If a person is convicted of a violation of any traffic law, other than a violation of the provisions of sections 49-1229 or 49-1230, 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 49-326, 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 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 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 National Highway Traffic Safety Administration and Federal Highway Administration pursuant to 23 U.S.C. 402.

(6) The failure to use a safety belt shall not be considered under any circumstances as evidence of contributory or comparative negligence, nor shall such failure be admissible as evidence in any civil action with regard to negligence.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, subsection (2)(d) of section 49-673, Idaho Code, shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1989.

Approved March 29, 1989.

CHAPTER 193
(S.B. No. 1095)

AN ACT

RELATING TO SHELTER HOMES; AMENDING SECTIONS 15-2-616, 31-3503, 31-3506, 31-3513, 31-3514, 39-3301, 39-3302, 39-3303, 39-3305, 39-3308, 39-4702, 39-4704, 54-1601, 54-1705, 56-201, 66-402 AND 67-6532, IDAHO CODE, TO CHANGE THE DESIGNATION OF SHELTER HOMES TO RESIDENTIAL CARE HOMES.

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

SECTION 1. That Section 15-2-616, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-616. RESTRICTION ON DEVISES TO NURSING HOME OR ~~SHELTER~~ RESIDENTIAL CARE HOME OPERATORS. No estate, real or personal, shall be bequeathed or devised, either directly or indirectly, to any person who owns, operates or is employed at a nursing home or ~~shelter~~ residential care home, whether or not licensed, in which the testator was a resident within one (1) year of his death if the will was executed while the testator was a resident of the facility, except the same be done by will duly executed at least one (1) year before the death of the testator. This section shall apply to all property passing by testate succession after ~~the effective date of this section~~ July 1, 1983, regardless of when the will was written; provided, this section

shall in no way limit or affect the rights of a beneficiary who is related to the testator, or who is a charitable or benevolent society or corporation; provided further that the foregoing limitations shall not apply to wills of persons whose death is caused by accidental means and whose wills are executed prior to the accident which results in death.

SECTION 2. That Section 31-3503, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503. POWERS AND DUTIES OF BOARDS OF COUNTY COMMISSIONERS. The boards of county commissioners in their respective counties shall, under such limitations and restrictions as are prescribed by law:

(1) Care for and maintain the medically or otherwise indigent, and may provide for the care of other sick persons as provided in section 31-3514, Idaho Code, and for this purpose said boards are authorized to levy an ad valorem tax not to exceed ten one-hundredths of one percent (0.10%) of the market value for assessment purposes of all taxable property in the county. Such levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and the moneys derived from such levy shall be exempt from the limitation imposed by section 63-2220, Idaho Code.

(2) Have the jurisdiction and power to provide county hospitals and public general hospitals for the county and others who are sick, injured, maimed, aged and infirm and to erect, enlarge, purchase, lease, or otherwise acquire, and to officer, maintain and improve hospitals, hospital grounds, nurses' homes, shelter care facilities and ~~shelter~~ residential care homes as defined in section 39-3301, Idaho Code, superintendent's quarters, or any other necessary buildings, and to equip the same, and to replace equipment, and for this purpose said boards may levy an additional tax of not to exceed three (3) mills on the dollar. The terms public general hospitals as used in this subsection shall be construed to include nursing homes.

(3) Participate in the catastrophic health care costs program established pursuant to this chapter and operate the program in accordance with the uniform county guidelines on indigent eligibility, and all procedures contained therein as adopted by the counties, collectively. Proposed amendments to the uniform county guidelines on indigent eligibility by the counties through the Idaho Association of Counties will be submitted for review and comment to the Idaho Hospital Association, the Idaho Medical Association, the Idaho Health Care Association, and all other interested parties at least thirty (30) days prior to their proposed effective date. Amendments to the uniform county guidelines on indigent eligibility as adopted by the counties will be distributed to the Legislative Council, the Idaho Hospital Association, the Idaho Medical Association, the Idaho Health Care Association, and all other interested parties within thirty (30) days of their adoption and will become effective January 1 of the year following.

SECTION 3. That Section 31-3506, Idaho Code, be, and the same is hereby amended to read as follows:

31-3506. OBLIGATED COUNTY. 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~~ residential care 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~~ residential care 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 31-3513, Idaho Code, be, and the same is hereby amended to read as follows:

31-3513. ELECTION FOR ISSUANCE OF BONDS. The county commissioners may, when they deem the welfare of their counties require it, or when petitioned thereto by a number of resident taxpayers of their respective counties equal to five per cent (5%) of the number of persons voting for the secretary of state of the state of Idaho, at the election next preceding the date of such petition, submit to the qualified electors of said county at any general election, or at a special election called for such purpose, the proposition whether negotiable coupon bonds of the county to the amount stated in such proposition shall be issued and sold for the purpose of providing such hospital, hospital grounds, nurses' homes, nursing homes, ~~shelter~~ residential care homes, shelter care facilities, superintendent's quarters, or any other necessary buildings, and equipment, and may on their own initiative submit to the qualified electors of the county at any general election the proposition whether negotiable coupon bonds of the county to the amount stated in such proposition shall be issued and sold for the purpose of providing for the extension and enlargement of existing

hospital, hospital grounds, nurses' homes, nursing homes, ~~shelter~~ residential care homes, shelter care facilities, superintendent's quarters, or any other necessary buildings, and equipment, and when authorized thereto by two-thirds (2/3) vote at such election, shall issue and sell such coupon bonds and use the proceeds therefrom for the purposes authorized by such election. Said proposition may be submitted to the qualified electors at a special election called for the purpose if the board of county commissioners shall by resolution so determine. No person shall be qualified to vote at any election held under the provisions of this section unless he shall possess all the qualifications required of electors under the general laws of this state.

The board shall be governed in calling and holding such election and in the issuance and sale of such bonds, and in the providing for the payment of the principal and interest thereon by the provisions of sections 31-1901 through 31-1909, ~~inclusive,~~ Idaho Code, and by the provisions of chapter 2, title 57, Idaho Code; provided, however, that when such bonds have been issued and sold and a period of two (2) years or more has elapsed from the date of sale of said bonds and for any reason the proceeds from the sale of said bonds or other moneys appropriated for the purpose for which said bonds were issued, have not been used for the purpose for which they were appropriated or said bond issue made, the board may, with the written consent of all of the bondholders first having been obtained, submit to the qualified electors, as herein defined, the question of spending such moneys for a definite purpose. The purpose for which it is decided to spend such moneys shall be clearly and plainly stated on the ballot. If a majority of the qualified electors shall vote in favor of spending such moneys for the purpose stated, the board of county commissioners shall proceed in the same manner as if such different purpose had been the original purpose for such bond issue or appropriation. Provided, further that if less than a majority of the qualified electors shall vote in favor of spending such moneys for such different purpose, or if no such election should be had, when all of the bonds shall have been retired, such excess moneys shall be placed in the general fund.

SECTION 5. That Section 31-3514, Idaho Code, be, and the same is hereby amended to read as follows:

31-3514. INTERNAL MANAGEMENT -- ACCOUNTS AND REPORTS. Such hospital, nursing home, ~~shelter~~ residential care home, or shelter care facility may suitably provide for and accept other patients and must charge and accept payments from such other patients as are able to make payments for services rendered and care given. The board of county commissioners may make suitable rules and regulations for the management and operation of such hospital property by a suitable board of control, or otherwise, or for carrying out such hospital uses and purposes under a lease of the same.

The boards or officers or lessees of such hospital property shall render accounts and reports to the county commissioners as may be required by the board; and shall render accounts and deliver over any and all moneys received by them for the county to the county treasurer to be credited to the operation expense of hospitals and indigent sick

and otherwise dependent poor of the county in such manner as provided by law for the handling of funds of this kind.

Said board of control may permit persons from out of the county where such hospital is located to be admitted for hospitalization to such hospital. As to such cases special rates for the use and service of such hospital may be provided which rates shall apply equally to all such patients who do not pay taxes within the county where such hospital is located. The purpose of providing such special rates shall be to compel persons living out of the county where such hospital is located, and who receive hospitalization in such hospital, to bear a just burden of the cost of construction and maintenance of such hospital.

SECTION 6. That Section 39-3301, Idaho Code, be, and the same is hereby amended to read as follows:

39-3301. DEFINITIONS. As used in this chapter:

(1) "~~Shelter~~ Residential care home" means a building or any facility, however named, operated on either a profit or nonprofit basis, for the purpose of providing a home with necessary supervision and facilities for three (3) or more persons not related to the owner who are unable to care for themselves.

(2) "Specialized ~~shelter~~ residential care home" means any ~~shelter~~ residential care home with either developmentally disabled or mentally ill residents and a licensed bed capacity of fifteen (15) or less residents that provides twenty-four (24) hour supervision and an individualized written plan of care based on the needs of each resident.

(3) "Board" means the board of health and welfare.

(4) "Department" means the state department of health and welfare.

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

(6) "Governmental unit" means the state, any county, any city, other political subdivision, or any department, division, board, or other agency thereof.

(7) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.

(8) "Supervision" means administrative activity which emphasizes protection and assistance with activities of daily living directed towards self care skills. Supervision does not include nursing care or personal health services.

(9) "Resident" means an occupant of a ~~shelter~~ residential care home other than the owner, manager or employees.

SECTION 7. That Section 39-3302, Idaho Code, be, and the same is hereby amended to read as follows:

39-3302. LICENSURE. After July 1, 1976, no person or governmental unit, acting severally or jointly with any other person or governmental unit, shall establish, conduct or maintain a ~~shelter~~ residential

care home in this state without a license issued by the director of the department of health and welfare.

SECTION 8. That Section 39-3303, Idaho Code, be, and the same is hereby amended to read as follows:

39-3303. LICENSING PROCEDURE. Any person or governmental unit proposing to operate a ~~shelter~~ residential care home shall apply for a license upon forms provided by the department, giving such information as the department shall require. For such applicants as appear to the director to have met the minimum requirements, a license valid for one (1) year shall be issued. A shelter home which was in operation on the effective date of this act or which has previously been licensed but is subsequently deficient in meeting said standards, may be issued a provisional license valid for not more than six (6) months pending the satisfaction of all requirements. If a licensee desires to apply for a renewal of its license, an application for renewal shall be made in the form prescribed by the department, not less than sixty (60) days prior to expiration. When such application for renewal has been made in the proper manner and form, the existing license shall, unless officially revoked, remain in force and effect until the department has acted on the application for renewal.

The director may deny an application or revoke any license when persuaded by evidence that such conditions exist as to endanger the health or safety of any resident. Before denial or revocation, the director shall provide opportunity for a hearing at which the owner or sponsor of the shelter home under question may appear and show cause why the license should not be denied or revoked.

The board shall provide by rule and regulation a procedure whereby a permanent waiver of a specific standard may be granted in the event that good cause is shown for such a waiver and providing that a waiver of a standard does not endanger the health and safety of any resident. The decision to grant a waiver shall not be considered as precedent or be given any force or effect in any other proceeding.

Hearings for licensure, including denial and revocation, shall be conducted by the director pursuant to chapter 52, title 67, Idaho Code, and appeal shall be as provided therein.

SECTION 9. That Section 39-3305, Idaho Code, be, and the same is hereby amended to read as follows:

39-3305. RULES AND REGULATIONS. The board shall have the authority to adopt, amend, and enforce rules, regulations and standards consistent with the provisions of this chapter, which are designed to protect the health and safety of residents in ~~shelter~~ residential care homes and provide adequate nutrition, supervision, and meaningful life activities. These rules, regulations and standards shall be promulgated in accordance with the provisions of chapter 52, title 67, Idaho Code.

SECTION 10. That Section 39-3308, Idaho Code, be, and the same is hereby amended to read as follows:

39-3308. INJUNCTION. Notwithstanding any other remedy at law, the director may seek an injunction in the name of the state against any person or governmental unit to enjoin the establishment, conduct, management, or operation of a ~~shelter~~ residential care home in violation of the provisions of this chapter.

SECTION 11. That Section 39-4702, Idaho Code, be and the same is hereby amended to read as follows:

39-4702. DEFINITIONS. As used in this chapter, the following terms have the following meanings:

(1) "Day care center" means a home or place providing care to a group of five (5) or more children for all or part of the twenty-four (24) hour day.

(2) "Department" means the state department of health and welfare.

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

(4) "Foster home" shall be defined the same as in section 39-1209(4), Idaho Code.

(5) "In-house respite care" means the provision of respite care services within the physically or mentally disabled or handicapped individual's own home during a period when parents or guardians are absent.

(6) "Intermediate care facility" is a health facility whose design and function shall provide area, space and equipment to meet the restorative, rehabilitative, recreational and daily living needs of the residents. The facilities must reflect the personal care, social/psychological needs of the residents. The primary traffic flow is generated by residents going to services and activities. At a minimum, the facility shall provide such services as personal care, rehabilitative, remotivational activities and dietary and supporting services in health care as required by the category of residents admitted. In addition, an adult day care service may be provided at the election of the facility.

(7) "Physical or mental disabilities or handicaps" mean any substantial physical, mental or developmental disability which prevents normal participation in community and/or life activities as are available and participated in by persons with no such afflictions or conditions of the same age and sex.

(8) "Representative" means an employee of the state department of health and welfare.

(9) "Respite care" means appropriate services in a variety of settings, provided for the care of physically or mentally disabled or handicapped persons through temporary separation from his family, in or outside the home for short, specified periods of time, and involving other services as needed on an individual basis, for the purpose of relieving the family of his care in order to:

(a) meet planned or emergency needs of the family of the individual; or

(b) restore or maintain the physical and mental well-being of the

individual's parents or guardians; or

(c) initiate training procedures for the individual's parents or guardians in or out of the home.

(10) "Respite care center" means any facility designated to provide twenty-four (24) hour respite care for more than three (3) physically or mentally disabled or handicapped individuals, but not on a continuous living arrangement.

(11) "Respite care home" means any home which will provide care, on a short-term basis, for less than three (3) physically or mentally disabled or handicapped individuals who are nonrelated.

(12) "~~Shelter~~ Residential care home" shall be defined the same as in section 39-3301(1), Idaho Code.

(13) "Skilled nursing care facility" is a health facility whose design and function shall provide area space and equipment to meet the health needs of the skilled care level patient and the care delivery activities of the staff. The functional layout shall meet, primarily, medical and nursing needs. The design shall recognize that the primary traffic flow is the medical/nursing staff to the patient. At a minimum, the facility shall provide such services as medical/skilled nursing care, dietary, restorative, pharmaceutic, and the availability of dental services.

SECTION 12. That Section 39-4704, Idaho Code, be, and the same is hereby amended to read as follows:

39-4704. WHO MAY PROVIDE RESPITE CARE. (1) The following may provide respite care services; however, providers of respite care services shall not be limited to the following:

(a) foster home,

(b) skilled nursing facility,

(c) intermediate care facility,

(d) ~~shelter~~ residential care home,

(e) day care center,

(f) respite care home,

(g) respite care center,

(h) in-house respite care,

(i) or other suitable provider selected by the parents or guardians.

(2) Except for those providers required to have licenses or certifications under the Idaho Code, providers are not required to have any special licenses or certifications.

SECTION 13. That Section 54-1601, Idaho Code, be, and the same is hereby amended to read as follows:

54-1601. DEFINITIONS. (1) As used in this act, unless otherwise stated, the following terms shall have the respective meanings hereinafter set forth or indicated:

(2) "Board" means the board of examiners of nursing home administrators of the state of Idaho.

(3) "Examiner" means a member of the board of examiners of nursing home administrators of the state of Idaho.

(4) "Executive secretary" means the secretary of the board of examiners of nursing home administrators of the state of Idaho.

(5) "Nursing home administrator" means any individual responsible for planning, organizing, directing, and controlling the operation of a nursing home, or who in fact performs such functions, whether or not such functions are shared by one or more other persons.

(6) "Provisional license" means a temporary license issued to a provisional nursing home administrator under and pursuant to the provisions of this act.

(7) "Provisional nursing home administrator" means an individual who has been licensed as such under and pursuant to the provisions of this act.

(8) "Nursing home administrator-in-training" means an individual registered as such under and pursuant to the provisions of this act.

(9) "Practice of nursing home administration" means that planning, organizing, directing, and control of the operation of a nursing home.

(10) "Health care facility" means any institution or facility which supplies all of the functional needs of an individual in need of residence care and defined as such for licensing purposes under state law or pursuant to the rules for nursing homes, hospitals, ~~shelter~~ residential care homes, whether proprietary or nonprofit, and shall include, but not be limited to, health care facilities owned or administered by the state government or any agency or political subdivisions thereof.

SECTION 14. That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. (1) "Board of pharmacy" or "board" means the Idaho state board of pharmacy.

(2) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one person to another, whether or not for a consideration.

(3) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, invitro reagent or other similar related article including any component part or accessory which is:

(a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;

(b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Intended to effect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(4) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administra-

tion to or use by a patient or other individual entitled to receive the prescription drug.

(5) "Distribute" means the delivery of a drug other than by administering or dispensing.

(6) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(7) "Drug order" means a written order, in a hospital or other health care institution, for an ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, which is immediately reduced to writing by a pharmacist, registered nurse or other licensed health care practitioner authorized by the hospital or institution. The order shall contain the name and bed number of the patient, the name and strength or size of the drug or device, unless specified by individual institution policy or guideline, the amount to be dispensed, either in quantity or days, adequate directions for the proper use of the drug or device when it is administered to the patient, and the name of the prescriber.

(8) "Drug outlet" means all pharmacies, nursing homes, ~~shelter~~ residential care homes, convalescent homes, extended care facilities, drug abuse treatment centers, penal institutions, hospitals, family planning clinics, retail stores, wholesalers, manufacturers and mail order vendors with facilities located in this state which are engaged in dispensing, delivery or distribution of drugs and drug manufacturers and wholesalers with facilities located outside the state, but doing business within this state.

(9) "Extern" means a bona fide student enrolled in an approved college of pharmacy who has not received his first professional degree in pharmacy.

(10) "Externship" means a structured practical experience program in pharmacy, approved by the board and administered by a college of pharmacy.

(11) "Intern" means any person who has completed a course of study at an approved college of pharmacy, received the first professional degree in pharmacy and is registered with the board as an intern. Interns must register with the board prior to commencement of an internship program.

(12) "Internship" means a postgraduate practical experience program under the supervision of a licensed pharmacist registered as a preceptor.

(13) "Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

(14) "Labeling" means the process of preparing and affixing of a label to any drug container, exclusive however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation.

(15) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for his own use or the preparation, compounding, packaging or labeling of a drug:

(a) By a pharmacist or practitioner as an incident to his administering or dispensing of a drug in the course of his professional practice; or

(b) By a practitioner or by his authorization under his supervision for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

(16) "Manufacturer" means a person who by compounding, cultivating, harvesting, mixing or other process, produces or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

(17) "Precursor" means a substance, other than a legend drug which is an immediate chemical intermediate that can be processed or synthesized into a legend drug, and is used or produced primarily for use in the manufacture of a legend drug by persons other than persons licensed to manufacture such legend drugs by the Idaho board of pharmacy, registered by the state board of health and welfare, or licensed to practice pharmacy by the Idaho board of pharmacy.

(18) "Person" means an individual, corporation, partnership, association or any other legal entity.

(19) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(20) "Pharmacy" means any facility, department or other place where prescriptions are filled or compounded and are sold, dispensed, offered or displayed for sale, which has, as its principal purpose, the dispensing of drug and health supplies intended for the general health, welfare and safety of the public.

(21) "Practitioner" shall mean a physician, dentist, veterinarian, scientific investigator or other person (other than a pharmacist) licensed in this state and permitted by such license to dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this state.

(22) "Preceptor" means a pharmacist licensed in the state and in good standing, who supervises the internship training of a registered intern. The preceptor must be registered as a preceptor and shall be actively engaged on a full-time employment basis in the approved training area.

(23) "Prescription drug or legend drug" means a drug which, under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements~~.~~:

(a) "Caution: Federal law prohibits dispensing without a prescription;" or

(b) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian;"

or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.

(24) "Prescription drug order" means a lawful written or verbal order of a practitioner for a drug.

(25) "Nonprescription drugs" mean medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.

(26) "Record" means all papers, letters, memoranduma, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records or other written indicia, documents or objects which are used in any way in connection with the purchase, sale or handling of any drug or device.

(27) "Sale" means every sale and includes:

(a) Manufacturing, processing, transporting, handling, packaging or any other production, preparation or repackaging;

(b) Exposure, offer, or any other proffer;

(c) Holding, storing or any other possession;

(d) Dispensing, giving, delivering or any other supplying; and

(e) Applying, administering or any other usage.

(28) "Warehouseman" means a person who stores legend drugs for others and who has no control over the disposition of such drugs except for the purpose of such storage.

(29) "Wholesaler" means a person engaged in the business of distributing legend drugs that he himself has not produced or prepared, to persons included in any of the classes named in subsection (2) (a) through (f) of section 54-1734, Idaho Code.

SECTION 15. That Section 56-201, Idaho Code, be, and the same is hereby amended to read as follows:

56-201. DEFINITIONS. As used in this act:

(a) "State department" shall mean the state department of health and welfare;

(b) "Director" shall mean the director of the department of health and welfare;

(c) "Public welfare" shall mean public assistance and social services;

(d) "Social services" shall mean activities of the department in efforts to bring about economic, social and vocational adjustment of families and persons;

(e) "Public assistance" shall include general assistance, old-age assistance, aid to the blind, aid to dependent children, aid to the disabled, and medical assistance;

(f) "General assistance" shall mean direct assistance in cash, direct assistance in kind, and supplementary assistance;

(g) "Direct assistance in cash" shall mean money payments to needy people not classified as old-age assistance, or aid to the blind, or aid to dependent children, or aid to the disabled, or medical assistance;

(h) "Direct assistance in kind" shall mean payments to others on behalf of a person or family in need for food, rent, clothing, and other normal subsistence needs;

(i) "Supplementary assistance" shall mean payments to others in behalf of a person or family in need for medical and surgical aid, nursing and hospital services, transportation, costs incidental to social and vocational adjustment, foster care, physical and medical appliances, medical supplies, and payments toward the funeral expenses of such persons when deceased;

(j) "Old-age assistance" shall mean money payments to or in behalf of needy aged people;

(k) "Aid to the blind" shall mean money payments to or in behalf of blind people who are needy;

(l) "Aid to dependent children" shall mean money payments with respect to or in behalf of needy dependent children, who are deprived of parental care or support by reason of the death, continued absence from the home, or physical or mental incapacity of a parent;

(m) "Aged" shall mean any person sixty-five (65) years or older;

(n) "Aid to the disabled" shall mean money payments to or in behalf of needy individuals who are disabled, and whose disability prevents self-support through employment for a period of at least one (1) year from the date of onset of the disability;

(o) "Medical assistance" shall mean payments for part or all of the cost of such care and services allowable within the scope of title XIX of the federal social security act as amended as may be designated by department rule and regulation;

(p) "Provider" shall mean any individual, partnership, association, corporation or organization, public or private, who provides ~~shelter~~ residential care home services, nursing home services, services offered pursuant to the medicaid program, or services offered pursuant to titles IV or XX of the social security act;

(q) "Needy" shall mean the condition where a person or family does not have income and available resources in accordance with the provisions of section 56-210, Idaho Code.

SECTION 16. That Section 66-402, Idaho Code, be, and the same is hereby amended to read as follows:

66-402. DEFINITIONS. As used in this chapter:

(1) "Adult" means an individual eighteen (18) years of age or older.

(2) "Department" means the Idaho department of health and welfare.

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

(4) "Developmental disability" means a chronic disability of a

person which appears before the age of twenty-two (22) years of age and:

(a) Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and

(b) Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and

(c) Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated.

(5) "Emancipated minor" means an individual between fourteen (14) and eighteen (18) years of age who has been married or whose circumstances indicate that the parent-child relationship has been renounced.

(6) "Evaluation committee" means an interdisciplinary team of at least three (3) individuals designated by the director or his designee to evaluate an individual as required by the provisions of this chapter. Each committee must include a physician licensed to practice medicine in the state of Idaho, a licensed social worker, with field training or experience in working with partially disabled or disabled persons, and a clinical psychologist.

(7) "Facility" means the Idaho state school and hospital, a skilled nursing facility, an intermediate care facility, an intermediate care facility for the mentally retarded, a licensed ~~shelter~~ residential care home, a group foster home, other organizations licensed to provide twenty-four (24) hour care, treatment and training to the developmentally disabled, a mental health center, or an adult and child development center.

(8) "Lacks capacity to make informed decisions" means the inability, by reason of developmental disability, to achieve a rudimentary understanding of the purpose, nature, and possible risks and benefits of a decision, after conscientious efforts at explanation, but shall not be evidenced by improvident decisions within the discretion allowed nondevelopmentally disabled individuals.

(9) "Likely to injure himself or others" means:

(a) A substantial risk that physical harm will be inflicted by the respondent upon his own person as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or

(b) A substantial risk that physical harm will be inflicted by the respondent upon another as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or

(c) That the respondent is unable to meet essential requirements for physical health or safety.

(10) "Manage financial resources" means the actions necessary to obtain, administer and dispose of real, personal, intangible or busi-

ness property, benefits and/or income.

(11) "Meet essential requirements for physical health or safety" means the actions necessary to provide health care, food, clothing, shelter, personal hygiene and/or other care without which serious physical injury or illness would occur.

(12) "Minor" means an individual seventeen (17) years of age or less.

(13) "Respondent" means the individual subject to judicial proceedings authorized by the provisions of this chapter.

SECTION 17. That Section 67-6532, Idaho Code, be, and the same is hereby amended to read as follows:

67-6532. LICENSURE, STANDARDS AND RESTRICTIONS. (a) The department of health and welfare may require such residences to be licensed and set minimum standards for providing services or operation. Such licensure may be under the ~~shelter~~ residential care home regulations, or under the intermediate care facilities for mentally retarded or related conditions regulations, or under regulations specifically written for such residences.

(b) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves eight (8) or fewer mentally and/or physically handicapped persons and is supervised as required in section 67-6531, Idaho Code, which is not required of a single family dwelling in the same zone.

(c) No local ordinances or local restrictions shall be applied to or required for a residential facility which serves eight (8) or fewer mentally and/or physically handicapped persons and is supervised as required in section 67-6531, Idaho Code, which is not applied to or required for a single family dwelling in the same zone.

Approved March 29, 1989.

CHAPTER 194
(S.B. No. 1164)

AN ACT
RELATING TO WORKMEN'S COMPENSATION; AMENDING SECTION 72-410, IDAHO CODE, TO PROVIDE AN ADDITIONAL DEFINITION OF DEPENDENTS.

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

SECTION 1. That Section 72-410, Idaho Code, be, and the same is hereby amended to read as follows:

72-410. DEPENDENTS. The following persons, and they only, shall be deemed dependents and entitled to income benefits under the provisions of this act:

(1) A child if under eighteen (18) years of age, or incapable of

self-support and unmarried, whether or not actually dependent upon the deceased or disabled employee.

(2) The widow or widower only if living with the deceased or living apart from ~~him~~ the deceased for justifiable cause, or actually dependent, wholly or partially, upon ~~him~~ the deceased.

(3) ~~The widower only if incapable of self-support and actually dependent, wholly or partially, upon the deceased at the time of her injury.~~

~~(4)~~ A parent or grandparent only if actually dependent, wholly or partially, upon the deceased.

(~~5~~4) A grandchild, brother or sister only if under eighteen (18) years of age, or incapable of self-support, and actually dependent wholly upon the deceased.

Approved March 29, 1989.

CHAPTER 195
(S.B. No. 1221)

AN ACT

RELATING TO NONCERTIFICATED PERSONNEL OF A SCHOOL DISTRICT; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-517, IDAHO CODE, TO PROVIDE FOR A GRIEVANCE PROCEDURE FOR NONCERTIFICATED PERSONNEL OF A SCHOOL DISTRICT.

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 33-517, Idaho Code, and to read as follows:

33-517. NONCERTIFICATED PERSONNEL. The board of trustees of each school district including any specially chartered district, shall have the following powers and duties:

(1) To provide that hiring and evaluation procedures for noncertificated personnel shall be in writing and shall be available for any noncertificated employee's review at anytime. Job descriptions for all noncertificated employees shall be written and shall be made available to employees of the district or other people seeking employment.

(2) To provide a grievance procedure for noncertificated employees of the district which meets the minimum standards of paragraphs (a) through (i) of this subsection. In the event a grievance procedure is not provided, the following grievance procedure shall apply.

(a) A grievance shall be defined as a written allegation of unfair treatment or a violation of school district policy. A noncertificated employee of the district may file a grievance about any matter related to his employment, provided that neither

the rate of salary or wage of the employee nor the decision to terminate an employee for cause during the initial one hundred eighty (180) days of employment shall be a proper subject for consideration under the grievance procedure provided in this section.

(b) If a noncertificated employee files a grievance, the employee shall submit the grievance in writing to his or her immediate supervisor within six (6) working days of the incident giving rise to the grievance. The grievance shall state the nature of the grievance and the remedy sought. Within six (6) working days of receipt of the grievance, the immediate supervisor shall provide a written response to the employee.

(c) If the noncertificated employee is not satisfied with the response of the immediate supervisor or if there is no response within the time lines, the employee may appeal the grievance to the superintendent of the district or the superintendent's designee within five (5) working days of the receipt of the response as set out in subsection (2)(b) of this section or within five (5) working days from the date the supervisor last had to respond if the noncertificated employee received no written response. Within six (6) working days of an appeal, the superintendent or his designee shall communicate with the noncertificated employee in an effort to resolve the appeal. Within five (5) working days of the communication, the superintendent or his designee shall provide a written response to the noncertificated employee.

(d) If the noncertificated employee is not satisfied with the response of the superintendent or his designee, or if there is no response by the superintendent or his designee within the time frame provided in subsection (2)(c) of this section, the noncertificated employee may request a review of the grievance by a hearing panel within five (5) working days from receipt of the response provided in subsection (2)(c) of this section if the employee received a written response, or five (5) working days from the date the superintendent last had to respond if the noncertificated employee received no written response. Within ten (10) working days of receipt of an appeal, the board of trustees shall convene a panel consisting of three (3) persons; one (1) designated by the board of trustees, one (1) designated by the employee, and one (1) agreed upon by the two (2) appointed members for the purpose of reviewing the appeal. Within five (5) working days following completion of the review, the panel shall submit its decision in writing to the noncertificated employee, the superintendent, and the board of trustees.

(e) The panel's decision shall be the final and conclusive resolution of the grievance unless the board of trustees overturns the panel's decision by resolution at the board of trustees' next regularly scheduled public meeting or unless within forty-two (42) calendar days of the filing of the board's decision, either party appeals to the district court in the county where the school district is located. Upon appeal of a decision of the board of trustees, the district court may affirm or set aside and remand the matter to the board of trustees upon the following grounds, and shall not set the same aside on any other grounds:

(i) That the findings of fact are not based on any substantial, competent evidence;
(ii) That the board of trustees has acted without jurisdiction or in excess of its powers;
(iii) That the findings by the board of trustees as a matter of law do not support the decision.

(f) A noncertificated employee filing a grievance pursuant to this section shall be entitled to a representative of the employee's choice at each step of the grievance procedure provided in this section. The supervisor, superintendent, or the superintendent's designee shall be entitled to a representative at each step of the grievance procedure.

(g) The time lines of the grievance procedure established in this section may be waived or modified by mutual agreement.

(h) Utilization of the grievance procedure established pursuant to this section shall not constitute a waiver of any right of appeal available pursuant to law or regulation.

(i) Neither the board nor any member of the administration shall take reprisals affecting the employment status of any party in interest.

(j) A noncertificated employee of a school district shall be required to review and sign any entries made to his personnel file. At reasonable times and places, in the presence of an appropriate district official, a noncertificated employee may inspect documents contained in his official personnel file.

Approved March 29, 1989.

CHAPTER 196
(S.B. No. 1226, As Amended)

AN ACT

RELATING TO EMERGENCY COMMUNICATIONS SYSTEMS; AMENDING SECTION 31-4803, IDAHO CODE, TO PROVIDE THAT AN ELECTION TO AUTHORIZE FUNDING FOR AN EMERGENCY COMMUNICATIONS SYSTEM MAY BE HELD AT A SPECIAL ELECTION AND TO PROVIDE REQUIREMENTS FOR NOTICE, AND TO PROVIDE CLARIFICATION FOR THE QUESTION TO BE SUBMITTED TO THE ELECTORS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-4803, Idaho Code, be, and the same is hereby amended to read as follows:

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, or at a special election called for such purpose during 1989 only. A notice for any election shall be published for twenty (20) days as required by section 60-109, Idaho Code. 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, commonly known as 911 service?"

(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.

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, 1989.

CHAPTER 197
(S.B. No. 1258, As Amended)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2711, IDAHO CODE, TO ADD ANABOLIC STEROIDS AND HUMAN GROWTH HORMONES TO SCHEDULE IV, TO PROVIDE AN EXCEPTION FOR FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED ANABOLIC STEROID IMPLANTS FOR CATTLE OR OTHER NONHUMAN SPECIES, AND TO PROVIDE ADDITIONAL PENALTIES.

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

SECTION 1. 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;
(35) Nitrazepam;

(36) Nordiazepam;
(37) Oxazepam;
(38) Oxazolam;
(39) Paraldehyde;
(40) Petrichloral;
(41) Phenobarbital;
(42) Pinazepam;
(43) Prazepam;
(44) Temazepam;
(45) Tetrazepam;
(46) 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) Anabolic steroids and human growth hormones. Unless specifically excepted or unless listed in another schedule, any of the following or any material, compound, mixture, preparation, isomer, ester, salt or derivative containing an anabolic steroid or human growth hormone that acts in the same manner on the human body:

(1) Clostebol;
(2) Chorionic gonadotropin;
(3) Dehydrochlormethyltestosterone;
(4) Ethylestrenol;
(5) Fluoxymesterone;
(6) Human growth hormones;
(7) Mesterolone;
(8) Methandienone;
(9) Methandrostenolone;
(10) Methenolone;
(11) Methyltestosterone;
(12) Nandrolone;
(13) Nandrolone phenpropionate;
(14) Norethandrolone;
(15) Oxandrolone;

(16) Oxymesterone;
(17) Oxymetholone;
(18) Stanozolol;
(19) Testosterone propionate;
(20) Testosterone-like related compounds.

Anabolic steroids that are expressly intended for administration through implants to cattle or other nonhuman species, and that are approved by the federal food and drug administration for such use, shall not be classified as controlled substances under this act and shall not be governed by its provisions.

In addition to the penalties prescribed in article IV of the uniform controlled substances act, any person shall be guilty of a felony who prescribes, dispenses, supplies, sells, delivers, manufactures or possesses with the intent to prescribe, dispense, supply, sell, deliver or manufacture anabolic steroids or any other human growth hormone for purposes of enhancing performance in an exercise, sport or game or hormonal manipulation intended to increase muscle mass, strength or weight without a medical necessity as determined by a physician.

(g) 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.

(gh) 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 29, 1989.

CHAPTER 198
(H.B. No. 342)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1350, IDAHO CODE, AS AMENDED BY HOUSE BILL NO. 18, FIRST REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO CHANGE THE NAME OF THE UNEMPLOYMENT RESERVE FUND TO THE EMPLOYMENT SECURITY FUND, AND TO PROVIDE PROPER NOMENCLATURE; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 72-1350, Idaho Code, as amended by House Bill No. 18, First Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-1350. TAXABLE WAGE BASE AND CONTRIBUTION RATES. (a) All remuneration for personal services as defined in section 72-1328, Idaho Code, equal to the average annual wage in covered employment for the penultimate calendar year, rounded to the nearest multiple of six hundred dollars ($600), or the amount of taxable wage base specified in the federal unemployment tax act, whichever is higher, shall be the taxable wage base for purposes of this act.

(b) All covered employers, except those eligible and electing the cost reimbursement payment method, shall pay contribution rates as assigned annually by the director in accordance with the following, provided, however, and notwithstanding any other provision of the employment security law, for calendar years 1987 and 1988, the contribution rates for all covered experience-rated employers shall be determined in accordance with schedule VI.

(c) A desired ~~unemployment reserve~~ employment security fund size shall be determined for each calendar year by calculating from the penultimate year, the ten (10) year average of annual benefits paid to wages covered, multiplied by one and one-half (1.5). The resulting ratio, when applied to the covered wages of the penultimate year, represents the desired fund size. This calculation is hereafter referred to as the average cost multiple (ACM).

(d) Beginning in calendar year 1989 and effective each calendar year thereafter, the ACM becomes the ratio at the top of ~~tax~~ contribution rate schedule V as provided in subsection (g) of this section, and all other ratios for ~~tax rate~~ schedules I through IX are adjusted up or down from schedule V in equal increments of .005.

(e) The ~~unemployment tax~~ contribution rate schedule for each calendar year shall be determined by comparing the ratio of the actual balance of the ~~unemployment reserve~~ employment security fund on December 31, to the wages covered in the penultimate year against the ~~tax~~ contribution schedule ratios as provided in subsection (d) of this section.

(f) The ratios computed for each ~~tax~~ contribution schedule as provided in subsection (d) of this section shall be placed with their appropriate ~~tax~~ schedule at the top of the columns as provided in subsection (g) of this section, and shall represent the minimum fund level required for the specific ~~tax~~ schedule to be in effect.

(g) Schedules of Contribution Rates

			SCHED. I	SCHED. II	SCHED. III	SCHED. IV	SCHED. V	SCHED. VI	SCHED. VII	SCHED. VIII	SCHED. IX
Cumulative Taxable Payroll Limits			+.020	+.015	+.010	+.005	ACM	-.005	-.010	-.015	
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)	Contribution Rates for Eligible Employers								
1	--	10	0.1%	0.5%	0.9%	1.3%	1.5%	1.7%	2.1%	2.5%	2.9%
2	10	22	0.4	0.8	1.2	1.6	1.8	2.0	2.4	2.8	3.2
3	22	37	0.7	1.1	1.5	1.9	2.1	2.3	2.7	3.1	3.5
4	37	52	1.0	1.4	1.8	2.2	2.4	2.6	3.0	3.4	3.8
5	52	67	1.3	1.7	2.1	2.5	2.7	2.9	3.3	3.7	4.1
6	67	82	1.6	2.0	2.4	2.8	3.0	3.2	3.6	4.0	4.4
7	82	--	1.9	2.3	2.7	3.1	3.3	3.5	3.9	4.3	4.7
Contribution Rates for Standard-Rated Employers:			2.1%	2.5%	2.9%	3.3%	3.5%	3.7%	4.1%	4.5%	4.9%

Cumulative Taxable Payroll Limits											
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)	Contribution Rates for Deficit Employers								
1	--	20	2.4	2.8	3.2	3.6	3.8	4.0	4.4	4.8	5.2
2	20	40	2.8	3.2	3.6	4.0	4.2	4.4	4.8	5.2	5.6
3	40	60	3.2	3.6	4.0	4.4	4.6	4.8	5.2	5.6	6.0
4	60	80	3.6	4.0	4.4	4.8	5.0	5.2	5.6	6.0	6.4
5	80	99	4.0	4.4	4.8	5.2	5.4	5.6	6.0	6.4	6.8
6	99	--	5.4	5.4	5.4	5.4	5.4	5.6	6.0	6.4	6.8

(h) Employer rates will be assigned with the rates provided in each schedule for eligible, standard-rated and deficit employers, based upon their experience as determined under the provisions of sections 72-1319, 72-1319A and 72-1351, Idaho Code.

(i) Each employer shall be notified of his rate of contribution as determined for any calendar year pursuant to this section and section 72-1351, Idaho Code. Such determination shall become conclusive and binding upon the employer, unless within fourteen (14) days after delivery or mailing of the notice thereof to his last known address, the employer files an application for redetermination, setting forth his reasons therefor. Reconsideration shall be limited to transactions occurring subsequent to any previous determination which has become final. The employer shall be promptly notified of the redetermination, which shall become final unless an appeal is filed within fourteen (14) days after delivery or mailing of notice to his last known address. Proceedings on the appeal shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 2. 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, 1989.

Approved March 29, 1989.

CHAPTER 199
(H.B. No. 30)

AN ACT

APPROPRIATING THREE HUNDRED THOUSAND DOLLARS OR SUCH LESSER AMOUNT THEREOF AS MAY BECOME AVAILABLE FROM THE FUNDS MADE AVAILABLE TO THE DEPARTMENT OF EMPLOYMENT OF THE STATE OF IDAHO PURSUANT TO SECTION 903 OF THE SOCIAL SECURITY ACT, AS AMENDED, FOR THE PURCHASE OF REAL AND PERSONAL PROPERTY, FOR THE CONSTRUCTION OF OFFICE BUILDINGS FOR USE BY THE DEPARTMENT OF EMPLOYMENT, AND FOR REPAIRING, REMODELING AND MAINTAINING OFFICE BUILDINGS FOR USE OF THE DEPARTMENT OF EMPLOYMENT; AND PROVIDING THAT NO PART OF THE MONEY APPROPRIATED MAY BE OBLIGATED AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD BEGINNING WITH THE FIRST DAY OF JULY, 1989.

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

SECTION 1. There is hereby appropriated out of the funds made available to the Department of Employment of the State of Idaho, pursuant to Section 903 of the Social Security Act, as amended, the sum of $300,000 or such lesser amount thereof as may become available as this state's share of funds allocated under the provisions of said Section 903 of the Social Security Act, as amended, to be used for the purpose of the purchase of real and personal property, the construc-

tion of office buildings for use by the Department of Employment, and for repairing, remodeling and maintaining office buildings used by the Department of Employment of the State of Idaho, as authorized by and subject to the limitations of Section 72-1346(e), Idaho Code, and Section 72-1348(d), Idaho Code.

SECTION 2. No part of the money hereby appropriated shall be obligated after the expiration of the two-year period beginning with the first day of July, 1989.

Approved March 29, 1989.

CHAPTER 200
(H.B. No. 8)

AN ACT

RELATING TO WORKMEN'S COMPENSATION; AMENDING SECTION 72-205, IDAHO CODE, TO PROVIDE WORKMEN'S COMPENSATION COVERAGE TO MEMBERS OF THE IDAHO NATIONAL GUARD AND EMPLOYEES AND VOLUNTEERS OF IDAHO NATIONAL GUARD MORALE, WELFARE, AND RECREATIONAL ACTIVITIES WHEN ON-THE-JOB INJURY OR DEATH IS NOT COVERED UNDER FEDERAL LAW; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-205, Idaho Code, be, and the same is hereby amended to read as follows:

72-205. PUBLIC EMPLOYMENT GENERALLY -- COVERAGE. The following shall constitute employees in public employment and their employers subject to the provisions of this law:

(1) Every person in the service of the state or of any political subdivision thereof, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties, except officials of athletic contests involving secondary schools, as defined by section 33-119, Idaho Code.

(2) Every person in the service of a county, city, or any political subdivision thereof, or of any municipal corporation.

(3) ~~Members--of--the--Idaho--national--guard--while--on-duty,-and~~ pParticipants in the Idaho youth conservation project under the supervision of the Idaho state forester.

(4) Every person who is a member of a volunteer fire or police department shall be deemed, for the purposes of this law, to be in the employment of the political subdivision or municipality where the department is organized.

(5) Every person who is a regularly enrolled volunteer member or trainee of the department of disaster and civil defense, or of a civil defense corps, shall be deemed, for the purposes of this law, to be in

the employment of the state.

(6) Members of the Idaho national guard while on duty and employees of or persons providing voluntary service to an approved Idaho national guard morale, welfare, and recreational activity. No Idaho compensation benefits shall inure to any such member, employee or volunteer or their beneficiaries for any injury or death compensable under federal law.

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, 1989.

CHAPTER 201
(H.B. No. 339)

AN ACT

RELATING TO THE STATE'S ACCOUNTS SYSTEM; AMENDING CHAPTER 8, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-803A, IDAHO CODE, TO PROVIDE THAT THE STATE AUDITOR MAY ESTABLISH A SYSTEM OF FUNDS AND ACCOUNTS DIFFERENT FROM THOSE STATUTORILY ENUMERATED.

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

SECTION 1. That Chapter 8, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-803A, Idaho Code, and to read as follows:

57-803A. ACCOUNTING CLASSIFICATION STRUCTURE AS ESTABLISHED BY THE STATE AUDITOR. In order to conform Idaho's accounting system and financial reporting procedures with generally accepted governmental accounting principles as much as possible, the state auditor may establish a system of funds and accounts different from those otherwise enumerated in chapter 8, title 57, Idaho Code, with approval of the state board of examiners, in order to test and evaluate such system during the period July 1, 1989, through June 30, 1991. Any such system shall be designed so that constitutional requirements, admission act requirements, and applicable federal government requirements are satisfied for any moneys affected thereby, and so that the legislature's ability to appropriate moneys is not hampered.

The state auditor shall report progress to the second regular session of the fiftieth Idaho legislature in February, 1990, and shall submit a final report with accompanying recommendations and suggested implementation legislation, if any, to the first regular session of the fifty-first Idaho legislature.

Approved March 29, 1989.

CHAPTER 202
(H.B. No. 361)

AN ACT

APPROPRIATING MONEYS FOR THE WAMI MEDICAL EDUCATION PROGRAM AND THE WOI REGIONAL PROGRAM IN VETERINARY MEDICINE FOR FISCAL YEAR 1990; 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 amounts, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. WAMI MEDICAL EDUCATION PROGRAM:					
FROM:					
General Account	$ 314,500	$ 48,200	$12,000	$1,518,400	$1,893,100
Interagency Billing and Receipts Account	37,700	3,100		124,500	165,300
TOTAL	$ 352,200	$ 51,300	$12,000	$1,642,900	$2,058,400
B. WOI REGIONAL PROGRAM IN VETERINARY MEDICINE:					
FROM:					
General Account	$ 737,000	$122,900			$ 859,900
GRAND TOTAL	$1,089,200	$174,200	$12,000	$1,642,900	$2,918,300

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 248, Laws of 1988, to be used for nonrecurring expenditures only for the period of July 1, 1989, through June 30, 1990.

SECTION 3. There is hereby reappropriated to the Board of Regents of the University of Idaho for the WOI Regional Program in Veterinary Medicine any unexpended and unencumbered balance of the moneys appropriated by Section 2, Chapter 249, Laws of 1988, to be used for nonrecurring expenditures only for the period of July 1, 1989, through June 30, 1990.

Approved March 29, 1989.

CHAPTER 203
(H.B. No. 366)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIQUOR DISPENSARY FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Liquor Account	$3,936,400	$2,829,400	$227,000	$6,992,800

Approved March 29, 1989.

CHAPTER 204
(H.B. No. 367)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 101, LAWS OF 1988; APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1990; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND DECLARING AN EMERGENCY WITH RESPECT TO SECTION 1 OF THIS ACT.

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

SECTION 1. In addition to the appropriation made by Section 1, Chapter 101, Laws of 1988, there is hereby appropriated to the Lieutenant Governor 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:	
Personnel Costs	$3,200
FROM:	
General Account	$3,200

SECTION 2. 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, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$62,600
Operating Expenditures	23,700
Capital Outlay	1,000
TOTAL	$87,300
FROM:	
General Account	$87,300

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 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.

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

Approved March 29, 1989.

CHAPTER 205
(H.B. No. 195)

AN ACT

RELATING TO SHELTER HOMES; AMENDING SECTION 39-3301, IDAHO CODE, TO DEFINE "ADVOCATE" FOR PURPOSES OF THE SHELTER HOME STATUTES; AND AMENDING CHAPTER 33, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3310, IDAHO CODE, TO PROVIDE THAT ADVOCATES AND REPRESENTATIVES SHALL HAVE ACCESS TO SHELTER HOME RESIDENTS FOR PURPOSES SPECIFIED.

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

SECTION 1. That Section 39-3301, Idaho Code, be, and the same is hereby amended to read as follows:

39-3301. DEFINITIONS. As used in this chapter:

(1) "Shelter home" means a building or any facility, however named, operated on either a profit or nonprofit basis, for the purpose of providing a home with necessary supervision and facilities for three (3) or more persons not related to the owner who are unable to care for themselves.

(2) "Specialized shelter home" means any shelter home with either developmentally disabled or mentally ill residents and a licensed bed capacity of fifteen (15) or less residents that provides twenty-four (24) hour supervision and an individualized written plan of care based on the needs of each resident.

(3) "Board" means the board of health and welfare.

(4) "Department" means the state department of health and welfare.

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

(6) "Governmental unit" means the state, any county, any city, other political subdivision, or any department, division, board, or other agency thereof.

(7) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.

(8) "Supervision" means administrative activity which emphasizes protection and assistance with activities of daily living directed towards self care skills. Supervision does not include nursing care or personal health services.

(9) "Resident" means an occupant of a shelter home other than the owner, manager or employees.

(10) "Advocate" means an authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of elderly, developmentally disabled or mentally ill residents.

SECTION 2. That Chapter 33, 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 39-3310, Idaho Code, and to read as follows:

39-3310. ACCESS BY ADVOCATES AND REPRESENTATIVES. A shelter home shall permit advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the home at reasonable times in order to:

(1) Visit, talk with, and make personal, social and legal services available to all residents;

(2) Inform residents of their rights and entitlements, and their corresponding obligations under state, federal, and local laws by distribution of educational materials and discussion in groups and with individuals;

(3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which residents are aggrieved, which may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation;

(4) Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights;

(5) Communicate privately and without restrictions with any resident who consents to the communication; and

(6) Observe all common areas of the facility.

Approved March 29, 1989.

CHAPTER 206
(H.B. No. 203)

AN ACT

RELATING TO THE CREATION OF A FOREST RANGE AND WILDLIFE POLICY ANALYSIS GROUP AT THE UNIVERSITY OF IDAHO; AMENDING CHAPTER 7, TITLE 38, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 38-714, IDAHO CODE, TO CREATE A FOREST, RANGE AND WILDLIFE POLICY ANALYSIS GROUP WITHIN THE IDAHO FOREST, WILDLIFE AND RANGE EXPERIMENT STATION AT THE UNIVERSITY OF IDAHO, TO PROVIDE POWERS, DUTIES AND RESPONSIBILITIES; AND PROVIDING A SUNSET CLAUSE.

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

SECTION 1. That Chapter 7, 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 38-714, Idaho Code, and to read as follows:

38-714. CREATION OF FOREST POLICY ANALYSIS GROUP -- POWERS AND DUTIES. (1) There is hereby created within the Idaho forest, wildlife and range experiment station a "forest, range and wildlife policy analysis group." The forest, range and wildlife policy analysis group shall be under the control of the dean of the college of forestry , wildlife and range sciences of the university of Idaho and shall have the following powers and duties:

(a) A program of continuing inquiry into such public policy issues as may be suggested by the advisory committee described in this act;

(b) The ability to provide timely, scientific and objective data and analysis pertinent to such resource and land use questions which are of general interest to the people of Idaho and which are suggested as worthy of the group's attention by the advisory committee described herein, and;

(c) Analytical and informational services provided on a contractual basis to those public or private entities desiring such services in order to better reach more informed decisions regarding the wise use of Idaho's forest, range and wildlife resources, including fish, wildlife, timber, water, outdoor recreation, forage and aesthetic values. Such contractual services may not be offered at rates less than the college's actual costs for providing them and must adhere to the highest professional and scientific standards for objective, scientific research. The results of such contractual services provided by this group shall be considered to be public knowledge available to the citizens of Idaho.

(2) The dean of the college of forestry, wildlife and range sciences, in a manner consistent with existing practice for hiring and electing faculty members to the college and its departments, shall as soon as practicable subsequent to the passage of this act, name a director of the forest policy analysis group. The director and staff shall have academic training and managerial skills appropriate to the

college and the position and shall be compensated at a rate commensurate with their abilities and experience. Individual projects and analyses will be conducted by the group's staff or members of the college's faculty, as appropriate.

(3) The dean of the college of forestry, wildlife and range sciences shall name a forest policy advisory committee representative of the entities, both public and private, which have demonstrated interest in the areas of inquiry and conclusions of the group. Members of this committee shall serve without pay and under such terms of service as may be prescribed by the dean. It shall be the responsibility of the committee to review various forest policy issues and suggest the priority, critical focus and appropriateness of these issues for consideration by the forest policy analysis group. The total size of this committee shall not exceed nine (9) voting members. The dean shall also name a "technical advisory committee" consisting of faculty members and others with a demonstrated technical knowledge of issues or questions posed to the group to help provide guidance and expertise to each of the groups's inquiries.

(4) It shall be the duty of and within the purposes of the forest, wildlife and range experiment station to establish a forest policy analysis series in which to publish all results and findings, whether tentative or conclusive, regarding any and all of the group's studies. Such publication shall be made freely, without prejudice and in a manner consistent with the highest professional, scientific, and ethical standards. In carrying out the provisions of this section, the director and staff of the forest policy analysis group shall seek the counsel and expertise and generally cooperate with other colleges within the state's university system, plus other public or private research efforts.

SECTION 2. This act shall be null, void and of no force and effect on and after July 1, 1994.

Approved March 29, 1989.

CHAPTER 207
(H.B. No. 211)

AN ACT

RELATING TO LICENSES TO RETAIL LIQUOR; AMENDING SECTION 23-903, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF LICENSES TO GOLF COURSES TO RETAIL LIQUOR WHETHER WITHIN OR WITHOUT CITY LIMITS.

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

SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby amended to read as follows:

23-903. LICENSE TO RETAIL LIQUOR. The director of the department

of law enforcement is hereby empowered, authorized, and directed to issue licenses to qualified applicants, as herein provided, whereby the licensee shall be authorized and permitted to sell liquor by the drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink, but only in accordance with the rules and regulations promulgated by the director and the provisions of this chapter. No license shall be issued for the sale of liquor on any premises outside the incorporated limits of any city except as provided in this chapter and the number of licenses so issued for any city shall not exceed one (1) license for each one thousand five hundred (1,500) of population of said city or fraction thereof, as established in the last preceding census, or any subsequent special census conducted by the United States bureau of the census, except that upon proper application thereof not more than two (2) licenses may be issued for each incorporated city with a population of one thousand five hundred (1,500) or less, unless the retail licensing of liquor by the drink has been previously disapproved under the provisions of sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided, however, that any license heretofore issued may be renewed from year to year without regard to the population of the city for which such license is issued. Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide golf course whether located within or without the limits of any city, or ski resort, or to the lessee of any premises situate thereon, no part of which ~~said golf course or~~ ski resort or the premises thereon is situate within the incorporated limits of any city. For the purpose of this section a golf course shall comprise an actual, bona fide golf course, which is regularly used for the playing of the game of golf, and having not less than nine (9) tees, fairways and greens laid out and used in the usual and regular manner of a golf course. Nine (9) hole courses must have a total yardage of at least one thousand (1,000) yards, and eighteen (18) hole courses must have a total yardage of at least two thousand (2,000) yards as measured by totaling the tee-to-green distance of all holes. The course must be planted in grass except that it may provide artificial tee mats. Where any such golf course is owned or leased by an association of members and is used or enjoyed by such members, or their guests, none of the disqualifications contained in section 23-910, Idaho Code, shall apply to such association as a licensee where such disqualifications, or any of them, would apply only to a member of such association where such member has no interest therein except as a member thereof. Also for the purpose of this section a ski resort shall comprise real property of not less than ten (10) acres in size, exclusive of the terrain used for skiing and upon which the owner, operator, or lessee of the ski resort has made available himself, or through others, including but not limited to the owners of condominiums, permanent bona fide overnight accommodations available to the general public for one hundred (100) persons or more, and which real property is contiguous to or located within the area in which skiing occurs, and which real property is regularly operated as a ski resort in the winter time, and where the owner, operator, or lessee of the ski resort is also the

owner, operator, or lessee of the area served by a bona fide chair ski lift facility or facilities. The fees for licenses granted to ski resorts shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed premises shall be permitted on any golf course or any ski resort or within the area comprising the same.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of an actual, bona fide equestrian facility located on not less than forty (40) contiguous acres, with permanently erected seating of not less than six thousand (6,000) seats, no part of which equestrian facility or the premises thereon is situate within the incorporated limits of any city, and which facility shall have at least three (3) days per year of a professionally sanctioned rodeo. Not more than one (1) licensed premises shall be permitted at any equestrian facility or within an area comprising such a facility. The license shall be solely for the equestrian facility and shall not be transferred to any other location. The fees for licenses granted to equestrian facilities shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of a restaurant operated on an airport owned or operated by a county or municipal corporation or on an airport owned or operated jointly by a county and municipal corporation, and which said airport is served by a trunk or local service air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board of the United States of America. Not more than one (1) license shall be issued on any airport.

Nothing herein contained shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and to sell alcoholic beverages for consumption to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this section will revert to the director when, in his judgment, the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club which on July 1, 1983, holds a liquor license, may continue to possess that license. Any club which possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (a), (b) and (c) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(f), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses, shall pertain to club licenses. The burden of producing sufficient documentation of qualifi-

cations for club licensure shall be with the club applicant.

Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide convention center which is within the incorporated limits of a city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room which will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, ~~as~~ and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (c) of section 23-904, Idaho Code. No license issued to a convention center hereunder shall be transferable to another location or facility, nor shall the holder of a convention center license be eligible for the issuance of a license in the same city pursuant to any other provision of this chapter. For purposes of this section, the term holder shall include an owner, operator or lessee and shall include a stockholder, director, or officer of a corporation, or a partner in a partnership, which corporation or partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as herein defined.

Approved March 29, 1989.

CHAPTER 208
(H.B. No. 227)

AN ACT

RELATING TO ALCOHOLIC BEVERAGES AND HOSPITALITY CABINETS; AMENDING TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 23, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR HOSPITALITY CABINET SALES AND STOCK, TO PROVIDE FOR USE OF OTHER CABINET FACILITIES, TO PROVIDE RESTRICTED ACCESS TO HOSPITALITY CABINETS, TO PROVIDE FOR STORAGE, RESTOCKING FACILITIES AND CONDITIONS, PROVIDING FOR COUNTY OPTION, AND TO ALLOW THE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT TO PROMULGATE RULES AND REGULATIONS AS NECESSARY, TO PROVIDE A SHORT TITLE; AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and des-

ignated as Chapter 14, Title 23, Idaho Code, and to read as follows:

CHAPTER 14
HOSPITALITY CABINETS

23-1401. DEFINITIONS. As used in this chapter:

(1) "Alcoholic beverages" mean such beverages as defined in section 23-105, Idaho Code, as alcoholic liquor, including alcohol, spirits, wine or any combination thereof, and beverages defined in section 23-1001, Idaho Code, as beer.

(2) "Legal drinking age" means the age when a person is legally allowed to purchase or consume any alcoholic beverage, as provided in section 23-929, Idaho Code.

(3) "Hospitality cabinet" means a closed container, either refrigerated in whole or in part or nonrefrigerated, where access to the interior portion containing alcoholic beverages are contained is restricted by means of a locking device which requires the use of a key, magnetic card, or similar device.

(4) "Qualified facility" means a hotel, inn or motel which is licensed to sell alcoholic beverages for on-premises consumption and which contains guest room accommodations. It shall also include condominiums owned or managed by an otherwise qualified facility.

(5) "Qualified registered guest" means each person of legal drinking age who signs the guest register of a qualified facility or takes some other equivalent action for the purpose of registering as a guest of such qualified facility.

23-1402. HOSPITALITY CABINET SALES. Nothwithstanding any other statute, any qualified facility, which is licensed to sell any alcoholic beverage on its premises, may also sell such beverages in sealed containers in individual portions to its qualified registered guests by means of a hospitality cabinet located in the rooms of these qualified registered guests, provided all conditions of this chapter are met.

23-1403. HOSPITALITY CABINET CONTENTS. (1) The type of alcoholic beverages contained in any hospitality cabinet of any qualified facility shall be limited to those beverages licensed for sale on such premises.

(2) Alcoholic beverage container sizes shall conform as follows:

(a) Distilled spirits, "miniature" bottles of fifty (50) milliliters or less,

(b) Wine, one-half (1/2) bottles, splits or less, and

(c) Beer, twelve (12) ounces or less.

(3) The hospitality cabinet shall contain no more than thirty (30) individual portions of alcoholic beverages at any one time.

23-1404. HOSPITALITY CABINET. A hospitality cabinet may be part of another furniture unit or device, whether refrigerated in whole or in part or nonrefrigerated, from which nonalcoholic beverages or food may be purchased by the guests in qualified facility guest rooms. However, in that event, the portion of the hospitality cabinet or similar

device in which alcoholic beverages are stored shall be a hospitality cabinet as defined in section 23-1401, Idaho Code.

23-1405. ACCESS RESTRICTIONS. (1) Those portions of a hospitality cabinet containing alcoholic beverages must remain locked at all times when a guest room is unrented, except for taking inventory or restocking and replenishing the hospitality cabinet.

(2) Access to a hospitality cabinet in a particular guest room shall be provided, whether by furnishing a key, magnetic card or similar device, only to a qualified registered guest of legal drinking age, if any, registered to stay in the guest room.

(3) Before providing a key, magnetic card or similar device required to obtain access to the hospitality cabinet in a particular guest room to the qualified registered guest, the licensee shall verify that such qualified registered guest is of legal drinking age.

(4) A key, magnetic card or similar device required to obtain access to the hospitality cabinet in a particular guest room shall only be given to the qualified registered guest if requested by that registered guest and if such guest is not visibly or obviously intoxicated.

23-1406. STORAGE AND RESTOCKING. (1) All alcoholic beverages, which are used to restock and replenish a facility's hospitality cabinets, shall be kept locked in a separate, secure room or cabinet, except when the hospitality cabinets are being restocked and replenished.

(2) The hospitality cabinets can be restocked and replenished with alcoholic beverages only during those hours when liquor can be sold as provided in section 23-927, Idaho Code.

23-1407. COUNTY OPTION --RESOLUTION OF COUNTY COMMISSIONERS. There is hereby granted to the board of county commissioners of each of the several counties of the state the right and authority to disallow the use of hospitality cabinets, as defined in this chapter, within the borders of their respective counties. This right and authority may be exercised by the board of county commissions by resolution, regularly adopted, which provides that hospitality cabinets, as defined in this chapter, shall be disallowed within the county. The resolution shall take effect three (3) months after receipt of certification thereof by the director of law enforcement and notification of qualified facilities within the county. Hospitality cabinets shall remain disallowed within the county so long as the resolution remains in effect.

23-1408. DIRECTOR TO PROMULGATE RULES AND REGULATIONS. For the purpose of the administration of this chapter, the director of the department of law enforcement shall promulgate and publish such rules and regulations as the director may deem necessary for carrying out the provisions of this chapter.

23-1409. SHORT TITLE. This act shall be known as the "Hospitality Cabinet Act of 1989."

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.

Approved March 29, 1989.

CHAPTER 209
(H.B. No. 238)

AN ACT

RELATING TO THE STATE PURE SEED LAW; AMENDING CHAPTER 4, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-435, IDAHO CODE, TO CREATE THE STATE SEED LABORATORY ADVISORY BOARD.

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

SECTION 1. That Chapter 4, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-435, Idaho Code, and to read as follows:

22-435. STATE SEED ADVISORY BOARD. (1) In order to maintain close contact between the department and the seed industry, there is hereby created a state seed laboratory advisory board which shall consist of seven (7) official members and seven (7) ex officio alternates appointed by the director of the department of agriculture from a list provided by the Idaho seed council. The Idaho seed council will nominate a member and an alternate for each vacancy on the advisory board to represent the following seed commodities:

(a) Cereal grains
(b) Grasses - turf
(c) Grasses - forage
(d) Small seeded legumes
(e) Corn and small seeded vegetables
(f) Garden beans
(g) Field beans.

The executive secretary of the Idaho crop improvement association shall serve as a permanent eighth official member of the board. Additionally, without the need for any nominations, the director shall appoint one (1) grower member who shall serve as the ninth official member of the board.

(2) The members first appointed shall determine by lot the length of their terms: Four (4) to serve for three (3) years, and three (3) to serve for two (2) years, each term beginning on July 1, 1989. A member and his alternate shall serve the same length of term. Vacancies in office shall be filled by an alternate for the unexpired term.

(3) Official members or an alternate present in the absence of his respective representative will have the right to vote. A member and his respective alternate are not to work for the same employer.

(4) Members or alternates of the board shall be compensated as provided in section 59-509(a), Idaho Code.

(5) The functions of the board shall be to advise and counsel with the department in the administration of the provisions of sections 22-414 through 22-436, Idaho Code.

(6) The board shall meet at the call of the chairman or the director of the Idaho department of agriculture or his designee. A majority of the members present at any meeting shall constitute a quorum, and a majority vote of the quorum at any meeting shall constitute an official act of the board.

(7) At the first meeting after July 1 in each year, the board shall select a chairman. The director of the Idaho department of agriculture and the bureau chief of the Idaho state seed laboratory in the department of agriculture or their representatives, shall be ex officio members without the right to vote.

Approved March 29, 1989.

CHAPTER 210
(H.B. No. 315)

AN ACT

RELATING TO AGRICULTURAL PESTS; AMENDING SECTION 25-2618, IDAHO CODE, TO REDESIGNATE THE SECTION, AND TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTIONS 25-2619, 25-2620, 25-2621, 25-2622, 25-2623, 25-2624, 25-2625, 25-2626, 25-2627, 25-2628, AND 25-2629, IDAHO CODE, TO REDESIGNATE THE SECTIONS, TO PROVIDE PROPER NOMENCLATURE, AND TO PROVIDE NAME CHANGES; AND AMENDING CHAPTER 26, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2613, IDAHO CODE, TO PROVIDE A SHORT TITLE.

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

SECTION 1. That Section 25-2618, Idaho Code, be, and the same is hereby amended to read as follows:

25-26~~18~~01. ~~EXTERMINATION~~ CONTROL OF PESTS — POWERS OF COUNTY COMMISSIONERS. The board of county commissioners of each and every county of this state are all hereby granted full power and authority to declare any predatory animal, including coyote, wildcat, or lynx that feeds upon, preys upon or destroys any poultry or livestock of any kind upon any public or private lands within their respective counties, or any rodent, jack-rabbit, gopher, ground squirrel, cricket, locust, ~~and~~ grasshopper and other insect pests or plant disease causing organisms/agents or any other invertebrate organism that feeds, preys upon, or destroys any natural grasses, or cultivated

crops of any kind upon any public or private lands within their respective counties, to be agricultural pests, and to take all steps that they may deem necessary to ~~exterminate~~ control such pests.

SECTION 2. That Section 25-2619, Idaho Code, be, and the same is hereby amended to read as follows:

25-26~~19~~02. LEVY OF TAXES -- APPROPRIATION -- PEST FUND. For the purpose of providing funds for the ~~extermination~~ control of any agricultural pests under the provisions of this act, the board of commissioners of any county in the state may, and they are hereby empowered, at the time taxes are levied by them for state and county purposes, to levy an annual tax, not exceeding ~~ten cents--(10¢)--on--each--$100--of assessed--valuation~~ two hundredths per cent (.02%) of market value for assessment purposes of all property within such county, for the purpose of ~~exterminating~~ controlling any and all pests that have been declared to be agricultural pests, as provided in section 25-2601~~0~~, Idaho Code, such tax to be collected in the same manner as other county taxes are collected. Such boards of county commissioners are also further authorized and empowered, in case of an emergency, which emergency shall be declared by them, to make a direct appropriation for the purpose of ~~exterminating~~ controlling such pests. All moneys so raised by taxes or direct appropriation shall be placed in a county pest fund, which shall be used for no other purpose than the ~~extermination~~ control of such pests and for the payment of all necessary expenses incurred in such ~~extermination~~ control program. Such fund shall be a revolving fund and any moneys returned to the same under any of the provisions of this act shall continue to be available for the operation of said ~~extermination~~ control program.

SECTION 3. That Section 25-2620, Idaho Code, be, and the same is hereby amended to read as follows:

25-26~~20~~03. MANNER OF ~~EXTERMINATION~~ CONTROL OF PESTS AND PAYMENT OF COSTS. The board of county commissioners of any county infested with any agricultural pests may provide for the ~~extermination~~ control of any such pests in any manner they may see fit, and any expenses incurred by them in conducting any such ~~extermination~~ control program, for materials, labor or supervision, shall be a proper charge against said county pest fund, to be approved and paid as other claims against the county are approved and paid.

SECTION 4. That Section 25-2621, Idaho Code, be, and the same is hereby amended to read as follows:

25-26~~21~~04. ~~EXTERMINATION~~ CONTROL DISTRICTS. The board of commissioners of any county in the state may create special ~~extermination~~ control districts in the county for the ~~extermination~~ control of agricultural pests infesting any such district, may levy an annual tax, not exceeding ~~ten--cents-(10¢)-on-each-one-hundred-dollars-($100)-of assessed-valuation~~ two hundredths per cent (.02%) of market value for assessment purposes of all property within such district, may appoint

three (3) commissioners to govern the affairs of the pest control district. The pest control district, through the authority of the board of commissioners may require the landowners or their agents in such ~~extermination~~ control district to either ~~exterminate~~ control such agricultural pests on their own lands in such district within a specified time, or to pay the cost of ~~exterminating~~ controlling them if the same are ~~exterminated~~ controlled by agents of the district after failure of the landowner, or his agent, to perform such duty within the time limited in any notice to such owner, or agent. Cost of ~~extermination~~ control services performed by employees of a pest control district shall constitute a lien against the property and any water right appurtenant thereto at the time of rendition of such service and shall be collectable as any other taxes. Charges for ~~extermination~~ control services performed by an ~~extermination~~ control district shall be determined by the board of county commissioners but in no case shall charges exceed the actual cost of performing such service. Such ~~extermination~~ control district may be established in any precinct in the county.

Before the same shall be established, however, it shall be necessary that a petition be filed with the clerk of the board of commissioners requesting the creation of the same, which petition shall be signed by at least twenty-five (25) qualified electors of each precinct included in the proposed ~~extermination~~ control district.

The commissioners shall order a public hearing on such petition at a time and place to be fixed in such order, of which hearing notice shall be given in such manner as the commissioners may order, which time, however, shall not be less than fourteen (14) days from the giving of the said notice. After such hearing, said board may by order create such ~~extermination~~ control district not less than fourteen (14) days after such hearing, fix its boundaries, provide for an ~~extermination~~ control program in such district and create the necessary machinery to carry out such program unless a petition of protest has been filed with the clerk of the board of commissioners. Said petition of protest shall meet the same requirements as to the number of signers and for the same number of precincts and for the same district boundaries as petitions in favor previously filed and shall be filed with the clerk of the board of commissioners not later than fourteen (14) days following said hearing.

In the event that a petition of protest is filed, the board of commissioners shall not declare the creation of an ~~extermination~~ control district but shall call a special election for the purpose of determining whether or not an ~~extermination~~ control district shall be created. The cost of conducting such special election shall be paid from any county fund, the use of which for this purpose is not prohibited by statute. Said special election shall be conducted in each precinct within the proposed ~~extermination~~ control district between the hours of 12 noon and 8 p.m. and shall require the employment of two (2) election judges and one (1) clerk for each precinct. A qualified elector is any individual who is qualified to vote pursuant to the requirements of section 34-104, Idaho Code; except that elector registration shall not be required in order to qualify as an elector under the provisions of this chapter.

SECTION 5. That Section 25-2622, Idaho Code, be, and the same is hereby amended to read as follows:

25-262~~2~~05. PURCHASE AND SALE OF SUPPLIES -- RULES AND REGULATIONS REGARDING USE. The board of county commissioners of any county is hereby authorized to purchase such supplies and equipment as may be necessary to carry out any ~~extermination~~ control program adopted by them, to prepare the same for use, and sell the same at cost to the owners, occupants and lessees of lands infested by any agricultural pests, and also to adopt such rules and regulations governing the use of such supplies and equipment as may be necessary to prevent the same from doing any damage to the livestock or property of another, whether on public or private lands. Such commissioners are also empowered to engage such person or persons as may be necessary to supervise any ~~extermination~~ control program adopted by them, and ~~exterminate~~ control any such agricultural pests, and to pay such person or persons a reasonable compensation for their services in addition to their reasonable and actual living and traveling expenses.

SECTION 6. That Section 25-2623, Idaho Code, be, and the same is hereby amended to read as follows:

25-262~~3~~06. RIGHT OF ENTRY. The board of county commissioners of any county engaging in the ~~destruction~~ control of agricultural pests as defined under the provisions of this chapter may compensate for or provide supplies and authorize a person or persons employed as provided in this act, to ~~kill and exterminate~~ control agricultural pests within such county; and any person or persons so authorized is hereby empowered and directed to enter upon any farm, railroad right-of-way, irrigation ditches and rights-of-way, grounds, or premises where there are agricultural pests to ascertain conditions and to ~~kill--and exterminate~~ control such agricultural pests thereon when the owner or occupant shall neglect or refuse to do so.

SECTION 7. That Section 25-2624, Idaho Code, be, and the same is hereby amended to read as follows:

25-262~~4~~07. NOTICE TO OWNER. It shall be the duty of the person or persons so authorized to give anyone on whose premises are found agricultural pests, ten (10) days' notice in writing, to ~~kill--or exterminate~~ control the same; or if such land is unoccupied and owned by a nonresident, such notice shall be mailed to the owner's address, or if the address is unknown, posted upon the land or premises where such agricultural pests are to be ~~exterminated~~ controlled; and if upon the land or right-of-way of any railroad company, such notice may be served upon its agent at the station nearest to such land or right-of-way; and if the work of ~~exterminating~~ controlling same is not done within such time, the person or persons so authorized by the county commissioners shall proceed to ~~kill or exterminate~~ control such agricultural pests on such land or premises; provided that such person or persons shall use every precaution to prevent the destruction of

domestic fowl or animals.

SECTION 8. That Section 25-2625, Idaho Code, be, and the same is hereby amended to read as follows:

25-26~~25~~08. DUTY TO ~~EXTERMINATE~~ CONTROL AGRICULTURAL PESTS. It shall be the duty of every landowner in an agricultural pest control district, including federal, state, county, municipal government, or their agent, county highway district, ~~good roads district,~~ independent highway district, public or private irrigation district or system, drainage district and railroad, on land owned or controlled by them, to ~~exterminate~~ control those agricultural pests declared as such by the board of county commissioners as provided in section 25-26~~0~~18, Idaho Code.

SECTION 9. That Section 25-2626, Idaho Code, be, and the same is hereby amended to read as follows:

25-~~26~~2609. POISONED BAITS. All poisons, poisoned baits prepared and distributed under authority of the board of county commissioners shall be placed in containers plainly labeled to show the character and purpose of the contents thereof.

SECTION 10. That Section 25-2627, Idaho Code, be, and the same is hereby amended to read as follows:

25-26~~27~~10. COOPERATION WITH STATE AND FEDERAL AGENCIES. In order to secure the most effective and economical expenditure of funds used in ~~exterminating~~ controlling agricultural pests, the boards of county commissioners taking advantage of the provisions of this chapter shall cooperate, so far as practicable, with state and federal organizations engaged in similar work.

SECTION 11. That Section 25-2628, Idaho Code, be, and the same is hereby amended to read as follows:

25-26~~28~~11. EXTENSION DIVISION OF UNIVERSITY. The extension division of the ~~U~~university of Idaho is hereby authorized to furnish supplies at cost to persons or organizations for the purpose of ~~exterminating~~ controlling agricultural pests.

SECTION 12. That Section 25-2629, Idaho Code, be, and the same is hereby amended to read as follows:

25-26~~1~~29. ANIMAL DAMAGE CONTROL DISTRICTS. (1) There are hereby established five (5) animal damage control districts in the state of Idaho.

(a) Animal damage control district number 1 shall consist of the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone.

(b) Animal damage control district number 2 shall consist of the counties of Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee,

Payette, Valley and Washington.

(c) Animal damage control district number 3 shall consist of the counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.

(d) Animal damage control district number 4 shall consist of the counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida and Power.

(e) Animal damage control district number 5 shall consist of the counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton.

(2) A board of directors for each animal damage control district is hereby created. The board of directors of an animal damage control district shall consist of one (1) director appointed by the board of county commissioners from each of the participating counties within the district. Nomination for directors shall be made to the county commissioners by livestock and agriculturally oriented groups which have a vested and economic interest in the animal damage control program, and appointees must have a substantial vested and economic interest in the livestock or other agricultural industry. The length of term shall be two (2) years. A director shall receive such compensation as may be fixed by order of the district animal damage control board, and shall be entitled to expense reimbursement in the same manner as a county employee; compensation and expense reimbursement shall be made from the moneys available to the district animal damage control board.

(3) The board of directors shall meet at least annually. Such meeting shall be called at the direction of the chairman of the board or by a majority of the directors in that district. At said annual meeting, the board of directors shall organize by electing from amongst its members a chairman, a vice chairman, and such other officers as may be necessary. They shall also establish operating rules for the board and approve annual work plans for the animal damage control programs. After the annual meeting, the board of directors shall meet at such times and places as are required by the board's rules.

(4) The board of directors shall have authority to receive and disperse funds from any source for the purpose of controlling predatory animal and other vertebrate pest damage in the district. Any moneys received by the board shall be maintained on deposit in a bank or trust company designated as a state depository, and may be dispersed from such account only over the signature of at least two (2) members of the board.

(5) All contracts and agreements between the board of directors and any agency, unit of government, association, organization or private party shall be reduced to writing, and shall be maintained as a part of the official records of the board.

SECTION 13. That Chapter 26, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2613, Idaho Code, and to read as follows:

25-2613. SHORT TITLE. This act shall be known and may be cited as

the "Control of Wild Animals and Pests in Counties Act."

Approved March 29, 1989.

CHAPTER 211
(H.B. No. 226)

AN ACT

RELATING TO THE USE OF AIRCRAFT IN CONTROLLING UNPROTECTED OR PREDATORY ANIMALS; AMENDING SECTION 36-1106, IDAHO CODE, TO REDESIGNATE THE SECTION, TO TRANSFER AUTHORITY FOR PERMITTING THE USE OF AIRPLANES IN THE CONTROL OF UNPROTECTED OR PREDATORY ANIMALS FROM THE DEPARTMENT OF FISH AND GAME TO THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, AND TO PROVIDE FOR VIOLATION OF REGULATIONS.

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

SECTION 1. That Section 36-1106, Idaho Code, be, and the same is hereby amended to read as follows:

~~36-1106~~22-102A. AIRCRAFT USE IN CONTROLLING UNPROTECTED OR PREDATORY ANIMALS. The director of the department of agriculture is hereby designated as the authorized agent of this state to aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life or crops for the purposes of issuing permits to persons to shoot or attempt to shoot, capture, harass or kill unprotected or predatory animals, as designated by the ~~commission~~ director, while such person is airborne in an aircraft, under authority vested in such agency by public laws 92-159 and 92-502.

The director shall issue such permits to applicants at no charge and shall require each permittee to submit a report each calendar quarter. The director also shall file with the United States secretary of the interior an annual report as prescribed in public laws 92-159 and 92-502.

The ~~commission~~ director is authorized to promulgate such regulations as may be necessary for the effective administration of this subsection. Any violation of such regulations shall constitute a ~~misdemeanor~~ civil offense for which a civil penalty of not to exceed one thousand dollars ($1,000) may be imposed per incident of violation.

Approved March 29, 1989.

CHAPTER 212
(H.B. No. 285)

AN ACT

RELATING TO WATER RIGHTS; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1416B, IDAHO CODE, TO PROVIDE THAT AN ADJUDICATION CLAIM FOR THE RIGHT TO AN EXPANDED USE OF A GROUND WATER RIGHT WITHIN A CRITICAL GROUND WATER AREA MAY BE DECREED IN A GENERAL ADJUDICATION; PROVIDING A PROCEDURE THROUGH WHICH WATER MAY BE DETERMINED AVAILABLE FOR DIVERSION UNDER THE RIGHTS TO EXPANDED USE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1416B, Idaho Code, and to read as follows:

42-1416B. CLAIM FOR EXPANDED USE IN CRITICAL GROUND WATER AREA -- DETERMINATION OF WATER AVAILABILITY. (1) Within any critical ground water area designated pursuant to section 42-233a, Idaho Code, a claim to the expanded use of a ground water right, which use was expanded in violation of the mandatory permit requirements, may be decreed in a general water rights adjudication if the expansion occurred after the designation of the critical ground water area, before the commencement of the adjudication, and before the date of enactment of this section. The priority date for the right decreed shall be June 30, 1985.

(2) Water shall be deemed unavailable to fill the rights for expanded use, even if decreed in the adjudication, unless the director finds that a management program exists which will, within a time period acceptable to the director, limit the average annual water withdrawals from the aquifer designated in the critical ground water area to no more than the average annual recharge to the aquifer.

(3) Within two (2) years after a decree determining the water rights within a critical ground water area becomes final, but not sooner than four (4) years from the date of enactment of this section, the director of the department of water resources shall make a finding as to whether an adequate management program exists to bring withdrawals into balance with recharge.

(4) If the director finds that an adequate management program to bring withdrawals into balance with recharge does not exist, the director shall order all holders of rights to expanded use of ground water within the area to cease or reduce withdrawal of water until such time as the director determines that withdrawals have been brought into balance with recharge and sufficient ground water is available to resume or increase withdrawals. The director's order shall be issued before September 1 and shall be effective beginning with the following growing season.

(5) For purposes of this section, the following definitions shall apply:

(a) "Expanded use" means an increase in the number of acres irrigated, or other additional use, under a valid ground water right without any increase in the rate of diversion or volume of water diverted.

(b) "Management program" means a program to recharge the aquifer, limit withdrawals from the aquifer or provide surface water supplies for all, or a portion, of the land irrigated with water withdrawn from the aquifer, including any actions designed to bring withdrawals into balance with the average annual recharge to the aquifer.

(c) "Recharge" refers to all processes, natural or artificial, which add water to the aquifer.

(d) "Withdrawal" refers to all processes, natural or artificial, which take water from the aquifer.

(6) The hearing and judicial review provisions of section 42-1701A, Idaho Code, shall apply to any findings and orders issued by the director pursuant to this section.

(7) Nothing contained in this section shall be construed to limit the authority of the director of the department of water resources to administer and enforce any other ground water laws of 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 29, 1989.

CHAPTER 213
(H.B. No. 105)

AN ACT

RELATING TO FORFEITURE OF CONTRABAND MONEY AND PROPERTY FOUND IN POSSESSION OF INMATES; AMENDING SECTION 20-209D, IDAHO CODE, TO REQUIRE THAT CONTRABAND MONEY BE DEPOSITED IN THE DEPARTMENT OF CORRECTION RECEIPTS ACCOUNT.

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

SECTION 1~~#~~. That Section 20-209D, Idaho Code, be, and the same is hereby amended to read as follows:

20-209D. FORFEITURE OF CONTRABAND PROPERTY OR MONEY FOUND IN POSSESSION OF INMATES. The state board of correction, or its designee, shall have the authority to confiscate contraband money found in the possession of inmates and thereafter deposit the money ~~in the correctional industries betterment account established by section 20-415, Idaho Code~~ in the department of correction receipts account, and to

dispose of other contraband property found in possession of inmates by donation to a nonprofit organization.

Approved March 29, 1989.

CHAPTER 214
(H.B. No. 279)

AN ACT

RELATING TO THE UNIFORM PROBATE CODE; AMENDING SECTION 15-5-409a, IDAHO CODE, TO AUTHORIZE A COURT TO ISSUE PROTECTIVE ORDERS IN CASES WHERE DISPUTED CLAIMS ARE COMPROMISED AND THE PAYEE IS A MINOR.

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

SECTION 1. That Section 15-5-409a, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-409a. COMPROMISE OF DISPUTED CLAIM OF MINOR -- PROCEDURE. When a minor shall have a disputed claim for money against a third person, the father or mother or both with whom the minor resides and who has the care and custody of such minor shall have the right to compromise such claim, but before the compromise shall be valid or of any effect the same shall be approved by the court of the county where the minor resides upon a verified petition in writing, regularly filed with said court. If the court approves such compromise he may direct the money paid to the father or mother of said minor subject to the provisions of section 15-5-103, Idaho Code, or he, or any other court of competent jurisdiction, may direct the money be paid subject to the provisions of an appropriate protective order which he, or any other court of competent jurisdiction, may issue, or he may require that the money be paid to a conservator appointed pursuant to chapter 5, part 4, of this code. No filing fee shall be charged for the filing of any petition for leave to compromise as provided herein.

Approved March 29, 1989.

CHAPTER 215
(H.B. No. 280)

AN ACT

RELATING TO GARNISHMENTS; AMENDING SECTION 8-509, IDAHO CODE, TO PROVIDE PROCEDURES FOR ALLOWANCE OF SUCCESSIVE GARNISHMENTS.

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

SECTION 1. That Section 8-509, Idaho Code, be, and the same is

hereby amended to read as follows:

8-509. EXAMINATION OF GARNISHEE. (a) Any person owing debts to the defendant, or having in his possession or under his control, any credits or other personal property belonging to the defendant, may be required to attend before the court or judge, or a referee appointed by the court or judge, and be examined on oath respecting the same. If the garnishee be a corporation the officer or agent thereof having knowledge of the fact sought to be established may be required to attend and give evidence thereof. The defendant may also be required to attend for the purpose of giving information respecting his property and may be examined on oath. The court or judge may, after such examination, order personal property capable of manual delivery to be delivered to the sheriff on such terms as may be just, having reference to any liens or claims against the same, and a memorandum to be given of all other personal property, containing the amount and description thereof.

(b) When the garnishee is the employer of the judgment debtor, the judgment creditor, upon application to the court, shall have issued by the clerk of court, a continuing garnishment directing the employer-garnishee to pay to the sheriff such future moneys coming due to the judgment debtor as may come due to said judgment debtor as a result of the judgment debtor's employment. This continuing garnishment shall continue in force and effect until the judgment is satisfied. The creditor shall be solely responsible for insuring that the amounts garnished do not exceed the amount due on the judgment. If additional garnishments are issued during the term of a continuing garnishment and the continuing garnishment is the maximum allowed under the provisions of section 11-207, Idaho Code, the additional garnishments cannot be effected until the continuing garnishment is satisfied, or until the amount taken by the continuing garnishment is less than the maximum allowed; additional garnishments issued during the term of a continuing garnishment must be executed in the order in which presented.

Approved March 29, 1989.

CHAPTER 216
(H.B. No. 306)

AN ACT

RELATING TO THE TERMINATION OF THE PARENT AND CHILD RELATIONSHIP; AMENDING SECTION 16-2010, IDAHO CODE, TO PROVIDE THAT THE COURT SHALL CONDUCT A HEARING REGARDING THE FUTURE STATUS OF A CHILD EVERY EIGHTEEN MONTHS UNTIL ADOPTION OR PLACEMENT IF TERMINATION OF PARENTAL RIGHTS HAS BEEN GRANTED.

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

SECTION 1. That Section 16-2010, Idaho Code, be, and the same is hereby amended to read as follows:

16-2010. DECREE. Every order of the court terminating the parent and child relationship or transferring legal custody or guardianship of the person of the child, or providing for protective supervision of the child, shall be in writing and shall recite the findings upon which such order is based, including findings pertaining to the court's jurisdiction.

a. If the court finds sufficient grounds exist for the termination of the parent and child relationship, it shall so decree and:

(1) Appoint an individual as guardian of the child's person, or

(2) Appoint an individual as guardian of the child's person and vest legal custody in another individual or in an authorized agency, or

(3) Appoint an authorized agency as guardian of the child's person and vest legal custody in such agency.

The court shall also make an order fixing responsibility for the child's support. The parent and child relationship may be terminated with respect to one (1) parent without affecting the relationship between the child and the other parent.

b. Where the court does not order termination of the parent and child relationship, it shall dismiss the petition; provided, however, that where the court finds that the best interest of the child requires substitution or supplementation of parental care and supervision, it shall make an order placing the child under protective supervision, or vesting temporary legal custody in an authorized agency, fixing responsibility for temporary child support, and designating the period of time during which the order shall remain in effect.

c. If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department of health and welfare the court, upon petition, shall conduct a hearing as to the future status of the child within eighteen (18) months of the order of termination of parental rights, and every eighteen (18) months subsequently until the child is adopted or is in a placement sanctioned by the court.

Approved March 29, 1989.

CHAPTER 217
(H.B. No. 309)

AN ACT

RELATING TO THE PUBLIC ASSISTANCE LAW; AMENDING SECTION 56-204A, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF HEALTH OF HEALTH AND WELFARE MAY PROMULGATE RULES AND REGULATIONS FOR ADMINISTRATIVE REVIEWS AND HEARINGS REGARDING PERMANENCY PLANNING FOR CHILDREN IN THE CUSTODY OF THE DEPARTMENT.

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

SECTION 1. That Section 56-204A, Idaho Code, be, and the same is hereby amended to read as follows:

56-204A. SERVICES FOR CHILDREN. The state department is hereby authorized and directed to maintain, by the adoption of appropriate rules and regulations, activities which, through social casework and the use of other appropriate and available resources, shall embrace:

(a) Protective services on behalf of children whose opportunities for normal physical, social and emotional growth and development are endangered for any reason;

(b) Services for unmarried mothers, which may be necessary to assure or provide adequate confinement care, and to safeguard the rights and promote the well-being of such mothers and their infants;

(c) Services on behalf of children in their own homes to help overcome problems that may result in dependency, neglect or delinquency, and to strengthen parental care and supervision; and

(d) Undertaking care of, and planning for children including those committed to the state department by the courts.

Such rules and regulations shall provide for:

(1) Receiving from any source and investigating all reasonable reports or complaints of neglect, abuse, exploitation or cruel treatment of children;

(2) Initiation of appropriate services and action where indicated with parents or other persons for the protection of children exposed to neglect, abuse, exploitation or cruel treatment;

(3) Filing pleadings with appropriate courts in cases requiring court action;

(4) Arrangements for pre-natal and confinement care of unmarried expectant mothers and payment for such care when necessary for the well-being of the mother and infant;

(5) Counseling with unmarried mothers in relation to their plans for their children, including assisting mothers to reach a decision concerning relinquishment through an understanding of what would be best for her child and herself;

(6) Services and assistance toward rehabilitation of minor unmarried mothers;

(7) Services on behalf of children in their own homes to strengthen parental care and supervision;

(8) Specifying the conditions under which payment shall be made for the purchase of services and care for children, such as medical, psychiatric or psychological services and foster family or institutional care, group care, homemaker service, or day care;

(9) Procedures to be observed in planning and caring for or placing for adoption a child committed to the state department following the termination of his parent-child relationship.

(10) The establishment of appropriate administrative procedures for the conduct of administrative reviews and hearings as required by federal statute for all children committed to the department and placed in out of home care.

Approved March 29, 1989.

CHAPTER 218
(H.B. No. 310)

AN ACT

RELATING TO PERMANENCY PLANNING FOR CHILDREN AFTER TERMINATION OF PARENTAL RIGHTS; AMENDING SECTION 16-1604, IDAHO CODE, TO PROVIDE THAT THE JURISDICTION OF THE COURT MAY EXTEND BEYOND TERMINATION OF PARENTAL RIGHTS; AMENDING SECTION 16-1610, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE MAY PETITION THE COURT TO VACATE AN ORDER OF DEPARTMENT CUSTODY, AND TO REQUIRE THE COURT TO SPECIFICALLY STATE THE FUTURE STATUS OF THE CHILD IN THE ORDER; AMENDING SECTION 16-1615, IDAHO CODE, TO PROVIDE THAT THE COURT UPON PETITION SHALL CONDUCT A HEARING REGARDING THE FUTURE STATUS OF A CHILD EVERY EIGHTEEN MONTHS UNTIL ADOPTION OR PLACEMENT IF TERMINATION OF PARENTAL RIGHTS HAS BEEN GRANTED; AMENDING SECTION 16-1623, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT MAY PROMULGATE RULES AND REGULATIONS FOR ADMINISTRATIVE REVIEWS AND HEARINGS REGARDING PERMANENCY PLANNING FOR CHILDREN IN THE CUSTODY OF THE DEPARTMENT; AMENDING SECTION 16-2010, IDAHO CODE, TO PROVIDE THAT THE COURT SHALL CONDUCT A HEARING REGARDING THE FUTURE STATUS OF A CHILD EVERY EIGHTEEN MONTHS UNTIL ADOPTION OR PLACEMENT IF TERMINATION OF PARENTAL RIGHTS HAS BEEN GRANTED; AND AMENDING SECTION 56-204A, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT MAY PROMULGATE RULES AND REGULATIONS FOR ADMINISTRATIVE REVIEWS AND HEARINGS REGARDING PERMANENCY PLANNING FOR CHILDREN IN THE CUSTODY OF THE DEPARTMENT.

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

SECTION 1. That Section 16-1604, Idaho Code, be, and the same is hereby amended to read as follows:

16-1604. RETENTION OF JURISDICTION. Jurisdiction obtained by the court under this chapter shall be retained until the child becomes eighteen (18) years of age, unless terminated prior thereto. Such jurisdiction of the court shall not be terminated by an order of termination of parental rights if guardianship and/or custody of the child is placed with the department of health and welfare.

SECTION 2. That Section 16-1610, Idaho Code, be, and the same is hereby amended to read as follows:

16-1610. DECREE -- DISPOSITION HEARING. (a) If a preponderance of the evidence of the adjudicatory hearing shows that the child comes within the purview of this chapter, the court shall so decree and in its decree shall make a finding of the facts and conclusions of law upon which it exercises jurisdiction over the child.

(b) Upon entry of its decree, the court may consider any information relevant to the disposition of the child, but in any event shall either:

(1) Place the child under protective supervision in his own home

for an indeterminate period not to exceed one (1) year from the date entered but the court may extend the period of time upon a showing by the authorized agency that continued supervision is necessary for the best interests of the child.

(2) Vest legal custody in the department or other authorized agency subject to residual parental rights. The court shall make written findings as to whether the department made reasonable efforts to prevent the placement of the child in foster care, including findings, when appropriate, that (i) reasonable efforts were made but were not successful in eliminating the need for foster care placement of the child, or (ii) reasonable efforts were not made because of immediate danger to the child.

(c) A decree vesting legal custody in the department shall be binding upon the department, and shall state the department shall prepare a written case plan within thirty (30) days of placement designed to make it possible for the child to return to his home; and shall be for an indeterminate period not to exceed one (1) year from the date entered, except that the department may file a petition with the court requesting renewal of the order and the court, after notice to the parties and hearing and finding, may renew the order if it finds such renewal necessary to safeguard the best interests of the child. Renewals may be made during minority, but no order shall have any force or effect beyond minority. The department may petition the court at any time to vacate any order placing a child in its custody or under its protective supervision. Upon such renewal, the court shall expressly include in its order determination of the future status of the child, specifically stating whether the child should return home, continue in foster care for a specified time, be placed for adoption or, due to special needs, be in foster care permanently or long term.

(d) A decree vesting legal custody in an authorized agency other than the department shall be, for an indeterminate period of time not to exceed one (1) year from the date entered, but the court may extend the period of time during the child's minority upon a showing by the authorized agency that continued custody or supervision is necessary for the best interests of the child, and on such other terms as the court shall state in its decree to be in the best interests of the child and which the court finds to be acceptable to such authorized agency.

(e) If the court does not find that the child comes within the purview of this chapter pursuant to subsection (a) of this section it shall dismiss the petition.

SECTION 3. That Section 16-1615, Idaho Code, be, and the same is hereby amended to read as follows:

16-1615. TERMINATION OF PARENT-CHILD RELATIONSHIP. If the child has been placed in the custody of the department or under its protective supervision pursuant to section 16-1610, Idaho Code, the department may, after three (3) months, petition the court for termination of the parent and child relationship in accordance with chapter 20, title 16, Idaho Code, provided that no petition for termination of the parent and child relationship shall be made within three (3) months of

a prior petition for such termination. If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department of health and welfare the court, upon petition, shall conduct a hearing as to the future status of the child within eighteen (18) months of the order of termination of parental rights, and every eighteen (18) months subsequently until the child is adopted or is in a placement sanctioned by the court.

SECTION 4. That Section 16-1623, Idaho Code, be, and the same is hereby amended to read as follows:

16-1623. POWERS AND DUTIES OF THE DEPARTMENT. The department, working in conjunction with the court and other public and private agencies and persons, shall have the primary responsibility to implement the purpose of this chapter. To this end, the department is empowered and shall have the duty to do all things reasonably necessary to carry out the purpose of this chapter, including but not limited to the following:

(a) The department shall administer treatment programs for the protection and care of neglected, abused and abandoned children, and in so doing may place in foster care, shelter care, group homes or other diagnostic, treatment, or care centers or facilities, children of whom it has been given custody. The department is to be governed by the standards found in ~~T~~title 39, ~~C~~chapter 12, Idaho Code.

(b) On December 1, the department shall make an annual statistical report to the governor covering the preceding fiscal year showing the number and status of persons in its custody and including such other data as will provide sufficient facts for sound planning in the conservation of children and youth. All officials and employees of the state and of every county and city shall furnish the department upon request, such information within their knowledge and control as the department deems necessary. Local agencies shall report in such uniform format as may be required by the department.

(c) The department shall be required to maintain a central registry for the reporting of child neglect, abuse and abandonment information.

(d) The department shall make periodic evaluation of all persons in its custody or under its supervision for the purpose of determining whether existing orders and dispositions in individual cases shall be modified or continued in force. Evaluations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding six (6) months. Reports of evaluation made pursuant to this section shall be filed with the court which vested custody of the person with the department. Failure of the department to evaluate a person or to reevaluate him within six (6) months of a previous examination shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-1611, Idaho Code.

(e) In a consultive capacity, the department shall assist communities in the development of constructive programs for the protection, prevention and care of children and youth.

(f) The department shall keep written records of investigations, evaluations, prognosis and all orders concerning disposition or treatment of every person over whom it has legal custody. Department records must remain confidential unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person.

(g) The department shall establish appropriate administrative procedures for the processing of complaints of child neglect, abuse and abandonment received and for the implementation of the protection, treatment and care of children formally or informally placed in the custody of the department under this chapter.

(h) The department having been granted legal custody of a child shall have the right to determine where and with whom the child shall live, provided that the child shall not be placed outside the state without the court's consent, and providing further, that the department shall not place the child in the home from which the court ordered the child removed without first obtaining the approval of the court.

(i) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody at intervals of not to exceed six (6) months.

(j) The department shall establish appropriate administrative procedures for the conduct of administrative reviews and hearings as required by federal statute for all children committed to the department and placed in out of home care.

SECTION 5. That Section 16-2010, Idaho Code, be, and the same is hereby amended to read as follows:

16-2010. DECREE. Every order of the court terminating the parent and child relationship or transferring legal custody or guardianship of the person of the child, or providing for protective supervision of the child, shall be in writing and shall recite the findings upon which such order is based, including findings pertaining to the court's jurisdiction.

a. If the court finds sufficient grounds exist for the termination of the parent and child relationship, it shall so decree and:

(1) Appoint an individual as guardian of the child's person, or

(2) Appoint an individual as guardian of the child's person and vest legal custody in another individual or in an authorized agency, or

(3) Appoint an authorized agency as guardian of the child's person and vest legal custody in such agency.

The court shall also make an order fixing responsibility for the child's support. The parent and child relationship may be terminated with respect to one (1) parent without affecting the relationship between the child and the other parent.

b. Where the court does not order termination of the parent and child relationship, it shall dismiss the petition; provided, however, that where the court finds that the best interest of the child requires substitution or supplementation of parental care and supervi-

sion, it shall make an order placing the child under protective supervision, or vesting temporary legal custody in an authorized agency, fixing responsibility for temporary child support, and designating the period of time during which the order shall remain in effect.

c. If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department of health and welfare the court, upon petition, shall conduct a hearing as to the future status of the child within eighteen (18) months of the order of termination of parental rights, and every eighteen (18) months subsequently until the child is adopted or is in a placement sanctioned by the court.

SECTION 6. That Section 56-204A, Idaho Code, be, and the same is hereby amended to read as follows:

56-204A. SERVICES FOR CHILDREN. The state department is hereby authorized and directed to maintain, by the adoption of appropriate rules and regulations, activities which, through social casework and the use of other appropriate and available resources, shall embrace:

(a) Protective services on behalf of children whose opportunities for normal physical, social and emotional growth and development are endangered for any reason;

(b) Services for unmarried mothers, which may be necessary to assure or provide adequate confinement care, and to safeguard the rights and promote the well-being of such mothers and their infants;

(c) Services on behalf of children in their own homes to help overcome problems that may result in dependency, neglect or delinquency, and to strengthen parental care and supervision; and

(d) Undertaking care of, and planning for children including those committed to the state department by the courts.

Such rules and regulations shall provide for:

(1) Receiving from any source and investigating all reasonable reports or complaints of neglect, abuse, exploitation or cruel treatment of children;

(2) Initiation of appropriate services and action where indicated with parents or other persons for the protection of children exposed to neglect, abuse, exploitation or cruel treatment;

(3) Filing pleadings with appropriate courts in cases requiring court action;

(4) Arrangements for prenatal and confinement care of unmarried expectant mothers and payment for such care when necessary for the well-being of the mother and infant;

(5) Counseling with unmarried mothers in relation to their plans for their children, including assisting mothers to reach a decision concerning relinquishment through an understanding of what would be best for her child and herself;

(6) Services and assistance toward rehabilitation of minor unmarried mothers;

(7) Services on behalf of children in their own homes to strengthen parental care and supervision;

(8) Specifying the conditions under which payment shall be made for the purchase of services and care for children, such as medical,

psychiatric or psychological services and foster family or institutional care, group care, homemaker service, or day care;

(9) Procedures to be observed in planning and caring for or placing for adoption a child committed to the state department following the termination of his parent-child relationship.

(10) The establishment of appropriate administrative procedures for the conduct of administrative reviews and hearings as required by federal statute for all children committed to the department and placed in out of home care.

Approved March 29, 1989.

CHAPTER 219
(H.B. No. 205)

AN ACT

RELATING TO RUNAWAY CHILDREN; AMENDING SECTION 18-4508, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 18-4509, IDAHO CODE, TO REVISE DUTIES OF LAW ENFORCEMENT AGENCIES REGARDING RUNAWAY CHILDREN; AMENDING SECTION 18-4510, IDAHO CODE, TO PROVIDE DUTIES OF THE STATE REGISTRAR REGARDING RUNAWAY CHILDREN; AND AMENDING SECTION 18-4511, IDAHO CODE, TO REVISE DUTIES OF SCHOOLS REGARDING RUNAWAY CHILDREN AND TO PROVIDE DUTIES OF LOCAL LAW ENFORCEMENT AGENCIES REGARDING REPORTS FROM SCHOOLS REGARDING RUNAWAY CHILDREN.

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

SECTION 1. That Section 18-4508, Idaho Code, be, and the same is hereby amended to read as follows:

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~~,~~ or lost ~~or a runaway~~.

3. "Runaway child" means an individual who is less than eighteen (18) years of age who is reported to any law enforcement agency as a runaway.

4. "State registrar" means the employee so designated by ~~vital statistics,~~ the director of the department of health and welfare.

SECTION 2. That Section 18-4509, Idaho Code, be, and the same is hereby amended to read as follows:

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 runaway child was born in Idaho, notify the state registrar in writing within fifteen (15) business days. The law enforcement agencies shall make the written notification in the 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 has submitted the report.

(d) 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.

(e) If the runaway 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 fifteen (15) business days. The state register shall provide the registrar or the appropriate officer with information concerning the identity of the missing child, if requested to do so.

2. If the ~~department of~~ local law enforcement agency has reason to believe that a missing or runaway 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 or runaway 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 or runaway child is returned, the law enforcement agency having jurisdiction over the investigation

shall clear the entry from the national crime information center computer.

SECTION 3. That Section 18-4510, Idaho Code, be, and the same is hereby amended to read as follows:

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 or has run away, 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 or runaway 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 or runaway 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 or runaway child. Inquiries shall be handled in the following manner:

(a) When a copy of the birth certificate of a missing or runaway 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 or runaway child and the name, address and birth date of the missing or runaway 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 or runaway 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 or runaway 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.

SECTION 4. That Section 18-4511, Idaho Code, be, and the same is hereby amended to read as follows:

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 or runaway 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 or runaway child. The school shall immediately report to the ~~department of~~ local law enforcement agency any request concerning flagged records or knowledge as to the whereabouts of the missing or runaway child. Upon notification by the department of law enforcement of the return of the missing or runaway child, the school shall remove the flag from the child's record.

2. Upon enrollment of a student for the first time in a private or an elementary or secondary school within the same school district within this state, 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~~ local law enforcement agency any documentation or affidavit received pursuant to subsection 2 of this section which appears inaccurate or suspicious 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~~ agency of the request for a flagged record.

4. It shall be the duty of the local law enforcement agency to immediately investigate each report received from a school of a failure to comply with the provisions of subsection 2 of this section.

Approved March 29, 1989.

CHAPTER 220
(H.B. No. 351, As Amended)

AN ACT

RELATING TO TESTING FOR AIDS AND VENEREAL DISEASE; AMENDING SECTION 39-604, IDAHO CODE, TO PROVIDE THAT PERSONS ACCUSED OF CERTAIN CRIMES WHERE SEXUAL CONTACT IS INVOLVED BE TESTED FOR AIDS AND VENEREAL DISEASE, TO REQUIRE THE TEST RESULTS BE SUBMITTED TO THE COURT UPON ITS REQUEST, TO AUTHORIZE THE COURT TO RELEASE THE RESULTS TO THE VICTIM(S) IF THE COURT DEEMS THE HEALTH OR SAFETY OF THE VICTIM(S) MAY BE THREATENED, AND TO ALLOW THE COURT TO PLACE CONDITIONS ON THE RELEASE OF THE RESULTS.

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

SECTION 1. 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 prison facility in this state shall be examined for on admission, and again before release, and, if infected, treated for the diseases enumerated in section 39-601, 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 diseases 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),~~ the venereal diseases enumerated in section 39-601, Idaho Code.

(4) If a person is charged with a violation of the provisions of section 18-1506, 18-1508 or 18-6104, Idaho Code, and is tested as required in subsection (3) of this section, the results of the test shall be revealed to the court upon its request. Upon application to the court by the victim(s), or if the victim(s) is a minor, by the minor's parent, guardian, or legal custodian, the court may release the results of the test if the court determines the health or safety of the victim(s) may be threatened. The court may impose such conditions on the release of the test results as the court deems necessary and just.

(5) 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.

Approved March 29, 1989.

CHAPTER 221
(H.B. No. 365)

AN ACT

APPROPRIATING MONEYS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$141,000	$102,100	$1,600	$244,700
Interagency Billing and Receipts Account	47,000	24,200	500	71,700
TOTAL	$188,000	$126,300	$2,100	$316,400

Approved March 29, 1989.

CHAPTER 222
(H.B. No. 382)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1990; 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, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$4,080,600
Operating Expenditures	388,900
Capital Outlay	118,300
TOTAL	$4,587,800
FROM:	
General Account	$2,132,700
Interagency Billing and Receipts Account	2,455,100
TOTAL	$4,587,800

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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General Account	$1,637,000	$277,400	$118,300	$2,032,700
Interagency Billing and Receipts Account	2,443,600	11,500		2,455,100
TOTAL	$4,080,600	$288,900	$118,300	$4,487,800
II. SPECIAL SERVICES LITIGATION:				
FROM:				
General Account		$100,000		$ 100,000
GRAND TOTAL	$4,080,600	$388,900	$118,300	$4,587,800

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 122, Laws of 1988, to be expended for the Special Services Litigation Program for the period July 1, 1989, through June 30, 1990.

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, reappropriated by Section 4, Chapter 151, Laws of 1987, and reappropriated by Section 5, Chapter 122, Laws of 1988, to be expended for the Reserved Water Rights Technical Studies Program for the period July 1, 1989, through June 30, 1990.

Approved March 29, 1989.

CHAPTER 223
(H.B. No. 383)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1990; 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. There is hereby appropriated to the Supreme Court the following amount, from the listed accounts, for the period July 1, 1989, through June 30, 1990:

FROM:	
General Account	$14,252,100
Water Resources Adjudication Account	105,400
Interagency Billing and Receipts Account	98,000
TOTAL	$14,455,500

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.

SECTION 3. There is hereby reappropriated to the Supreme Court any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 143, Laws of 1988, to be used for nonrecurring expenditures only for the period July 1, 1989, through June 30, 1990.

Approved March 29, 1989.

CHAPTER 224
(H.B. No. 394)

AN ACT

APPROPRIATING MONEYS FOR THE STATE INSURANCE FUND FOR FISCAL YEAR 1990.

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 the designated expense classes from the listed account, for the period July 1, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$3,050,300
Operating Expenditures	852,400
Capital Outlay	122,600
TOTAL	$4,025,300
FROM:	
State Insurance Fund Account	$4,025,300

Approved March 29, 1989.

CHAPTER 225
(H.B. No. 391)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 1990; 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 according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$3,202,800	$560,300	$89,000	$3,852,100
State School for the Deaf and the Blind Income Account		51,800		51,800
Federal Deaf and Blind Children Account	94,400	10,700		105,100
Interagency Billing and Receipts Account		7,400		7,400
TOTAL	$3,297,200	$630,200	$89,000	$4,016,400

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 144, Laws of 1988, to be used for nonrecurring expenditures only for the period July 1, 1989, through June 30, 1990.

Approved March 29, 1989.

CHAPTER 226
(H.B. No. 327)

AN ACT

RELATING TO THE RIGHT TO CONDUCT FOREST PRACTICES; AMENDING TITLE 38, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 38, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND INTENT, TO DEFINE TERMS, TO PROVIDE THAT FOREST PRACTICES SHALL NOT BE A NUISANCE WITH EXCEPTIONS, TO PROVIDE THE EFFECT OF ORDINANCES OF LOCAL GOVERNMENTS, AND TO PROVIDE THE EFFECT OF PRIOR ACTIONS.

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

SECTION 1. That Title 38, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 14, Title 38, Idaho Code, and to read as follows:

CHAPTER 14
RIGHT TO CONDUCT FOREST PRACTICES

38-1401. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that forest practices conducted on forest land in urbanizing areas are

often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from forest uses and in some cases prohibit investments in forest improvements. It is the intent of the legislature to reduce the loss to the state of its forest resources by limiting the circumstances under which forest practices may be deemed to be a nuisance. The legislature also finds that the right to conduct forest practices is a natural right and is recognized as a permitted use in the state of Idaho.

38-1402. DEFINITIONS. As used in this chapter:

(1) "Forest land" means state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes state and private land from which forest tree species have been removed but have not yet been restocked, but it does not include land affirmatively converted to uses other than the growing of forest tree species.

(2) "Forest practice" means:

(a) The harvesting of forest tree species;

(b) Road construction associated with harvesting of forest tree species;

(c) Reforestation;

(d) Use of chemicals or fertilizers for the purpose of growing or managing forest tree species; or

(e) The management of slashings resulting from harvest, management or improvement of forest tree species.

(3) "Improper or negligent operation" means that the forest practice is not undertaken in conformity with federal, state and local laws and regulations, and adversely affects the public health and safety.

38-1403. FOREST PRACTICES NOT A NUISANCE -- EXCEPTION. No forest practices conducted on forest land or an appurtenance to it shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonforest activities after the same has been in operation for more than one (1) year when the forest practice was not a nuisance at the time the forest practice began; provided, that the provisions of this section shall not apply whenever a nuisance results from the improper or negligent operation of any forest practice conducted on any forest land or appurtenance to it.

38-1404. LOCAL ORDINANCES -- PRIOR ACTIONS. Any and all ordinances of any unit of local government now in effect or hereafter adopted that would make the operation of any forest practice conducted on forest land or an appurtenance to it a nuisance in the circumstances set forth in this chapter are and shall be null and void; provided, however, that the provisions of this section shall not apply whenever a nuisance results from the improper or negligent operation of any forest practice on forest land or an appurtenance to it. Provided further, that the provisions of this section shall not apply whenever a nuisance results from a forest practice on forest land located within the corporate limits of any city on July 1, 1989, nor

shall the provisions of this chapter affect actions commenced prior to July 1, 1989.

Approved March 29, 1989.

CHAPTER 227
(H.B. No. 187)

AN ACT

RELATING TO CERTIFICATE OF COMPETENCY IN HUNTER EDUCATION; AMENDING SECTION 36-411, IDAHO CODE, TO PROVIDE THAT NO HUNTING LICENSE SHALL BE ISSUED TO A PERSON BORN AFTER JANUARY 1, 1975, UNLESS THE PERSON HAS PREVIOUSLY HELD A VALID HUNTING LICENSE IN THIS OR ANOTHER STATE OR UNLESS THE PERSON PRESENTS A CERTIFICATE OF COMPETENCY IN HUNTER EDUCATION OR PROOF THAT HE HOLDS THE EQUIVALENT OF SUCH A CERTIFICATE OBTAINED IN IDAHO OR ANOTHER STATE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 36-411, Idaho Code, be, and the same is hereby amended to read as follows:

36-411. CERTIFICATE OF COMPETENCY IN HUNTER EDUCATION. (a) No hunting license shall be issued to a person ~~who is under the age of fifteen (15) years unless such~~ born after January 1, 1975, unless the person has previously held a valid ~~Idaho~~ hunting license in this or another state or unless such person presents to the department of fish and game or one of its authorized license vendors, a certificate of competency in hunter education issued by the department under the hunter education program or proof that he holds the equivalent of such a certificate obtained either in Idaho or from an authorized agency or association of another state.

SECTION 2. This act shall be in full force and effect on and after January 1, 1990.

Approved March 29, 1989.

CHAPTER 228
(S.B. No. 1010)

AN ACT

RELATING TO THE AERONAUTICS ADVISORY BOARD; AMENDING SECTIONS 21-134 AND 21-136, IDAHO CODE, TO STRIKE REFERENCE TO PUBLIC TRANSPORTATION.

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

SECTION 1. That Section 21-134, Idaho Code, be, and the same is hereby amended to read as follows:

21-134. IDAHO AERONAUTICS ~~AND--PUBLIC--TRANSPORTATION~~ ADVISORY BOARD CREATED ~~--~~ DUTIES -- COMPENSATION. There is hereby created and established the Idaho aeronautics ~~and-public--transportation~~ advisory board. The board shall consult with and advise the Idaho transportation department on matters concerning aeronautics ~~and---public transportation~~. Members shall be compensated as provided by section 59-509(f), Idaho Code.

SECTION 2. That Section 21-136, Idaho Code, be, and the same is hereby amended to read as follows:

21-136. APPOINTMENT OF MEMBERS -- TERM -- VACANCIES. For the purposes of selection of members of the advisory board of aeronautics ~~and public--transportation~~, one (1) member shall be appointed from each of the three (3) districts as provided in section 40-303, Idaho Code.

Each of the enumerated districts shall, at all times, be represented by one (1) board member, appointed from that district. The governor shall appoint, subject to confirmation by the senate, the board members for terms of three (3) years. The term of each member shall begin immediately upon his appointment and qualification. Each member shall hold office after the expiration of his term until his successor has been appointed. Not less than fifteen (15) days before the expiration of the term of appointment of each member, the governor shall appoint a successor and submit the appointment to the senate for confirmation. Should any member of the board resign, die, remove from the district from which he was appointed, or otherwise be removed from office, a vacancy shall exist, and during the recess of the legislature, the governor shall within thirty (30) days appoint a successor with like qualifications, to serve for the remainder of the retiring member's unexpired term. If a vacancy occurs within forty-five (45) days after the convening of the legislature and while it is still in session, the governor shall make and submit to the senate for its approval a nomination to fill the vacancy.

Approved March 29, 1989.

CHAPTER 229
(S.B. No. 1011)

AN ACT

RELATING TO OPERATING AN AIRCRAFT WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES; AMENDING SECTION 21-112, IDAHO CODE, TO STRIKE REFERENCES TO ALCOHOL OR DRUGS;

AMENDING CHAPTER 1, TITLE 21, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 21-112A, IDAHO CODE, TO DEFINE STANDARDS FOR ALCOHOL OR DRUG USE WHEN PILOTING AN AIRCRAFT, TO PROVIDE FOR PROSECUTION OF PILOTING UNDER THE INFLUENCE WITHOUT A VALID CHEMICAL TEST, OR WITH CHEMICAL TEST RESULTS BELOW THE LEGAL LIMIT, TO DEFINE PERSONS AUTHORIZED TO WITHDRAW BLOOD FOR BLOOD-ALCOHOL TESTS, TO DEFINE ALCOHOL TEST REQUIREMENTS, LABORATORIES, AND ADMISSIBILITY, TO ESTABLISH THAT ENTITLEMENT TO USE DRUGS IS INSUFFICIENT DEFENSE, AND TO ALLOW FOR ADMISSIBILITY OF CONVICTION UNDER SECTION 21-112A, IDAHO CODE, IN CIVIL ACTIONS FOR DAMAGES; AMENDING CHAPTER 1, TITLE 21, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 21-112B, IDAHO CODE, TO ESTABLISH STANDARDS FOR PILOT ALCOHOL TESTS, TO ADD AN IMPLIED CONSENT PROVISION, AND TO PROVIDE THAT PERSONS REQUESTED TO TAKE EVIDENTIARY TESTS SHALL BE INFORMED OF THE CONSEQUENCES FOR REFUSAL AND OF A RIGHT TO OBTAIN SEPARATE TESTS.

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

SECTION 1. That Section 21-112, Idaho Code, be, and the same is hereby amended to read as follows:

21-112. RECKLESS OPERATION OF AIRCRAFT. It shall be unlawful for any person to operate an aircraft in the air, or on the ground or water, ~~while under the influence of intoxicating liquor, narcotics, or other habit-forming drug, or to operate an aircraft in the air or on the ground or water,~~ in a careless or reckless manner so as to endanger the life or property of another.

In any proceeding charging careless or reckless operation of aircraft in violation of this section, the court or jury, in determining whether the operation was careless or reckless, may consider the standards for safe operation of aircraft prescribed by federal statutes, federal regulations governing aeronautics and the rules, regulations and standards promulgated by the department.

SECTION 2. That Chapter 1, Title 21, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 21-112A, Idaho Code, and to read as follows:

21-112A. OPERATING AIRCRAFT WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES. (1) It is unlawful for any person to pilot or be in actual physical control of an aircraft within this state, whether upon an airport or body of water, or in the airspace over this state:

(a) Within eight (8) hours after the consumption of any alcoholic beverage;

(b) While under the influence of alcohol;

(c) While using any drug that affects the person's faculties in any way contrary to safety; or

(d) While having an alcohol concentration of 0.04 as defined in subsection (5) of this section, or more, as shown by analysis of

his blood, urine, or breath.

(2) Any person having an alcohol concentration of less than 0.04 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 an aircraft while 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 piloting or being in actual physical control of an aircraft while under the influence of alcohol, drugs, or any other intoxication 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 0.04, 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 per cent 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 piloting an aircraft, to pilot or be in actual physical control of an aircraft on an airport, body of water, or in the airspace above 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 provision on 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, not withstanding the form of the judgment or withheld judgment.

SECTION 3. That Chapter 1, Title 21, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 21-112B, Idaho Code, and to read as follows:

21-112B. TEST OF PILOT FOR ALCOHOL CONCENTRATION. (1) Any person who pilots or is in actual physical control of an aircraft in this state shall be deemed to have given his consent to an evidentiary test for concentration of alcohol, drugs or other intoxicating substances as defined in section 21-112A, Idaho Code, provided that such test is administered at the request of a police officer having reasonable grounds to believe that person has been piloting or has been in actual physical control of an aircraft while under the influence of alcohol, drugs or of any other intoxicating substances.

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

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

(a) That an affidavit of such fact will be filed with the administrator of the federal aviation agency;

(b) That such refusal could result in the suspension or revocation of the person's certificate or rating, or denial of application for a certificate or rating, under federal aviation regulations; and

(c) That after submitting to the test he may, when practicable, at his own expense, have additional tests made by a person of his own choosing.

Approved March 29, 1989.

CHAPTER 230
(S.B. No. 1028)

AN ACT

RELATING TO CUSTODIAL TRUSTS; AMENDING TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 13, TITLE 68, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE CUSTODIAL TRUSTS, TO PROVIDE CUSTODIAL TRUSTS FOR FUTURE PAYMENTS OR TRANSFERS, TO PROVIDE A FORM FOR ACCEPTANCE FOR TRUSTEES, TO PROVIDE FOR TRANSFERS TO CUSTODIAL TRUSTEES, TO PROVIDE FOR TRUSTS FOR MULTIPLE BENEFICIARIES, TO PROVIDE GENERAL DUTIES AND POWERS FOR THE TRUSTEE, TO PROVIDE FOR USE OF THE TRUST PROPERTY, TO PROVIDE A PROCEDURE FOR DETERMINA-

TION OF INCAPACITY, TO PROVIDE EXEMPTIONS FROM LIABILITY, TO PROVIDE FOR LIABILITY TO THIRD PERSONS, TO PROVIDE FOR REMOVAL OF THE TRUSTEE, TO PROVIDE FOR COMPENSATION AND EXPENSES OF A TRUSTEE, TO REQUIRE REPORTING AND ACCOUNTING BY THE TRUSTEE, TO PROVIDE A STATUTE OF LIMITATIONS, TO PROVIDE FOR DISTRIBUTION UPON TERMINATION, TO PROVIDE METHODS AND FORMS FOR CREATING A CUSTODIAL TRUST, TO PROVIDE APPLICABILITY OF THE PROVISIONS OF THE CHAPTER, TO PROVIDE RULES OF CONSTRUCTION, TO PROVIDE A SHORT TITLE AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 13, Title 68, Idaho Code, and to read as follows:

CHAPTER 13
IDAHO UNIFORM CUSTODIAL TRUST ACT

68-1301. DEFINITIONS. As used in this chapter:

(1) "Adult" means an individual who is at least eighteen (18) years of age.

(2) "Beneficiary" means an individual for whom property has been transferred to or held under a declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.

(3) "Conservator" means a person appointed or qualified by a court to manage the estate of an individual or a person legally authorized to perform substantially the same functions.

(4) "Court" means the district court of this state.

(5) "Custodial trust property" means an interest in property transferred to or held under a declaration of trust by a custodial trustee under this chapter and the income from and proceeds of that interest.

(6) "Custodial trustee" means a person designated as trustee of a custodial trust under this chapter or a substitute or successor to the person designated.

(7) "Guardian" means a person appointed or qualified by a court as a guardian of an individual, including a limited guardian, but not a person who is only a guardian ad litem.

(8) "Incapacitated" means lacking the ability to manage property and business affairs effectively by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance, minority, or other disabling cause.

(9) "Legal representative" means a personal representative or conservator.

(10) "Member of the beneficiary's family" means a beneficiary's spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(11) "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other

legal or commercial entity.

(12) "Personal representative" means an executor, administrator, or special administrator of a decedent's estate, a person legally authorized to perform substantially the same functions, or a successor to any of them.

(13) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(14) "Transferor" means a person who creates a custodial trust by transfer or declaration.

(15) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

68-1302. CUSTODIAL TRUST -- GENERAL. (1) A person may create a custodial trust of property by a written transfer of the property to another person, evidenced by registration or by other instrument of transfer, executed in any lawful manner, naming as beneficiary, an individual who may be the transferor, in which the transferee is designated, in substance, as custodial trustee under the Idaho uniform custodial trust act.

(2) A person may create a custodial trust of property by a written declaration, evidenced by registration of the property or by other instrument of declaration executed in any lawful manner, describing the property and naming as beneficiary an individual other than the declarant, in which the declarant as titleholder is designated, in substance, as custodial trustee under the Idaho uniform custodial trust act. A registration or other declaration of trust for the sole benefit of the declarant is not a custodial trust under this chapter.

(3) Title to custodial trust property is in the custodial trustee and the beneficial interest is in the beneficiary.

(4) Except as provided in subsection (5) of this section, a transferor may not terminate a custodial trust.

(5) The beneficiary, if not incapacitated, or the conservator of an incapacitated beneficiary may terminate a custodial trust by delivering to the custodial trustee a writing signed by the beneficiary or conservator declaring the termination. If not previously terminated, the custodial trust terminates on the death of the beneficiary.

(6) Any person may augment existing custodial trust property by the addition of other property pursuant to this chapter.

(7) The transferor may designate, or authorize the designation of, a successor custodial trustee in the trust instrument.

(8) This chapter does not displace or restrict other means of creating trusts. A trust whose terms do not conform to this chapter may be enforceable according to its terms under other law.

68-1303. CUSTODIAL TRUSTEE FOR FUTURE PAYMENT OR TRANSFER. (1) A person having the right to designate the recipient of property payable or transferable upon a future event may create a custodial trust upon the occurrence of the future event by designating in writing the recipient, followed in substance by: "as custodial trustee for (name of beneficiary) under the Idaho uniform custodial trust act."

(2) Persons may be designated as substitute or successor custo-

dial trustees to whom the property must be paid or transferred in the order named if the first designated custodial trustee is unable or unwilling to serve.

(3) A designation under this section may be made in a will, a trust, a deed, a multiple-party account, an insurance policy, an instrument exercising a power of appointment, or a writing designating a beneficiary of contractual rights. Otherwise, to be effective, the designation must be registered with or delivered to the fiduciary, payor, issuer, or obligor of the future right.

68-1304. FORM AND EFFECT OF RECEIPT AND ACCEPTANCE BY CUSTODIAL TRUSTEE -- JURISDICTION. (1) Obligations of a custodial trustee, including the obligation to follow directions of the beneficiary, arise under this chapter upon the custodial trustee's acceptance, express or implied, of the custodial trust property.

(2) The custodial trustee's acceptance may be evidenced by a writing stating in substance: CUSTODIAL TRUSTEE'S RECEIPT AND ACCEPTANCE

I, (name of custodial trustee) acknowledge receipt of the custodial trust property described below or in the attached instrument and accept the custodial trust as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Trust Act. I undertake to administer and distribute the custodial trust property pursuant to the Idaho Uniform Custodial Trust Act. My obligations as custodial trustee are subject to the directions of the beneficiary unless the beneficiary is designated as, is, or becomes incapacitated. The custodial trust property consists of _____.

Dated: _____

_____

(Signature of Custodial Trustee)

(3) Upon accepting custodial trust property, a person designated as custodial trustee under this chapter is subject to personal jurisdiction of the court with respect to any matter relating to the custodial trust.

68-1305. TRANSFER TO CUSTODIAL TRUSTEE BY FIDUCIARY OR OBLIGOR -- FACILITY OF PAYMENT. (1) Unless otherwise directed by an instrument designating a custodial trustee pursuant to section 68-1303, Idaho Code, a person including a fiduciary other than a custodial trustee, who holds property of or owes a debt to an incapacitated individual not having a conservator may make a transfer to an adult member of the beneficiary's family or to a trust company as custodial trustee for the use and benefit of the incapacitated individual. If the value of the property or the debt exceeds twenty thousand dollars ($20,000), the transfer is not effective unless authorized by the court.

(2) A written acknowledgment of delivery, signed by a custodial trustee, is a sufficient receipt and discharge for property transferred to the custodial trustee pursuant to this section.

68-1306. MULTIPLE BENEFICIARIES -- SEPARATE CUSTODIAL TRUSTS -- SURVIVORSHIP. (1) Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate custodial trusts

of equal undivided interests for each beneficiary. Except in a transfer or declaration for use and benefit of husband and wife, for whom survivorship is presumed, a right of survivorship does not exist unless the instrument creating the custodial trust specifically provides for survivorship or survivorship is required as to community or marital property.

(2) Custodial trust property held under this chapter by the same custodial trustee for the use and benefit of the same beneficiary may be administered as a single custodial trust.

(3) A custodial trustee of custodial trust property held for more than one (1) beneficiary shall separately account to each beneficiary pursuant to sections 68-1307 and 68-1315, Idaho Code, for the administration of the custodial trust.

68-1307. GENERAL DUTIES OF CUSTODIAL TRUSTEE. (1) If appropriate, a custodial trustee shall register or record the instrument vesting title to custodial trust property.

(2) If the beneficiary is not incapacitated, a custodial trustee shall follow the directions of the beneficiary in the management, control, investment, or retention of the custodial trust property. In the absence of effective contrary direction by the beneficiary while not incapacitated, the custodial trustee shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other law restricting investments by fiduciaries. However, a custodial trustee, in the custodial trustee's discretion, may retain any custodial trust property received from the transferor. If a custodial trustee has a special skill or expertise or is named custodial trustee on the basis of representation of a special skill or expertise, the custodial trustee shall use that skill or expertise.

(3) Subject to subsection (2) of this section, a custodial trustee shall take control of and collect, hold, manage, invest, and reinvest custodial trust property.

(4) A custodial trustee at all times shall keep custodial trust property of which the custodial trustee has control, separate from all other property in a manner sufficient to identify it clearly as custodial trust property of the beneficiary. Custodial trust property, the title to which is subject to recordation, is so identified if an appropriate instrument so identifying the property is recorded, and custodial trust property subject to registration is so identified if it is registered, or held in an account in the name of the custodial trustee, designated in substance: "as custodial trustee for (name of beneficiary) under the Idaho uniform custodial trust act."

(5) A custodial trustee shall keep records of all transactions with respect to custodial trust property, including information necessary for the preparation of tax returns, and shall make the records and information available at reasonable times to the beneficiary or legal representative of the beneficiary.

(6) The exercise of a durable power of attorney for an incapacitated beneficiary is not effective to terminate or direct the administration or distribution of a custodial trust.

68-1308. GENERAL POWERS OF CUSTODIAL TRUSTEE. (1) A custodial trustee, acting in a fiduciary capacity, has all the rights and powers over custodial trust property which an unmarried adult owner has over individually owned property, but a custodial trustee may exercise those rights and powers in a fiduciary capacity only.

(2) The provisions of this section do not relieve a custodial trustee from liability for a violation of section 68-1307, Idaho Code.

68-1309. USE OF CUSTODIAL TRUST PROPERTY. (1) A custodial trustee shall pay to the beneficiary or expend for the beneficiary's use and benefit so much or all of the custodial trust property as the beneficiary while not incapacitated may direct from time to time.

(2) If the beneficiary is incapacitated, the custodial trustee shall expend so much or all of the custodial trust property as the custodial trustee considers advisable for the use and benefit of the beneficiary and individuals who were supported by the beneficiary when the beneficiary became incapacitated, or who are legally entitled to support by the beneficiary. Expenditures may be made in the manner, when, and to the extent that the custodial trustee determines suitable and proper, without court order and without regard to other support, income, or property of the beneficiary.

(3) A custodial trustee may establish checking, savings, or other similar accounts of reasonable amounts under which either the custodial trustee or the beneficiary may withdraw funds from, or draw checks against, the accounts. Funds withdrawn from, or checks written against, the account by the beneficiary are distributions of custodial trust property by the custodial trustee to the beneficiary.

68-1310. DETERMINATION OF INCAPACITY -- EFFECT. (1) The custodial trustee shall administer the custodial trust as for an incapacitated beneficiary if (i) the custodial trust was created under section 68-1305, Idaho Code, (ii) the transferor has so directed in the instrument creating the custodial trust, or (iii) the custodial trustee has determined that the beneficiary is incapacitated.

(2) A custodial trustee may determine that the beneficiary is incapacitated in reliance upon (i) previous direction or authority given by the beneficiary while not incapacitated, including direction or authority pursuant to a durable power of attorney, (ii) the certificate of the beneficiary's physician, or (iii) other persuasive evidence.

(3) If a custodial trustee for an incapacitated beneficiary reasonably concludes that the beneficiary's incapacity has ceased, or that circumstances concerning the beneficiary's ability to manage property and business affairs have changed since the creation of a custodial trust directing administration as for an incapacitated beneficiary, the custodial trustee may administer the trust as for a beneficiary who is not incapacitated.

(4) On petition of the beneficiary, the custodial trustee, or other person interested in the custodial trust property or the welfare of the beneficiary, the court shall determine whether the beneficiary is incapacitated.

(5) Absent determination of incapacity of the beneficiary under

subsection (2) or (4) of this section, a custodial trustee who has reason to believe that the beneficiary is incapacitated shall administer the custodial trust in accordance with the provisions of this chapter applicable to an incapacitated beneficiary.

(6) Incapacity of a beneficiary does not terminate (i) the custodial trust, (ii) any designation of a successor custodial trustee, (iii) rights or powers of the custodial trustee, or (iv) any immunities of third persons acting on instructions of the custodial trustee.

68-1311. EXEMPTION OF THIRD PERSON FROM LIABILITY. A third person in good faith and without a court order may act on instructions of, or otherwise deal with, a person purporting to make a transfer as, or purporting to act in the capacity of, a custodial trustee. In the absence of knowledge to the contrary, the third person is not responsible for determining:

(1) The validity of the purported custodial trustee's designation;

(2) The propriety of, or the authority under this chapter for, any action of the purported custodial trustee;

(3) The validity or propriety of an instrument executed or instruction given pursuant to this chapter either by the person purporting to make a transfer or declaration or by the purported custodial trustee; or

(4) The propriety of the application of property vested in the purported custodial trustee.

68-1312. LIABILITY TO THIRD PERSON. (1) A claim based on a contract entered into by a custodial trustee acting in a fiduciary capacity, an obligation arising from the ownership or control of custodial trust property, or a tort committed in the course of administering the custodial trust, may be asserted by a third person against the custodial trust property by proceeding against the custodial trustee in a fiduciary capacity, whether or not the custodial trustee or the beneficiary is personally liable.

(2) A custodial trustee is not personally liable to a third person:

(a) On a contract properly entered into in a fiduciary capacity unless the custodial trustee fails to reveal that capacity or to identify the custodial trust in the contract; or

(b) For an obligation arising from control of custodial trust property or for a tort committed in the course of the administration of the custodial trust unless the custodial trustee is personally at fault.

(3) A beneficiary is not personally liable to a third person for an obligation arising from beneficial ownership of custodial trust property or for a tort committed in the course of administration of the custodial trust unless the beneficiary is personally in possession of the custodial trust property giving rise to the liability or is personally at fault.

(4) The provisions of subsections (2) and (3) of this section do not preclude actions or proceedings to establish liability of the custodial trustee or beneficiary to the extent the person sued is pro-

tected as the insured by liability insurance.

68-1313. DECLINATION, RESIGNATION, INCAPACITY, DEATH, OR REMOVAL OF CUSTODIAL TRUSTEE -- DESIGNATION OF SUCCESSOR CUSTODIAL TRUSTEE. (1) Before accepting the custodial trust property, a person designated as custodial trustee may decline to serve by notifying the person who made the designation, the transferor, or the transferor's legal representative. If an event giving rise to a transfer has not occurred, the substitute custodial trustee designated under section 68-1303, Idaho Code, becomes the custodial trustee, or, if a substitute custodial trustee has not been designated, the person who made the designation may designate a substitute custodial trustee pursuant to section 68-1303, Idaho Code. In other cases, the transferor or the transferor's legal representative may designate a substitute custodial trustee.

(2) A custodial trustee who has accepted the custodial trust property may resign by (i) delivering written notice to a successor custodial trustee, if any, the beneficiary and, if the beneficiary is incapacitated, to the beneficiary's conservator, if any, and (ii) transferring or registering, or recording an appropriate instrument relating to, the custodial trust property, in the name of and delivering the records to, the successor custodial trustee identified under subsection (3) of this section.

(3) If a custodial trustee or successor custodial trustee is ineligible, resigns, dies, or becomes incapacitated, the successor, designated under section 68-1302 or 68-1303, Idaho Code, becomes custodial trustee. If there is no effective provision for a successor, the beneficiary, if not incapacitated, may designate a successor custodial trustee. If the beneficiary is incapacitated, or fails to act within ninety (90) days after the ineligibility, resignation, death, or incapacity of the custodial trustee, the beneficiary's conservator becomes the successor custodial trustee. If the beneficiary does not have a conservator or the conservator fails to act, the resigning custodial trustee may designate a successor custodial trustee.

(4) If a successor custodial trustee is not designated pursuant to subsection (3) of this section, the transferor, the legal representative of the transferor or of the custodial trustee, an adult member of the beneficiary's family, the guardian of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the court to designate a successor custodial trustee.

(5) A custodial trustee who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodial trustee, as soon as practicable, shall put the custodial trust property and records in the possession and control of the successor custodial trustee. The successor custodial trustee may enforce the obligation to deliver custodial trust property and records and becomes responsible for each item as received.

(6) A beneficiary, the beneficiary's conservator, an adult member of the beneficiary's family, a guardian of the person of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the

court to remove the custodial trustee for cause and designate a successor custodial trustee, to require the custodial trustee to furnish a bond or other security for the faithful performance of fiduciary duties, or for other appropriate relief.

68-1314. EXPENSES, COMPENSATION AND BOND OF CUSTODIAL TRUSTEE. Except as otherwise provided in the instrument creating the custodial trust, in an agreement with the beneficiary, or by court order, a custodial trustee:

(1) Is entitled to reimbursement from custodial trust property for reasonable expenses incurred in the performance of fiduciary services;

(2) Has a noncumulative election, to be made no later than six (6) months after the end of each calendar year, to charge a reasonable compensation for fiduciary services performed during that year; and

(3) Need not furnish a bond or other security for the faithful performance of fiduciary duties.

68-1315. REPORTING AND ACCOUNTING BY CUSTODIAL TRUSTEE -- DETERMINATION OF LIABILITY OF CUSTODIAL TRUSTEE. (1) Upon the acceptance of custodial trust property, the custodial trustee shall provide a written statement describing the custodial trust property and shall thereafter provide a written statement of the administration of the custodial trust property (i) once each year, (ii) upon request at reasonable times by the beneficiary or the beneficiary's legal representative, (iii) upon resignation or removal of the custodial trustee, and (iv) upon termination of the custodial trust. The statements must be provided to the beneficiary or to the beneficiary's legal representative, if any. Upon termination of the beneficiary's interest, the custodial trustee shall furnish a current statement to the person to whom the custodial trustee property is to be delivered.

(2) A beneficiary, the beneficiary's legal representative, an adult member of the beneficiary's family, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary may petition the court for an accounting by the custodial trustee or the custodial trustee's legal representative.

(3) A successor custodial trustee may petition the court for an accounting by a predecessor custodial trustee.

(4) In an action or proceeding under this chapter or in any other proceeding, the court may require or permit the custodial trustee or the custodial trustee's legal representative to account. The custodial trustee or the custodial trustee's legal representative may petition the court for approval of final accounts.

(5) If a custodial trustee is removed, the court shall require an accounting and order delivery of the custodial trust property and records to the successor custodial trustee and the execution of all instruments required for transfer of the custodial trust property.

(6) On petition of the custodial trustee or any person who could petition for an accounting, the court, after notice to interested persons, may issue instructions to the custodial trustee or review the propriety of the acts of a custodial trustee or the reasonableness of compensation determined by the custodial trustee for the services of

the custodial trustee or others.

68-1316. LIMITATIONS OF ACTION AGAINST CUSTODIAL TRUSTEE. (1) Except as provided in subsection (3) of this section, unless previously barred by adjudication, consent, or limitation, a claim for relief against a custodial trustee for accounting or breach of duty is barred as to a beneficiary, a person to whom custodial trust property is to be paid or delivered, or the legal representative of an incapacitated or deceased beneficiary or payee:

(a) Who has received a final account or statement fully disclosing the matter unless an action or proceeding to assert the claim is commenced within two (2) years after receipt of the final account or statement; or

(b) Who has not received a final account or statement fully disclosing the matter unless an action or proceeding to assert the claim is commenced within three (3) years after the termination of the custodial trust.

(2) Except as provided in subsection (3) of this section, a claim for relief to recover from a custodial trustee for fraud, misrepresentation, or concealment related to the final settlement of the custodial trust or concealment of the existence of the custodial trust, is barred unless an action or proceeding to assert the claim is commenced within five (5) years after the termination of the custodial trust.

(3) A claim for relief is not barred by this section if the claimant:

(a) Is a minor, until the earlier of two (2) years after the claimant becomes an adult or dies;

(b) Is an incapacitated adult, until the earliest of two (2) years after (i) the appointment of a conservator, (ii) the removal of the incapacity, or (iii) the death of the claimant; or

(c) Was an adult, now deceased, who was not incapacitated, until two (2) years after the claimant's death.

68-1317. DISTRIBUTION ON TERMINATION. (1) Upon termination of a custodial trust, the custodial trustee shall transfer the unexpended custodial trust property:

(a) To the beneficiary, if not incapacitated or deceased;

(b) To the conservator or other recipient designated by the court for an incapacitated beneficiary; or

(c) Upon the beneficiary's death, in the following order:

(i) As last directed in a writing signed by the deceased beneficiary while not incapacitated and received by the custodial trustee during the life of the deceased beneficiary;

(ii) To the survivor of multiple beneficiaries if survivorship is provided for pursuant to section 68-1306, Idaho Code;

(iii) As designated in the instrument creating the custodial trust; or

(iv) To the estate of the deceased beneficiary.

(2) If, when the custodial trust would otherwise terminate, the distributee is incapacitated, the custodial trust continues for the use and benefit of the distributee as beneficiary until the incapacity is removed or the custodial trust is otherwise terminated.

(3) Death of the beneficiary does not terminate the power of the custodial trustee to discharge obligations of the custodial trustee or beneficiary incurred before the termination of the custodial trust.

68-1318. METHODS AND FORMS FOR CREATING CUSTODIAL TRUSTS. (1) If a transaction, including a declaration with respect to or a transfer of specific property, otherwise satisfies applicable law, the criteria of section 68-1302, Idaho Code, are satisfied by:

(a) The execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form:

TRANSFER UNDER THE IDAHO
UNIFORM CUSTODIAL TRUST ACT

I, (name of transferor or name of representative capacity if a fiduciary), transfer to (name of trustee other than transferor), as custodial trustee for (name of beneficiary) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Idaho Uniform Custodial Trust Act, the following: (insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated:_____

_____
(Signature); or

(b) The execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form:

DECLARATION OF TRUST UNDER THE IDAHO
UNIFORM CUSTODIAL TRUST ACT

I, (name of owner of property), declare that henceforth I hold as custodial trustee for (name of beneficiary other than transferor) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Idaho Uniform Custodial Trust Act, the following: (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Date:_____

_____
(Signature)

(2) Customary methods of transferring or evidencing ownership of property may be used to create a custodial trust, including any of the following:

(a) Registration of a security in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in the substance "as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Trust Act";

(b) Delivery of a certificated security, or a document necessary for the transfer of an uncertificated security, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodial trustee accompanied by an instrument in substantially the form prescribed in subsection (1)(a) of this section;

(c) Payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Trust Act";

(d) Registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Trust Act";

(e) Delivery of a written assignment to an adult other than the transferor or to a trust company whose name in the assignment is designated in substance by the words: "as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Trust Act";

(f) Irrevocable exercise of a power of appointment, pursuant to its terms, in favor of a trust company, an adult other than the donee of the power, or the donee who holds the power if the beneficiary is other than the donee, whose name in the appointment is designated in substance: "as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Act";

(g) Delivery of a written notification or assignment of a right to future payment under a contract to an obligor which transfers the right under the contract to a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, whose name in the notification or assignment is designated in substance: "as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Trust Act";

(h) Execution, delivery, and recordation of a conveyance of an interest in real property in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Trust Act";

(i) Issuance of a certificate of title by an agency of a state or of the United States which evidences title to tangible personal property:

(i) Issued in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Trust Act"; or

(ii) Delivered to a trust company or an adult other than the transferor or endorsed by the transferor to that person, designated in substance: "as custodial trustee for (name of beneficiary) under the Idaho Uniform Custodial Trust Act"; or

(j) Execution and delivery of an instrument of gift to a trust company or an adult other than the transferor, designated in substance: "as custodial trustee for (name of beneficiary) under the

Idaho Uniform Custodial Trust Act."

68-1319. APPLICABLE LAW. (1) This chapter applies to a transfer or declaration creating a custodial trust that refers to this chapter if, at the time of the transfer or declaration, the transferor, beneficiary, or custodial trustee is a resident of or has its principal place of business in this state or custodial trust property is located in this state. The custodial trust remains subject to this chapter despite a later change in residence or principal place of business of the transferor, beneficiary, or custodial trustee, or removal of the custodial trust property from this state.

(2) A transfer made pursuant to an act of another state substantially similar to the provisions of this chapter is governed by the law of that state and may be enforced in this state.

68-1320. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

68-1321. SHORT TITLE. This chapter may be cited as the "Idaho Uniform Custodial Trust Act."

68-1322. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Approved March 29, 1989.

CHAPTER 231
(S.B. No. 1039, As Amended)

AN ACT

RELATING TO COUNTY JAILS; AMENDING SECTION 20-606, IDAHO CODE, TO PROVIDE THAT A COURT DECREE FIXING THE COSTS OF JAIL CONFINEMENT IS APPLICABLE ONLY TO THE PRISONERS CONFINED AT THE TIME OF THE DECREE; AMENDING SECTION 20-614, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES AND TO CLARIFY THE REQUIREMENT THAT RELEASE OF PRISONERS FOR PRIVATE EMPLOYMENT SHALL OCCUR ONLY IF ORDERED BY THE COMMITTING JUDGE; REPEALING SECTIONS 20-618 AND 20-619, IDAHO CODE; AMENDING SECTION 20-621, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; REPEALING SECTION 20-623, IDAHO CODE; AND AMENDING SECTION 20-624, IDAHO CODE, TO INCREASE THE RATE PER DAY OF IMPRISONMENT FOR NONPAYMENT OF FINES.

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

SECTION 1. That Section 20-606, Idaho Code, be, and the same is hereby amended to read as follows:

20-606. DETERMINING CONFINEMENT COSTS -- DECREE. If a district judge or magistrate orders the confinement or detention of any person under the preceding section 20-604, Idaho Code, in a jail or confinement facility in which there is no agreement as to the daily costs of confinement or detention, then any governmental unit or agency involved may apply by petition to the district court of the county in which such jail or confinement facility is located to determine the direct and indirect costs of confinement per person per day at the jail or facility. Such petition shall be filed with the district court and a copy thereof served upon the board of county commissioners or clerk thereof of the county or counties to be affected thereby, which county or counties shall be denominated as the respondent. Such respondent shall thereafter be allowed twenty (20) days to appear and plead to said petition. The determination of such costs shall be made by a district judge sitting without a jury in the same manner as other civil actions under all rules of procedure for district courts of the state of Idaho. Upon the final determination of the petition by trial or otherwise, the district court shall enter a decree binding upon all parties thereto for all persons then ~~and thereafter~~ confined from said county or counties joined in the petition, stating the dollar amount of the confinement or detention costs per person per day which shall be paid by any such county confining or detaining persons in the jail or facility pursuant to a court order made under section 20-604, Idaho Code. Such decree shall have the force and effect of a final judgment, but the district court shall have continuing jurisdiction to vacate or modify such decree upon a material change of circumstances affecting such costs.

SECTION 2. That Section 20-614, Idaho Code, be, and the same is hereby amended to read as follows:

20-614. PRISONERS MUST BE ACTUALLY CONFINED EXCEPT ON ORDER OF COURT FOR PRIVATE EMPLOYMENT. 1. A prisoner committed to the county jail by any court for trial or examination, or upon conviction for a public offense, must be ~~actually~~ confined in the jail until he is legally discharged unless the court specifies otherwise~~; and if he is permitted to go at large out of the jail, except by virtue of a legal order or process it is an escape~~.

2. If the committed person has been regularly employed, the sheriff shall, if ordered by the committing judge, arrange for a continuation of said employment in so far as possible without interruption. Any prisoner so employed shall be paid a fair and reasonable wage for such work and shall work at fair and reasonable employment and hours per day and per week.

3. Whenever the prisoner is not employed, and between the hours or periods of his employment, he shall be confined in jail as an ordinary prisoner, unless the court shall direct otherwise.

4. The earnings of the prisoner shall be collected under the

direction of the sheriff. From such earnings the sheriff shall pay the prisoner's board and personal expenses both inside and outside the jail, and to the extent directed by the court pay the support of his dependents, if any, and, if sufficient funds are available after making the foregoing payments, pay in whole or in part the pre-existing debts of the prisoner. Any balance shall be retained until his discharge, whereupon such balance shall be paid to him.

5. In case of any violation of the conditions laid down for his conduct, custody and employment the prisoner shall be returned to the court, and the court may then require the balance of his sentence be spent in actual confinement and may cancel any earned diminution of his term.

6. The sheriff shall receive such extra compensation and mileage for the administration of this act as the county commissioners determine.

7. The court may also by its order authorize the use of a jail in a contiguous or other county where the prisoner is employed, and while the prisoner is so employed under this act such prisoner shall be in the other county's custody.

SECTION 3. That Sections 20-618 and 20-619, Idaho Code, be, and the same are hereby repealed.

SECTION 4. That Section 20-621, Idaho Code, be, and the same is hereby amended to read as follows:

20-621. COMMUTATION FOR GOOD BEHAVIOR. Every person serving a jail sentence in a county jail in the state of Idaho who has a good record as a prisoner and who performs the tasks assigned him in an orderly and peaceable manner, shall upon the recommendation of the sheriff ~~and prosecuting attorney~~ be allowed five (5) days off of each and every month of his sentence, by the ~~probate~~ magistrate judge.

SECTION 5. That Section 20-623, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 20-624, Idaho Code, be, and the same is hereby amended to read as follows:

20-624. IMPRISONMENT FOR FINE. Whenever any prisoner, under conviction for any criminal offense, is confined in any jail for non-payment of any fine, the district court, upon satisfactory evidence of such inability, may, in lieu thereof, confine such person in the county jail at the rate of ~~five~~ ten dollars ($10.00) per day until the fine imposed is satisfied.

Approved March 29, 1989.

CHAPTER 232
(S.B. No. 1040)

AN ACT

RELATING TO THE ADMINISTRATION OF THE AD VALOREM TAX SYSTEM; REPEALING SECTIONS 31-1419 AND 31-4111, IDAHO CODE; AMENDING SECTION 63-102, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO PROVIDE FOR THE ASSESSMENT OF PERSONAL PROPERTY; AMENDING SECTION 63-212, IDAHO CODE, TO PROVIDE FOR A TAXPAYER'S VALUATION NOTICE, AND TO PROVIDE A TIME LIMIT FOR APPEAL OF VALUATION; REPEALING SECTION 63-304, IDAHO CODE; AMENDING SECTION 63-322, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 63-401, IDAHO CODE, TO PROVIDE TIME LIMITS FOR APPEALS, AND TO PROVIDE DUTIES FOR THE ASSESSOR; AMENDING SECTION 63-412, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTION 63-611, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 63-614, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 63-1203, IDAHO CODE, TO PROVIDE TIME LIMITS FOR ASSESSMENT OF PERSONAL PROPERTY AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 63-1205, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 63-1206, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 63-1211, IDAHO CODE, TO PROVIDE FOR DESTRUCTION OF PERSONAL PROPERTY; REPEALING SECTION 63-1224, IDAHO CODE; AMENDING SECTION 63-1904, IDAHO CODE, TO CLARIFY DUTIES OF THE BOARD OF EQUALIZATION; AMENDING SECTION 63-1909, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 31-1419, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 31-4111, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 63-102, Idaho Code, be, and the same is hereby amended to read as follows:

63-102. LIEN OF TAXES -- PERSONAL PROPERTY FROM WITHOUT STATE. (1) All real property subject to assessment shall be assessed annually for taxation for state, county, city, school district and other purposes, under the provisions of this act, as of 12:01 a.m. on the first day of January in the year in which such taxes are levied, except as otherwise provided. All taxes levied upon real ~~estate~~ property under the provisions of this act, shall be a lien upon the real property assessed~~, and all~~.

(2) All personal property subject to assessment shall be assessed annually for taxation for state, county, city, school district and other purposes, under the provisions of this act, as of 12:01 a.m. on the first day of January in the year in which such taxes are levied, except as otherwise provided. All taxes levied upon personal property

shall be a lien upon the personal property assessed and upon any other personal or real property of the owner thereof within the county where assessed, whether the property is exempt from execution or not, except as otherwise provided by law~~;--which--several~~.

(3) All liens attach as of the first day of January in that year, and shall only be discharged by the payment, cancellation or rebate of the taxes as provided in this act~~:--provided;--that~~.

(4) Ppersonal property coming into the state from without the state after the first day of January~~;~~ shall be assessed, as of the date of its entry into the state as follows, if before the first of April, for its full assessed value; if on the first day of April and before the first day of July, for three fourths (3/4) of its full assessed value; if on the first day of July and before the first day of October, for one half (1/2) of its full assessed value, and if during the remainder of the taxing year, for one fourth (1/4) of its full assessed value, and the taxes so levied thereupon shall be a lien on such property from the date of its entry into the state.

SECTION 4. That Section 63-212, Idaho Code, be, and the same is hereby amended to read as follows:

63-212. COPY OF TAXPAYER'S VALUATION ASSESSMENT NOTICE TO BE FURNISHED TAXPAYER. A taxpayer's valuation assessment notice shall be made in duplicate, which duplicate must be delivered to such taxpayer, or to his agent or representative, or mailed to the taxpayer, or to his agent or representative, at his last known post office address as soon as possible after it is prepared, but not later than the first Monday in June. The ~~original--and--duplicate~~ valuation assessment notices must contain announcements of all meetings of the board of county commissioners prescribed by this act for the purposes of equalizing assessments and allowing exemptions and rebates and shall, in clear terms, inform the taxpayer of the full market value~~;--the ratio--of--assessed--valuation;--and--the--assessed--value~~ of the property which is the subject of valuation by the assessor, and of the taxpayer's right to appeal such valuation to the county board of equalization by no later than the fourth Monday in June. The state tax commission may require that other data or information be shown on the form. If the taxpayer is one other than the equitable titleholder, such as an escrowee, trustee of trust deed or other third party, the taxpayer shall deliver to the equitable titleholder a true copy of the taxpayer's valuation notice on or before the second Monday in June.

SECTION 5. That Section 63-304, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 63-322, Idaho Code, be, and the same is hereby amended to read as follows:

63-322. COMPLETION AND DELIVERY OF ASSESSMENT ROLL. The assessor must complete the real property assessment roll on or before the fourth Monday of June in each year, and must, on or before said date, deliver the completed real property assessment roll~~;--together--with--all~~

~~claims--for--exemption-relating-to-the-assessments-entered-thereon,~~ to the clerk of the board of county commissioners. The ~~said~~ assessment roll and claims for exemption must remain in the office of the ~~said~~ clerk until the meeting of the ~~said~~ board as a board of equalization, for the inspection of all persons interested.

SECTION 7. That Section 63-401, Idaho Code, be, and the same is hereby amended to read as follows:

63-401. MEETING OF COMMISSIONERS AS A BOARD OF EQUALIZATION. The board of county commissioners of each county in this state shall meet as a board of equalization at least once in every month of the year up to the fourth Monday of June for the purpose of equalizing the assessment of property on the real and personal property rolls and shall meet on the fourth Monday of June in each year to complete the equalization of assessment on all real and personal property which has not yet been equalized and to hear appeals received on or before the fourth Monday in June on valuation of property on such rolls. Upon meeting to complete the equalization of assessment, the board shall continue in session from day to day until assessment of such property has been completed and shall also hear and determine complaints upon allowing or disallowing exemptions under section 63-105BB, Idaho Code. The board must complete such business and adjourn as a board of equalization on the second Monday of July, provided that the board of equalization may adjourn any time prior to the second Monday of July when they have completed all of the business as a board of equalization.

In the event the board of equalization should adjourn prior to the second Monday of July, the property assessment rolls shall remain in the office of the board or in the custody of the county auditor until the second Monday of July.

The ~~board-of-equalization-shall-permit-the~~ county assessor ~~to~~ or his designee shall attend all meetings of the board of county commissioners in session as a board of equalization and he may make any statements or introduce testimony and examine witnesses on questions before the board relating to the assessment.

SECTION 8. That Section 63-412, Idaho Code, be, and the same is hereby amended to read as follows:

63-412. DELIVERY OF ROLL TO COUNTY AUDITOR -- ABSTRACT OF ROLL. On the second Monday of July the board of county commissioners must deliver the real and personal property assessment rolls, with all changes, corrections and additions entered therein, to the county auditor, who must add up the amount and value of each kind and class of property, and of all property, and prepare an abstract of all the property entered upon the said rolls, showing the full market value thereof, in each class, the number of acres, and the full market value of each class of land, the full market value of each class of improvements on land, the full market value of each kind of the different classes of personal property, and the full market value of each class of other property as shown on the assessment rolls as determined by

the board of county commissioners. The value of exemptions will be shown and identified for exemptions granted pursuant to chapters 20 and 29, title 50, Idaho Code, for revenue allocation purposes, and sections 63-105T, 63-105BB, 63-105CC~~,~~ and 63-105DD, Idaho Code, as well as the net taxable value for each of the categories. The said abstracts shall be prepared in duplicate and duly verified upon blanks supplied by the state tax commission and must show a correct classification of all the property in accordance with the classification of such property upon the assessment rolls, and all matters and things required to be shown upon the abstracts must be entered in the proper spaces and columns provided for that purpose in the blanks.

SECTION 9. That Section 63-611, Idaho Code, be, and the same is hereby amended to read as follows:

63-611. AD VALOREM AND SPECIAL TAXES AGAINST COUNTIES. The state tax commission must complete the equalization of assessments throughout the state, as in this act provided, on the fourth Monday of August in the year in which such assessments are made, and shall on that day determine the amount of state ad valorem tax which each county must pay to the state, by apportioning the total state ad valorem tax among the several counties in the state in the exact proportion that the total equalized assessed valuation of each county, as shown by the real property assessment roll and the personal property assessment roll for the current year, and the subsequent personal property assessment roll for the preceding year, bears to the total equalized assessed valuation of the state as shown by the real property assessment rolls and the personal property assessment rolls of all the counties in the state for such current year, and the subsequent personal property assessment rolls for such preceding year~~,--not--including--in such--equalized--assessed--valuations--the--value-of-property-exempted under-section-63-105D,-Idaho-Code~~. The said commission shall also determine the amount of special state taxes which each county must pay to the state, and the total amount of such state ad valorem and special state taxes found to be due from each county shall be certified to the county auditor of such county by the commission's executive officer as provided in this act, and the county auditor shall, upon receipt of such certificate, file the same in his office: provided, that the total amount of all special state taxes levied for the current year upon property entered upon the subsequent personal property assessment roll of each county for such year shall be certified to the county auditor of such county by the commission's executive officer upon receipt of the county auditor's abstract of the subsequent personal property assessment roll, as provided in this act.

SECTION 10. That Section 63-614, Idaho Code, be, and the same is hereby amended to read as follows:

63-614. COMPLETION OF ASSESSMENT ROLL AFTER EQUALIZATION. As soon as the county auditor receives the certified statements prescribed in the two (2) preceding sections, he shall enter in the spaces in which the items to be corrected appear upon the real property assessment

roll, all changes and corrections made by the state tax commission in the assessment, and shall enter upon the assessment roll all assessments of railroads, telegraph, telephone and electric current transmission or distribution lines and all other operating property under the jurisdiction of the tax commission in his county, and made by the state tax commission in adjusting the valuations among the incorporated cities, and other taxing districts in accordance with the certified statement of the executive officer of the state tax commission prescribed in the preceding section, and thereupon he shall carry the total equalized values into the space provided therefor, in accordance with the provisions of this act, and thereafter enter and show the amount, and reasons for any exemptions ~~claimed under section 63-105D, Idaho Code,~~ which have been allowed by the board of county commissioners in spaces provided for that purpose, and shall thereafter enter the total equalized values for taxation in the space provided therefor, and he shall thereupon add up the total equalized values, amounts of exemption and total equalized values for taxation, and enter the total of each column in the assessment roll.

SECTION 11. That Section 63-1203, Idaho Code, be, and the same is hereby amended to read as follows:

63-1203. ASSESSMENT OF PERSONAL PROPERTY. (1) The assessor shall assess all personal property required by this act to be entered on the personal property assessment roll, between the first day of January and the ~~first~~ fourth Monday of ~~July~~ June in each year, and shall complete the assessment on or before the first Monday in July and file the roll with the clerk of the board of county commissioners. He

(2) The assessor shall assess and enter on a subsequent roll ~~to be by him verified in the manner provided for the verification of the personal property assessment roll,~~ all personal property which comes into the county, between the ~~first~~ fourth Monday of ~~July~~ June and the fourth Monday of November of each year which has not been assessed, and all personal property which has during the year escaped assessment, and shall immediately deliver the subsequent roll to the board of commissioners which shall then meet as a board of equalization as provided in section 63-1904, Idaho Code. Upon adjournment of the board of equalization the county auditor shall, without delay, compute and enter the amount of tax due thereon and deliver the roll to the tax collector and charge him with the amount thereof.

(3) In making ~~such~~ assessments of personal property, the assessor shall actually determine, as nearly as practicable from the information provided to him by the taxpayer's declaration, the market value for assessment purposes of each piece of personal property assessed and shall enter the market value for assessment purposes of such personal property in appropriate columns, after the name of the owner of such property, if known, otherwise after unknown owner. The tax levies shall be extended on the aggregate market value for assessment purposes of the property, after deducting the amount of any exemptions allowed.

(4) The following manufactured homes are specifically exempt from the ~~operation~~ provisions of this section, (a) manufactured homes eli-

gible to be used under a dealer's license plate; (b) manufactured homes designated as sheep camps or cow camps; and (c) units defined as recreational vehicles.

SECTION 12. That Section 63-1205, Idaho Code, be, and the same is hereby amended to read as follows:

63-1205. PERSONAL PROPERTY TAX -- SEPARATE ASSESSMENT WHEN REAL ~~ESTATE~~ PROPERTY INSUFFICIENT TO SECURE PAYMENT -- EQUALIZATION. It shall be the duty of the county board of equalization ~~at--its--regular meeting--in--July--of~~ each year to carefully examine the real ~~estate~~ property assessment rolls, ~~tract-by-tract-and-name--by--name,~~ and to ascertain therefrom the assessed value of the real ~~estate~~ property and the assessed value of the personal property in each instance where the assessor has placed the personal property upon the tax roll and where the lien of the taxes on such personal property will remain a lien upon the real ~~estate~~ property if left on the real ~~estate~~ property roll, and if, in the judgment of the board, the value of the real ~~estate~~ property is not sufficient to fully secure the payment of the personal property tax and the real property tax, it shall be the duty of the board to order the assessor to re-assess the personal property separate and apart from the real ~~estate~~ property, and it shall then be the duty of the assessor to assess such personal property and proceed in the same manner as though the taxpayer did not own any real ~~estate~~ property, and such personal property shall be placed upon the personal property assessment roll~~;-provided,-however,-that.~~ However, the board may allow a proper amount of the personal property to become a lien upon the real ~~estate~~ property if such taxes are fully secured by such real ~~estate~~ property. It shall be the further duty of the county board of equalization ~~at-its-July-meeting~~ to carefully examine the personal property tax roll~~,-item-by-item-and-name-by-name,~~ for the purpose of equalizing the value of each item of personal property appearing upon the assessment roll, and said board shall, at its meeting in the month of December, carefully examine ~~item-by-item~~ and equalize the assessed valuation of all personal property appearing upon the subsequent personal property roll.

SECTION 13. That Section 63-1206, Idaho Code, be, and the same is hereby amended to read as follows:

63-1206. ASSESSABLE VALUE -- LIEN. All personal property in the state subject to assessment shall be assessed at ~~the-percentage-of-its full-cash~~ market value ~~as-provided-in-section-63-101B,-Idaho-Code,~~ for assessment purposes for taxation for state, county, city, road district, school district and other purposes under the provisions of this act with reference to its value as of 12:01 a.m. on the first day of January in the year in which the taxes are levied, except as otherwise provided. Personal property coming into the state from without the state after the first day of January shall be assessed as of the date it comes into the state; if before the first of April for its full annual assessment; if on the first of April and before the first of July, for three-fourths (3/4) of its full annual assessment; if on the

first of July and before the first of October, for one-half (1/2) of its full annual assessment; and if during the remainder of the taxing year for one-fourth (1/4) of its annual assessment; and all taxes levied under the provisions of this act shall be a first and prior lien upon the personal property so assessed, and upon all other personal property, within the county belonging to the same owner, and no personal property of any kind shall be exempt from such lien.

SECTION 14. That Section 63-1211, Idaho Code, be, and the same is hereby amended to read as follows:

63-1211. DESTRUCTION ~~BY--FIRE~~ -- LIEN ON INSURANCE. In the event of the destruction of personal property by fire, flood or other natural disaster after the first day of January of any year the lien of the personal property tax shall attach to and follow any insurance that may be upon said property and the insurer shall pay to the county treasurer from the insurance money all taxes, interest and costs that may be due unless canceled by the board of county commissioners.

SECTION 15. That Section 63-1224, Idaho Code, be, and the same is hereby repealed.

SECTION 16. That Section 63-1904, Idaho Code, be, and the same is hereby amended to read as follows:

63-1904. MEETING OF COMMISSIONERS AS BOARD OF EQUALIZATION. The board of county commissioners of each county in this state shall meet as a board of equalization on the fourth Monday of November in each year for the purpose of equalizing the assessment of all property entered upon the subsequent property assessment rolls and determining complaints and hearing appeals in regard to the assessment of such property, and allowing or disallowing exemptions and rebates claimed under the provisions of this act affecting the assessment of property entered upon the rolls, and having a settlement with the assessor and tax collector. The board shall complete their business and adjourn on or before the first Monday of December in each year, and further that if other personal or real property is discovered and assessed after the subsequent board has adjourned, the taxpayer may appeal that assessment to the county commissioner's meeting as a board of equalization during their monthly meeting in January of the following year. Provided further that the entire personal property tax shall be due and payable not later than thirty (30) days following the adjournment of that board of equalization meeting in January subject to the extension provisions of section 63-13042, Idaho Code. The real property taxes so assessed must be paid on or before the 20th day of June of the following year.

SECTION 17. That Section 63-1909, Idaho Code, be, and the same is hereby amended to read as follows:

63-1909. ABSTRACT OF PERSONAL PROPERTY ROLL. The county auditor must add up the columns of amounts and values of each kind of property

and of all property and the amount of taxes, rebates and exemptions and prepare an abstract of all the property entered upon the personal property assessment roll, including property exempt under ~~section 63-105D~~ chapters 20 and 29, title 50, Idaho Code, for revenue allocation purposes, and sections 63-105T, 63-105BB, 63-105CC and 63-105DD, Idaho Code, showing the total number of items or pieces of property and the total value thereof, shown in separate columns in the assessment roll, and the total value of all property exempt under said ~~section--63-105D,--Idaho--Code~~ chapters or sections, as determined by the board of county commissioners.

The abstract of taxes provided for in this section must be prepared by the county auditor in duplicate and duly verified upon forms supplied by the state tax commission and must show all of the property, upon the assessment roll, and all matters and things required to be shown upon such abstract must be entered in proper spaces and columns provided for that purpose.

SECTION 18. This act shall be in full force and effect on and after January 1, 1990.

Approved March 29, 1989.

CHAPTER 233
(S.B. No. 1081)

AN ACT

RELATING TO PLATS AND SANITARY RESTRICTIONS; AMENDING SECTION 50-1326, IDAHO CODE, TO CORRECT A REFERENCE, TO PROVIDE FOR SANITARY RESTRICTION PLACEMENT ON ALL SUBDIVISIONS, TO PROVIDE AUTHORITY TO THE DIRECTOR OF HEALTH AND WELFARE, TO PROVIDE FOR CERTIFICATES OF APPROVAL ON PORTIONS OF PLATS, AND TO ALLOW FOR REIMPOSITION OF SANITARY RESTRICTIONS; AMENDING SECTION 50-1327, IDAHO CODE, TO CORRECT A REFERENCE AND TO PROVIDE AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 50-1328, IDAHO CODE, TO CORRECT A REFERENCE AND TO ALLOW THE BOARD OF HEALTH AND WELFARE TO ADOPT RULES AND REGULATIONS TO LIST FACTORS UPON WHICH STANDARDS FOR APPROVAL OF CERTIFICATIONS ARE TO BE BASED AND ENFORCED; AND AMENDING SECTION 50-1329, IDAHO CODE, TO CORRECT A REFERENCE, TO PROVIDE AUTHORITY TO THE DIRECTOR OF HEALTH AND WELFARE, AND TO PROVIDE SANCTIONS FOR CONSTRUCTION ON A SUBDIVISION OR ANY PORTION THEREOF WITHOUT A CERTIFICATE OF APPROVAL.

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

SECTION 1. That Section 50-1326, Idaho Code, be, and the same is hereby amended to read as follows:

50-1326. ALL PLATS TO BEAR A SANITARY RESTRICTION -- SUBMISSION

OF PLANS AND SPECIFICATIONS OF WATER AND SEWAGE SYSTEMS TO STATE DEPARTMENT OF HEALTH AND WELFARE -- REMOVAL OR REIMPOSITION OF SANITARY RESTRICTION. For the purposes of sections 50-1326 through 50-1329, Idaho Code, any ~~land divided into parcels of less than five (5) acres each, or a~~ plat of a subdivision filed in accordance with chapter 13, title 50, Idaho Code, or in accordance with county ordinances adopted pursuant to chapter 38, title 31, Idaho Code, shall be subject to the sanitary restriction ~~as herein defined~~. There shall be placed upon the face of every plat prior to it being recorded by the county clerk and recorder, the sanitary restriction, except such sanitary restriction may be omitted from the plat, or if it appears on the plat, may be indorsed by the county clerk and recorder as sanitary restriction satisfied, when there is recorded at the time of the filing of the plat, or at any time subsequent thereto, a duly acknowledged certificate of approval issued by the ~~administrator or his delegate, of the state board of health, that there have been approved plans and specifications~~ director of the department of health and welfare, for either public water and/or public sewer facilities, or individual water and/or sewage facilities for the particular land. The owner shall have the obligation of submitting to the ~~state board of health~~ director all information necessary concerning the ~~condition of the property, and the plans and specifications~~ proposed ~~for the~~ facilities referred to. Such certificate of approval may be issued for the subdivision or any portion thereof. Until the sanitary restrictions have been satisfied by the filing of said certificate of approval, no owner shall construct any building or shelter on said premises which necessitates the supplying of water or sewage facilities for persons using such premises. The sanitary restrictions shall be reimposed on the plat upon the issuance of a certificate of disapproval after notice to the responsible party and an opportunity to appeal, if construction is not in compliance with approved plans and specifications, or the facilities do not substantially comply with regulatory standards in effect at the time of facility construction.

SECTION 2. That Section 50-1327, Idaho Code, be, and the same is hereby amended to read as follows:

50-1327. FILING OR RECORDING OF NONCOMPLYING MAP OR PLAT PROHIBITED. No person shall offer for recording, or cause to be recorded, a plat not containing a sanitary restriction, unless there is submitted for record at the same time the certificate of approval from the ~~state board~~ director of the department of health and welfare as required in section 15-1326, Idaho Code. The filing and recording of a noncomplying plat shall in no way invalidate a title conveyed thereunder.

SECTION 3. That Section 50-1328, Idaho Code, be, and the same is hereby amended to read as follows:

50-1328. RULES FOR THE ADMINISTRATION AND ENFORCEMENT OF SANITARY RESTRICTION. The state board of health ~~shall make~~ and welfare may adopt rules pursuant to 39-107(8), Idaho Code, including adoption of sanitary standards necessary for administration and enforcement, pur-

suant to section 39-108, Idaho Code, of sections 50-1326 through 50-1329, Idaho Code. The rules and standards shall provide the basis for approving subdivision ~~lands or~~ plats for various types of water and sewage facilities, both public and individual, and ~~shall~~ may be related to size of lots, contour of land, porosity of soil, ground water level, pollution of water, type of construction of water and sewage facilities, and other factors ~~protecting~~ for the protection of the public health or the environment.

SECTION 4. That Section 50-1329, Idaho Code, be, and the same is hereby amended to read as follows:

50-1329. VIOLATION A MISDEMEANOR. Any person, firm or corporation who constructs, or causes to be constructed, a building or shelter ~~on a parcel of less than five (5) acres or a platted parcel~~ prior to the satisfaction of the sanitary restriction, or who installs or causes to be installed water and sewer facilities thereon prior to the issuance of a certificate of approval ~~of plans and specifications--therefor~~ by the director of the department of health and welfare, shall be guilty of a misdemeanor. Each and every day that such activities are carried on in violation of this section shall constitute a separate and distinct offense.

Approved March 29, 1989.

CHAPTER 234
(S.B. No. 1077)

AN ACT

RELATING TO COUNTY FAIR BOARDS; AMENDING CHAPTER 2, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-202A, IDAHO CODE, TO PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS OF CERTAIN COUNTIES MAY PROVIDE BY ORDINANCE THAT THE COUNTY FAIR BOARD SHALL FUNCTION AS AN ADVISORY BODY TO THE BOARD OF COUNTY COMMISSIONERS.

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

SECTION 1. That Chapter 2, 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 22-202A, Idaho Code, and to read as follows:

22-202A. DESIGNATION OF COUNTY FAIR BOARD AS ADVISORY BODY. In counties with a population of one hundred thousand (100,000) persons or more, the board of county commissioners may provide by ordinance that the county fair board shall function as an advisory board to the board of county commissioners. If such an ordinance is adopted, the board of county commissioners shall retain and may exercise the powers, duties, and responsibilities otherwise charged to the county

fair board by the provisions of this chapter. Any such ordinance shall set forth the powers, duties, responsibilities, compensation, and terms of office of the county fair board and may provide for any such other rules and regulations under which the county fair board shall advise the board of county commissioners and conduct its operations. Any such ordinance may be repealed at any time, and if repealed, the provisions of this chapter shall apply as if no such ordinance had been adopted. The provisions of this section shall not be applicable to fair districts in two (2) or more counties organized pursuant to chapter 3, title 22, Idaho Code.

Approved March 29, 1989.

CHAPTER 235
(S.B. No. 1092, As Amended)

AN ACT

RELATING TO TAXATION OF FOREST LANDS AND FOREST PRODUCTS; AMENDING SECTION 63-1701, IDAHO CODE, TO PROVIDE DEFINITIONS FOR FOREST LAND.

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

SECTION 1. That Section 63-1701, Idaho Code, be, and the same is hereby amended to read as follows:

63-1701. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Average annual net wood production" means the average net usable volume of wood one (1) acre of forest land will grow in one (1) year under average current and actual forest conditions and under current and reasonable management practices for each forest value zone.

(2) "Forest" means forest land and the timber thereon.

(3) "Forest land" means privately owned land being held and used primarily for the continuous purpose of growing and harvesting trees of a marketable species ~~and~~. Having met the above criteria, forest land may be further identified by the consideration of any of the following criteria:

(a) Forest land is land evidenced by present use and silvicultural treatment.

(b) Forest land is land ~~with~~ which has a dedicated use ~~which~~ that is further evidenced by a forest land management plan that includes eventual harvest of the forest crop.

(c) Forest land is land~~,-bare-or-stocked,-suitable-for-the-production-of-timber-as-evidenced-by-comparable-surrounding-areas,-or those-areas-having-a-history-of-timber-production.~~

~~(d)--Land-bearing-forest-growth-or-land-from-which-the-forest--has been-removed-but-which-shows-evidence-of-past-forest-occupancy-and which--is-not-now-in-other-use~~ bearing forest growth or land which

has not been converted to another use.

(d) Forest land is land which has had the trees removed by man through harvest, including clear-cuts or by natural disaster, such as but not limited to fire, and which within five (5) years after harvest or initial assessment will be reforested as specified in the forest practices act (chapter 13, title 38, Idaho Code).

(4) "Forest landowner" means the legal entity which holds the property rights under law to the forest land surface.

(5) "Forest products" mean any forest crop harvested from forest land.

(6) "Forest products yield tax" means a tax levied on a proportion of the value of forest product harvested.

(7) "Forest value" means the market value for assessment purposes as determined only on the basis of its ability to produce timber, other forest products, and associated agricultural products through an income approach as prescribed by section 63-1705, Idaho Code.

(8) "Stumpage value" means the value of timber, whether standing or downed by other than an intentional act of severance, expressed in terms of dollars per unit of measure.

(9) "Timber" means wood growth, of any species and of any size, standing or down on privately owned lands.

(10) "Bare land value" means the value of forest land exclusive of the value of timber and other products growing or being thereon.

(11) "Stumpage owner" means the legal entity which holds the property rights under law to the timber growing on private lands.

Approved March 29, 1989.

CHAPTER 236
(S.B. No. 1121)

AN ACT

RELATING TO DITCHES, CONDUITS OR CANALS FOR THE PURPOSE OF IRRIGATION; AMENDING SECTION 42-1201, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE REQUIREMENT THAT DITCHES, CANALS OR CONDUITS USED FOR IRRIGATION MUST KEEP A SUFFICIENT FLOW OF WATER FROM APRIL 1 TO NOVEMBER 1 OF EACH YEAR.

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

SECTION 1. That Section 42-1201, Idaho Code, be, and the same is hereby amended to read as follows:

42-1201. DITCHES TO BE KEPT FULL. Every person, company or corporation owning or controlling any ditch, canal or conduit for the purpose of irrigation shall, during the time from April first to the first day of November of each year, keep a flow of water therein sufficient to the requirements of such persons as are properly entitled to the use of water therefrom: provided, however, that when the public

streams or other natural water sources from which the water is obtained is too low and inadequate for that purpose, or when the board of directors or governing body of an organization or entity furnishing water deem it in the best interests of that organization or entity to adjust the dates of availability and provide for termination of irrigation water, then such ditch, canal or conduit shall be kept with as full a flow of water therein as may be practicable, subject, however, to the rights of priority from the streams or other natural sources as provided by law.

Approved March 29, 1989.

CHAPTER 237
(S.B. No. 1122, As Amended)

AN ACT

RELATING TO ANATOMICAL GIFTS; REPEALING CHAPTER 34, TITLE 39, IDAHO CODE; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 34, TITLE 39, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE DUTIES OF THE STATE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE PROCEDURES FOR MAKING, REVOKING, AND REFUSING TO MAKE ANATOMICAL GIFTS, TO ALLOW CERTAIN PEOPLE TO MAKE ANATOMICAL GIFTS FOR OTHERS, TO PROVIDE A PROCEDURE WHEREBY A CORONER CAN PERMIT AN ANATOMICAL GIFT, TO PROVIDE FOR ROUTINE INQUIRIES AND SEARCHES, TO PROVIDE WHO MAY BE DONEES AND PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE, TO PROVIDE FOR DELIVERY OF DOCUMENT OF GIFT, TO PROVIDE RIGHTS AND DUTIES AT DEATH, TO PROVIDE COORDINATION OF PROCUREMENT AND USE, TO PROHIBIT THE SALE OR PURCHASE OF BODY PARTS, TO PROVIDE FOR EXAMINATION UPON GIFT AND TO LIMIT LIABILITY, TO PROVIDE FORMS, TO PROVIDE FOR TRANSITION, TO PROVIDE RULES OF CONSTRUCTION, TO PROVIDE SEVERABILITY, AND TO PROVIDE A SHORT TITLE.

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 repealed.

SECTION 2. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 34, Title 39, Idaho Code, and to read as follows:

CHAPTER 34
UNIFORM ANATOMICAL GIFT ACT

39-3401. DEFINITIONS. As used in this chapter:

(1) "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death.

(2) "Decedent" means a deceased individual and includes a still-

born infant or fetus.

(3) "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle operator's or chauffeur's license, a will, or other writing used to make an anatomical gift.

(4) "Donor" means an individual who make an anatomical gift of all or part of the individual's body.

(5) "Enucleation" means removing or processing eyes or parts of eyes.

(6) "Enucleator" means an individual who has completed a course in eye enucleation and has a certificate of competence from an agency or organization designated by the Idaho board of medicine for the purpose of providing such training.

(7) "Hospital" means a facility licensed, accredited, or approved as a hospital under the law of any state or a facility operated as a hopsital by the United States government, a state, or a subdivision of a state.

(8) "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, government, governmental subdivision or agency, or any other legal or commercial entity.

(10) "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

(11) "Procurement organization" means a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(13) "Technician" means an individual who is certified by the Idaho board of medicine to remove or process a part.

39-3402. 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.

39-3403. MAKING, AMENDING, REVOKING, AND REFUSING TO MAKE ANATOMICAL GIFTS BY INDIVIDUAL. (1) An individual who is at least eighteen (18) years of age may (i) make an anatomical gift for any of the purposes stated in section 39-3407 (1), Idaho Code, (ii) limit an anatomical gift to one (1) or more of those purposes, or (iii) refuse to make an anatomical gift.

(2) An anatomical gift may be made only by a document of gift signed by the donor. If the donor cannot sign, the document of gift must be signed by another individual and by two (2) witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

(3) If a document of gift is attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, the document of gift must comply with subsection (2) of this section. Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(4) A document of gift may designate a particular physician or surgeon to carry out the appropriate prodcedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.

(5) An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(6) A donor may amend or revoke an anatomical gift, not made by will, only by:

(a) A signed statement;

(b) An oral statement made in the presence of two (2) individuals;

(c) Any form of communication during a terminal illness or injury addressed to a physician or surgeon; or

(d) The delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

(7) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in subsection (6).

(8) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(9) An individual may refuse to make an anatomical gift of the individual's body or part by (i) a writing signed in the same manner as a document of gift, (ii) a statement attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, or (iii) any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(10) In the absence of contrary indications by the donor, an anatomical gift or a part is neither a refusal to give other parts nor a limitation on an anatomical gift under section 39-3404, Idaho Code, or on a removal or release of other parts under section 39-3405, Idaho Code.

(11) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not refusal to make another anatomical gift. If the donor intends a revocation to be refusal to make an anatomical gift, the donor shall make the refusal pursuant to subsection (9).

39-3404. MAKING, REVOKING, AND OBJECTING TO ANATOMICAL GIFTS, BY OTHERS. (1) Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

(a) The holder of an unrevoked durable power of attorney for health care;

(b) The spouse of the decedent;

(c) An adult son or daughter of the decedent;

(d) Either parent of the decedent;

(e) An adult brother or sister of the decedent;

(f) A grandparent of the decedent; and

(g) A guardian of the person of the decedent at the time of death.

(2) An anatomical gift may not be made by a person listed in subsection (1), of this section if:

(a) A person in a prior class is available at the time of death to make an anatomical gift;

(b) The person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or

(c) The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(3) An anatomical gift by a person authorized under subsection (1) of this section, must be made by (i) a document of gift signed by the person or (ii) the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(4) An anatomical gift by a person authorized under subsection (1) of this section, may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(5) A failure to make an anatomical gift under subsection (1) of this section, is not an objection to the making of an anatomical gift.

39-3405. AUTHORIZATION BY CORONER OR LOCAL PUBLIC HEALTH OFFICIAL. (1) The coroner may release and permit the removal of a part from a body within that official's custody, for transplantation or therapy if:

(a) The official has received a request for the part from a hospital, physician, surgeon, or procurement organization;

(b) The official has made a reasonable effort, taking into account the useful life of the part, to locate and examine the decedent's medical records and inform persons listed in section 39-3404(1), Idaho Code, of their option to make, or object to making, an anatomical gift;

(c) The official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to

act as listed in section 39-3404(1), Idaho Code;

(d) The removal will be by a physician, surgeon, or technician; but in the case of eyes by one of them or by an enucleator;

(e) The removal will not interfere with any autopsy or investigation;

(f) The removal will be in accordance with accepted medical standards; and

(g) Cosmetic restoration will be done, if appropriate.

(2) If the body is not within the custody of the coroner, the local public health officer may release and permit the removal of any part from a body in the local public health officer's custody for transplantation or therapy if the requirements of subsection (1) of this section are met.

(3) An official releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.

39-3406. ROUTINE INQUIRY AND REQUIRED REQUEST -- SEARCH AND NOTIFICATION. (1) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss the option to make or refuse to make an anatomical gift and request the making of an anatomical gift pursuant to section 39-3404(1), Idaho Code. The request must be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in section 39-3407, Idaho Code. An entry must be made in the medical record of the patient, stating the name and affiliation of the individual making the request, and of the name, response, and relationship to the patient of the person to whom the request was made. The director of the department of health and welfare shall adopt regulations to implement this subsection.

(2) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(a) A law enforcement officer, fireman, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death; and

(b) A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

(3) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (3)(a) of this subsection, and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents and the document or other evidence must be sent to the hospital.

(4) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to section 39-3404(1), Idaho Code, or a release and removal of a part has been permitted pursuant to section 39-3405, Idaho Code, or that a patient

or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(5) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

39-3407. PERSONS WHO MAY BECOME DONEES -- PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE. (1) The following persons may become donees of anatomical gifts 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:

(a) A hospital, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science;

(b) An accredited medical or dental school, college, or university for education, research, advancement of medical or dental science; or

(c) A designated individual for transplantation or therapy needed by that individual.

(2) An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital.

(3) If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under section 39-3404(1), Idaho Code, the donee may not accept the anatomical gift.

39-3408. DELIVERY OF DOCUMENT OF GIFT. (1) Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

(2) If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

39-3409. RIGHTS AND DUTIES AT DEATH. (1) Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under section 39-3412(1), Idaho Code. Subject to the certification requirements of section 39-2307, Idaho Code, a donee may accept or reject an anatomical gift. If a donee accepts

an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and before 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 person under obligation to dispose of the body.

(2) The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to section 39-3403(4), Idaho Code.

(3) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

39-3410. COORDINATION OF PROCUREMENT AND USE. Each hospital in this state, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

39-3411. SALE OR PURCHASE OF PARTS PROHIBITED. (1) A person may not knowingly, for valuable consideration purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

(2) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

(3) A person who violates this section is guilty of a felony and upon conviction is subject to a fine not exceeding fifty thousand dollars ($50,000) or imprisonment not exceeding five (5) years, or both.

39-3412. EXAMINATION -- AUTOPSY -- LIABILITY. (1) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(2) The provisions of this chapter are subject to the laws of this state governing autopsies.

(3) A hospital, physician, surgeon, coroner, local public health officer, enucleator, technician, or other person, who acts in accordance with this chapter or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(4) An individual who makes an anatomical gift pursuant to section 39-3403 or 39-3404, Idaho Code, and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

39-3413. FORMS FOR ANATOMICAL GIFT. (1) A form substantially as follows is sufficient to comply with the provisions of this chapter for the making of an anatomical gift by a living donor, refusal to

make such a gift, and the form which may be attached to a driver's license:

ANATOMICAL GIFT BY A LIVING DONOR

Pursuant to the Anatomical Gift Act, upon my death, I hereby give (check boxes applicable):

1. [ ] Any needed organs, tissues, or parts;
2. [ ] The following organs, tissues, or parts only_____;
3. [ ] For the following purposes only

_____.
(transplant-therapy-research-education)

_____ _____
Date of Birth Signature of Donor

_____ _____
Date Signed Address of Donor

Pursuant to the Anatomical Gift Act, I hereby refuse to make any anatomical gift.

_____ _____
Date of Birth Signature of Declarant

_____ _____
Date of Signing Address of Declarant

_____
Print or Type Name of Donor

Pursuant to the Anatomical Gift Act, upon my death, I hereby give (check boxes applicable):

1. [ ] Any needed organs, tissues, or parts;
2. [ ] The following organs, tissues, or parts only_____;
3. [ ] For the following purposes only

_____;
(transplant-therapy-research-education)

Refusal:

4. [ ] I refuse to make any anatomical gift.

_____
Signature

(2) A form substantially as follows is sufficient to comply with the provisions of this chapter for the making of an anatomical gift by next of kin or other authorized person:

Anatomical Gift by Next of Kin
or Guardian of the Person

Pursuant to the Uniform Anatomical Gift Act, I hereby make this anatomical gift from the body of

_____ who died on _____ at _____ in _____.
Name of Decedent Date Place City/State

The marks in the appropriate squares and the words filled into the blanks below indicate my relationship to the decedent and my wishes respecting the gift.

I survive the decedent as [ ] spouse; [ ] adult son or daughter; [ ] adult brother or sister; [ ] grandparents [ ] guardian of the person.

I hereby give (check boxes applicable):

1.[ ] Any needed organs, tissues, or parts;
2.[ ] The following organs, tissues, or parts only_____;
3.[ ] For the following purposes only
_____.

_____ _____
Date Signature of Survivor

_____
Address of Survivor

39-3414. TRANSITIONAL PROVISIONS. This chapter applies to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after the effective date of this chapter.

39-3415. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

39-3416. SEVERABILITY. If any provision of this chapter or its application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

39-3417. SHORT TITLE. This chapter may be cited as the "Uniform Anatomical Gift Act of 1989".

Approved March 29, 1989.

CHAPTER 238
(S.B. No. 1123)

AN ACT

RELATING TO DUTIES OF THE STATE TREASURER; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1222, IDAHO CODE, TO PROVIDE THAT AN ENTITY OF GOVERNMENT SHALL SUBMIT A REPORT TO THE STATE TREASURER CONTAINING INFORMATION ABOUT BOND ISSUES OF THE ENTITY.

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

SECTION 1. That Chapter 12, 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 67-1222, Idaho Code, and to read as follows:

67-1222. REPORTS TO BE FILED -- BOND ISSUES. Any department or agency of the state of Idaho, political subdivision, municipal corporation, state university or college, school or other special district, joint agreement entity, public authority, public trust, nonprofit corporation or other organization authorized by the laws of the state of Idaho to issue bonds shall submit to the state treasurer a report as required by this section. The report shall include, but not be limited to, the following information: the borrower, the amount of the issue, interest dates including coupon and yield to investor, date of the bonds, maturity schedule including the amount and date, the redemption features, bond counsel, financial advisor, the costs to issue including fees and underwriter's compensation, and a description of the project to be financed. The state treasurer shall promulgate regulations necessary to implement the provisions of this section.

Approved March 29, 1989.

CHAPTER 239
(S.B. No. 1134)

AN ACT

RELATING TO FORMAL REQUISITES OF FINANCING STATEMENTS IN SECURED TRANSACTIONS; AMENDING SECTION 28-9-402, IDAHO CODE, TO PROVIDE FURTHER HOW FINANCING STATEMENTS MAY BE AMENDED.

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

SECTION 1. That Section 28-9-402, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-402. FORMAL REQUISITES OF FINANCING STATEMENTS -- AMENDMENTS --MORTGAGE AS FINANCING STATEMENT. (1) Except as provided in subsection (9) of this section, a financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 28-9-103, or when the financing statement is filed as a fixture filing (section 28-9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so pro-

vides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) Proceeds under section 28-9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) Collateral as to which the filing has lapsed; or

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor) .....

Address .....

Name of secured party (or assignee) .....

Address .....

1. This financing statement covers the following types (or items) of property:

(Describe) .....

2. (If applicable) The above goods are to become fixtures on:

(Describe Real Estate) .....

and this financing statement is to be filed in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is .....

3. (If the collateral is timber to be cut) The above described timber is standing on:

(Describe Real Estate).....

and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is.....

4. (If the collateral is minerals or the like) The above described minerals (or the like) are located on:

(Describe Real Estate).....

and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is.....

5. (If products of collateral are claimed) Products of the collateral are also covered. Signature of Debtor (or Assignor, whichever is applicable).....

Signature of Secured Party (or Assignee).....

(4) A financing statement may be amended as follows:

(a) A financing statement may be amended by filing a writing signed by both the debtor and the secured party, except as provided in paragraph (b) of this subsection. An amendment does not extend the period of effectiveness of a financing statement. If

any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this chapter, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(b) A financing statement other than a financing statement for farm products may be amended by filing a writing signed only by the secured party of record if the amendment consists of no more than a change of the secured party's name or address, a change of the debtor's address, a subordination of the secured party's interest in the collateral to the interest of a junior secured party, or a combination of the foregoing functions.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 28-9-103, or a financing statement filed as a fixture filing (section 28-9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, (d) the mortgage is duly recorded, and (e) the mortgage is filed in the same manner as a financing statement.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor or even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

(9) A financing statement for farm products is sufficient if it contains the following information:

(a) The name and address of the debtor;

(b) The debtor's signature;

(c) The name, address, and signature of the secured party;

(d) The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the debtor's Internal Revenue Service taxpayer identification number;

(e) A description by category of the farm products subject to the security interest and the amount of such products (where applicable);

(f) A reasonable description of the real estate where the farm products are produced or located. This provision may be satisfied by a description of the county(ies), and a legal description is not required.

(10) A financing statement described in subsection (9) must be amended in writing within three (3) months, and similarly signed and filed, to reflect any material changes. In the event such form is not incorporated within the financing statement, the effectiveness and continuation of that form is to be treated as if it were a part of the financing statement with which it is filed.

Approved March 29, 1989.

CHAPTER 240
(S.B. No. 1135, As Amended)

AN ACT

RELATING TO NONPROFIT CORPORATIONS; AMENDING SECTION 30-306, IDAHO CODE, TO PROVIDE THAT NONPROFIT CORPORATIONS MAY BE ORGANIZED FOR ANY LAWFUL PURPOSE OR PURPOSES, WHICH PURPOSES SHALL BE FULLY STATED IN THE ARTICLES OF INCORPORATION.

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

SECTION 1. That Section 30-306, Idaho Code, be, and the same is hereby amended to read as follows:

30-306. PURPOSE. (a) Except as otherwise provided in this act, nonprofit corporations may be organized under this act for any lawful purpose or purposes, which purposes shall be fully stated in the articles of incorporation. ~~Such purpose or purposes may include, without being limited to, any of the following: charitable, benevolent, religious, eleemosynary, patriotic, civic, missionary, educational, scientific, social, fraternal, athletic, aesthetic, agricultural, animal husbandry, and the conduct of professional, commercial, industrial, or trade associations.~~

(b) No corporation may be organized under this act or obtain authority to conduct its affairs in this state under this act:

(1) If any one or more of its purposes for the conduct of its affairs in this state is to engage in any activity in which it cannot lawfully engage without first obtaining a license, and such a license cannot lawfully be granted to the corporation.

(2) If any of its purposes for the conduct of its affairs in this

state is to operate an insurance company subject to the insurance laws of this state.

Approved March 29, 1989.

CHAPTER 241
(S.B. No. 1139)

AN ACT

RELATING TO THE LAWS REGARDING GUARDIANSHIPS AND CONSERVATORSHIPS; AMENDING SECTION 15-5-501, IDAHO CODE, TO DELETE ADVANCED AGE AS AN IMPAIRMENT; AMENDING SECTION 15-5-312, IDAHO CODE, TO REVISE REPORTING REQUIREMENTS FOR GUARDIANS; AMENDING SECTION 15-5-401, IDAHO CODE, TO DELETE ADVANCED AGE AS A REASON FOR APPOINTMENT OF A CONSERVATOR; AND AMENDING SECTION 15-5-419, IDAHO CODE, TO REVISE REPORTING REQUIREMENTS FOR GUARDIANS OR CONSERVATORS.

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

SECTION 1. That Section 15-5-101, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-101. DEFINITIONS AND USE OF TERMS. Unless otherwise apparent from the context, in this code:

(a) "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, ~~advanced age,~~ chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, provided, that the term shall not refer to a developmentally disabled person as defined in section 66-402(4), Idaho Code;

(b) A "protective proceeding" is a proceeding under the provisions of section 15-5-401 of this code to determine that a person cannot effectively manage or apply his estate to necessary ends, either because he lacks the ability or is otherwise inconvenienced, or because he is a minor, and to secure administration of his estate by a conservator or other appropriate relief;

(c) A "protected person" is a minor or other person for whom a conservator has been appointed or other protective order has been made;

(d) A "ward" is a person for whom a guardian has been appointed. A "minor ward" is a minor for whom a guardian has been appointed solely because of minority.

SECTION 2. That Section 15-5-312, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-312. GENERAL POWERS AND DUTIES OF GUARDIAN. (a) A guardian

of an incapacitated person has the powers and responsibilities of a parent who has not been deprived of custody of his unemancipated minor child except that a guardian is not legally obligated to provide from his own funds for the ward and is not liable to third persons for acts of the ward. In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court when the guardianship is limited:

(1) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, he is entitled to custody of the person of his ward and may establish the ward's place of abode within or without this state.

(2) If entitled to custody of his ward he shall make provision for the care, comfort and maintenance of his ward, and, whenever appropriate, arrange for his training and education. Without regard to custodial rights of the ward's person, he shall take reasonable care of his ward's clothing, furniture, vehicles and other personal effects and commence protective proceedings if other property of his ward is in need of protection.

(3) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service.

(4) If no conservator for the estate of the ward has been appointed, he may:

(A) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform his duty;

(B) receive money and tangible property deliverable to the ward and apply the money and property for support, care and education of the ward; but, he may not use funds from his ward's estate for room and board which he, his spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one (1) of the next of kin of the incompetent ward, if notice is possible. He must exercise care to conserve any excess for the ward's needs.

(5) A guardian ~~is--required-to-report-the-condition-of-his-ward and-of-the-estate-which-has-been-subject-to-his-possession-or-control,-as-required-by-the-court-or-court-rule~~ shall be required to report as provided in section 15-5-419, Idaho Code.

(6) If a conservator has been appointed, all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the conservator for management as provided in this code, and the guardian must account to the conservator for funds expended.

(b) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward, and is entitled to receive reasonable sums for his services and for room and board furnished to the ward as agreed upon between him and the conservator, provided the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the

ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(c) A guardian may delegate certain of his responsibilities for decisions affecting the ward's well-being to the ward when reasonable under all of the circumstances.

SECTION 3. That Section 15-5-401, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-401. PROTECTIVE PROCEEDINGS. Upon petition and after notice and hearing in accordance with the provisions of this Part, the court may appoint a conservator or make other protective order for cause as follows:

(a) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money or property that requires management or protection which cannot otherwise be provided, has or may have business affairs which may be jeopardized or prevented by his minority, or that funds are needed for his support and education and that protection is necessary or desirable to obtain or provide funds.

(b) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court determines that (1) the person is unable to manage his property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, ~~advanced age,~~ chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance; and (2) the person has property which will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by him and that protection is necessary or desirable to obtain or provide funds.

SECTION 4. That Section 15-5-419, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-419. ACCOUNTS AND REPORTS. Every conservator or guardian shall submit a written annual report to the court concerning the status of the ward and of the ward's estate that has been under the guardian's or conservator's control. The guardian or conservator shall also be required to provide copies of the report to all persons listed by the court as having an interest in receiving copies of the report. The court may order more frequent reports by its own ruling or pursuant to a petition of any person interested in the ward's welfare. Every conservator must account to the court for his administration of the trust upon his resignation or removal~~, and at other times as the court may direct~~. On termination of the protected person's minority or disability, a conservator ~~may~~ shall account to the court~~, or he may~~ and shall account to the former protected person or his personal representative. Subject to appeal or vacation within the time permitted, an order, made upon notice and hearing, allowing an intermediate account of a conservator, adjudicates as to his liabilities concerning the matters considered in connection therewith; and an

order, made upon notice and hearing, allowing a final account adjudicates as to all previously unsettled liabilities of the conservator to the protected person or his successors relating to the conservatorship. In connection with any account, the court may require a conservator to submit to a physical check of the estate in his control, to be made in any manner the court may specify.

Approved March 29, 1989.

CHAPTER 242
(S.B. No. 1146)

AN ACT

RELATING TO THE LEVY OF ASSESSMENT ON THE SCALE OF ALL FOREST PRODUCTS HARVESTED WITHIN THE STATE OF IDAHO; AMENDING SECTION 38-1209, IDAHO CODE, TO INCREASE THE MAXIMUM SCALING ASSESSMENT.

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

SECTION 1. That Section 38-1209, Idaho Code, be, and the same is hereby amended to read as follows:

38-1209. LEVY OF ASSESSMENT -- BUDGET -- HEARING -- FUNDS -- BOND OF SECRETARY -- SALARY. (a) The board is hereby authorized and directed to levy an assessment on the scale of all forest products harvested within the state of Idaho in an amount not to exceed ~~eleven~~ thirteen cents (1~~1~~3¢) per thousand (1,000) board feet, provided that no such assessment shall be levied more than once on any forest product. The board shall set times and places for its meetings and shall hold not less than four (4) meetings in each calendar year. The board shall designate a meeting date on which a budget shall be adopted and assessment shall be levied. Notice of such meeting shall be given thirty (30) days prior thereto in a newspaper of general circulation throughout the state. The board shall designate and levy an assessment as herein provided to raise moneys necessary to fund operations of the board and the state scaling program established by this chapter based upon the budget adopted and notice of such levy shall be given in the notice of the budget. The budget and assessment shall become effective upon adoption by the board. In the event a written request is made therefor by any interested person within thirty (30) days after notice of the budget and assessment has been published, the board shall set a time and place for a hearing at which any person may submit recommendations for changes in the budget and the assessment. Thereafter the board shall either confirm or modify the budget and assessment and cause notice of such action to be published in a newspaper of general circulation throughout the state within ten (10) days after such action. If the budget or the assessment is modified, the modification shall become effective upon publication. Such hearing shall be held not later than thirty (30) days after receipt of a written request

therefor.

(b) The assessment herein provided shall be levied against and paid by the purchaser. The term "purchaser" as used herein shall also include the owner of the timber where the owner processes or utilizes the forest products in its operations or where the owner sells forest products outside the state of Idaho and the forest products are scaled within the state of Idaho, provided that the assessment provided in this chapter shall not be levied against the United States of America, nor any unit nor agency thereof. The assessment shall be transmitted to the board on or before the twentieth day of each month for all timber harvested during the previous month.

(c) The secretary of the board shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the state treasurer, who shall keep such moneys in a separate account to be known as the "state scaling account," which is hereby created in the state treasury. Such account shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only on approval of the board. All moneys in the "state scaling account" are hereby continually appropriated for the use of the board. The board may establish, maintain and use a rotary fund as provided by state law. The secretary of the board shall give a surety bond to the state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board, and shall be paid out of the "state scaling account." The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided in section 38-1205, Idaho Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this account for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this act. All warrants on said "state scaling account" shall be drawn by the state auditor on vouchers by the board and the state board of examiners.

Approved March 29, 1989.

CHAPTER 243
(S.B. No. 1150)

AN ACT

RELATING TO REPORTING OF MALICIOUS HARASSMENT CRIMES; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2905, IDAHO CODE, TO REQUIRE THE DIRECTOR OF LAW ENFORCEMENT TO COLLECT STATISTICS AND TO PREPARE AN ANNUAL REPORT ON MALICIOUS HARASSMENT CRIMES.

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

SECTION 1. That Chapter 29, Title 67, Idaho Code, be, and the

same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2905, Idaho Code, and to read as follows:

67-2905. STATISTICAL REPORT OF MALICIOUS HARASSMENT CRIMES. The director of law enforcement shall annually submit to the governor and the chairman of the judiciary and rules committee in the senate and the chairman of the judiciary, rules and administration committee in the house of representatives a report on malicious harassment crimes, as that crime is defined in section 18-7902, Idaho Code. Report content shall be limited to statistical data and shall be presented in conformance with the provisions of section 9-335, Idaho Code.

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

Approved March 29, 1989.

CHAPTER 244
(S.B. No. 1165)

AN ACT

RELATING TO WORKMEN'S COMPENSATION; AMENDING SECTION 72-706, IDAHO CODE, TO CLARIFY THE TIME WITHIN WHICH AN APPLICATION FOR HEARING MAY BE FILED IN CASES WHERE COMPENSATION HAS BEEN PAID AND THEREAFTER DISCONTINUED.

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

SECTION 1. That Section 72-706, Idaho Code, be, and the same is hereby amended to read as follows:

72-706. LIMITATION ON TIME ON APPLICATION FOR HEARING. (1) When no compensation paid. When a claim for compensation has been made and no compensation has been paid thereon, the claimant, unless misled to his prejudice by the employer or surety, shall have one (1) year from the date of making claim within which to make and file with the commission an application requesting a hearing and an award under such claim.

(2) When compensation discontinued. When payments of compensation have been made and thereafter discontinued, the claimant shall have five (5) years from the date of the accident causing the injury or date of first manifestation of an occupational disease, or, if compensation is discontinued more than ~~five~~ four (~~5~~4) years from the date of the accident causing the injury or the date of first manisfestation of an occupational disease, within one (1) year from the date of the last

payment of compensation, within which to make and file with the commission an application requesting a hearing for further compensation and award.

(3) Relief barred. In the event an application is not made and filed as in this section provided, relief on any such claim shall be forever barred.

Approved March 29, 1989.

CHAPTER 245
(S.B. No. 1169)

AN ACT

RELATING TO TRAVEL AGENTS SELLING INSURANCE; AMENDING SECTION 41-1046, IDAHO CODE, TO EXEMPT OWNERS OR EMPLOYEES OF TRAVEL AGENCIES SELLING CERTAIN TYPES OF INSURANCE TO CUSTOMERS 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 thereto-

fore 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 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 employees or owners of travel agencies if the employee's or owner's license allows the sale of travel or trip insurance to customers booking travel plans with the travel agency, or 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 March 29, 1989.

CHAPTER 246
(S.B. No. 1176)

AN ACT

RELATING TO MONEYS PAID TO JAPANESE-AMERICANS FOR REPARATIONS FOR WORLD WAR II DISPLACEMENT; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022G, IDAHO CODE, TO PROVIDE THAT MONEYS PAID TO ELIGIBLE INDIVIDUALS PURSUANT TO PUBLIC LAW 100-383 SHALL NOT BE INCLUDED AS TAXABLE INCOME FOR PURPOSES OF THE STATE INCOME TAX ACT; 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 63-3022G, Idaho Code, and to read as follows:

63-3022G. MONEYS PAID TO JAPANESE-AMERICANS FOR REPARATIONS FOR

WORLD WAR II DISPLACEMENT. (1) Amounts paid to eligible individuals shall not be included as taxable income for purposes of this chapter if the payment was made from the United States civil liberties public education fund which is created by public law 100-383 (102 Stat. 905).

(2) As used in this section, the term "eligible individual" means any living individual of Japanese ancestry who, during the evacuation, relocation and internment period was a United States citizen or a permanent resident alien, and who was confined, held in custody, relocated or otherwise deprived of liberty or property as a result of:

(a) Executive order number 9066 dated February 19, 1942;

(b) The act entitled "An act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving or committing any act in military areas or zones" approved March 21, 1942 (56 Stat. 173); or

(c) Any other executive order, presidential proclamation, law of the United States, directive of the armed forces of the United States or other action made by or on behalf of the United States or its agents, representatives, officers or employees respecting the evacuation, relocation or internment of individuals solely on the basis of Japanese ancestry.

(3) As used in this section, the term "evacuation, relocation and internment period" means that period beginning on December 7, 1941, and ending on June 30, 1946.

(4) As used in this section the term "permanent resident alien" means an alien lawfully admitted into the United States for permanent residence.

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 29, 1989.

CHAPTER 247
(S.B. No. 1177)

AN ACT

RELATING TO PROCEDURE FOR VACATION OF PLATS; AMENDING SECTION 50-1306A, IDAHO CODE, TO EXEMPT VACATION OF CEMETERY PLATS FROM THE REQUIREMENT OF WRITTEN NOTICE TO PROPERTY OWNERS.

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

SECTION 1. That Section 50-1306A, Idaho Code, be, and the same is hereby amended to read as follows:

50-1306A. VACATION OF PLATS -- PROCEDURE. (1) When any person, persons, firm, association or corporation may desire to vacate a plat

or any part thereof which is inside or within one (1) mile of the boundaries of any city, it shall be lawful for such person, persons, firm, association or corporation to petition the city council to vacate. Such petition shall set forth particular circumstances of the requests to vacate; contain a legal description of the platted area or property to be vacated; the names of the persons affected thereby, and said petition shall be filed with the city clerk.

(2) Written notice of public hearing on said petition shall be given, by certified mail with return receipt, at least ten (10) days prior to the date of public hearing to all property owners within three hundred (300) feet of the boundaries of the area described in the petition. Such notice of public hearing shall also be published once a week for two (2) successive weeks in the official newspaper of the city, the last of which shall be not less than seven (7) days prior to the date of said hearing; provided, however, that in a proceeding as to the vacation of all or a portion of a cemetery plat where there has been no internment, or in the case of a cemetery being within three hundred (300) feet of another plat for which a vacation is sought, publication of the notice of hearing shall be the only required notice as to the property owners in the cemetery.

(3) When the procedures set forth herein have been fulfilled, the city council may grant the request to vacate with such restrictions as they deem necessary in the public interest.

(4) When the platted area lies more than one (1) mile beyond the city limits, the procedures set forth herein shall be followed with the county commissioners of the county wherein the property lies. The county commissioners shall have authority, comparable to the city council, to grant the vacation, provided, however, when the platted area lies beyond one (1) mile of the city limits, but adjacent to a platted area within one (1) mile of the city, consent of the city council of the affected city shall be necessary in granting any vacation by the county commissioners.

(5) In the case of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and slope purposes, public notice of intent to vacate is not required. Vacation of these easements shall occur upon the recording of the new or amended plat, provided that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing.

All publication costs shall be at the expense of the petitioner.

Approved March 29, 1989.

CHAPTER 248
(S.B. No. 1178)

AN ACT

RELATING TO ASSESSMENT OF PERSONAL PROPERTY; AMENDING SECTION 63-1203, IDAHO CODE, TO PROVIDE TIME LIMITS FOR ASSESSMENT OF PERSONAL

PROPERTY AND TO PROVIDE PROPER NOMENCLATURE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-1203, Idaho Code, be, and the same is hereby amended to read as follows:

63-1203. ASSESSMENT OF PERSONAL PROPERTY. (1) The assessor shall assess all personal property required by this act to be entered on the personal property assessment roll, between the first day of January and the ~~first~~ fourth Monday of ~~July~~ June in each year, and shall complete the assessment on or before the first Monday in July and file the roll with the clerk of the board of county commissioners. ~~He~~

(2) The assessor shall assess and enter on a subsequent roll ~~to be--by-him-verified-in-the-manner-provided-for-the-verification-of-the personal-property-assessment-roll,~~ all personal property which comes into the county, between the ~~first~~ fourth Monday of ~~July~~ June and the fourth Monday of November of each year which has not been assessed, and all personal property which has during the year escaped assessment, and shall immediately deliver the subsequent roll to the board of commissioners which shall then meet as a board of equalization as provided in section 63-1904, Idaho Code; and further, if any other personal property is discovered, it shall be assessed and entered on a second subsequent roll between the fourth Monday of November and December 31, and such second subsequent roll shall be immediately delivered to the board of county commissioners which shall meet as a board of equalization as provided in section 63-1904, Idaho Code. Upon adjournment of the board of equalization the county auditor shall, without delay, compute and enter the amount of tax due thereon and deliver the roll to the tax collector and charge him with the amount thereof.

(3) In making ~~such~~ assessments of personal property, the assessor shall actually determine, as nearly as practicable from the information provided to him by the taxpayer's declaration, the market value for assessment purposes of each piece of personal property assessed and shall enter the market value for assessment purposes of such personal property in appropriate columns, after the name of the owner of such property, if known, otherwise after unknown owner. The tax levies shall be extended on the aggregate market value for assessment purposes of the property, after deducting the amount of any exemptions allowed.

(4) The following manufactured homes are specifically exempt from the ~~operation~~ provisions of this section, (a) manufactured homes eligible to be used under a dealer's license plate; (b) manufactured homes designated as sheep camps or cow camps; and (c) units defined as recreational vehicles.

SECTION 2. This act shall be in full force and effect on and after January 1, 1990.

Approved March 29, 1989.

CHAPTER 249
(S.B. No. 1199)

AN ACT

RELATING TO DEPOSIT AND INVESTMENT OF FUNDS; AMENDING CHAPTER 10, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1013A, IDAHO CODE, REQUIRING CITIES WITH DEFERRED COMPENSATION PLANS TO ADHERE TO THE PRUDENT MAN INVESTMENT ACT, CHAPTER 5, TITLE 68, IDAHO CODE, IN THE INVESTMENT OF DEFERRED COMPENSATION PLAN DEPOSITS.

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

SECTION 1. That Chapter 10, 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 50-1013A, Idaho Code, and to read as follows:

50-1013A. INVESTMENT OF DEPOSITS OF DEFERRED COMPENSATION PLANS. A municipal corporation, in administering a deferred compensation plan, shall be governed by the prudent man investment act, sections 68-501 through 68-506, Idaho Code.

Approved March 29, 1989.

CHAPTER 250
(S.B. No. 1229, As Amended)

AN ACT

RELATING TO CEMETERY MAINTENANCE DISTRICTS; AMENDING SECTION 27-119, IDAHO CODE, TO PROVIDE FOR THE OPTIONAL PAYMENT OF PER DIEM COMPENSATION TO DISTRICT COMMISSIONERS.

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

SECTION 1. That Section 27-119, Idaho Code, be, and the same is hereby amended to read as follows:

27-119. COMPENSATION AND EXPENSES OF CEMETERY MAINTENANCE BOARD COMMISSIONERS. The cemetery maintenance board commissioners ~~shall~~ may receive ~~no~~ compensation of not more than twenty-five dollars ($25.00) per day for each day spent engaged in meetings or on district business authorized by the board; provided that no commissioner shall receive per diem payments totaling more than one thousand dollars ($1,000) during any fiscal year of the district for their services as commissioners ~~but~~. Commissioners also shall receive the amount of their actual and necessary expenses incurred in the performance of their official duties. The board shall fix the compensation, if any, to be

paid to the commissioners and other officers named in this chapter, and of the agents and employees of the board to be paid out of the treasury of the district.

Approved March 29, 1989.

CHAPTER 251
(S.B. No. 1244)

AN ACT

RELATING TO THE SALARIES OF THE STATE ELECTIVE OFFICERS; AMENDING 59-501, IDAHO CODE, TO ADJUST THE SALARIES OF THE STATE ELECTIVE OFFICERS FOR THE TERM COMMENCING IN JANUARY OF 1991; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 59-501, Idaho Code, be, and the same is hereby amended to read as follows:

59-501. SALARIES OF STATE ELECTIVE OFFICERS -- REGULAR PAYMENT -- TRAVELING EXPENSES -- FEES PROPERTY OF STATE. The governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general and superintendent of public instruction shall, during their continuance in office, and commencing on the first Monday in January, 198~~7~~91 receive for their services compensation as follows:

Governor, ~~$55,000~~ 75,000 per annum;

Lieutenant governor, ~~$15,000~~ 20,000 per annum;

Secretary of state, ~~$45,000~~ 62,500 per annum;

State auditor, ~~$45,000~~ 62,500 per annum; said salary to be audited by the legislative auditor;

Attorney general, ~~$48,000~~ 67,500 per annum;

State treasurer, ~~$45,000~~ 62,500 per annum; and

State superintendent of public instruction, ~~$45,000~~ 62,500 per annum.

Such compensation shall be paid on regular pay periods as due out of the state treasury, and shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office; but no increase of compensation shall affect the salaries of such officers during their present terms of office; provided, however, that the actual and necessary expenses of the governor, lieutenant governor, secretary of state, attorney general, state auditor, state treasurer, and superintendent of public instruction while traveling within the state, or between points within the state, in the performance of official duties, shall be allowed and paid by the state; not however, exceeding such sum as shall be appropriated for such purpose.

Actual and necessary subsistence expenses of the governor while traveling in connection with the performance of official duties are

hereby expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code. (Standard Travel Pay and Allowance Act of 1949).

No officer named in this section shall receive, for the performance of any official duty any fee for his own use, but all fees fixed by law for the performance by either of them, of any official duty, shall be collected in advance and deposited with the state treasurer to the credit of the state.

SECTION 2. This act shall be in full force and effect on and after the first Monday in January, 1991.

Approved March 29, 1989.

CHAPTER 252
(S.B. No. 1255, As Amended)

AN ACT

RELATING TO BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATIONS; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 27, TITLE 26, IDAHO CODE, TO PROVIDE PURPOSES OF THE CHAPTER, TO PROVIDE DEFINITIONS, TO PROVIDE POWERS OF THE DIRECTOR, TO PROVIDE AN APPLICATION FOR LICENSURE PROCEDURE, TO PROVIDE FEES, TO REQUIRE RECORD KEEPING AND INDEPENDENT AUDITS, TO REQUIRE AN ANNUAL REPORT TO THE LEGISLATURE, TO REQUIRE AN ANNUAL LICENSE REVIEW BY THE DIRECTOR, TO PROVIDE REQUIREMENTS FOR LICENSURE, TO PROVIDE FOR PRELIMINARY APPROVAL, TO RESTRICT THE USE OF THE "BIDCO" NAME, TO PROVIDE FOR DUAL LICENSURE, TO PROVIDE FOR SURRENDER OF LICENSE, TO PROVIDE THAT BIDCO MUST BE SUED IN THE CORPORATE NAME AND TO PROVIDE FOR DIRECTORS, TO REQUIRE IN-STATE OFFICES, TO PROVIDE RESTRICTIONS ON BIDCO BUSINESS ACTIVITIES, TO PROVIDE FORMS OF FINANCIAL ASSISTANCE, TO PROVIDE REQUIREMENTS FOR ACQUISITION OF ANOTHER FIRM BY A BIDCO, TO REQUIRE SOUND BUSINESS PRACTICES, TO PROHIBIT CONFLICT OF INTEREST, TO REQUIRE PRIOR APPROVAL BY THE DIRECTOR BEFORE A BIDCO CAN BE ACQUIRED, TO PROVIDE REQUIREMENTS FOR MERGERS INVOLVING BIDCOS, TO PROVIDE POWERS TO THE DIRECTOR FOR THE ENFORCEMENT OF THE CHAPTER, TO ALLOW THE DIRECTOR TO REMOVE A SUBJECT PERSON UPON A VIOLATION OF THE CHAPTER, TO ALLOW THE DIRECTOR TO REMOVE A SUBJECT PERSON UPON THAT PERSON'S INDICTMENT OR FELONY CONVICTION, TO ALLOW THE DIRECTOR TO MAKE DISCLOSURES TO SHAREHOLDERS AND BOARD MEMBERS, TO ALLOW THE DIRECTOR TO STOP A FINANCIALLY AILING BIDCO FROM GIVING FINANCIAL ASSISTANCE, TO ALLOW THE DIRECTOR TO APPOINT A TRUSTEE AND IF REQUIRED LIQUIDATE A BIDCO, TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS OF THE CHAPTER, TO PROVIDE DEFINITIONS, TO PROVIDE A LIST OF PROHIBITED ACTS, EXCEPTIONS, AND PENALTIES, TO PROVIDE FOR LIBERAL CONSTRUCTION, ADMINISTRATIVE PROCEDURES, AND APPLICABILITY OF THE CHAPTER, AND TO PROVIDE A SHORT TITLE.

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

SECTION 1. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 27, Title 26, Idaho Code, and to read as follows:

CHAPTER 27
BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATIONS

26-2701. PURPOSE OF CHAPTER. The purposes of this chapter are to:

(1) Promote economic development by encouraging the formation of business and industrial development corporations, a new type of private institution, to help meet the financing assistance and management assistance needs of business firms in the state.

(2) Provide for a system of licensing, regulation, and enforcement that will enable business and industrial development corporations to satisfy eligibility requirements to participate, if they so choose, in the program of the small business administration pursuant to section 7(a) of the small business act, Public Law 85-536, 15 U.S.C. 636(a), and other programs for which they may be eligible.

(3) Provide for a system of licensing, regulation, and enforcement designed to prevent fraud, conflict of interest, and mismanagement, and to promote competent management, accurate record keeping, and appropriate communication with shareholders; in order to provide the following:

(a) Comfort to prospective shareholders so as to facilitate equity investments in business and industrial development corporations;

(b) Comfort to prospective debt sources so as to facilitate the borrowing of money by business and industrial development corporations; and

(c) Protection of the general reputation of business and industrial development corporations as a type of institution in order to increase the confidence of prospective equity investors in and prospective debt sources for those institutions.

It is hereby further declared that all of the foregoing are public purposes and uses for which public moneys may be expended or granted and that such activities are governmental functions and serve a public purpose in improving or otherwise benefiting the people of this state; that the necessity of enacting the provisions hereinafter set forth is in the public interest and is hereby so declared as a matter of express legislative determination.

26-2702. DEFINITIONS. For the purposes of this chapter:

(1) "Advisor" means a person who regularly provides legal, accounting, or management services or advice to a licensee.

(2) "Affiliate" means, if used with respect to a specified person other than a natural person, a person controlling or controlled by that specified person, or a person controlled by a person who also controls the specified person.

(3) "Associate" means, if used with respect to a licensee:

(a) A controlling person, director, officer, agent, or advisor of that licensee.

(b) A director, officer, or partner of a person referred to in paragraph (a).

(c) A person who controls, is controlled by, or is under common control with a person referred to in paragraph (a) directly or indirectly through one or more intermediaries.

(d) Any close relative of any person referred to in paragraph (a).

(e) A person of which a person referred to in paragraphs (a) through (d) is a director or officer.

(f) A person in which a person referred to in paragraphs (a) through (d), or any combination of those persons acting in concert, owns or controls, directly or indirectly, a twenty percent (20%) or greater equity interest.

(g) A person who is in a relationship referred to in this subsection, within six (6) months before or after a licensee provides financing assistance, shall be considered to be in that relationship as of the date that licensee provides that financing assistance.

(h) If a licensee, in order to protect its interests, designates a person to serve as a director of, officer of, or in any capacity in the management of a business firm to which that licensee provides financing assistance, that person shall not, on that account, be considered to have a relationship with that business firm. This subdivision does not apply if the person has, directly or indirectly, any other financial interest in the business firm or if the person, at any time before the licensee provides the financing assistance, served as a director of, officer of, or in any other capacity in the management of the business firm for a period of thirty (30) days or more.

(4) "BIDCO" means a business and industrial development corporation licensed under this chapter.

(5) "Business firm" means a person that transacts business on a regular and continual basis, or a person that proposes to transact business on a regular and continual basis.

(6) "Close relative" means parent, child, sibling, spouse, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law, or sister-in-law.

(7) "Closing services" means services performed in connection with the providing of financing assistance. Closing services includes, but is not limited to, appraising property and preparing credit reports. Closing services does not include a service performed after the providing of financing assistance.

(8) "Control" means, if used with respect to a specified person, the power to direct or cause the direction of, directly or indirectly through one or more intermediaries, the management and policies of that specified person, whether through the ownership of voting securities; by contract, other than a commercial contract for goods or nonmanagement services; or otherwise. A natural person shall not be considered to control a person solely on account of being a director, officer, or employee of that person. A person who, directly or indirectly, owns of record or beneficially holds with power to vote, or holds proxies with discretionary authority to vote, twenty percent

(20%) or more of the then outstanding voting securities issued by a corporation shall be rebuttably presumed to control that corporation.

(9) "Controlling person" means, if used with respect to a specified person, a person who controls that specified person, directly or indirectly through one or more intermediaries.

(10) "Corporate name" means the name of a corporation as set forth in the articles of incorporation of that corporation.

(11) "Department" means the department of finance.

(12) "Director" means the director of the department of finance.

(13) "Idaho corporation" means a corporation incorporated pursuant to title 30, Idaho Code.

(14) "Idaho nonprofit corporation" means a not-for-profit corporation incorporated pursuant to title 30, Idaho Code.

(15) "Incorporating statute" means that part of title 30, Idaho Code, under which a licensee is incorporated.

(16) "Insolvent" means a licensee that ceases to pay its debts in the ordinary course of business, that cannot pay its debts as they become due, or whose liabilities exceed its assets.

(17) "Interests of the licensee" includes the interests of shareholders of the licensee.

(18) "License" means a license issued under this chapter authorizing an Idaho corporation to transact business as a BIDCO.

(19) "Licensee" means an Idaho corporation which is licensed under this chapter.

(20) "Officer" means:

(a) If used with respect to a corporation, a person appointed or designated as an officer of that corporation by or pursuant to applicable law or the articles of incorporation, or bylaws of that corporation, or a person who performs with respect to that corporation functions usually performed by an officer of a corporation.

(b) If used with respect to a specified person other than a natural person or a corporation, a person who performs with respect to that specified person functions usually performed by an officer of a corporation with respect to that corporation.

(21) "Order" means an approval, consent, authorization, exemption, denial, prohibition, or requirement applicable to a specific case issued by the director. Order includes a condition of a license and an agreement made by a person with the director under this chapter.

(22) "Person" means an individual, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, cooperative, government, agency of a government, or any other organization. If used with respect to acquiring control of or controlling a specified person, person includes a combination of two (2) or more persons acting in concert.

(23) "Principal shareholder" means a person that owns, directly or indirectly, of record or beneficially, securities representing ten percent (10%) or more of the outstanding voting securities of a corporation.

(24) "Short-term financing assistance" means financing assistance with a term of not more than five (5) years.

(25) "Subject person" means a controlling person, subsidiary, or

affiliate of a licensee; a director, officer, or employee of a licensee or of a controlling person, subsidiary, or affiliate of a licensee; or any other person who participates in the conduct of the business of a licensee.

(26) "Subsidiary" means, if used with respect to a licensee, a company or business firm which the licensee holds control of as permitted by section 26-2718(1)(b), (c) or (d), Idaho Code.

(27) "This chapter" includes an order issued or rule promulgated under this chapter.

26-2703. POWERS OF DIRECTOR. (1) The director shall administer this chapter. The director may issue orders and promulgate rules that, in the opinion of the director, are necessary to execute, enforce, and effectuate the purposes of this chapter. Any rules promulgated shall be promulgated in accordance with chapter 52, title 67, Idaho Code. The director may promulgate rules pursuant to this chapter and chapter 52, title 67, Idaho Code, prior to the effective date of this chapter.

(2) Whenever the director issues an order or license under this chapter, the director may impose conditions that are necessary, in the opinion of the director, to carry out this chapter and the purposes of this chapter.

(3) The director may honor applications from interested persons for declaratory rulings regarding any provisions of this chapter and may seek declaratory judgments from a court of competent jurisdiction.

(4) Every final order, decision, license, or other official action of the director under this chapter is subject to judicial review in accordance with law.

(5) The director is hereby authorized to use a reasonable amount of excess funds, if the director deems them to be available, from the finance administrative account for the purpose of preparing and distributing informational materials describing the provisions of this chapter.

26-2704. APPLICATIONS -- INVESTIGATIONS -- SERVICE OF PROCESS. (1) An application filed with the director under this chapter shall be in such a form and contain such information as the director may require.

(2) The director may make public or private investigations within or outside this state that the director considers necessary to determine whether to approve an application filed with the director under the provisions of this chapter, to determine whether a person has violated or is about to violate the provisions of this chapter, to aid in the enforcement of the provisions of this chapter or to aid in issuing an order or promulgating a rule under this chapter.

(3) For purposes of an investigation, examination, or other proceeding under this chapter, the director may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the director considers relevant or material to the proceeding.

(4) If a person fails to comply with a subpoena issued by the director or to testify with respect to a matter concerning which the

person may be lawfully questioned, the court, on application of the director, may issue an order requiring the attendance of the person and the giving of testimony or production of evidence.

(5) Service of process authorized to be made by the director in connection with a noncriminal proceeding under this chapter may be made by registered or certified mail.

26-2705. FEES. (1) The director shall set the fees required under this chapter at a level sufficient to cover the department's expenses which arise due to the administration of the provisions of this chapter provided, the fees shall be set within the parameters set forth in this section.

(a) The fee for filing an application for a license shall not exceed twenty-five hundred dollars ($2,500).

(b) The fee for filing an application for approval to acquire control of a licensee shall not exceed twelve hundred and fifty dollars ($1,250).

(c) The fee for filing an application for approval for a licensee to merge with another corporation, an application for approval for a licensee to purchase all or substantially all of the business of another person, or an application for approval for a licensee to sell all or substantially all of its business or of the business of any of its offices to another licensee shall not exceed twelve hundred and fifty dollars ($1,250). If two (2) or more applications relating to the same merger, purchase, or sale are filed, the fee for filing each application shall be the quotient determined by dividing the applicable fee set by the director by the number of the applications.

(d) The annual fee for a licensee shall not exceed twenty-five hundred dollars ($2,500), payable on or before June 30 of each year.

(e) Whenever the director examines a licensee or a subsidiary of a licensee, within ten (10) days after receiving a statement from the director, the licensee shall pay a fee established by the director based on the number of examiner hours used for the examination, plus travel expenses. Examiner time shall be billed at a rate not less than twenty-five dollars ($25.00) per hour and not more than forty dollars ($40.00) per hour.

(2) A fee for filing an application with the director is nonrefundable and shall be paid at the time the application is filed with the director.

(3) A fee collected under this section shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code. Money in this account shall be used only for the operation of the department.

26-2706. REQUIRED RECORD KEEPING -- INDEPENDENT AUDIT -- APPLICATION TO OUTSIDE RECORD KEEPERS -- REPORT REQUIRED. (1) A licensee shall make and keep books, accounts, and other records in such a form and manner as the director may require. These records shall be kept at such a place and shall be preserved for such a length of time as the director may specify.

(2) The director may require by order that a licensee write down any asset on its books and records to a valuation which represents its then value. In addition, the director may require an appraisal of any assets of a licensee by an independent appraiser approved by the director.

(3) Not more than ninety (90) days after the close of each calendar year or a longer period if specified by the director, a licensee shall file with the director an audit report containing all of the following:

(a) Financial statements, including balance sheet, statement of income or loss, statement of changes in capital accounts, and statement of changes in financial position or, for a licensee that is an Idaho nonprofit corporation, comparable financial statements for, or as of the end of, the calendar year, prepared with an audit by an independent certified public accountant or an independent public accountant subject to approval by the director in accordance with generally accepted accounting principles.

(b) An unqualified report, certificate, or opinion of the independent certified public accountant or independent public accountant subject to approval by the director who performs the audit, stating that the financial statements were prepared in accordance with generally accepted accounting principles.

(c) Other information that the director may require.

(4) If a person other than a licensee makes or keeps the books, accounts, or other records of that licensee, this chapter applies to that person with respect to the performance of those services and with respect to those books, accounts, and other records to the same extent as if that person were the licensee.

(5) If a person other than an affiliate or subsidiary of a licensee makes or keeps any of the books, accounts, or other records of that affiliate or subsidiary, this chapter applies to that person with respect to those books, accounts, and other records to the same extent as if that person were the affiliate or subsidiary.

(6) If the director considers it expedient, the director may require any particular licensee to obtain the approval of the director before permitting another person to make or keep any of the books, accounts, or other records of the licensee.

(7) Each licensee, each affiliate of a licensee, and each subsidiary of a licensee shall file with the director such reports as and when the director may require. A report shall be in such a form and shall contain such information as the director may require.

26-2707. ANNUAL REPORT TO LEGISLATURE REQUIRED. (1) The director shall publish annually and provide to the house business committee and senate commerce and labor committee, or the appropriate germane legislative committees, information on the impact of this chapter in promoting economic development in this state. At the minimum, the information shall include aggregate statistics on each of the following:

(a) The number and dollar amount of provisions of financing assistance made by licensees to business firms.

(b) The number and dollar amount of provisions of financing assistance made by licensees to business firms classified in broad

categories of industry such as divisions of the standard industrial classification manual.

(c) The number and dollar amount of provisions of financing assistance made by licensees to minority owned business firms and to woman owned business firms.

(d) Estimates of the number of jobs created or retained.

(e) Estimates of the number and dollar amount of any financial assistance provided to licensed BIDCO's, or investments in individual licensed BIDCO's, for the purpose of fostering economic development by any state or federal agency, or by public or quasi-public entities, including the public employee retirement system.

26-2708. ANNUAL LICENSE REVIEW BY DIRECTOR. (1) The director shall examine each licensee not less than once each calendar year to determine whether or not the licensee is in compliance with the provisions of this chapter.

(2) The director may at any time examine a licensee or subsidiary of a licensee.

(3) A director, officer, or employee of a licensee or of a subsidiary of a licensee being examined by the director, or a person having custody of any of the books, accounts, or records of the licensee or of the subsidiary, shall exhibit to the director, on request, any of the books, accounts, and other records of the licensee or of the subsidiary and shall otherwise facilitate the examination so far as it is in their power to do so.

(4) If in the director's opinion it is necessary in the examination of a licensee or of a subsidiary of a licensee, the director may retain a certified public accountant, attorney, appraiser, or other person to assist the director. Within ten (10) days after receipt of a statement from the director, the licensee being examined shall pay the fees of a person retained by the director under this subsection.

26-2709. REQUIREMENTS FOR LICENSURE. (1) An Idaho corporation may apply to the director for licensure as a BIDCO. A person other than an Idaho corporation shall not apply for a license.

(2) After a review of information regarding the directors, officers, and controlling persons of the applicant, a review of the applicant's business plan, including at least three (3) years of detailed financial projections and other relevant information, and a review of additional information considered relevant by the director, the director shall approve an application for a license if, and only if, the director determines all of the following:

(a) The applicant has a net worth, or firm financing commitments which demonstrate that the applicant will have a net worth when the applicant begins transacting business as a BIDCO, in liquid form available to provide financing assistance, that is adequate for the applicant to transact business as a BIDCO as determined under subsection (3).

(b) Each director, officer, and controlling person of the applicant is of good character and sound financial standing: each director and officer of the applicant is competent to perform his or her functions with respect to the applicant; and the directors

and officers of the applicant are collectively adequate to manage the business of the applicant as a BIDCO.

(c) It is reasonable to believe that the applicant, if licensed, will comply with this chapter.

(d) The applicant has reasonable promise of being a viable, ongoing BIDCO and of satisfying the basic objectives of its business plan.

(3) In determining if the applicant has a net worth or firm financing commitments adequate to transact business as a BIDCO, the director shall consider the types and variety of financing assistance that the applicant plans to provide; the experience that the directors, officers, and controlling persons of the applicant have in providing financing and managerial assistance to business firms; the financial projections and other relevant information from the applicant's business plan; and whether the applicant intends to operate as a profit or nonprofit corporation. Except as otherwise provided in this chapter, the director shall require a minimum net worth of not less than one million dollars ($1,000,000) and not more than ten million dollars ($10,000,000). The director may require a minimum net worth of less than one million dollars ($1,000,000), but not less than five hundred thousand dollars ($500,000), if, in the context of the applicant's business plan, the initial capitalization amount is adequate for the applicant to transact business as a BIDCO because of special circumstances including, but not limited to, funded overhead, low overhead, or specialized opportunities.

(4) For the purposes of subsection (2), the director may find any of the following:

(a) That a director, officer, or controlling person of an applicant is not of good character if the director, officer, or controlling person, or a director or officer of a controlling person, has been convicted of, entered a plea of guilty to, has been found guilty of, or has pleaded nolo contendere to a crime involving fraud or dishonesty.

(b) That it is not reasonable to believe that an applicant, if licensed, will comply with this chapter, if the applicant has been convicted of, entered a plea of guilty to, has been found guilty of, or has pleaded nolo contendere to a crime involving fraud or dishonesty.

(5) For purposes of subsection (2), subsection (4) shall not be considered to be the only grounds upon which the director may find that a director, officer, or controlling person of an applicant is not of good character or that it is not reasonable to believe that an applicant, if licensed, will comply with the provisions of this chapter.

26-2710. PRELIMINARY APPROVAL -- DENIAL IN WRITING -- POSTING OF LICENSE. (1) A person may apply to the director for preliminary approval of an application for a license. Notwithstanding that commitments to invest in the equity of the applicant have not been obtained and that all directors and officers of the applicant have not been identified, the director may grant preliminary approval. In issuing an order granting preliminary approval, the director shall indicate that,

for the director to determine that the requirements of section 26-2709, Idaho Code, are satisfied, final approval is conditioned on review by the director of the applicant's completion of fund-raising, including the controlling persons, and review by the director of the completion of the roster of directors and officers. If an application for preliminary approval has been granted, before granting final approval of the application for a license, the director may request an updated balance sheet and such other information considered relevant by the director.

(2) If a person files an application under this section, the fee required in section 26-2705(1)(a), Idaho Code, is payable at the time the application is filed with the director.

(3) If the director denies an application under this section or section 26-2709, Idaho Code, the director shall provide the applicant with a written statement explaining the basis for the denial.

(4) If an application for a license is approved and all conditions precedent to the issuance of that license are fulfilled, the director shall issue a license to the applicant. A licensee shall post the license in a conspicuous place in the licensee's principal office. A license is not transferable or assignable.

26-2711. USE OF BIDCO NAME RESTRICTED -- EXCEPTION. (1) Except as otherwise provided in subsection (2), a person transacting business in this state, other than a licensee, shall not use a name or title which indicates that the person is a business and industrial development corporation including, but not limited to, use of the term "BIDCO", and shall not otherwise represent that the person is a business and industrial development corporation or a licensee.

(2) Before being issued a license under this chapter, an Idaho corporation that proposes to apply for a license or that applies for a license may perform, under a name that indicates that the corporation is a business and industrial development corporation, the acts necessary to apply for and obtain a license and to otherwise prepare to commence transacting business as a licensee. Such a corporation shall not represent that it is a licensee until after the license has been obtained. A licensee shall not misrepresent the meaning or effect of its license.

26-2712. DUAL LICENSURE -- EXCEPTIONS. (1) An Idaho corporation that is licensed under another law of this state or under any law of the United States may apply for and be issued a license under this chapter unless the transaction of business by that corporation as a licensee under another law of this state or a law of the United States violates this chapter or is contrary to the purposes of this chapter.

(2) An Idaho corporation that is licensed under this chapter may apply for and be issued a license under another law of this state or a law of the United States unless the transaction of business by that corporation as a licensee under another law of this state or a law of the United States would violate this chapter or would be contrary to the purposes of this chapter.

26-2713. SURRENDER OF LICENSE. (1) Upon approval of a two-thirds

(2/3) vote of its board of directors and after complying with subsection (2) of this section, a licensee may apply to the director to have the director accept the surrender of the licensee's license. If the director determines that the requirements of this section have been satisfied, the director shall approve the application unless in the opinion of the director the purpose of the application is to evade a current or prospective action by the director pursuant to this chapter.

(2) Not less than sixty (60) days before filing an application with the director under subsection (1) of this section, a licensee shall notify all of its shareholders and all of its creditors of its intention to file the application. Each creditor shall be notified of the right to comment to the director. Each shareholder shall be notified of the right to file with the licensee an objection to the proposed surrender of the license within the sixty (60) day period and shall be advised that, if the shareholder files an objection, the shareholder should send a copy of the objection to the director. If shareholders representing twenty percent (20%) of the outstanding voting securities of the licensee file an objection, the licensee shall not proceed with the application under subsection (1) of this section unless the application is approved by a vote of shareholders representing two-thirds (2/3) of the outstanding voting securities of the licensee.

26-2714. CORPORATE NAME -- DIRECTORS -- DIVIDENDS. (1) The corporate name of each licensee may include the phrase "Business and Industrial Development Corporation" or may include the word "BIDCO". A licensee shall not transact business under a name other than its corporate name.

(2) The board of directors of each licensee shall consist of not less than seven (7) directors. The board of directors of each licensee shall hold a meeting not less than once each calendar quarter.

(3) Within thirty (30) days after the death, resignation, or removal of a director or officer; the election of a director; or the appointment of an officer, the licensee shall notify the director in writing of the event and shall provide any additional information which the director may require.

(4) A licensee shall not pay, or obligate itself to pay, a cash dividend or dividend in kind to its shareholders, unless that payment is consistent with a dividend policy which has been adopted by the licensee and approved by the director. In reviewing dividend policies under this section, the director shall be flexible in recognizing the special characteristics of BIDCOs and the diverse range of potentially appropriate dividend policies for BIDCOs, while at the same time protecting against unsafe or unsound acts which could threaten the viability of the licensee as an ongoing BIDCO. The director may at any time withdraw any previous approval of a dividend policy if the director determines that the withdrawal is necessary to prevent unsafe or unsound acts.

(5) Without the prior approval of the director, a licensee shall not buy back, or obligate itself to buy back a share of stock from a shareholder.

26-2715. OFFICES -- LOCATION. (1) A licensee shall maintain not less than one (1) office in this state.

(2) A licensee shall not maintain an office at any place outside this state.

(3) Each office of a licensee shall be located in a place which is reasonably accessible to the public.

(4) A licensee shall post in a conspicuous place at each of its offices a sign which bears the corporate name of the licensee.

(5) A licensee shall maintain at each of its offices personnel who are competent to conduct the business of such an office.

(6) Upon written notice to the director, a licensee may establish, relocate, or close an office.

26-2716. BUSINESS ACTIVITIES -- CORPORATE POWERS. (1) The business of a licensee shall be the business of providing financing assistance and management assistance to business firms. A licensee shall not engage in a business other than the business of providing financing assistance and management assistance to business firms.

(2) In addition to the powers and privileges provided to a licensee by this chapter, a licensee has all powers and privileges conferred by its incorporating statute which are not inconsistent with or limited by this chapter. The powers of a licensee include, but are not limited to, all of the following:

(a) To borrow money and otherwise incur indebtedness for its purposes, including issuance of corporate bonds, debentures, notes, or other evidence of indebtedness. A licensee's indebtedness may be secured or unsecured, and may involve equity features including, but not limited to, provisions for conversion to stock and warrants to purchase stock.

(b) To make contracts.

(c) To incur and pay necessary and incidental operating expenses.

(d) To purchase, receive, hold, lease, or otherwise acquire, or to sell, convey, mortgage, lease, pledge, or otherwise dispose of, real or personal property, together with rights and privileges that are incidental and appurtenant to these transactions of real or personal property, if the real or personal property is for the licensee's use in operating its business or if the real or personal property is acquired by the licensee from time to time in satisfaction of debts or enforcement of obligations.

(e) To make donations for charitable, educational, research, or similar purposes.

(f) To implement a reasonable and prudent policy for conserving and investing its money before the money is used to provide financing assistance to business firms or to pay the expenses of the licensee.

26-2717. FORMS OF FINANCIAL AND MANAGEMENT ASSISTANCE -- INTEREST RATES. (1) A licensee may determine the form and the terms and conditions for financing assistance provided by that licensee to a business firm including, but not limited to, forms such as loans; purchase of debt instruments; straight equity investments such as purchase of com-

mon stock or preferred stock; debt with equity features such as warrants to purchase stock, convertible debentures, or receipt of a percent of net income or sales; royalty based financing; guaranteeing of debt; or leasing of property. A licensee may purchase securities of a business firm either directly or indirectly through an underwriter. A licensee may participate in the program of the small business administration pursuant to section 7(a) of the small business act, Public Law 85-536, 15 U.S.C. 636(a) or any successor statute, or any other government program for which the licensee is eligible and which has as its function the provision or facilitation of financing assistance or management assistance to business firms. If a licensee participates in a program referred to in this subsection, the licensee shall comply with the requirements of that program.

(2) Management assistance provided by a licensee to a business firm may encompass both management or technical advice and management or technical services.

(3) Financing assistance or management assistance provided by a licensee to a business firm shall be for the business purposes of that business firm.

(4) A licensee may exercise the incidental powers that are necessary or convenient to carry on the business of, or are reasonably related to the business of, providing financing assistance and management assistance to business firms.

(5) In connection with an extension of credit by a person to a licensee or an extension of credit by a licensee to a business entity, the parties may agree to any rate of interest.

26-2718. BIDCO ACQUIRING ANOTHER FIRM -- APPLICATION -- REQUIREMENTS. (1) Either by itself or in concert with a director, officer, principal shareholder, or affiliate; another licensee; or a director, officer, principal shareholder, or affiliate of another licensee, a licensee shall not hold control of a business firm, except as follows:

(a) If and to the extent necessary to protect the licensee's interest as creditor of, or investor in, the business firm, a licensee that had provided financing assistance to a business firm may acquire and hold control of that business firm. Unless the director approves a longer period, a licensee holding control of a business firm under this subdivision shall divest itself of the interest which constitutes holding control as soon as practicable or within three (3) years after acquiring that interest, whichever is sooner.

(b) With the approval of the director, a licensee may acquire and hold control of a corporation which has offices located only in this state and which is licensed as a small business investment company under the small business investment act of 1958, Public Law 85-699, 72 Stat. 689 or any successor statute.

(c) With the approval of the director, a licensee may acquire and hold control of a company located in this state which is a local development company in accordance with the small business investment act of 1958, whether or not such a development company is or may become certified by the small business administration under section 503 of the small business investment act of 1958, 15

U.S.C. 697 or any successor statute.

(d) With the approval of the director, a licensee may acquire and hold control of another business firm with offices only in this state which is engaged in no business other than the business of providing financing assistance and management assistance to business firms.

(e) With the approval of the director, a licensee may acquire and hold control of a business firm not referred to in paragraphs (a) through (d) of this subsection. The director shall not approve an application under this subdivision unless the director determines that such an approval will not cause the amount of the licensee's investments in business firms covered by this subdivision to exceed fifteen percent (15%) of the amount of the assets of the licensee and that in the director's judgment such an approval will promote the purposes of this chapter. An approval by the director under this subdivision shall be for a period of not more than three (3) years, except that in a particular case the director may subsequently extend the period beyond three (3) years if the director determines that a longer period is needed and is consistent with the purposes of this chapter.

(2) If the director fails to issue an order approving or denying an application under subsection (1)(b) or (c) of this section, within forty-five (45) days from receipt by the director of an application which complies with section 26-2704, Idaho Code, the application shall be considered approved by the director.

(3) For the purposes of subsection (1) of this section, "hold control" means ownership, directly or indirectly, of record or beneficially, of voting securities greater than:

(a) For a business firm with outstanding voting securities held by fewer than fifty (50) shareholders, forty percent (40%) of the outstanding voting securities.

(b) For a business firm with outstanding voting securities held by fifty (50) or more shareholders, twenty-five percent (25%) of the outstanding voting securities.

(4) If a licensee anticipates acquiring and holding control of a business firm under subsection (1)(a) of this section, the licensee shall file with the director a plan for acquiring and holding control of the business firm that shall include at least all of the following:

(a) The reasons it is necessary for the licensee to acquire and hold control of the business firm.

(b) The percentage of outstanding voting securities of the business firm the licensee plans to own.

(c) The licensee's proposed course of action upon obtaining control of the business firm.

(d) The length of time the licensee anticipates it will be necessary to hold control of the business firm.

(5) The director may require the licensee to demonstrate the necessity for the licensee to hold control of a business firm under subsection (1)(a) of this section.

26-2719. SOUND BUSINESS PRACTICES REQUIRED. (1) A licensee shall transact its business in a safe and sound manner and shall maintain

itself in a safe and sound condition.

(2) In determining whether a licensee is transacting business in a safe and sound manner or has committed an unsafe or unsound act, the director shall not consider the risk of a provision of financing assistance to a business firm, unless the director determines that the risk is so great compared with the realistically expected return as to demonstrate gross mismanagement.

(3) The provisions of subsection (2) of this section do not limit the authority of the director to do any of the following:

(a) Determine that a licensee's financing assistance to a single business firm or a group of affiliated business firms is in violation of subsection (1) of this section or constitutes an unsafe or unsound act, if the amount of that financing assistance is unduly large in relation to the total assets or the total shareholders equity of the licensee.

(b) Require that a licensee maintain a reserve in the amount of anticipated losses.

(c) Require that a licensee have in effect a written financing assistance policy, approved by its board of directors, including credit evaluation and other matters. The director shall not require that a licensee adopt a financing assistance policy that contains standards which prevent the licensee from exercising needed flexibility in evaluating and structuring financing assistance to business firms on a deal by deal basis.

26-2720. CONFLICT OF INTEREST -- DEFINED. (1) For purposes of this section:

(a) "Associate" means that term as defined as in section 26-2702, Idaho Code.

(b) "Relative" means parent, child, sibling, spouse, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law, sister-in-law, grandparent, grandchild, nephew, niece, uncle, or aunt.

(2) If a licensee provides financing assistance to a business firm or engages in another business transaction, and if that financing assistance or transaction involves a potential conflict of interest, the terms and conditions under which the licensee provides the financing assistance or engages in the transaction shall not be less favorable to the licensee than the terms and conditions that would be required by the licensee in the ordinary course of business if the transaction did not involve a potential conflict of interest. Each person who participates in the decision of the licensee relating to a transaction described in this section and has knowledge of a potential conflict of interest involving that transaction shall take care that the potential conflict of interest is disclosed in the financing documents of the transaction or, for a business transaction not involving financing assistance, in another appropriate document.

(3) For the purposes of subsection (2) of this section, transactions engaged in by a licensee which involve a potential conflict of interest include, but are not limited to, the following:

(a) Providing financing assistance to a principal shareholder of the licensee, to a person controlled by a principal shareholder of

the licensee, or to a director, officer, partner, relative, controlling person, or affiliate of a principal shareholder of the licensee.

(b) Providing financing assistance to a business firm to which a principal shareholder of the licensee: a director, officer, partner, relative, controlling person, or affiliate of a principal shareholder of a licensee, or a person controlled by a principal shareholder of the licensee provides or plans to provide contemporaneous financing assistance.

(c) Providing financing assistance to a business firm which has or is expected to have a substantial business relationship with another business firm which has a director, officer, or controlling person who is also a director, officer, or controlling person of the licensee or who is the spouse of a director, officer, or controlling person of the licensee.

(d) Providing financing assistance to a business firm if that business firm, or a director, officer, or controlling person of that business firm, contemporaneously has lent or will lend money to an associate of the licensee.

(e) Providing financing assistance for the purchase of property of an associate or principal shareholder of the licensee.

(f) Selling or otherwise transferring any of its assets to an associate or principal shareholder of the licensee.

(4) Nothing in this section or in any other section of this chapter limits the authority of the director to determine that an act involves a conflict of interest and therefore is an unsafe or unsound act.

(5) Except with the approval of the director, a licensee shall not provide a lien on or security interest in any of its property for the purpose of securing an obligation of, or an obligation incurred for the benefit of, another person.

26-2721. ACQUISITION OF BIDCO -- APPROVAL REQUIRED. (1) Without the prior approval of the director, a person shall not acquire control of a licensee.

(2) With respect to an application for approval to acquire control of a licensee, if the director determines, that the applicant and the directors and officers of the applicant are of good character and sound financial standing; that it is reasonable to believe that, if the applicant acquires control of the licensee, the applicant will comply with this chapter; and that the applicant's plans, if any, to make a major change in the business, corporate structure, or management of the licensee are not detrimental to the safety and soundness of the licensee, the director shall approve the application. If, after notice and a hearing, the director determines otherwise, the director shall deny the application.

(3) For purposes of subsection (2) of this section, the director may determine any of the following:

(a) That an applicant or a director or officer of an applicant is not of good character if that person has been convicted of, or has pleaded nolo contendere to, a crime involving fraud or dishonesty.

(b) That an applicant's plan to make a major change in the man-

agement of a licensee is detrimental to the safety and soundness of the licensee if the plan provides for a person to become a director or officer of the licensee and that person has been convicted of, or has pleaded nolo contendere to, a crime involving fraud or dishonesty.

(4) The conditions described in subsection (3) of this section are not the only conditions upon which the director may determine that an applicant or a director or an officer of an applicant is not of good character or that an applicant's plan to make a major change in the management of a licensee is detrimental to the safety and soundness of the licensee.

26-2722. MERGER -- REQUIREMENTS -- APPLICATIONS. (1) A licensee shall not merge with another corporation unless:

(a) The licensee is the surviving corporation and the merger is approved by the director.

(b) The licensee is a disappearing corporation, the surviving corporation is a licensee and the merger is approved by the director.

(2) A licensee shall not purchase all or substantially all of the business of another person unless the purchase is approved by the director.

(3) A licensee shall not sell all or substantially all of its business or of the business of any of its offices to another person unless that other person is a licensee and the sale is approved by the director.

(4) The director shall approve an application for approval of a merger, purchase, or sale, if, and only if, the director determines all of the following:

(a) That the merger, purchase, or sale will be safe and sound with respect to the acquiring licensee.

(b) That, upon consummation of the merger, purchase, or sale, it is reasonable to believe that the acquiring licensee will comply with this chapter.

(c) That the merger, purchase, or sale will not have a major detrimental impact on competition in the providing of financial assistance or management assistance to business firms, or if there will be such a detrimental impact, the merger, purchase, or sale is necessary in the interests of the safety and soundness of any of the parties to the merger, purchase, or sale, or is otherwise, on balance, in the public interest.

26-2723. VIOLATION OF CHAPTER -- DIRECTOR'S POWERS -- HEARINGS -- CEASE AND DESIST. (1) If in the opinion of the director, a person violates, or there is reasonable cause to believe that a person is about to violate the provisions of this chapter, the director may bring an action in the district court to enjoin the violation or to enforce compliance with the provisions of this chapter. Upon a showing that a person has engaged in or is about to engage in, an act or practice constituting a violation of the provisions of this chapter, a restraining order, preliminary or permanent injunction, or writ of mandamus shall be granted, and a receiver or a conservator may be

appointed for the defendant or the defendant's assets. The court shall not require the director to post a bond in an action brought under this chapter.

(2) If the director finds that a person has violated or that there is reasonable cause to believe that a person is about to violate the provisions of section 26-2711, Idaho Code, the director may order the person to cease and desist from the violation unless and until the person is issued a license.

(3) Within thirty (30) days after an order is issued under subsection (2) of this section, the person to whom the order is directed may file with the director an application for a hearing on the order. If the director fails to commence a hearing within fifteen (15) business days after that application is filed or within a longer period to which the person consents, the order shall be considered rescinded. Upon the conclusion of the hearing, the director shall affirm, modify, or rescind the order. A person to whom an order is issued under subsection (2) of this section may petition for judicial review of the order in conformance with the provisions of chapter 52, title 67, Idaho Code.

(4) If, after notice and a hearing, the director determines that a licensee or a subject person of a licensee has violated or is violating, or that there is reasonable cause to believe that a licensee or subject person of a licensee is about to violate, this chapter or another applicable law, or that a licensee or subject person of a licensee has engaged or participated or is engaging or participating, or that there is a reasonable cause to believe that a licensee or subject person of a licensee is about to engage or participate, in an unsafe or unsound act with respect to the business of that licensee, the director may order that licensee or subject person to cease and desist from the action or violation. The order may require the licensee or subject person to take affirmative action to correct any condition resulting from the action or violation.

(5) If the director determines that any of the factors set forth in subsection (4) of this section are true with respect to a licensee or subject person of a licensee and that the action or violation is likely to cause the insolvency of or substantial dissipation of the assets or earnings of the licensee; is likely to seriously weaken the condition of the licensee; or is likely to otherwise seriously prejudice the interests of the licensee before the completion of proceedings conducted under subsection (4) of this section, the director may order the licensee or subject person to cease and desist from that action or violation. The order may require the licensee or subject person to take affirmative action to correct any condition resulting from the action or violation.

(6) Within thirty (30) days after an order is issued under subsection (5) of this section, the licensee or subject person of a licensee to whom the order is directed may file with the director an application for a hearing on the order. If the director fails to commence a hearing within fifteen (15) business days after the application is filed or within a longer period to which the licensee or subject person consents, the order shall be considered rescinded. Upon the hearing, the director shall affirm, modify, or rescind the order.

A licensee or subject person to whom an order is issued under subsection (5) of this section may petition for judicial review of the order pursuant to chapter 52, title 67, Idaho Code.

(7) If the director finds that a licensee has failed to comply with the provisions of section 26-2717(5), Idaho Code, the director shall revoke the certification of eligible equity investment and shall so notify the licensee promptly.

26-2724. VIOLATION OF CHAPTER -- REMOVAL OF SUBJECT PERSON. (1) The director may issue an order removing a subject person of a licensee from his office, if any, with the licensee and prohibiting the subject person from further participating in any manner in the conduct of the business of the licensee, if, after notice and a hearing, the director determines all of the following are true:

(a) The subject person has violated the provisions of this chapter or another applicable law; the subject person has engaged or participated in an unsafe or unsound act with respect to the business of the licensee; or the subject person has engaged or participated in an act which constitutes a breach of the subject person's fiduciary duty.

(b) The act, violation, or breach of fiduciary duty has caused or is likely to cause substantial financial loss or other damage to the licensee or has seriously prejudiced or is likely to seriously prejudice the interests of the licensee, or the subject person has received financial gain by reason of the act, violation, or breach of fiduciary duty.

(c) The act, violation, or breach of fiduciary duty either involves dishonesty on the part of the subject person or demonstrates the subject person's gross negligence with respect to the business of the licensee or a willful disregard for the safety and soundness of the licensee.

(2) The director may issue an order removing the subject person from his office with the licensee, if any, and prohibiting the subject person from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the director, if, after notice and a hearing, the director determines that, by engaging or participating in an act with respect to a financial or other business institution which resulted in substantial financial loss or other damage, the subject person of a licensee has demonstrated both of the following:

(a) Dishonesty or willful or continuing disregard for the safety and soundness of the financial or other business institution.

(b) Unfitness to continue as a subject person of the licensee or to participate in conducting the business of the licensee.

(3) If the director determines that the factors set forth in subsection (1) or (2) of this section are true with respect to a subject person of a licensee, and that it is necessary for the protection of the interest of the licensee or for the protection of the public interest that the director immediately suspend the subject person from his or her office, if any, with the licensee and prohibit the subject person from further participating in any manner in conducting the business of the licensee, the director may issue an order suspending

the subject person from his or her office, if any, with the licensee and prohibiting the subject person from further participating in any manner in conducting the business of the licensee, except with the consent of the director.

(4) Within thirty (30) days after an order is issued under subsection (3) of this section, the subject person of a licensee to whom the order is directed may file with the director an application for a hearing on the order. If the director fails to begin a hearing within fifteen (15) business days after the application is filed or within a longer period to which the subject person consents, the order shall be considered rescinded. Upon the conclusion of the hearing, the director shall affirm, modify, or rescind the order. A subject person of a licensee to whom an order is issued under subsection (3) of this section may petition for judicial review of the order pursuant to chapter 52, title 67, Idaho Code.

(5) A person to whom an order is issued under this section may apply to the director to modify or rescind the order. The director shall not modify or rescind the order unless the director determines that it is in the public interest to do so and that it is reasonable to believe that the person, if and when he or she becomes a subject person of a licensee, will comply with this chapter.

(6) As used in this section, "office", if used with respect to a licensee, means the position of director, officer, or employee of the licensee or of a subsidiary of the licensee.

26-2725. INDICTMENT OR CONVICTION OF A CRIME -- REMOVAL OF SUBJECT PERSON. (1) If the director determines that a subject person of a licensee has been indicted by a grand jury or has been bound over for trial by a court for a crime involving dishonesty or breach of trust, and that the fact that the person continues to be a subject person of the licensee may threaten the interests of the licensee or may threaten to impair public confidence in the licensee, the director may issue an order suspending the subject person from his office, if any, with the licensee and prohibiting the subject person from further participating in any manner in the conduct of the business of the licensee, except with the consent of the director.

(2) If the director determines that a subject person or former subject person of a licensee to whom an order was issued under subsection (1) of this section, or another subject person of a licensee, has been convicted of, entered a plea of guilty to, has been found guilty of a crime which is punishable by imprisonment for a term of not less than one (1) year and which involves dishonesty or breach of trust, and that the fact that the person continues to be or will resume to be a subject person of the licensee may threaten the interests of the licensee or may threaten to impair public confidence in the licensee, the director may issue an order suspending or removing the subject person or former subject person from his office, if any, with the licensee and prohibiting the subject person from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the director.

(3) Within thirty (30) days after an order is issued under subsection (1) or (2) of this section, the subject person of a licensee

to whom the order is directed may file with the director an application for a hearing on the order. If the director fails to commence a hearing within fifteen (15) business days after the application is filed or within a longer period to which the subject person consents, the order shall be considered rescinded. Upon the conclusion of the hearing, the director shall affirm, modify, or rescind the order. A subject person or former subject person of a licensee to whom an order is issued under subsection (1) or (2) of this section may petition for judicial review of the order pursuant to chapter 52, Title 67, Idaho Code.

(4) The fact that a subject person of a licensee charged with a crime involving dishonesty or breach of trust is not convicted of the crime shall not preclude the director from issuing an order to the subject person under any other provision of this chapter.

(5) A person to whom an order is issued under this section may apply to the director to modify or rescind the order. The director shall not modify or rescind the order unless the director determines that it is in the public interest to do so and that it is reasonable to believe that the person, if and when he or she becomes a subject person of a licensee, will comply with this chapter.

(6) As used in this section, "office", if used with respect to a licensee, means the position of director, officer, or employee of the licensee or of a subsidiary of the licensee.

26-2726. DISCLOSURE TO SHAREHOLDERS -- BOARD OF DIRECTORS. (1) If, in the opinion of the director, disclosure to shareholders regarding a matter is warranted, the director may require a licensee, in such a form and manner as the director may specify, to disclose to the shareholders of a licensee the results of a communication or order from the director addressed to the licensee or to a subject person of the licensee.

(2) If the director considers it expedient, the director may call a meeting of the board of directors of a licensee by giving notice of the time, place, and purpose of the meeting not less than five (5) days before the meeting to each director either by personal service or by registered or certified mail sent to the director's last known address as shown in the records of the director.

(3) If the director considers it expedient, the director may call a meeting of the shareholders of a licensee by giving notice of the time, place, and purpose of the meeting not less than five (5) days before the meeting to each shareholder either by personal service or by registered or certified mail sent to the shareholder's last known address as shown by the books of the licensee. The licensee shall pay the expenses of the notice and of a meeting called under this subsection.

26-2727. ORDER TO REFRAIN FROM OFFERING FINANCIAL ASSISTANCE -- CONDITIONS -- HEARING. (1) The director may issue an order directing a licensee to refrain from providing any additional financing assistance to business firms if, in the opinion of the director, the order is necessary to protect the interest of the licensee or the public interest, and if, after notice and a hearing, the director determines

that any of the following are true:

(a) The licensee or a controlling person, subsidiary, or affiliate of the licensee has violated the provisions of this chapter or another applicable law.

(b) The licensee is conducting its business in an unsafe and unsound manner.

(c) The licensee is in a condition that makes it unsafe or unsound for the licensee to transact business.

(d) The licensee has ceased to transact business as a business and industrial development corporation.

(e) The licensee is insolvent.

(f) The licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due.

(g) The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under a bankruptcy, reorganization, insolvency, or moratorium law, or that a person has applied for such relief under such a law against a licensee and the licensee has by any affirmative act approved of or consented to the action or such relief has been granted.

(h) A fact or condition exists which would have been grounds for denying the application if the fact or condition had existed at the time the licensee applied for its license.

(2) If the director determines that any of the factors set forth in subsection (1) of this section are true with respect to a licensee and that it is necessary for the protection of the interests of the licensee or the public interest that the director immediately issue an order directing the licensee to refrain from providing any additional financing assistance to business firms, the director may issue such an order without a hearing. Within thirty (30) days after an order is issued under this subsection, the licensee to whom the order is directed may file with the director a request for a hearing on the order. If the director fails to commence a hearing within fifteen (15) business days after the request is filed or within a longer period to which the licensee consents, that order shall be considered rescinded. Upon the conclusion of the hearing, the director shall affirm, modify, or rescind the order.

(3) With the consent of the director, a licensee which has been the subject of an order under subsection (1) or (2) of this section may resume providing financing assistance to business firms under such conditions as the director may prescribe.

(4) A person to whom an order is issued under subsection (1) or (2) of this section may apply to the director to modify or rescind the order. The director shall not grant the application unless the director determines that it is in the public interest to do so and that it is reasonable to believe that the person, if and when the order is modified or rescinded, will comply with this chapter.

26-2728. APPOINTMENT OF TRUSTEE -- LIQUIDATION OF THE BIDCO -- PROCEDURE. (1) If the director finds that any of the factors set forth in section 26-2727, Idaho Code, are true with respect to a licensee and that it is necessary for the protection of the interests

of the licensee or for the protection of the public interest that the director take immediate possession of the property and business of the licensee, the director may appoint a conservator for the licensee. The director may appoint as conservator one (1) of the employees of the department or some other competent and disinterested person. The department shall be reimbursed out of the assets of the conservatorship for all sums expended by the department in connection with the conservatorship as expenses. Upon the approval of the director, the expenses of the conservatorship shall be paid out of the assets of the licensee. The expenses shall be a first charge upon the assets and shall be fully paid before any final distribution is made.

(2) Under the direction of the director, the conservator shall take possession of the books, records, and assets of the licensee and shall take such action with respect to employees, agents, or representatives of the licensee or any other action as may be necessary to conserve the assets of the licensee or ensure payment of obligations of the licensee pending further disposition of its business as provided by law. At any appropriate time, the director may terminate the conservatorship and permit the licensee to resume the transaction of its business subject to the terms, conditions, restrictions and limitations the director may prescribe.

(3) If in the opinion of the director it is appropriate that the licensee be liquidated, the director may apply to the district court for the county in which the principal office of the licensee is located for the appointment of a receiver for the licensee, if the director determines that any of the following are true:

(a) The licensee is insolvent.

(b) The licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due.

(c) The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under a bankruptcy, reorganization, insolvency, or moratorium law.

(d) A person has applied for the relief described under paragraph (c) against any licensee and that licensee has by an affirmative act approved of or consented to the action or the relief has been granted.

(e) The licensee is in a condition that makes it unsafe or unsound for the licensee to transact business.

(4) If a receiver is appointed under subsection (3) of this section, the receiver shall liquidate the property and business of the licensee in the manner provided for in chapter 10, title 26, Idaho Code, as if the licensee were a bank.

26-2729. VIOLATION OF CHAPTER -- CIVIL PENALTIES. (1) If, after notice and a hearing, the director finds that a person has violated the provisions of this chapter, he may order that person to pay to the director a civil penalty in the amount the director specifies. However, the amount of the civil penalty shall not exceed one thousand dollars ($1,000) for each violation, or in the case of a continuing violation, one thousand dollars ($1,000) for each day for which the violation continues. Money collected for a civil penalty under this

section shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

(2) The provisions of this section do not apply to any act committed or omitted in good faith in conformity with an order, rule, declaratory ruling, or written interpretative opinion of the director, notwithstanding that the order, rule, declaratory ruling, or written interpretative opinion is later amended, rescinded, or repealed, or determined by judicial or other authority to be invalid for any reason.

(3) The provisions of subsection (1) of this section are additional to, and not alternative to, other provisions of this chapter which authorize the director to issue orders or to take other action on account of a violation of the provisions of this chapter.

26-2730. PROHIBITED ACTS -- EXCEPTIONS -- PENALTIES. (1) A person shall not willfully make an untrue statement of a material fact in an application or report filed with the director under this chapter, or willfully omit to state in such an application or report a material fact required to be stated in the application or report.

(2) A person having custody of any of the books, accounts, or other records of a licensee shall not willfully refuse to allow the director, upon request, to inspect or make copies of any of those books, accounts, or other records.

(3) A person shall not, with intent to deceive a director, officer, employee, auditor, or attorney of a licensee, the director or a governmental agency, make a false entry in the books, accounts, or other records of that licensee; omit to make an entry in those books, accounts, or other records which that person is required to make, or alter, conceal, or destroy any of those books, accounts, or other records.

(4) A licensee shall not provide, directly or indirectly, financing assistance to an associate of the licensee.

(5) A licensee shall not provide, directly or indirectly, financing assistance to discharge, or to free other money for use in discharging, in whole or in part, an obligation to an associate of that licensee. This section does not apply to a transaction effected by an associate of a licensee in the normal course of that associate's business involving a line of credit or short-term financing assistance.

(6) A licensee shall not provide, directly or indirectly, financing assistance to a business firm to which an associate of that licensee provides financing assistance, either contemporaneously with, or within one (1) year before or after, the providing of financing assistance by the licensee, if the terms on which the licensee provides financing assistance are less favorable to the licensee than the terms on which the associate provides financing assistance to the business firm. If the financing assistance provided by the associate of the licensee is of a different kind from the financing assistance provided by the licensee, the burden shall be on the licensee to prove that the terms on which the licensee provided financing assistance were at least as favorable to the licensee as the terms on which the associate provided financing assistance to the business firm.

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

(a) If the associate is a controlling person of the licensee and is also the only shareholder of the licensee.

(b) If the associate is a subsidiary of the licensee.

(c) A transaction effected by an associate of a licensee in the normal course of that associate's business involving a line of credit or short-term financing assistance.

(8) An associate of a licensee shall not receive, directly or indirectly, from a person to whom that licensee provides financing assistance, compensation in connection with the providing of that financing assistance or anything of value for procuring, influencing, or attempting to procure or influence the licensee's action with respect to the providing of the financing assistance. This section does not apply to the receipt of fees by an associate of a licensee for bona fide closing services performed by that associate if all of the following are true:

(a) The associate, with the consent and knowledge of the person to whom the financing assistance is provided, is designated by the licensee to perform the services.

(b) The services are appropriate and necessary in the circumstances.

(c) The fees for the services are approved as reasonable by the licensee.

(d) The fees for the services are collected by the licensee on behalf of the associate.

(9) By such orders or rules the director considers necessary and appropriate, he may exempt from the provisions of subsections (4) through (8), either unconditionally or upon specified terms and conditions and for specified periods, a person or transaction or class of persons or transactions, if the director finds that the exemption is in the public interest and that the regulation of the person, transaction or class is not necessary for the purposes of this chapter.

(10) In exempting a person or transaction or class of persons or transactions, the director shall give consideration, as considered appropriate by the director, to conflict of interest provisions of federal law or regulation that may be applicable to that person or transaction governing participants in federal financing programs.

(11) A person who knowingly commits an act which violates the provisions of this chapter shall be fined not more than ten thousand dollars ($10,000) or shall be imprisoned for not more than five (5) years, or both.

(12) The provisions of this section do not apply to an act committed or omitted in good faith in conformity with an order, rule, declaratory ruling, or written interpretative opinion of the director, notwithstanding that the order, rule, declaratory ruling, or written interpretative opinion is later amended, rescinded, or repealed, or determined by judicial or other authority to be invalid for any reason.

(13) Nothing in this chapter limits the power of the state to punish a person for an act which constitutes a crime under any statute.

26-2731. CONSTRUCTION -- PROMULGATION OF RULES -- APPLICABILITY

OF CHAPTER. This chapter shall be liberally construed to accomplish its purposes.

A proceeding to promulgate rules or a proceeding regarding civil penalties under section 26-2729, Idaho Code, shall be subject to the administrative procedures act contained in chapter 52, title 67, Idaho Code.

Except as otherwise provided in this section, the provisions of a licensee's incorporating statute apply to the licensee. If a provision of the licensee's incorporating statute conflicts with any provision of this chapter, this chapter controls.

26-2732. SHORT TITLE. This chapter may be cited as the "Business and Industrial Development Corporation Act."

Approved March 29, 1989.

CHAPTER 253
(S.B. No. 1268)

AN ACT

RELATING TO HAZARDOUS WASTE DISPOSAL; AMENDING SECTION 39-4403, IDAHO CODE, TO DEFINE THE TERM MANIFESTED WASTE; AND AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4424, IDAHO CODE, TO PROVIDE FOR THE DISPOSAL OF MANIFESTED WASTE IN THIS STATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-4403, Idaho Code, be, and the same is hereby amended to read as follows:

39-4403. DEFINITIONS. As used in this chapter:

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

(2) "Commercial hazardous waste facility or site" means any hazardous waste facility whose primary business is the treatment, storage or disposal, for a fee or other consideration, of hazardous waste generated offsite by generators other than the owner and operator of the facility.

(3) "Department" means the Idaho department of health and welfare.

(4) "Director" means the director of the Idaho department of health and welfare or the director's authorized agent.

(5) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(6) "Generator" means any person, who by virtue of ownership, management, or control, is responsible for causing or allowing to be

caused the creation of a hazardous waste.

(7) "Hazardous waste" means a waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illnesses; or

(b) Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitible, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties but do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to national pollution discharge elimination system permits under the Federal Water Pollution Control Act, as amended, 33 U.S.C., Section 1251 et seq., or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C., Section 2011 et seq.

(8) "Hazardous waste management" means the systematic control of the collection, source separation, storage, treatment, transportation, processing, and disposal of hazardous wastes.

(9) "Hazardous waste facility or site" means any property, structure, or ancillary equipment intended or used for the transportation, treatment, storage or disposal of hazardous wastes.

(10) "Injection" means the subsurface emplacement of free liquids.

(11) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste identification code(s), and destination of hazardous waste during any transportation from the point of generation to the point of treatment, storage or disposal.

(12) "Manifested waste" means waste which at the point of origin or generation is required to be manifested for transportation in a manner similar to that of the federal uniform hazardous waste manifest or by other manifest requirements designed to assure proper treatment, storage and disposal of such waste.

(13) "Person" means any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency, or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties.

(134) "RCRA" means the Resource Conservation and Recovery Act of 1976 as amended in 1978, 1980 and 1984.

(145) "Restricted hazardous waste" means either of the following:

(a) Any hazardous waste which contains any of the following substances, in the following concentrations, as determined without considering any dilution which may occur, unless the dilution is a normal part of the manufacturing process:

(i) Liquid hazardous wastes containing free cyanides or sulfides at concentrations greater than, or equal to, one

thousand (1,000) parts per million.

(ii) Liquid hazardous wastes containing any of the following metals or elements, or compounds of these metals or elements, at concentrations greater than, or equal to, any of the following:

Arsenic	500 parts per million
Cadmium	100 parts per million
Chromium (VI)	500 parts per million
Lead	500 parts per million
Mercury	20 parts per million
Nickel	134 parts per million
Selenium	100 parts per million
Thallium	130 parts per million

(iii) Liquid hazardous wastes having a pH less than or equal to two (2).

(iv) Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than, or equal to, fifty (50) parts per million.

(v) Hazardous wastes containing halogenated organic compounds in total concentration greater than, or equal to, one thousand (1,000) milligrams per kilogram.

(b) A hazardous waste may be classified as a restricted hazardous waste by the adoption of rules and regulations by the board, taking into account the hazardous wastes banned from land disposal by the U.S. environmental protection agency.

(~~15~~6) "Storage" means the containment of hazardous wastes, on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous wastes.

(~~16~~7) "Transportation" means the movement of any hazardous waste to or from a hazardous waste facility or site.

(~~17~~8) "Transporter" means any person who transports a hazardous waste to or from a hazardous waste facility or site.

(~~18~~9) "Treatment" means any method, technique, or process, including neutralization, which is designed not to be an integral part of a production process, but which is rather designed to change the physical, chemical, or biological character or composition of any hazardous waste prior to storage or final disposal so as to neutralize such waste or so as to render such waste nonhazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(~~19~~20) "Waste" means any solid, semisolid, liquid or contained gaseous material for which no reasonable use or reuse is intended or which is intended to be discarded.

SECTION 2. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4424, Idaho Code, and to read as follows:

39-4424. DISPOSAL OF MANIFESTED WASTE. Manifested waste, as that

term is defined in section 39-4403, Idaho Code, shall only be treated, stored or disposed of in this state at a permitted hazardous waste treatment, storage or disposal facility unless the burning of such manifested waste to produce heat is otherwise lawful.

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 29, 1989.

CHAPTER 254
(S.B. No. 1289)

AN ACT

RELATING TO LIMITATIONS OF LIABILITY OF VOLUNTEER FIREMEN; AMENDING CHAPTER 9, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-929, IDAHO CODE, TO PROVIDE A LIMITATION OF LIABILITY OF VOLUNTEER FIREMEN.

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

SECTION 1. That Chapter 16, 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 6-929, Idaho Code, and to read as follows:

6-929. LIMITATION OF LIABILITY OF VOLUNTEER FIREMEN. For the purposes of chapter 9, title 6, Idaho Code, a volunteer fireman is an employee of a governmental entity. A "volunteer fireman" means any person who contributes his services to a volunteer fire department organized pursuant to chapter 14, title 31, Idaho Code, or a county mutual fire insurance company organized pursuant to chapter 31, title 41, Idaho Code, or a volunteer fire association.

Approved March 29, 1989.

CHAPTER 255
(S.B. No. 1312)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE COMMUNITY DEVELOPMENTAL DISABILITY SERVICES PROGRAM FOR FISCAL YEAR 1990; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO REHABILITATION FACILITY EQUALIZATION; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO NEW PROGRAMS OR PILOT PROJECTS; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL

ACCOUNT; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Community Developmental Disability Services Program the following amount, to be expended according to the designated expense classes, from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$4,047,400	$1,307,600	$130,600	$1,516,500	$ 7,002,100
Cooperative Welfare Account	1,520,300	179,900		1,577,300	3,277,500
TOTAL	$5,567,700	$1,487,500	$130,600	$3,093,800	$10,279,600

SECTION 2. It is legislative intent that the $200,000 appropriated for equalization in Section 1 of this act is for the fourteen rehabilitation facilities currently providing services and for the Idaho Easter Seal Society.

SECTION 3. Notwithstanding any other provisions 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 only to the extent of funding and available resources appropriated in this act.

SECTION 4. It is legislative intent that, of the moneys appropriated in Section 1 of this act, no new programs or pilot projects be initiated without prior approval of the Joint Senate Finance-House Appropriations Committee unless mandated by federal law.

SECTION 5. The State Auditor shall make transfers of the General Account moneys appropriated in this act to the Cooperative Welfare Account, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the amount provided herein.

SECTION 6. There is hereby reappropriated to the Department of Health and Welfare for the Community Developmental Disability Services Program any unexpended and unencumbered balances of the Cooperative Welfare Account as appropriated by Section 2, Chapter 364, Laws of 1988, for Community Developmental Disabilities to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990.

Approved March 29, 1989.

CHAPTER 256
(S.B. No. 1311)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE VETERANS SERVICES PROGRAM FOR FISCAL YEAR 1990; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO NEW PROGRAMS OR PILOT PROJECTS; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Veterans Services Program the following amount, to be expended according to the designated expense classes, from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$ 339,600	$220,600	$800,000	$65,300	$1,425,500
Idaho Veterans Home Income Account		226,100			226,100
Cooperative Welfare Account	1,886,200	395,900	63,700		$2,345,800
TOTAL	$2,225,800	$842,600	$863,700	$65,300	$3,997,400

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

SECTION 3. Notwithstanding any other provisions 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 only to the extent of funding and available resources appropriated in this act.

SECTION 4. It is legislative intent that, of those moneys appropriated in Section 1 of this act, no new programs or pilot projects be initiated without prior approval of the Joint Senate Finance-House Appropriations Committee unless mandated by federal law.

SECTION 5. There is hereby reappropriated to the Department of Health and Welfare for the Veterans Services Program any unexpended and unencumbered balances of the Cooperative Welfare Account as appro-

priated by Section 2, Chapter 364, Laws of 1988, for Veterans Services to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990.

Approved March 29, 1989.

CHAPTER 257
(S.B. No. 1288)

AN ACT

RELATING TO THE SALES TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3605A, IDAHO CODE, TO DEFINE THE TERM LOGGING; AMENDING SECTION 63-3622D, IDAHO CODE, TO CLARIFY THAT LOGGING IS INCLUDED WITHIN THE PRODUCTION EXEMPTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3605A, Idaho Code, and to read as follows:

63-3605A. LOGGING. The term "logging" means the harvesting of forest trees by cutting, skidding, loading, thinning or decking, regardless of whether the forest trees are owned by the person performing the harvesting. The term logging does not include incidental harvesting of forest trees in the performance of a contract for road building or other real property improvements.

SECTION 2. That Section 63-3622D, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622D. PRODUCTION EXEMPTION. There are exempted from the taxes imposed by this chapter:

(1) The sale at retail, storage, use or other consumption in this state of tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for ultimate sale at retail within or without this state, and tangible personal property primarily and directly used or consumed in or during such manufacturing, processing, mining, logging, farming, or fabricating operations by a business or segment of a business which is primarily devoted to such operation or operations, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.

(2) Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change or for removing impurities or otherwise placing a product in a more mar-

ketable condition are included within the exemption allowed by paragraph (1) above, as are other articles of tangible personal property used in the actual manufacturing, processing, mining, logging, farming or fabricating operations.

(3) The exemption allowed by paragraphs (1) and (2) above does not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, logging, farming or fabricating operations such as maintenance and janitorial equipment and supplies, and hand tools with a unit purchase price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual manufacturing, processing, mining, logging, farming or fabricating operations such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles or aircraft licensed or required to be licensed by the laws of this state, without regard to the use to which such motor vehicles or aircraft are put; nor shall this exemption include tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from tax under this act by sections 63-3622F, 63-3622G, 63-3622I and 63-3622M, Idaho Code.

SECTION 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, 1989.

Approved March 29, 1989.

CHAPTER 258
(S.B. No. 1287)

AN ACT

RELATING TO THE DEVELOPMENT OF THE BEAR RIVER; AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1768, IDAHO CODE, TO CREATE A TASK FORCE TO STUDY ISSUES PERTAINING TO THE DEVELOPMENT OF THE BEAR RIVER WITHIN THE DEPARTMENT OF WATER RESOURCES; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1990; DECLARING AN EMERGENCY, PROVIDING AN EFFECTIVE DATE AND PROVIDING A SUNSET CLAUSE.

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

SECTION 1. That Chapter 17, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1768, Idaho Code, and to read as follows:

42-1768. TASK FORCE TO STUDY ISSUES PERTAINING TO THE DEVELOPMENT

OF THE BEAR RIVER. (1) There is hereby created in the department of water resources, the Bear River development task force to study and make recommendations regarding the state's role in the development of the Bear River inside and outside the state of Idaho. The task force shall exist from May 1, 1989, through December 31, 1990.

(2) Membership on the task force shall include:

(a) Two (2) members of the senate appointed by the president pro tempore. At least one (1) member shall represent the area through which the Bear River flows;

(b) Two (2) members of the house of representatives, appointed by the speaker. At least one (1) member shall represent the area through which the Bear River flows;

(c) The director of the department of water resources;

(d) A member of the water resource board appointed by the water resource board;

(e) Four (4) county commissioners appointed by the governor, one (1) from each of the counties through which the Bear River flows;

(f) A representative of an entity holding a major water right for the consumptive use of Bear River water, appointed by the governor;

(g) A representative of an entity holding a major water right for the nonconsumptive use of Bear River water, appointed by the governor.

(3) Attendance of a majority of the members at a duly called meeting constitutes a quorum for the transaction of the official business of the task force.

(4) Legislators on the task force shall receive compensation and expenses as provided by rules of the legislature and shall be paid out of the legislative account. Task force members who are employees of the state shall receive no additional compensation. Other task force members shall be compensated as provided in section 59-509(b), Idaho Code.

(5) The department of water resources shall provide the task force with the necessary staff assistance.

(6) The task force shall study and consider the following issues:

(a) The demand for water created by the state's growing population and alternative sources of water supply to meet that demand in the Bear River basin;

(b) The management, design, construction and operation of the various units of the Bear River project;

(c) The financing of the Bear River project;

(d) Marketing strategies that should be implemented for different types of water uses;

(e) The schedule for full development of the Bear River project; and

(f) The feasibility of entering into cooperative agreements with other Bear River compact states.

(7) The task force shall submit an interim report of its activities to the governor on or before January 5, 1990, and the task force shall submit a final report with its findings, recommendations and proposed legislation, if any, to the governor and both houses of the legislature on or before December 31, 1990.

SECTION 2. There is hereby appropriated to the department of water resources from the general account to be expended during the period July 1, 1989, to December 31, 1990, the sum of five thousand dollars ($5,000) to implement the provisions 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 May 1, 1989, and shall be null, void and of no force and effect on and after January 1, 1991, unless reauthorized by the legislature by law.

Approved March 29, 1989.

CHAPTER 259
(S.B. No. 1207)

AN ACT

RELATING TO PERSONALIZED LICENSE PLATES; AMENDING SECTION 49-409, IDAHO CODE, TO PROVIDE THAT PERSONALIZED LICENSE PLATES MAY BE ISSUED FOR ANY VEHICLE, NOT JUST MOTOR VEHICLES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-409, Idaho Code, be, and the same is hereby amended to read as follows:

49-409. 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 operating fee, the applicant shall be charged a fee of twenty-five dollars ($25.00) for the initial issuance of the plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. 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 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 the plates will be as prescribed by the director and, in his discretion, may refuse to issue the plates.

(2) When personalized license plates are issued for a motor vehicle, the regular license plates 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 plates must also be surrendered upon failure to pay the annual fee for personalized license plates.

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, 1989.

CHAPTER 260
(S.B. No. 1174)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-202, IDAHO CODE, TO PROVIDE THAT FOREIGN MILITARY PERSONNEL STATIONED IN IDAHO MAY BE CONSIDERED RESIDENTS FOR THE PURPOSES OF THE FISH AND GAME LAWS.

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

SECTION 1. That Section 36-202, Idaho Code, be, and the same is hereby amended to read as follows:

36-202. DEFINITIONS. Whenever the following words appear in title 36, Idaho Code, and orders, rules and regulations promulgated by the Idaho fish and game commission or the director of the Idaho department of fish and game, they shall be deemed to have the same meaning and terms of reference as hereinafter set forth. The present tense includes the past and future tenses, and the future, the present.

(a) "Title" shall mean all of the fish and game laws and regulations promulgated pursuant thereto.

(b) "Commission" shall mean the Idaho fish and game commission. "Commissioner" shall mean a member of the Idaho fish and game commission.

(c) "Department" shall mean the Idaho department of fish and game.

(d) "Director" shall mean the director of the Idaho department of fish and game or any person authorized to act in his name.

(e) "Employee" shall mean any employee of the Idaho department of fish and game whose salary is paid entirely or in part by funds administered by the Idaho fish and game commission and whose appointment is made in accordance with the Idaho personnel commission act and related rules and regulations.

(f) "Person" shall mean an individual, partnership, corporation, company or any other type of association, and any agent or officer of any partnership, corporation, company, or other type of association. The masculine gender includes the feminine and the neuter. The singular, the plural, and the plural, the singular.

(g) "Wildlife" shall mean any form of animal life, native or exotic, generally living in a state of nature.

(h) "Take" shall mean hunt, pursue, catch, capture, shoot, fish, seine, trap, kill, or possess or any attempt to so do.

(i) "Hunting" shall mean chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, shooting at,

stalking, or lying in wait for, any wildlife whether or not such wildlife is then or subsequently captured, killed, taken, or wounded. Such term does not include stalking, attracting, searching for, or lying in wait for, any wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures thereof.

(j) "Fishing" shall mean any effort made to take, kill, injure, capture, or catch any fish or bullfrog.

(k) "Trapping" shall mean taking, killing, and capturing wildlife by the use of any trap, snare, deadfall, or other device commonly used to capture wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting or staking such traps, snares, deadfalls, and other devices, whether or not such acts result in the taking of wildlife, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, snares, deadfalls, or other devices.

(l) "Possession" shall mean both actual and constructive possession, and any control of the object or objects referred to; provided that wildlife taken accidentally and in a manner not contrary to the provisions of this title shall not be deemed to be in possession while being immediately released live back to the wild.

(m) "Possession limit" shall mean the maximum limit in number or amount of wildlife which may be lawfully in the possession of any person. "Possession limit" shall apply to wildlife being in possession while in the field or being transported to final place of consumption or storage.

(n) "Bag limit" shall mean the maximum number of wildlife which may be legally taken, caught, or killed by any one person for any particular period of time, as provided by order of the commission. The term "bag limit" shall be construed to mean an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his "bag limit" toward filling the "bag limit" of another.

(o) "Buy" shall mean to purchase, barter, exchange, or trade and includes any offer or attempt to purchase, barter, exchange, or trade.

(p) "Sell" shall mean to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging or trading.

(q) "Transport" shall mean to carry or convey or cause to be carried or conveyed from one place to another and includes an offer to transport, or receipt or possession for transportation.

(r) "Resident" shall mean any person who has been domiciled in this state, with a bona fide intent to make this his place of permanent abode, for a period of not less than six (6) months immediately preceding the date of application for any license, tag, or permit required under the provisions of this title or orders of the commission and who, when temporarily absent from this state, continues residency with intent to return. Provided that, until any such person has been continuously domiciled outside the state of Idaho for a sufficient period of time to qualify for resident hunting and fishing privileges in his new state of residence, said person shall be deemed not to have lost his residency in Idaho for the purposes of this title.

Provided further that:

1. Idaho residents shall not lose their residency in Idaho if they are absent from the state for religious (not to exceed two (2) years) or full time educational (not to exceed five (5) years) purposes, full time to be defined by the educational institution attended, and do not claim residency or use resident privileges in any other state or country for any purpose.

2. Idaho residents who are in the military service of the United States and maintain Idaho as their official home of record, together with their spouse and children under eighteen (18) years of age living in the household, shall be eligible for the purchase of resident licenses.

3. A member of the military service of the United States or of a foreign country, together with his spouse and children under eighteen (18) years of age residing in his household, who have been officially transferred, stationed, domiciled and on active duty in this state for a period of thirty (30) days last preceding application shall be eligible, as long as such assignment continues, to purchase a resident license.

4. Any person enrolled as a corpsman at a job corps center in Idaho shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

5. Any foreign exchange student enrolled in an Idaho high school shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

(s) "Senior resident" shall mean any person who is over sixty-five (65) years of age and who has been a resident of the state of Idaho as hereinbefore provided for not less than five (5) years.

(t) "Nonresident" shall mean any person who does not qualify as a resident.

(u) "Order, rule, regulation" are all used interchangeably and each includes the others.

(v) "Blindness" shall mean sight that does not exceed 20/200 as provided by the administrative guidelines of section 56-213, Idaho Code.

(w) "Public highway" shall mean the traveled portion of, and the shoulders on each side of, any road maintained by any governmental entity for public travel, and shall include all bridges, culverts, overpasses, fills, and other structures within the limits of the right-of-way of any such road.

(x) "Motorized vehicle" shall mean any water, land or air vehicle propelled by means of steam, petroleum products, electricity, or any other mechanical power.

(y) "Commercial fish hatchery" shall mean any hatchery, pond, lake or stream or any other waters where fish are held, raised, or produced for sale but shall not include facilities used for the propagation of fish commonly considered as ornamental or aquarium varieties.

Approved March 29, 1989.

CHAPTER 261
(S.B. No. 1132)

AN ACT

RELATING TO PRECINCT BOUNDARY REQUIREMENTS; AMENDING SECTION 34-306, IDAHO CODE, TO PROVIDE THAT A PRECINCT BOUNDARY MAY FOLLOW A SCHOOL DISTRICT BOUNDARY WHICH DOES NOT FOLLOW A VISIBLE FEATURE.

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

SECTION 1. That Section 34-306, Idaho Code, be, and the same is hereby amended to read as follows:

34-306. PRECINCT BOUNDARY REQUIREMENTS. Precinct boundaries shall follow visible, easily recognizable features, including but not limited to, streets, railroad tracks, streams, lakes and ridges. The exception shall be when a precinct boundary coincides with a city ~~or~~, county or school district boundary which does not follow a visible feature.

In order to achieve compliance with the requirements of this section, and simultaneously maintain legislative district boundaries which may not follow visible features, as provided in section 67-202, Idaho Code, a county may designate subprecincts within precincts, the internal boundaries of which do not follow visible features.

Approved March 29, 1989.

CHAPTER 262
(S.B. No. 1114)

AN ACT

RELATING TO MINING ON STATE LANDS; AMENDING SECTION 47-717, IDAHO CODE, TO PROVIDE THAT ANY PERSON, ASSOCIATION, FIRM OR CORPORATION WHO REMOVES ORES, MINERALS OR DEPOSITS FROM STATE LANDS WITHOUT SECURING A LEASE FROM THE STATE BOARD OF LAND COMMISSIONERS SHALL BE LIABLE TO THE STATE FOR TREBLE DAMAGES IN A CIVIL ACTION; AND AMENDING SECTION 47-718, IDAHO CODE, TO PROVIDE CORRECT CITATIONS AND TO REVISE THE PROCEDURE FOR THE FORFEITURE OF AN OPERATOR'S BOND AS REQUIRED BY LAW UPON CERTAIN VIOLATIONS.

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

SECTION 1. That Section 47-717, Idaho Code, be, and the same is hereby amended to read as follows:

47-717. REMOVAL OF COMMERCIAL QUANTITIES WITHOUT LEASE UNLAWFUL. It shall be unlawful for any person, association, firm or corporation

to remove in commercial quantities any ores, minerals, or deposits from state lands before securing a lease for said lands from the state board of land commissioners. Any person, association, firm or corporation who so removes ores, minerals or deposits shall be liable to the state for treble damages in a civil action.

SECTION 2. That Section 47-718, Idaho Code, be, and the same is hereby amended to read as follows:

47-718. VIOLATIONS -- REMEDIES -- PENALTIES. (1) In addition to any other penalties and remedies of this chapter and at law, any person, firm, or corporation who violates any provisions of this chapter or regulations adopted pursuant thereto, or who fails to perform the duties imposed thereby, or who violates any determination or order thereunder or any violation of a lease granted under this chapter, the director of the department of lands may:

(a) Proceed by legal action in the name of the state of Idaho to enjoin the violation, by temporary restraining order, preliminary injunction and/or permanent injunction.

1. The court, or a judge thereof at chambers, if satisfied from a verified complaint or by affidavit that the alleged violation has been or is being committed, may issue a temporary restraining order, without notice or bond, enjoining the defendant, his agents, employees, contractors and assigns from further violation, or from conducting exploration or mining on the state lands affected by the violation.

2. The verified complaint or affidavit that the alleged violation has been or is being committed shall constitute prima facie evidence of great or irreparable injury and/or great waste sufficient to support the temporary restraining order.

3. The action shall thereafter proceed as in other cases for injunctions. If at the trial the violation is established, the court shall enter a decree perpetually enjoining said defendant, his agents, employees, contractors and assigns from thereafter committing said or similar violations.

(b) Proceed by legal action in the name of the state of Idaho to obtain an order requiring the operator to promptly repair the damage and reclaim the state lands in accordance with the requirements of section 47-703A~~(2)~~, Idaho Code, and regulations adopted pursuant thereto. If thereafter the court finds that the operator is not promptly complying with such order, the court shall order the operator to immediately pay an amount determined by the department to be the anticipated cost of reasonable repair and reclamation in accordance with section 47-703A(2), Idaho Code, and regulations adopted pursuant thereto.

(c) Proceed to forfeit the operator's bond required by sections 47-703A(1), 47-704(6) or 47-708, Idaho Code~~, after reasonable notice to the operator and an administrative hearing~~. The board may cause to have issued and served upon the operator alleged to be committing such violation, a formal complaint which includes a statement of the manner in and the extent to which said operator

is alleged to be violating the provisions of this act. Such complaint may be served by certified mail, and return receipt signed by the lessee, an officer of a corporate lessee, or the designated agent of the lessee shall constitute service. The lessee 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 lessee fails to answer the complaint and request a hearing, the matters asserted in the complaint shall be deemed admitted by the lessee, and the board may proceed to forfeit the bond in the amount necessary to reclaim affected lands and pay for any outstanding royalties and related administrative costs. The director of the department of lands is empowered to issue subpoenas. The hearing shall be conducted in accordance with sections 67-5209 through 67-5213, Idaho Code. The hearing officer shall enter an order in accordance with section 67-5212, Idaho Code. Appeal to a district court shall be in accordance with section 67-5215, Idaho Code.

(d) Cancel the lease in accordance with section 47-707, Idaho Code.

(2) In addition to the injunctive remedies of subsection (1)(a) of this section,

(a) Proceed in the first instance by legal action in the name of the state of Idaho to recover from an operator who without bond has conducted or is conducting exploration with heavy equipment on state lands, including lands between the ordinary high watermarks of navigable rivers, the cost of repairing damage to and reclaiming the affected state lands in accordance with section 47-703A(2), Idaho Code, and regulations adopted pursuant thereto; or if the bond on file with the department of lands is not sufficient to adequately reclaim the affected state lands, to recover the cost in excess of the bond to reclaim the affected state lands in accordance with section 47-703A(2), Idaho Code, and regulations adopted pursuant thereto.

(b) Proceed by legal action in the name of the state of Idaho to recover from an operator who has removed minerals in commercial quantities from state lands, including lands between the ordinary high watermarks of navigable rivers, in violation of the provisions of section 47-717, Idaho Code, damages in the amount of the prevailing royalty rate set by the board of land commissioners for the particular mineral removed plus interest from the date of removal at the average annual interest rate of the investment board from the date of removal to judgment.

(3) In addition to any other penalties or injunctive remedies of this chapter, any person, firm, or corporation who violates any of the provisions of this chapter 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 chapter, shall be liable to a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each day during which any provision of this chapter, regulation or order has been or is being violated. All sums recovered

shall be credited to the general fund.

(4) An appeal from a final judgment of the district court shall be taken in the manner provided by law for appeals in civil cases.

Approved March 29, 1989.

CHAPTER 263
(H.B. No. 11, As Amended)

AN ACT

RELATING TO ADDITIONAL FEES FOR LICENSE PLATES; AMENDING SECTION 49-450, IDAHO CODE, TO INCREASE THE ADDITIONAL FEE FOR LICENSE PLATES, AND TO PROVIDE FOR DISTRIBUTION OF THE ADDITIONAL FEES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-450A, IDAHO CODE, TO CREATE THE PLATE MANUFACTURING ACCOUNT AND TO PROVIDE FOR THE USE OF MONEYS IN THE ACCOUNT.

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

SECTION 1. That Section 49-450, Idaho Code, be, and the same is hereby amended to read as follows:

49-450. ADDITIONAL FEE FOR EACH PLATE ISSUED. Whenever any plate is issued for vehicle registration, there shall be charged a fee of ~~one~~ two dollars and ~~seventy~~ fifty cents (~~$1.70~~ 2.50) per plate, which shall be in addition to the vehicle registration fee provided by law, from which one dollar and seventy cents ($1.70) shall be deposited in the highway distribution account, and the remainder shall be deposited into the plate manufacturing account created in section 49-450A, Idaho Code.

SECTION 2. 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 49-450A, Idaho Code, and to read as follows:

49-450A. PLATE MANUFACTURING ACCOUNT. There is hereby created in the state treasury an account to be known as the "plate manufacturing account" for the sole purpose of paying the actual cost to manufacture license plates. All moneys in this account are hereby continuously appropriated to the department. Any additional funds required to pay plate manufacturing costs will be transferred by the state auditor from the state highway account.

Approved April 3, 1989.

CHAPTER 264
(H.B. No. 183)

AN ACT

RELATING TO THE SALES TAX AND OCCASIONAL SALES; AMENDING SECTION 63-3622K, IDAHO CODE, TO CLARIFY THAT THE SALES TAX EXEMPTION FOR THE OCCASIONAL SALES OF TANGIBLE PERSONAL PROPERTY SHALL NOT APPLY TO THE SALE, PURCHASE OR USE OF AIRCRAFT, BOATS OR VESSELS, SNOWMOBILES, RECREATIONAL VEHICLES OR OFF-HIGHWAY MOTORBIKES; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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~~;-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~~.

(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 conjunc-

tion 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) of this section.

(d) The exemption provided by subsections (b)(1) or (b)(4) of this section 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.

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

Approved April 3, 1989.

CHAPTER 265
(H.B. No. 191)

AN ACT

RELATING TO AGRICULTURAL COMMODITY DEALER LIENS; AMENDING SECTION 45-1801, IDAHO CODE, TO PROVIDE THAT THE DEFINITION OF AGRICULTURAL PRODUCT INCLUDES COMMODITIES WHICH HAVE BEEN PROCESSED INTO FEED; AMENDING SECTION 45-1804, IDAHO CODE, TO PROVIDE THAT THE LIEN MAY BE FILED BY AN AGENT OR ATTORNEY, TO PROVIDE WHERE THE LIEN SHALL BE FILED, AND REMOVING A NOTICE OF LIEN REQUIREMENT; AMENDING CHAPTER 18, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-1809, IDAHO CODE, TO PROVIDE THAT ACTIONS AGAINST THE SAME PROPERTY MAY BE JOINED AND THAT COSTS AND ATTORNEY'S FEES MAY BE ALLOWED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 45-1801, Idaho Code, be, and the same is hereby amended to read as follows:

45-1801. DEFINITIONS. As used in this chapter:

(1) "Agricultural product" means wheat, corn, oats, barley, rye, lentils, soybeans, grain sorghum, dry beans and peas, beans, safflower, sunflower seeds, tame mustards, rapeseed, flaxseed, leguminous seed or other small seed, or any other agricultural commodity, including any of the foregoing, whether cleaned, processed,

treated, reconditioned or whether mixed, rolled or combined in any fashion or by any means to create a product used as animal, poultry or fish feed.

(2) "Agricultural commodity dealer" means any person who contracts for or solicits any agricultural product from an agricultural producer or negotiates the consignment or purchase of any agricultural product, or ~~receivers~~ receives for sale, resale or shipment for storage, processing, cleaning or reconditioning, any agricultural product, or who buys during any calendar year, at least ten thousand dollars ($10,000) worth of agricultural products from the producer or producers of the commodity. Agricultural commodity dealer shall not mean a person who purchases agricultural products for his own use as seed or feed.

(3) "Agricultural commodity producer" means the owner, tenant or operator of land in this state who has an interest in and receives all or part of the proceeds from the sale of agricultural products produced on that land.

(4) "Person" means an individual, trust, partnership, business trust, corporation, or unincorporated association or any other legal or commercial entity.

SECTION 2. That Section 45-1804, Idaho Code, be, and the same is hereby amended to read as follows:

45-1804. DURATION OF LIEN -- NOTICE OF LIEN. (1) The lien created by section 45-1802, Idaho Code, remains in effect for a period of not more than ninety (90) days after the date of attachment except as provided in subsections (2) and (3) of this section.

(2) The lien created by section 45-1802, Idaho Code, may extend for a period of six (6) months from the date the lien attaches if all of the following are completed by the agricultural commodity dealer or producer or his authorized attorney or agent within ninety (90) days after the date of attachment:

(a) Filing with the county recorder of the county where the ~~agricultural commodity dealer or producer is located of~~ purchaser of the agricultural commodities maintains its headquarters or main place of business in Idaho, a written notice of lien, signed and verified by the agricultural commodity producer or the agricultural commodity dealer or his authorized attorney or agent and containing:

1. A true statement of the demand of the agricultural commodity producer or agricultural commodity dealer after deducting all credits and offsets;

2. The name of the person who purchased the agricultural product from the agricultural commodity producer or agricultural commodity dealer;

3. A description of the agricultural product charged with the lien;

4. A statement that the amount claimed is a true and bona fide existing debt as of the date of filing of the notice of lien; and

5. Such other information as the county recorder may

require.

~~(b)--Sending,--by-certified-mail,-return-receipt-requested,-a-copy of-the-notice-described-in-subsection-(2)(a)-of--this--section--to all--other-persons-who-have-filed-a-claim-of-lien-on-the-inventory or-accounts-receivable-of-the-purchaser-of-the-agricultural--product.~~

(3) A lien extended for a period of six (6) months under subsection (2) of this section may be extended for an additional six (6) months by completing the requirements of subsections (2)(a) ~~and-(2)(b)~~ of this section prior to the expiration of the lien.

SECTION 3. That Chapter 18, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-1809, Idaho Code, and to read as follows:

45-1809. JOINDER OF ACTIONS -- FILING FEES AS COSTS -- ATTORNEY'S FEES. Any number of persons claiming liens against the same property under this chapter may join in the same action, and when separate actions are commenced, the court may consolidate them. The court shall also, as part of the cost, allow the moneys paid for filing and recording the claim, and a reasonable attorney's fee for each person claiming a lien.

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 April 3, 1989.

CHAPTER 266
(H.B. No. 218, As Amended)

AN ACT

RELATING TO THE INSPECTION AND COPYING OF RECORDS OF FINANCIAL INSTITUTIONS AND UTILITIES PURSUANT TO CONTROLLED SUBSTANCES INVESTIGATION; AMENDING SECTION 37-2701, IDAHO CODE, TO ALPHABETIZE AND PROVIDE DEFINITIONS; AND AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2741A, IDAHO CODE, TO PROVIDE FOR INSPECTIONS OF THE RECORDS OF FINANCIAL INSTITUTIONS AND PUBLIC UTILITIES.

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

SECTION 1. That Section 37-2701, Idaho Code, be, and the same is hereby amended to read as follows:

37-2701. DEFINITIONS. As used in this act:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other

means, to the body of a patient or research subject by:

(1) A practitioner (or, in his presence, by his authorized agent), or

(2) The patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(~~x~~c) "Board" means the state board of pharmacy created in chapter 17, title 54, Idaho Code, or its successor agency.

(~~c~~d) "Bureau" means the Bureau of Narcotic and Dangerous Drugs, United States Department of Justice, or its successor agency.

(~~d~~e) "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V of article II of this act.

(~~e~~f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade-name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(~~f~~g) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship.

(~~y~~h) "Director" means the director of the department of law enforcement of the state of Idaho.

(~~g~~i) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(~~h~~j) "Dispenser" means a practitioner who dispenses.

(~~i~~k) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(~~j~~l) "Distributor" means a person who distributes.

(~~k~~m) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(~~bb~~n) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this act.

It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons, and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums;

(l) Bongs;

(m) Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

3. The proximity of the object, in time and space, to a direct violation of this act;

4. The proximity of the object to controlled substances;

5. The existence of any residue of controlled substances on the object;

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or depict its use;

9. National and local advertising concerning its use;

10. The manner in which the object is displayed for sale;

11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

13. The existence and scope of legitimate uses for the object in the community;

14. Expert testimony concerning its use.

(o) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or under the jurisdiction of an agency of the United States.

(~~l~~p) "Immediate precursor" means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(~~z~~q) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full time or part time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(~~m~~r) "Manufacture" means the production, preparation, propaga-

tion, compounding, conversion or processing of a controlled substance, and includes extraction, directly or indirectly, from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(1) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for delivery.

(ns) "Marijuana" means all parts of the plant of the genus Cannabis, regardless of species, and whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. It does not include the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom or where the same are intermixed with prohibited parts of such plant), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Evidence that any plant material or the resin or any derivative thereof, regardless of form, contains any of the chemical substances classified as tetrahydrocannabinols shall create a presumption that such material is "marijuana" as defined and prohibited herein.

(ot) "Narcotic drug" means any of the following, 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.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including 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, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(pu) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifi-

cally designated as controlled under section 37-2702, Idaho Code, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(qv) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(aaw) "Peace officer" means any duly appointed officer or agent of a law enforcement agency, as defined herein, including but not limited to a duly appointed investigator or agent of the department of law enforcement, an officer or employee of the board of pharmacy, who is authorized by the board to enforce this act, an officer of the Idaho state police or department of law enforcement, a sheriff or deputy sheriff of a county, or a marshal or policeman of any city.

(rx) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(sy) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(tz) "Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of his professional practice or research in this state;

(2) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of their professional practice or research in this state.

(uaa) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(ccbb) "Simulated controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(1) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(2) Statements made to the recipient that the substance may be resold for inordinate profit; or

(3) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(vcc) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(wdd) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a mem-

ber of his household.

(ee) "Utility" means any person, association, partnership or corporation providing telephone and/or communication services, electricity, natural gas or water to the public.

SECTION 2. That Chapter 27, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-2741A, Idaho Code, and to read as follows:

37-2741A. FINANCIAL INSTITUTION AND UTILITY RECORDS -- INSPECTION AND COPYING -- WRONGFUL DISCLOSURE. (a) Upon request of the attorney general or prosecuting attorney, a subpoena for the production of records of a financial institution or utility may be signed and issued by a district court judge if there is probable cause that a violation of the provisions of sections 37-2732, 37-2733, 37-2734 or 37-2734A, Idaho Code, has occurred or is occurring and that the records sought will materially aid in the investigation of such activity or appear reasonably calculated to lead to the discovery of information that will do so. The subpoena shall be served on the financial institution or utility as in civil actions. The court may, upon motion timely made and in any event before the time specified for compliance with the subpoena, condition compliance upon advancement by the attorney general or prosecuting attorney of the reasonable costs of producing the records specified in the subpoena.

(b) A response to a subpoena issued under this section is sufficient if a copy or printout, duly authenticated by an officer of the financial institution or utility as a true and correct copy or printout of its records, is provided, unless otherwise provided in the subpoena for good cause shown.

(c) Except as provided in this subsection, a financial institution or utility served with a subpoena under this section may disclose to the customer the fact that a subpoena seeking records relating to the customer has been served. A judge of the district court may order that the attorney general, prosecuting attorney, financial institution or utility refrain from disclosing the fact that a subpoena has been served.

(d) A financial institution or utility shall be reimbursed in an amount set by the court for reasonable costs incurred in providing information pursuant to the provisions of this section.

(e) The provisions of this section do not preclude the use of other legally authorized means of obtaining records, nor preclude the assertion of any legally recognized privileges or the right to seek a protective order where appropriate.

(f) Disclosure by the attorney general, county prosecuting attorney, or any peace officer or other person designated by the attorney general or the county prosecuting attorney, of information obtained under this section, except in the proper discharge of official duties, is punishable as a misdemeanor.

(g) Upon filing of any civil or criminal action, the nondisclosure requirements of any subpoena or order under this section shall terminate, and the attorney general or prosecuting attorney fil-

ing the action shall provide copies to the defendant of all subpoenas or other orders issued under this section.

(h) A good faith reliance on a court order by a financial institution or a utility shall constitute a complete defense to any civil or criminal action brought against such a financial institution or utility under the laws of this state.

Approved April 3, 1989.

CHAPTER 267
(H.B. No. 219)

AN ACT

RELATING TO THE SUBPOENA OF WITNESSES IN CRIMINAL PROCEEDINGS; STATING LEGISLATIVE FINDINGS; AND AMENDING CHAPTER 30, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-3007A, IDAHO CODE, TO PROVIDE FOR THE SERVICE OF A SUBPOENA BY MAIL OR MESSENGER.

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

SECTION 1. The legislature is aware that most witnesses in criminal proceedings are cooperative and would agree to appear and testify before a court if a subpoena is delivered to said witness by mail. The legislature finds that service and delivery of a subpoena by mail would significantly reduce the costs incurred by personal service, and that it would be in the best interests of the taxpayers of the state of Idaho that the sender of a subpoena have the option of serving a subpoena by mail.

SECTION 2. That Chapter 30, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-3007A, Idaho Code, and to read as follows:

19-3007A. SERVICE OF SUBPOENA BY MAIL OR MESSENGER. (1) Notwithstanding the provisions of section 19-3007, Idaho Code, a subpoena may be delivered by mail or messenger. Service shall be effected when the witness acknowledges receipt of the subpoena to the sender by telephone, by mail, or in person, and identifies himself or herself by reference to his date of birth and his driver's license number or social security number. The sender shall make a written notation of the identifying information obtained during any acknowledgement by telephone or in person. A subpoena issued and acknowledged pursuant to this section shall have the same force and effect as a subpoena personally served. Failure to comply with a subpoena issued and acknowledged pursuant to this section may be punished as a contempt, and the subpoena may so state; provided, that a warrant of arrest or a body attachment may not be issued based upon a failure to appear after being subpoenaed pursuant to this section.

(2) A party requesting a continuance based upon the failure of a

witness to appear in court at the time and place required for his appearance or testimony pursuant to a subpoena shall prove to the court that the party has complied with the provisions of this section. Such a continuance shall only be granted for a period of time which would allow personal service of the subpoena and a reasonable time for the witness to appear before the court.

Approved April 3, 1989.

CHAPTER 268
(H.B. No. 257)

AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2713A, IDAHO CODE, TO PROVIDE THAT VOLATILE NITRITES ARE CONTROLLED SUBSTANCES AND TO PROVIDE EXCEPTIONS; AMENDING SECTION 37-2732, IDAHO CODE, TO PROVIDE PENALTIES FOR POSSESSION OF LYSERGIC ACID DIETHYLAMIDE, FOR DELIVERY OR POSSESSION OF VOLATILE NITRATES, AND TO PROVIDE THAT EXTRACT OR ANY PREPARATION OF CANNABIS CONTAINING TETRAHYDROCANNABINAL IS CONSIDERED MARIJUANA.

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

SECTION 1. That Chapter 27, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-2713A, Idaho Code, and to read as follows:

37-2713A. SCHEDULE VI. (a) Schedule VI 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) Volatile nitrites. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following drugs or their related compounds, congeners or isomers as follows:

(1) Amyl nitrite;
(2) Butyl nitrite;
(3) Isobutyl nitrite;
(4) Isoamyl nitrite;
(5) Isopentyl nitrite.

Except that any combination or compound containing amyl nitrite which is prepared pursuant to a prescription issued by a licensed practitioner is not a controlled substance for the purpose of this section.

SECTION 2. That Section 37-2732, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by this chapter, it is unlawful for any person to manufacture or

deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(A) a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for a term of years not to exceed life imprisonment, or fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other controlled substance which is a nonnarcotic drug classified in schedule I, or a controlled substance classified in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) a substance classified in schedules V and VI, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(A) a counterfeit substance classified in schedule I which is a narcotic drug, or a counterfeit substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than fifteen (15) years, fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other counterfeit substance classified in schedule I which is a nonnarcotic drug contained in schedule I or a counterfeit substance contained in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a counterfeit substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) a counterfeit substance classified in schedules V and VI or a noncontrolled counterfeit substance, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(c) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter.

(1) Any person who violates this subsection and has in his possession a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, or fined not more than five thousand dollars ($5,000), or both.

(2) Any person who violates this subsection and has in his possession lysergic acid diethylamide is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, or fined not more than five thousand dollars ($5,000) or both.

(3) Any person who violates this subsection and has in his possession a controlled substance which is a nonnarcotic drug classified in schedule I except lysergic acid diethylamide, or a controlled substance classified in schedules III, IV ~~and~~, V and VI is guilty of a misdemeanor and upon conviction thereof may be imprisoned for not more than one (1) year, or fined not more than one thousand dollars ($1,000), or both.

(d) It shall be unlawful for any person to be present at or on premises of any place where he knows illegal controlled substances are being manufactured or cultivated, or are being held for distribution, transportation, delivery, administration, use, or to be given away. A violation of this section shall deem those persons guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars ($300) and not more than ninety (90) days in the county jail, or both.

(e) If any person is found to possess marijuana, which for the purposes of this subsection shall be restricted to all parts of the plants of the genus Cannabis, ~~and--not-a-derivative-or-an-extract thereof~~ including the extract or any preparation of cannabis which contains tetrahydrocannabinal, in an amount greater than three (3) ounces net weight, it shall be a felony and upon conviction may be imprisoned for not more than five (5) years, or fined not more than ten thousand dollars ($10,000), or both.

(f) If two (2) or more persons conspire to commit any offense defined in this act, said persons shall be punishable by a fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

(g) (1) It is unlawful for any person to manufacture or distribute a "simulated controlled substance," or to possess with intent to distribute, a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) and not more than one (1) year in the county jail, or both.

(2) It is unlawful for any person to possess a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars ($300) and not more than six (6) months in the county jail, or both.

(h) It is unlawful for any person to cause to be placed in any

newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale simulated controlled substances. Any person who violates this subsection is guilty of a misdemeanor and shall be punished in the same manner as prescribed in subsection (g) of this section.

(i) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in section 37-2701(1), Idaho Code, in the course of professional practice or research.

(j) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

(k) Upon conviction of a felony violation under this chapter, the court may order restitution for costs incurred by law enforcement agencies in investigating the violation. Law enforcement agencies shall include, but not be limited to, the department of law enforcement, county and city law enforcement agencies and county and city prosecuting attorney offices. Costs shall include, but not be limited to, those incurred for the purchase of evidence, travel and per diem for law enforcement officers and witnesses throughout the course of the investigation, hearings and trials, and any other investigative or prosecution expenses actually incurred, including regular salaries of employees. In the case of reimbursement to the department of law enforcement, those moneys shall be paid to the department of law enforcement for deposit into the drug enforcement donation account created in section 63-3067C, Idaho Code. 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).

Approved April 3, 1989.

CHAPTER 269
(H.B. No. 293, As Amended)

AN ACT

RELATING TO MEMBERSHIP OF THE PROFESSIONAL STANDARDS COMMISSION; AMENDING SECTION 33-1252, IDAHO CODE, TO INCREASE THE MEMBERSHIP OF THE COMMISSION TO INCLUDE A NOMINEE OF SPECIAL EDUCATION ADMINISTRATORS.

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

SECTION 1. That Section 33-1252, Idaho Code, be, and the same is hereby amended to read as follows:

33-1252. PROFESSIONAL STANDARDS COMMISSION -- MEMBERS -- APPOINTMENT -- TERMS. A professional standards commission is hereby created in the department of education, consisting of ~~seventeen~~ eighteen (1~~7~~8) members, one (1) of whom shall be a member of the staff of the state department of education, and one (1) of whom shall be a member of the staff of the division of vocational education, to be appointed by the state board of education. The members shall be representative of the teaching profession of the state of Idaho, and not less than seven (7) members shall be certificated classroom teachers in the public school system of the state and shall include at least one (1) teacher of exceptional children and at least one (1) teacher in pupil personnel services. Such expansion of membership on the professional standards commission shall not require reaffirmation of the codes and standards of ethics and rules of procedure used by the professional standards commission.

Except for the member from the staff of the state department of education, and the member from the staff of the division of vocational education, three (3) nominees for each position on the commission shall be submitted to the state superintendent of public instruction, for the consideration of the state board of education. Any state organization of teachers whose membership is open to all certificated teachers in the state may submit nominees for positions to be held by classroom teachers; the Idaho association of school superintendents may submit nominees for one (1) position, the Idaho association of secondary school principals may submit nominees for one (1) position; the Idaho association of elementary school principals may submit nominees for one (1) position; the Idaho association of school trustees may submit nominees for one (1) position; the Idaho association of special education administrators may submit nominees for one (1) position; the education departments of the private colleges of the state may submit nominees for one (1) position, the ~~junior~~ community colleges and the education departments of the public institutions of higher education may submit nominees for two (2) positions, and the colleges of letters and sciences of the institutions of higher education may submit nominees for one (1) position.

The state board of education shall appoint or reappoint members of the commission for terms of three (3) years.

Approved April 3, 1989.

CHAPTER 270
(H.B. No. 350, As Amended in the Senate)

AN ACT

RELATING TO THE STATUTE OF LIMITATIONS FOR PROSECUTION OF CRIMES AGAINST MINORS; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 19-402, IDAHO CODE, TO PROVIDE THAT PROSECUTIONS FOR LEWD AND LASCIVIOUS ACTS WITH A MINOR OR SEX ABUSE OF A MINOR MUST BE COMMENCED WITHIN FIVE YEARS AFTER THE DATE THE CHILD REACHES EIGHTEEN YEARS OF AGE.

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

SECTION 1. It is the intent of the legislature that extension of the provisions of section 19-402, Idaho Code, shall apply to all cases for which the statute of limitations has not yet expired. The legislature specifically declares that it is the public policy of the state that such an extension is not an ex post facto law.

SECTION 2. That Section 19-402, Idaho Code, be, and the same is hereby amended to read as follows:

19-402. COMMENCEMENT OF PROSECUTIONS FOR CRIMES AGAINST CHILDREN AND OTHER FELONIES. (1) A prosecution for any felony other than murder or any felony committed upon or against a minor child must be commenced by the filing of the complaint or the finding of an indictment within three (3) years after its commission. ~~A~~ Except as provided in subsection (2) of this section, a prosecution for any felony committed upon or against a minor child must be commenced within five (5) years after the commission of the offense by the filing of the complaint or a finding of an indictment.

(2) A prosecution under section 18-1506 or 18-1508, Idaho Code, must be commenced within five (5) years after the date the child reaches eighteen (18) years of age.

Approved April 3, 1989.

CHAPTER 271
(H.B. No. 356)

AN ACT

RELATING TO AN IDAHO CONGRESSIONAL MEDAL OF HONOR LICENSE PLATE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-415A, IDAHO CODE, TO PROVIDE FOR A CONGRESSIONAL MEDAL OF HONOR LICENSE PLATE.

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

SECTION 1. 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 49-415A, Idaho Code, and to read as follows:

49-415A. CONGRESSIONAL MEDAL OF HONOR LICENSE PLATES. (1) Congressional medal of honor license plates are available to applicants who furnish proof of entitlement by certification from the United States Veterans Administration attesting to their status as a congressional medal of honor recipient.

(2) The license plates shall be provided free of charge. The applicant shall pay the regular annual registration fees required by

section 49-402, Idaho Code. If the plate holder transfers his title or interest to a vehicle registered under this section, the plates may be transferred to another vehicle owned by the plate holder. If the plates are unexpired, the plate holder shall be given credit for the unexpired portion of the registration fee against the new registration fee. The transfer fee specified by section 49-431(1), Idaho Code, shall apply.

(3) These provisions shall apply to the vehicle to which the plates were originally issued and to any vehicle subsequently purchased and owned by the medal of honor recipient, except that the privilege shall not extend to more than one (1) vehicle at a time.

Approved April 3, 1989.

CHAPTER 272
(H.B. No. 398)

AN ACT
ESTABLISHING A SPECIAL COMMITTEE TO STUDY WHETHER IDAHO SHOULD ENTER INTO A PACIFIC NORTHWEST INTERNATIONAL TRADE COMPACT.

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

SECTION 1. There is hereby established a special committee consisting of four (4) members to undertake a study to determine whether the state of Idaho should enter into a compact with the states of Oregon and Washington on the subject of international trade. The governor shall appoint two (2) members of the committee, the president pro tempore shall appoint one (1) senator as a member, and the speaker of the house shall appoint one (1) representative as a member.

The committee shall have authority to meet with its counterparts from the states of Oregon and Washington to determine:

(a) Whether it is in the best interests of the state of Idaho to enter into a compact with the states of Oregon and Washington, and other entities, to promote and encourage interstate efforts dealing with international trade throughout the Pacific Northwest;

(b) The form, content and conditions of any such compact, should one be recommended.

The committee shall report its findings and recommendations to the second regular session of the centennial Idaho legislature.

Approved April 3, 1989.

CHAPTER 273
(H.B. No. 400)

AN ACT
RELATING TO JOINTLY OPERATED PORTS OF ENTRY; AMENDING SECTION 40-317,

IDAHO CODE, TO ALLOW THE STATE TAX COMMISSION TO ENTER INTO AGREEMENTS WITH OTHER STATES CONCERNING THE TAXATION OF EMPLOYEES OF JOINTLY OPERATED PORTS OF ENTRY.

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

SECTION 1. That Section 40-317, Idaho Code, be, and the same is hereby amended to read as follows:

40-317. POWERS AND DUTIES -- COOPERATIVE EFFORTS. The board may:

(1) Cooperate with, and receive and expend aid and donations from the federal government for transportation purposes, and receive and expend donations from other sources for the construction and improvement of any state highway or transportation project or any project on the federal-aid primary or secondary systems or on the interstate system, including extensions of them within urban areas; and, when authorized or directed by any act of congress or any rule or regulation of any agency of the federal government, expend funds donated or granted to the state of Idaho by the federal government for that purpose, upon highways and bridges not in the state highway system.

(2) Contract jointly with counties, cities, and highway districts for the improvement and construction of state highways.

(3) Cooperate with the federal government, counties, highway districts, and cities for construction, improvement, and maintenance of secondary or feeder highways not in the state highway system.

(4) Cooperate financially or otherwise with any other state or any county or city of any other state, or with any foreign country or any province or district of any foreign country, or with the government of the United States or its agencies, or private agencies or persons, for the erecting, construction, reconstructing, and maintaining of any bridge, trestle, or other structure for the continuation or connection of any state highway across any stream, body of water, gulch, navigable water, swamp or other topographical formation requiring any such structure and forming a boundary between the state of Idaho and any other state or foreign country, and for the purchase or condemnation or other acquisition of right-of-way.

(5) Serve as the state's representative in the designation of forest highways within the state.

(6) Negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees and taxes which may be required by law, rule and regulation. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size and weight laws, rules or regulations of the respective states. As to the provisions of title 63, chapter 30, Idaho Code, the state tax commission is hereby authorized to enter into reciprocal agreements with other states concerning the exemption of, or taxation of, persons employed by the state of Idaho or of another state in jointly operated ports of entry. As used is this sec-

tion, "jointly operated ports of entry" shall mean any state operated facility located within or without this state that employs persons that are direct employees of the state of Idaho and of another state which operates for the mutual benefit of both states.

(7) Enter into all contracts and agreements with the United States government in the name of the state of Idaho, relating to the survey, construction and maintenance of roads, under the provisions of any act of congress including county and city highways, and submit a program of construction and maintenance as may be required by the United States government or any of its agencies, and do all other things necessary to cooperate and complete those programs.

(8) Appoint a permanent local highway needs assessment council, consisting of eight (8) members equally representing the cities, counties, highway districts and the department. The appointments shall be made considering recommendations from the respective associations. Length of appointment shall be determined by the board in consultation with the local associations.

Approved April 3, 1989.

CHAPTER 274
(H.B. No. 407)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1990; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR IDAHO NATIONAL ENGINEERING LABORATORY OVERSIGHT FOR FISCAL YEAR 1990; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR COMMUNITY MENTAL HEALTH SERVICES FOR FISCAL YEAR 1990; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO HEALTH CARE PROVIDER REIMBURSEMENT RATES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO INPATIENT JUVENILE DIAGNOSTIC SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO A COST OF LIVING ADJUSTMENT TO THOSE RESIDING IN LICENSED SHELTER HOMES; SUPERSEDING THE PROVISIONS OF SECTION 39-3606, IDAHO CODE; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO NEW PROGRAMS OR PILOT PROJECTS; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM VARIOUS ACCOUNTS; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS.

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, 1989, through June 30, 1990:

FROM:

General Account	$ 92,699,000
Cooperative Welfare Account	214,890,900

Alcoholism Treatment Account	1,969,200
Cancer Control Account	375,000
Central Tumor Registry Account	110,000
Emergency Medical Services Account	879,200
Emergency Medical Services Account II	409,500
Medical Assistance Account	18,500
Liquor Account	650,000
Water Pollution Control Account	13,393,100
State Hospital North Income Account	347,900
State Hospital South Income Account	697,300
Hazardous Waste Monitoring Account	1,808,900
State Agricultural Smoke Management Account	20,200
State Youth Training Center Income Account	344,500
County Medical Indigency Suspense Account	2,478,400
Domestic Violence Account	194,100
TOTAL	$331,285,700

SECTION 2. There is hereby appropriated to the Department of Health and Welfare the following amounts to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DIVISION OF HEALTH:					
A. PHYSICAL HEALTH SERVICES:					
FROM:					
General Account	$ 916,400	$1,348,800	$ 1,700	$ 831,800	$ 3,098,700
Cooperative Welfare Account	1,829,500	1,715,100	89,500	12,846,500	16,480,600
Cancer Control Account	19,400	355,600			375,000
Central Tumor Registry Account				110,000	110,000
County Medical Indigency Suspense Account	8,400	2,600			11,000
TOTAL	$ 2,773,700	$3,422,100	$ 91,200	$13,788,300	$ 20,075,300
B. EMERGENCY MEDICAL SERVICES:					
FROM:					
Emergency Medical Services Account	$ 273,200	$ 352,100	$ 53,800	$ 200,100	$ 879,200
Emergency Medical Service Account II	260,200	65,700	37,500	46,100	409,500
Cooperative Welfare Account		146,000		23,000	169,000
TOTAL	$ 533,400	$ 563,800	$ 91,300	$ 269,200	$ 1,457,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. LABORATORY SERVICES:					
FROM:					
General					
Account	$ 853,800	$ 357,800	$103,300	$ 107,000	$ 1,421,900
Cooperative Welfare					
Account	666,300	274,900	5,000	19,600	965,800
Hazardous Waste Monitoring					
Account	64,100	40,900	82,900		187,900
TOTAL	$ 1,584,200	$ 673,600	$191,200	$ 126,600	$ 2,575,600
DIVISION TOTAL	$ 4,891,300	$4,659,500	$373,700	$14,184,100	$ 24,108,600
II. DIVISION OF WELFARE:					
A. STATE ECONOMIC OPPORTUNITY OFFICE:					
FROM:					
General					
Account	$ 22,000	$ 6,100	$ 1,200		$ 29,300
Cooperative Welfare					
Account	407,100	116,900	26,400	$13,841,400	14,391,800
TOTAL	$ 429,100	$ 123,000	$ 27,600	$13,841,400	$ 14,421,100
B. ELIGIBILITY SERVICES:					
FROM:					
General					
Account	$ 4,812,000	$1,934,600	$ 72,500		$ 6,819,100
Cooperative Welfare					
Account	4,959,000	1,721,300	65,400		6,745,700
County Medical Indigency Suspense					
Account		28,900			28,900
TOTAL	$ 9,771,000	$3,684,800	$137,900		$ 13,593,700
C. MEDICAL ASSISTANCE PAYMENTS:					
FROM:					
General					
Account	$ 938,300	$ 700,100	$112,400	$ 37,130,400	$ 38,881,200
Medical Assistance					
Account				15,000	15,000
Liquor Account				650,000	650,000
Cooperative Welfare					
Account	1,929,200	2,644,300	105,600	105,292,000	109,971,100
County Medical Indigency Suspense					
Account	70,800	48,200		2,267,300	2,386,300
TOTAL	$ 2,938,300	$3,392,600	$218,000	$145,354,700	$151,903,600
D. ADULT AND A.D.C. ASSISTANCE PAYMENTS:					
FROM:					
General					
Account		$ 92,400		$ 8,149,000	$ 8,241,400
Cooperative Welfare					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Account	$ 2,467,000	1,308,400	$ 97,300	16,781,300	20,654,000
TOTAL	$ 2,467,000	$1,400,800	$ 97,300	$ 24,930,300	$ 28,895,400
DIVISION TOTAL	$15,605,400	$8,601,200	$480,800	$184,126,400	$208,813,800
III. DIVISION OF FAMILY AND CHILDREN'S SERVICES:					
A. SOCIAL SERVICES:					
FROM:					
General Account	$ 3,582,100	$ 649,400	$ 65,300	$ 2,644,500	$ 6,941,300
Cooperative Welfare Account	9,172,000	2,175,800	235,400	4,651,100	16,234,300
County Medical Indigency Suspense Account		5,400			5,400
TOTAL	$12,754,100	$2,825,200	$300,700	$ 7,301,000	$ 23,181,000
B. SUBSTANCE ABUSE:					
FROM:					
Alcoholism Treatment Account	$ 126,400	$ 65,900	$ 11,000	$ 1,449,600	$ 1,652,900
Cooperative Welfare Account	113,900	222,800		1,262,400	1,599,100
TOTAL	$ 240,300	$ 288,700	$ 11,000	$ 2,712,000	$ 3,252,000
C. STATE YOUTH SERVICES CENTER:					
FROM:					
General Account					$ 4,091,700
Cooperative Welfare Account					737,000
State Youth Training Center Income Account					344,500
TOTAL					$ 5,173,200
DIVISION TOTAL					$ 31,606,200
IV. DIVISION OF ENVIRONMENTAL QUALITY:					
A. AIR QUALITY:					
FROM:					
General Account	$ 306,000	$ 42,600	$ 20,700		$ 369,300
Cooperative Welfare Account	463,600	168,600	900		633,100
Hazardous Waste Monitoring Account		15,500			15,500
State Agricultural Smoke Management Account		8,200	12,000		20,200
TOTAL	$ 769,600	$ 234,900	$ 33,600		$ 1,038,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. WATER QUALITY:					
FROM:					
Cooperative Welfare Account	$ 1,513,800	$ 545,500	$ 28,900	$ 70,700	$ 2,158,900
Water Pollution Control Account	1,483,500	1,093,600	130,400	10,685,600	13,393,100
TOTAL	$ 2,997,300	$1,639,100	$159,300	$ 10,756,300	$ 15,552,000
C. HAZARDOUS MATERIALS:					
FROM:					
Hazardous Waste Monitoring Account	$ 862,100	$ 303,200	$ 56,500		$ 1,221,800
Cooperative Welfare Account	607,100	985,600	4,200	$ 71,800	1,668,700
TOTAL	$ 1,469,200	$1,288,800	$ 60,700	$ 71,800	$ 2,890,500
DIVISION TOTAL	$ 5,236,100	$3,162,800	$253,600	$10,828,100	$ 19,480,600
V. INDIRECT SUPPORT SERVICES:					
FROM:					
General Account	$ 2,293,100	$1,708,400	$ 24,800		$ 4,026,300
Cooperative Welfare Account	2,332,600	1,819,100	31,800		4,183,500
County Medical Indigency Suspense Account		46,800			46,800
TOTAL	$ 4,625,700	$3,574,300	$ 56,600		$ 8,256,600
VI. DIVISION OF COMMUNITY REHABILITATION:					
A. COMMUNITY MENTAL HEALTH SERVICES:					
FROM:					
General Account	$ 4,112,900	$1,033,500	$ 60,900	$ 11,500	$ 5,218,800
Cooperative Welfare Account	1,481,900	700,900		100	2,182,900
TOTAL	$ 5,594,800	$1,734,400	$ 60,900	$ 11,600	$ 7,401,700
B. STATE HOSPITAL SOUTH:					
FROM:					
General Account					$ 6,132,200
Cooperative Welfare Account					1,487,100
State Hospital South Income Account					697,300
TOTAL					$ 8,316,600
C. IDAHO STATE SCHOOL AND HOSPITAL:					
FROM:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
General Account					$ 4,722,600
Medical Assistance Account					3,500
Cooperative Welfare Account					13,091,900
TOTAL					$ 17,818,000
D. STATE HOSPITAL NORTH:					
FROM:					
General Account					$ 2,099,600
Cooperative Welfare Account					432,600
Alcoholism Treatment Account					316,300
State Hospital North Income Account					347,900
TOTAL					$ 3,196,400
DIVISION TOTAL					$ 36,732,700
VII. STATE EMERGENCY RESPONSE COMMISSION:					
FROM:					
Hazardous Waste Monitoring Account					$ 178,200
VIII. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Domestic Violence Account	$ 56,800	$43,700		$ 93,600	$ 194,100
Cooperative Welfare Account		2,600		280,600	283,200
TOTAL	$ 56,800	$46,300		$374,200	$ 477,300
IX. COUNCIL ON DEVELOPMENTAL DISABILITIES:					
FROM:					
General Account	$ 3,300	$17,300	$2,900	$ 5,900	$ 29,400
Cooperative Welfare Account	97,900	76,500		130,400	304,800
TOTAL	$101,200	$93,800	$2,900	$136,300	$ 334,200
X. COMMISSION ON ALCOHOL-DRUG ABUSE:					
FROM:					
General Account	$ 37,600	$38,600			$ 76,200
GRAND TOTAL					$330,064,400

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for Idaho National Engineering Laboratory oversight the following amount from the listed accounts for the period July 1, 1989, through June 30, 1990:

FROM:

Hazardous Waste Monitoring Account	$205,500
Cooperative Welfare Account	515,800
TOTAL	$721,300

SECTION 4. There is hereby appropriated to the Department of Health and Welfare, for Community Mental Health Services, $500,000 from the General Account for the period July 1, 1989, through June 30, 1990.

SECTION 5. It is legislative intent that $250,000 appropriated from the General Account to the Medical Assistance Payments Program in Section 2 of this act, be matched with federal Medicaid money to provide an increase in reimbursement rates to selected health care providers.

SECTION 6. It is legislative intent that, of those moneys appropriated to the Social Services Program from the Cooperative Welfare Account in Section 2 of this act, $500,000 be awarded to a private provider on a competitive bid basis to establish inpatient juvenile diagnostic services.

SECTION 7. It is legislative intent that, of those moneys appropriated to Adult/ADC Assistance Payments in Section 2 of this act, $250,000 be used to provide a cost of living adjustment to those recipients residing in licensed shelter homes.

SECTION 8. The appropriation of moneys from the Water Pollution Control Account in Section 2 of this act specifically supersedes the provisions of Section 39-3606, Idaho Code.

SECTION 9. 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 10. It is legislative intent that, of the moneys appropriated in Section 2 of this act, no new programs or pilot projects be initiated without prior approval of the Joint Senate Finance-House Appropriations Committee unless mandated by federal law.

SECTION 11. 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 12. 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 364, Laws of 1988, to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990.

Approved April 3, 1989.

CHAPTER 275
(H.B. No. 413)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE GUARDIAN AD LITEM ACCOUNT; AND APPROPRIATING MONEYS FROM THE GUARDIAN AD LITEM ACCOUNT TO THE SUPREME COURT.

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

SECTION 1. There is hereby appropriated from the General Account for deposit in the Guardian Ad Litem Account the sum of $150,000.

SECTION 2. There is hereby appropriated from the Guardian Ad Litem Account to the Supreme Court the sum of $150,000 to be expended according to Section 16-1636, Idaho Code, for the period July 1, 1989, through June 30, 1991.

Approved April 3, 1989.

CHAPTER 276
(H.B. No. 415)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1990; 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, 1989, through June 30, 1990:

FOR:

Personnel Costs	$ 5,360,900
Operating Expenditures	2,565,600

Capital Outlay	245,500
Trustee and Benefit Payments	2,262,200
TOTAL	$10,434,200
FROM:	
General Account	$ 4,938,200
Watermaster Service Account	175,700
Miscellaneous Federal Account	761,200
Federal Energy Account	1,367,400
Water Pollution Control Account	200,000
Water Resources Adjudication Account	2,991,700
TOTAL	$10,434,200

SECTION 2. There is hereby appropriated to the Department of Water Resources 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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT & SUPPORT SERVICES:					
FROM:					
General Account	$ 343,800	$ 257,400	$ 50,000	$ 805,700	$ 1,456,900
Miscellaneous Federal Account	186,400	113,300			299,700
TOTAL	$ 530,200	$ 370,700	$ 50,000	$ 805,700	$ 1,756,600
II. RESOURCES ANALYSIS:					
FROM:					
General Account	$ 877,800	$ 202,500	$ 4,300	$ 218,800	$ 1,303,400
Water Resources Adjudication Account				217,000	217,000
Miscellaneous Federal Account	369,400	92,100			461,500
Water Pollution Control Account	10,000	190,000			200,000
TOTAL	$1,257,200	$ 484,600	$ 4,300	$ 435,800	$ 2,181,900
III. ENERGY RESOURCES:					
FROM:					
General Account	$ 102,100	$ 26,700			$ 128,800
Federal Energy Account	651,000	716,400			1,367,400
TOTAL	$ 753,100	$ 743,100			$ 1,496,200
IV. SNAKE BASIN ADJUDICATIONS:					
FROM:					
Water Resources Adjudication Account	$1,095,900	$ 554,900	$103,200	$1,020,700	$ 2,774,700
V. REGIONAL OFFICES:					
FROM:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
General Account	$ 876,200	$ 238,400	$ 68,000		$ 1,182,600
Watermaster Service Account	142,300	33,400			175,700
TOTAL	$1,018,500	$ 271,800	$ 68,000		$ 1,358,300
VI. OPERATIONS BUREAU:					
FROM:					
General Account	$ 706,000	$ 140,500	$ 20,000		$ 866,500
GRAND TOTAL	$5,360,900	$2,565,600	$245,500	$2,262,200	$10,434,200

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 67, Laws of 1988, to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990. The first $23,000 of any such unexpended and unencumbered balances shall be designated for the Mud Lake Hydrologic Study.

Approved April 3, 1989.

CHAPTER 277
(H.B. No. 416, As Amended, As Amended)

AN ACT

APPROPRIATING MONEYS FROM THE FISH AND GAME ACCOUNT TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1989; EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1990; EXPRESSING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY FOR SECTION 1.

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

SECTION 1. There is hereby appropriated to the Department of Fish and Game from the Fish and Game Account the sum of $500,000 for trustee and benefit payments for payment to individuals who have suffered crop, fence or equipment damage or loss from big game depredations during the period July 1, 1988, through June 30, 1989.

Claims for big game depredation damages to crops, fences or equipment that occurred during fiscal year 1989 must be submitted to the State Board of Examiners. A claim for damages must be in written form, contain substantially the same information as required by Section 6-907, Idaho Code, shall be attested to by the claimant, and be verified by an impartial person acquainted with the circumstances. Those

claims for damages which occurred between July 1, 1988, and December 31, 1988, must be received by the State Board of Examiners by May 1, 1989, and shall be processed before any other claims. All other claims must be received by June 1, 1989.

The State Board of Examiners shall audit all claims as required by Section 67-2018, Idaho Code, and shall forward all approved claims to the Fish and Game Commission. All approved claims shall be paid by the Fish and Game Department in accordance with this section to the extent possible within the limits of this appropriation and applicable federal laws and regulations.

SECTION 2. It is legislative intent that the expenditures for the Department of Fish and Game not exceed the following amount for the period July 1, 1989 through June 30, 1990:

FOR:	
Personnel Costs	$15,289,400
Operating Expenditures	10,145,200
Capital Outlay	3,673,100
Trustee and Benefit Payments	170,000
TOTAL	$29,277,700
FROM:	
Fish and Game Account	$29,277,700

SECTION 3. There is hereby appropriated to the Department of Fish and Game the following amount, to be expended for the designated programs according to the designated expense classes from the listed account for the period July 1, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish & Game Account	$ 2,150,500	$1,679,200	$ 434,300	$100,000	$ 4,364,000
II. ENFORCEMENT:					
FROM:					
Fish & Game Account	$ 3,562,500	$ 845,200	$ 418,200		$ 4,825,900
III. FISHERIES:					
FROM:					
Fish & Game Account	$ 5,152,000	$3,769,500	$1,441,800		$10,363,300
IV. WILDLIFE:					
FROM:					
Fish & Game Account	$ 3,087,400	$1,921,000	$ 354,800	$ 70,000	$ 5,433,200
V. INFORMATION AND EDUCATION:					
FROM:					
Fish & Game Account	$ 573,600	$ 491,600	$ 66,800		$ 1,132,000
VI. ENGINEERING:					

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Fish & Game Account	$ 509,300	$ 66,200	$ 150,000		$ 725,500
VII. PROGRAM COORDINATION:					
FROM:					
Fish & Game Account	$ 226,900	$ 79,900	$ 4,200		$ 311,000
VIII. WINTER FEEDING, DEPREDATION CONTROL, AND HABITAT TRUSTS:					
FROM:					
Fish & Game Account	$ 27,200	$ 1,292,600	$ 803,000		$ 2,122,800
GRAND TOTAL	$15,289,400	$10,145,200	$3,673,100	$170,000	$29,277,700

SECTION 4. It is legislative intent that of the moneys appropriated in Section 3 of this act for the Fisheries Program, $50,000 in state funds shall be earmarked to execute the Memorandum of Agreement between the Fish and Game Department and the Parks and Recreation Department concerning the construction of a water delivery system for Crystal Lake.

SECTION 5. 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.

Approved April 3, 1989.

CHAPTER 278
(H.B. No. 417)

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 GENERAL ACCOUNT TO BOISE STATE UNIVERSITY FOR THE COLLEGE OF TECHNOLOGY BUILDING PAYMENT; 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:	
Military Division	$ 166,000
Department of Administration	418,800
Department of Law Enforcement	110,000
Department of Agriculture	15,000
Department of Correction	279,100
State Board of Education	1,654,800
Department of Health and Welfare	1,745,000
Department of Parks and Recreation	100,000
Department of Lands	42,000
Department of Employment	76,500
Department of Administration:	
Asbestos Abatement	1,000,000
Contingency	100,000
SUBTOTAL	$ 5,707,200
B. DEPARTMENT OF CORRECTION:	
Bond Payment	$ 2,300,000
C. STATE BOARD OF EDUCATION:	
School for the Deaf and Blind, Bond Payment	$ 1,150,000
Statewide Telecommunications System	350,000
Eastern Idaho Vocational-Technical School, Maintenance Building	175,000
Boise State University, College of Technology Building Payment	370,000
D. DEPARTMENT OF HEALTH AND WELFARE:	
Grangeville Adult/Child Development Center Addition	$ 100,000
Salmon Adult/Child Development Center Storage Building and Landscaping	45,000
E. DEPARTMENT OF PARKS AND RECREATION:	
Boise Office Addition	$ 41,000
Operate Freeman Creek/Three Meadows Complex	120,000
F. OFFICE OF THE GOVERNOR/MILITARY DIVISION:	
Post Falls Armory, Land Purchase	$ 50,000
G. DEPARTMENT OF ADMINISTRATION:	
Cold Springs Communications Building Remodel	$ 10,000
Yahoo Communications Building	25,000
H. DEPARTMENT OF LANDS:	
Kamiah Fire District Office	$ 258,000
GRAND TOTAL	$10,701,200

SECTION 2. There is hereby appropriated $130,000 from the General Account to the State Board of Education for Boise State University, College of Technology Building Payment.

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 Account 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 3, 1989.

CHAPTER 279
(H.B. No. 418)

AN ACT

RELATING TO AN UNEXPENDED AND UNENCUMBERED BALANCE IN THE GENERAL ACCOUNT; AUTHORIZING THE STATE AUDITOR TO TRANSFER MONEYS FROM THE UNEXPENDED AND UNENCUMBERED BALANCE IN THE GENERAL ACCOUNT TO THE PERMANENT BUILDING ACCOUNT; APPROPRIATING MONEYS IN THE PERMANENT BUILDING ACCOUNT TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR CERTAIN LISTED PROJECTS; 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.

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

SECTION 1. On July 1, 1989, from the unencumbered and unexpended balance in the General Account in excess of $29,200,000 as of June 30, 1989, the State Auditor shall transfer not to exceed the sum of $13,503,000, or so much thereof as may be available, to the Permanent Building Account.

SECTION 2. 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 and available, for the purpose of paying the cost of any land, buildings, furnishings or equipment of the following buildings, installations, facilities or structures at the places, institutions and agencies listed in this Section. The Permanent Building Fund Advisory Council is not authorized to anticipate revenues accruing to the Permanent Building Account from the transfer made by Section 1. The Permanent Building Fund Advisory Council shall authorize projects only to the extent of the revenues made available from the transfer made by Section 1, and in the order listed in this Section.

PROJECT NO. 1	
North Idaho College for a Library/Computer Science Building	$3,085,000
PROJECT NO. 2	
University of Idaho for an Earth Resources Building	$2,000,000
PROJECT NO. 3	
Lewis-Clark State College for a Library	$5,600,000
PROJECT NO. 4	
College of Southern Idaho for a Development Center	$2,018,000
PROJECT NO. 5	
Idaho State University, Baldwin Hall Renovation, Planning and Design	$ 300,000
PROJECT NO. 6	
Idaho State University, Museum of Natural History Renovation, Planning and Design	$ 100,000
PROJECT NO. 7	
University of Idaho, Library, Planning and Design	$ 400,000

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.

Approved April 3, 1989.

CHAPTER 280
(H.B. No. 118, As Amended,
As Amended in the Senate)

AN ACT

RELATING TO IDAHO'S WAGE AND HOUR LAW; AMENDING SECTION 45-609, IDAHO CODE, TO ALPHABETIZE DEFINITIONS AND TO REDESIGNATE THE SECTION; AMENDING SECTIONS 45-601, 45-602, 45-603 AND 45-604, IDAHO CODE, TO REDESIGNATE THE SECTIONS; REPEALING SECTION 45-606, IDAHO CODE; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-606, IDAHO CODE, TO PROVIDE TIME LIMITS FOR THE PAYMENT OF WAGES TO EMPLOYEES; AMENDING SECTION 45-607, IDAHO CODE, TO PROVIDE A PENALTY FOR FAILURE TO PAY WAGES IN A TIMELY MANNER; AMENDING SECTION 45-610, IDAHO CODE, TO PROVIDE FOR PAYMENT OF WAGES WITHIN TEN DAYS OF THE END OF A PAY PERIOD, TO PROVIDE A CIVIL PENALTY FOR FAILURE TO PAY WITHIN THE TIME PERIOD, AND TO REDESIGNATE THE SECTION; AMENDING SECTION 45-611, IDAHO CODE, TO REQUIRE AN EMPLOYER TO FURNISH EACH EMPLOYEE WITH A STATEMENT OF DEDUCTIONS FROM WAGES, TO PROVIDE A MISDEMEANOR PENALTY FOR FAILURE TO COMPLY WITH SUCH PROVISION, AND TO REDESIGNATE THE SECTION; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-610, IDAHO CODE, TO PROVIDE THAT EMPLOYMENT RECORDS SHALL BE MAINTAINED BY AN EMPLOYER, TO PROVIDE NOTIFICATION TO EMPLOYEES OF TIME OF PAYMENT AND OF ANY REDUCTION IN WAGES; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-611, IDAHO CODE, TO PROVIDE FOR PAYMENT OF WAGES IN DISPUTE AND TO LIMIT THE EFFECT OF RESTRICTIVE ENDORSEMENTS UPON PAYROLL CHECKS; REPEALING SECTION 45-612, IDAHO CODE; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-613, IDAHO CODE, TO PROHIBIT RETALIATION AGAINST EMPLOYEES FOR ASSERTING RIGHTS UNDER THIS CHAPTER; AMENDING SECTION 45-608, IDAHO CODE, TO PROVIDE FOR THE TOLLING OF THE STATUTE OF LIMITATIONS FOR UP TO SIX MONTHS WHILE A CLAIM IS PENDING BEFORE THE DEPARTMENT AND TO REDESIGNATE THE SECTION; AMENDING SECTION 45-605, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 45-613, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF ADMINISTRATIVE ORDERS FOR THE ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER, TO REQUIRE AN EMPLOYER TO FURNISH THE DEPARTMENT WITH CERTAIN INFORMATION, AND TO REDESIGNATE THE SECTION; AND AMENDING SECTION 45-615, IDAHO CODE, TO RAISE THE LIMIT ON WAGE CLAIMS FILED WITH THE DEPARTMENT TO TWO THOUSAND DOLLARS PER EMPLOYEE, AND TO REDESIGNATE THE SECTION.

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

SECTION 1. That Section 45-609, Idaho Code, be, and the same is hereby amended to read as follows:

45-609~~1~~1. DEFINITIONS. Whenever used in this ~~act~~ chapter:

~~4~~1. "Director" means the head of the department of labor and industrial services of the state of Idaho.

2. "Employee" means any person suffered or permitted to work by an employer.

~~1~~3. "Employer" means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person.

~~3~~4. "Wages" means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece or commission basis.

SECTION 2. That Section 45-601, Idaho Code, be, and the same is hereby amended to read as follows:

45-60~~1~~2. WAGES OF SERVANTS AND LABORERS PREFERRED. In all assignments of property made by any person to trustees or assignees, or in proceedings in insolvency, the wages of the miners, mechanics, salesmen, servants, clerks or laborers for services rendered within sixty (60) days next preceding such assignment, not exceeding one hundred fifty dollars ($150), are preferred claims, and must be paid by such trustees or assignees before any creditor or creditors of the assignor or insolvent debtor: provided, that whenever any such miner, mechanic, salesman, servant, clerk or laborer has filed a notice of lien against any property of the assignor, he may elect between the provisions of this section and his lien.

SECTION 3. That Section 45-602, Idaho Code, be, and the same is hereby amended to read as follows:

45-60~~2~~3. PREFERENCE OF WAGES -- DEATH OF EMPLOYER. In case of the death of any employer, the wages of each miner, mechanic, salesman, clerk, servant and laborer, for services rendered within the sixty (60) days next preceding the death of the employer, not exceeding one hundred fifty dollars ($150), rank in priority next after the funeral expenses; expenses of the last sickness; the charges and expenses of administering upon the estate, and the allowance of the widow and infant children, and must be paid before any other claims against the estate of the deceased person.

SECTION 4. That Section 45-603, Idaho Code, be, and the same is hereby amended to read as follows:

45-60~~3~~4. PREFERENCE OF WAGES ON EXECUTION AND ATTACHMENT. In cases of executions, attachments and writs of similar nature, issued

against any person or his property, except for claims for labor done, any miners, mechanics, salesmen, servants, clerks or laborers, who have claims against the defendant for labor done upon the property levied on, may give notice of their claim and the amount thereof, sworn to by the person making the claim, to the creditor or his agent or attorney and to the officer executing any of such writs, at any time before the actual sale of the property levied upon; and, unless such claim is disputed by the debtor or creditor, such officer must pay to such person out of the proceeds of the sale of any property on which such person has bestowed labor, the amount he is entitled to receive for his services rendered within the sixty (60) days next preceding the levy of the writ. If any or all other claims so presented and claiming preference under this section are disputed by either the debtor or a creditor, the person presenting the same must commence an action within ten (10) days for the recovery thereof, and must prosecute his action with due diligence or be forever barred from any claim of priority of payment thereof, and the officer shall retain possession of so much of the proceeds of the sale as may be necessary to satisfy such claim until the determination of such action, and in case judgment be had for the claim or any part thereof, carrying costs, the costs taxable therein shall likewise be a preferred claim with the same rank as the original claim.

SECTION 5. That Section 45-604, Idaho Code, be, and the same is hereby amended to read as follows:

45-604<u>5</u>. DEBTOR OR CREDITOR MAY DISPUTE CLAIM. The debtor or creditor intending to dispute a claim presented under the provisions of the last section, shall, within ten (10) days after receiving notice of such claim, serve upon the claimant and the officer executing the writ, a statement in writing, verified by the oath of the debtor or the person disputing such claim, or his agent or attorney, setting forth that no part of said claim, or not exceeding a sum specified, is justly due from the debtor to the claimant for services rendered within the sixty (60) days next preceding the levy of the writ. If the claimant brings suit on a claim which is disputed in part only, and fail to recover a sum exceeding that which was admitted to be due, he shall not recover costs, but costs shall be adjudged against him.

SECTION 6. That Section 45-606, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Chapter 6, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION,</u> to be known and designated as Section 45-606, Idaho Code, and to read as follows:

45-606. PAYMENT OF WAGES UPON SEPARATION FROM EMPLOYMENT. 1. Upon layoff, or upon termination of employment by either the employer or employee, the employer shall pay or make available at the usual place of payment all wages then due the employee by the earlier of the next regularly scheduled payday or within ten (10) days of such

layoff or termination, weekends and holidays excluded. However, if the employee makes written request upon the employer for earlier payment of wages, all wages then due the employee shall be paid within forty-eight (48) hours of the receipt of such request, weekends and holidays excluded.

2. The director of the department of labor and industrial services may, upon application showing good and sufficient reasons, grant an employer a temporary extension to any time limitation provided in this section.

SECTION 8. That Section 45-607, Idaho Code, be, and the same is hereby amended to read as follows:

45-607. PENALTY ~~A LIENABLE ITEM~~ FOR FAILURE TO PAY. Whenever an employer fails to pay all wages then due an employee at the times due under section 45-606, Idaho Code, then the employee's regular wages he would have been entitled to had he rendered services in the manner as last employed, shall continue at the same rate from the day wages are due until paid in full or for thirty (30) days, whichever is less.

No employee who secretes or absents himself to avoid payment, or refuses to receive the same when made available as provided for in section 45-606, Idaho Code, shall be entitled to any penalty under this chapter.

Every employee shall have such lien and all other rights and remedies for the protection and enforcement of such ~~salary or~~ unpaid wages and penalties as he would have been entitled to had he rendered services therefor in manner as last employed.

SECTION 9. That Section 45-610, Idaho Code, be, and the same is hereby amended to read as follows:

45-6~~1~~08. PAY PERIODS -- PENALTY. 1. Every employer shall pay all wages due to his employees at least once during each calendar month, on regular paydays designated in advance by the employer, in lawful money of the United States or with checks on banks where suitable arrangements are made for the cashing of such checks without charge to the employee. Nothing contained herein shall prohibit an employer from depositing wages due or to become due or an advance on wages to be earned in an account in a bank, savings and loan association or credit union of the employee's choice in the state, provided that the employee has voluntarily authorized such deposit. If the employee revokes such authorization for deposit, it shall be deemed terminated and the provisions herein relating to the payment of wages shall apply.

2. The end of the pay period for which payment is made on a regular payday shall be not more than ~~seven (7)~~ ten (10) days before such regular payday; provided that if the regular payday falls on a nonworkday payment shall be made on a preceding workday.

3. The director may, upon application showing good and sufficient reasons, permit an employer to withhold payment of wages more than the ~~seven (7)~~ ten (10) day period as specified in subsection 2 of this section.

4. The director may, pursuant to his authority, levy a civil penalty upon any employer who has failed to obtain the exemption provided in subsection 3 of this section and who has been duly determined to have undertaken a consistent pattern of untimely payment of wages to his employees. Such penalty shall not exceed five hundred dollars ($500) for such employer per pay period.

SECTION 10. That Section 45-611, Idaho Code, be, and the same is hereby amended to read as follows:

45-6~~11~~09. WITHHOLDING OF WAGES. No employer may withhold or divert any portion of an employee's wages unless:

1. The employer is required or empowered to do so by state or federal law, or

2. The employer has a written authorization by the employee for deductions for a lawful purpose.

An employer shall furnish each employee with a statement of deductions made from his wages for each pay period such deductions are made. The willful failure of any employer to comply with the provisions of this subsection shall constitute a misdemeanor.

SECTION 11. That Chapter 6, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-610, Idaho Code, and to read as follows:

45-610. RECORDS TO BE KEPT BY EMPLOYER -- NOTICE TO EMPLOYEES. 1. Employment records must be maintained for a minimum period of two (2) years from the date of service.

2. Every employer shall notify his employees at the time of hiring of the rate of pay and the usual day of payment, and shall provide such information in writing to the employee upon the employee's request.

3. Every employer shall notify his employees of any reduction in wages, and shall provide such information in writing to the employee upon the employee's request.

SECTION 12. That Chapter 6, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-611, Idaho Code, and to read as follows:

45-611. WAGES THAT ARE IN DISPUTE. 1. In case of a dispute as to the amount of wages due an employee, the employer shall pay, without condition and within the time set by this chapter, all wages, or parts thereof, conceded by the employer to be due, leaving to the employee all remedies he might otherwise be entitled to, including those provided under this chapter, as to any balance claimed. Whenever an employer shall pay all wages not in dispute within the time limits set forth in section 45-606, Idaho Code, then no penalties may be assessed under this chapter, unless it can be shown that the remaining balance of wages due were withheld willfully, arbitrarily and without

just cause.

2. The acceptance by an employee of a check with any restrictive endorsement as payment under this section shall not constitute a release or accord and satisfaction with respect to the disputed amount.

SECTION 13. That Section 45-612, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Chapter 6, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-613, Idaho Code, and to read as follows:

45-613. DISCHARGING OR RETALIATING AGAINST EMPLOYEES ASSERTING RIGHTS UNDER THIS CHAPTER. No employer shall discharge or in any other manner retaliate against any employee because that employee has made a complaint to his employer or to the director or his authorized representative, that he has not been paid in accordance with the provisions of this chapter, or because the employee has testified or may be about to testify in an investigation undertaken by the department of labor and industrial services. The provisions of this section shall not be construed to otherwise restrict the discipline or termination of an employee.

SECTION 15. That Section 45-608, Idaho Code, be, and the same is hereby amended to read as follows:

45-608~~1~~4. COLLECTION OF WAGES -- LIMITATIONS. Any person shall have the right to collect salary, wages, overtime compensation, penalties and liquidated damages provided by any law or pursuant to a contract of employment, but any action thereon shall be commenced in a court of competent jurisdiction within two (2) years after the cause of action shall have accrued, provided, however, that in the event salary or wages have been paid to any employee and such employee claims additional salary, wages, overtime compensation, penalties or liquidated damages, because of work done or services performed during his employment for the pay period covered by said payment, any action therefor shall be commenced within six (6) months from the accrual of the cause of action. It is further provided that if any such cause of action has accrued prior to the effective date of this act, and is not barred by existing law, action thereon may be commenced within six (6) months from the effective date of this act. In the event an action is not commenced as herein provided, any remedy on the cause of action shall be forever barred. The limitation periods provided herein shall be tolled during the time a claim is pending before the director pursuant to section 45-616, Idaho Code, for a period not to exceed six (6) months.

SECTION 16. That Section 45-605, Idaho Code, be, and the same is hereby amended to read as follows:

45-6~~0~~15. ATTORNEYS' FEES IN SUITS FOR WAGES. Whenever a mechanic, artisan, miner, laborer, servant or employee shall have cause to bring suit for wages earned and due according to the terms of his employment, and shall establish, by decision of the court or verdict of the jury, that the amount for which he has brought suit is justly due, and that a demand has been made, in writing, at least five (5) days before suit was brought, for a sum not to exceed the amount so found due, it shall be the duty of the court before which the case shall be tried to allow to the plaintiff a reasonable attorney's fee, in addition to the amount found due for wages, to be taxed as costs of suit.

SECTION 17. That Section 45-613, Idaho Code, be, and the same is hereby amended to read as follows:

45-61~~3~~6. ENFORCEMENT. 1. The director shall enforce and administer the provisions of this ~~act~~ chapter and the director or his authorized representatives are empowered to hold hearings and otherwise to investigate violations or alleged violations of this ~~act~~ chapter and any rules and regulations in force pursuant thereto, and further, to issue orders for administrative remedies as authorized.

2. The director or his authorized representatives are empowered to enter and inspect such places, question such employees, and investigate such facts, conditions, or matters as they may deem appropriate to determine whether any person has violated any provision of this ~~act~~ chapter or any rule or regulation issued thereunder or which may aid in the enforcement of the provisions of this ~~act~~ chapter.

3. The director or his authorized representative shall have the power to administer oaths and examine witnesses under oath or otherwise, issue compulsory process to compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents, and testimony, and to take depositions and affidavits in the administration of this ~~act~~ chapter.

4. In case of failure of any person to comply with any compulsory process lawfully issued, it shall be the duty of the district court, on application by the director, to compel compliance by citation for contempt.

5. An employer shall furnish to the department the information it is authorized to acquire under this section when the request is submitted in writing.

SECTION 18. That Section 45-615, Idaho Code, be, and the same is hereby amended to read as follows:

45-61~~5~~7. PROCEEDINGS FOR COLLECTION OF WAGES AND DAMAGES -- $~~1~~2,000 LIMIT. 1. Claims for unpaid wages and other compensation, excluding potential penalties, filed with the director of the department of labor and industrial services as set forth in this chapter are limited to ~~one~~ two thousand dollars ($~~1~~2,000) for each employee.

2. Any proceeding by one (1) or more employees to assert any claim arising under or pursuant to this ~~act~~ chapter may be brought in any court of competent jurisdiction, either as individual, class or representative suits.

3. Whenever the director determines that one (1) or more employees have claims for unpaid wages he may, upon the written request of the employee, take an assignment of the claim or claims in trust for such employee or employees, and may maintain any proceeding appropriate to enforce the claim or claims, including additional fixed damages pursuant to this act chapter. With the written consent of the assignor, the director may settle or adjust any claim assigned pursuant to this subsection.

4. Any judgment rendered by a court of competent jurisdiction for the plaintiff in a proceeding pursuant to this act chapter shall include all costs reasonably incurred in connection with the proceedings and the plaintiff, or the director in his behalf, shall be entitled to recover from the defendant, as damages, three (3) times the amount of unpaid wages found due and owing.

5. The director shall attempt for a period of not less than two (2) years, from the date of collection, to make payment of wages collected under this act chapter to the person entitled thereto. Wages collected by the director and remaining unclaimed for a period of more than two (2) years from the date collected shall on June 1st of each year be forfeited and retained in the department's account and used for the administration of this act chapter.

Approved April 3, 1989.

CHAPTER 281
(H.B. No. 291, As Amended)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT AND GUARDIANS AD LITEM; AMENDING SECTION 16-1602, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING SECTION 16-1618, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF GUARDIANS AD LITEM AND, IN APPROPRIATE CASES, COUNSEL FOR A CHILD; AMENDING SECTION 16-1624, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR THE DEPARTMENT; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 16-1630, 16-1631, 16-1632, 16-1633, 16-1634, 16-1635, 16-1636 AND 16-1637, IDAHO CODE, TO PROVIDE A CHILD ADVOCATE COORDINATOR, TO PROVIDE DUTIES AND TO REQUIRE A REPORT; TO PROVIDE DUTIES OF A GUARDIAN AD LITEM; TO PROVIDE RIGHTS AND POWERS OF A GUARDIAN AD LITEM; TO PROVIDE IMMUNITY FROM LIABILITY; TO PROVIDE THAT THE PROVISIONS OF THIS ACT SHALL BE IN ACCORDANCE WITH FEDERAL LAW REQUIREMENTS; TO PROVIDE THAT GUARDIANS AD LITEM ARE EXEMPT FROM THE PROVISIONS OF CHAPTER 32, TITLE 54, IDAHO CODE; TO CREATE A GUARDIAN AD LITEM ACCOUNT; TO PROVIDE FOR THE AWARDING OF GRANTS TO CARRY OUT THE PROVISIONS OF THE GUARDIAN AD LITEM PROGRAM; AND TO PROVIDE A SUNSET CLAUSE.

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

SECTION 1. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

16-1602. DEFINITIONS. For purposes of this chapter:

(a) "Abused" means any case in which a child has been the victim of:

(1) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

(2) Sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

(b) "Abandoned" means the failure of the parent to maintain a normal parental relationship with his child, including but not limited to reasonable support or regular personal contact. Failure to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment.

(c) "Adjudicatory hearing" means a hearing to determine the truth of the allegations in the petition filed under this chapter.

(d) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(e) "Child" means an individual who is under the age of eighteen (18) years.

(f) "Child advocate coordinator" means a person or entity receiving moneys from the grant administrator for the purpose of carrying out any of the duties as set forth in section 16-1630, Idaho Code.

(g) "Commit" means to transfer legal and physical custody.

(~~g~~h) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(~~h~~i) "Custodian" means a person, other than a parent or legal guardian, to whom legal custody of the child has been given by court order or who is acting in loco parentis.

(~~i~~j) "Department" means the department of health and welfare and its authorized representatives.

(~~j~~k) "Disposition hearing" means a hearing to determine whether the best interests of the child require protective supervision or vesting legal custody of the child in an authorized agency.

(l) "Grant administrator" means any such organization or agency as may be designated by the supreme court from time to time to administer funds from the guardian ad litem account in accordance with the provisions of this chapter.

(m) "Guardian ad litem" means a person appointed by the court pursuant to a guardian ad litem volunteer program to act as special advocate for a child under this chapter.

(n) "Guardian ad litem program" means the program to recruit,

train and coordinate volunteer persons to serve as guardians ad litem for abused, neglected or abandoned children.

(~~k~~o) "Law enforcement agency" means a city ~~or village~~ police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

(~~l~~p) "Legal custody" means a relationship created by order of the court, which vests in a custodian the following duties and rights:

(1) To have physical custody and control of the child, and to determine where and with whom the child shall live.

(2) To supply the child with food, clothing, shelter and incidental necessities.

(3) To provide the child with care, education and discipline.

(4) To authorize ordinary medical, dental, psychiatric, psychological, or other remedial care and treatment for the child, including care and treatment in a facility with a program of services for children; and to authorize surgery if the surgery is deemed by two (2) physicians licensed to practice in this state to be necessary for the child.

(~~m~~q) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior.

(~~n~~r) "Neglected" means a child:

(1) Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the conduct or omission of his parents, guardian or other custodian or their neglect or refusal to provide them; provided, however, no child whose parent or guardian chooses for such child treatment by prayers through spiritual means alone in lieu of medical treatment, shall be deemed for that reason alone to be neglected or lack parental care necessary for his health and well-being, but further provided this subsection shall not prevent the court from acting pursuant to section 16-1616, Idaho Code; or

(2) Whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

(3) Who has been placed for care or adoption in violation of law.

(~~o~~s) "Protective supervision" means a legal status created by court order in neglect and abuse cases whereby the child is permitted to remain in his home under supervision by the department.

(~~p~~t) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after the transfer of legal custody, including but not necessarily limited to the right of visitation, consent to adoption, the right to determine religious affiliation, and the responsibility for support.

(~~q~~u) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

SECTION 2. That Section 16-1618, Idaho Code, be, and the same is hereby amended to read as follows:

16-1618. RIGHT TO COUNSEL -- GUARDIAN AD LITEM. (a) In any proceeding under this chapter t~~T~~he court shall appoint ~~separate counsel and/or in appropriate cases~~ a guardian ad litem for the child or children to serve at each stage ~~in~~ of the proceedings ~~under--this--chapter~~ and in appropriate cases may appoint counsel to represent the child or guardian. The court may appoint independent counsel for a parent if the proceedings are complex, counsel is necessary to protect the parent's interests adequately and such interests are not represented adequately by another party.

(b) If a court does not have available to it a guardian ad litem program or a sufficient number of guardians ad litem, the court may appoint separate counsel for the child.

(c) Counsel appointed for the child under the provisions of this section ~~for the child~~ shall be paid for by the county unless the party for whom counsel is appointed has an independent estate sufficient to pay such costs.

SECTION 3. That Section 16-1624, Idaho Code, be, and the same is hereby amended to read as follows:

16-1624. OTHER DUTIES OF THE DEPARTMENT -- EXCEPTIONS. Nothing in this chapter shall be construed as modifying duties of the department as described in sections 56-204A and 56-204B, Idaho Code.

Nothing in this chapter shall be construed as assigning or imposing duties or responsibilities on the department by those provisions of this chapter relating to guardian ad litem.

SECTION 4. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1630, Idaho Code, and to read as follows:

16-1630. CHILD ADVOCATE COORDINATOR -- DUTIES -- ANNUAL REPORT. (a) The persons or entities receiving moneys from the grant administrator to coordinate a guardian ad litem program in a judicial district may be required by the terms of the grant to perform any or all of the following duties:

(1) To establish, maintain and coordinate a district-wide guardian ad litem program consistent with the provisions of this chapter;

(2) To furnish the necessary administrative and staffing services as may from time to time be required;

(3) To act as a central clearinghouse and coordinator for the purpose of providing guardians ad litem for children brought within the purview of this chapter;

(4) To seek to have each child brought within the purview of this chapter available to him a guardian ad litem throughout each stage of any child protective proceeding;

(5) To establish a program for attorneys to represent guardians ad litem, whether or not appointed by the court in conjunction with the local, district-wide, and state bar associations;

(6) To the extent possible to establish a district-wide program

to recruit volunteer guardians ad litem sufficient to provide services in each county of the judicial district;

(7) In conjunction with the department, prosecuting attorneys and city and county law enforcement officials, mental health professionals, social workers, school counselors and the medical community, the coordinators may assist in the development and implementation, a statewide uniform protocol for the investigation of allegations of abuse, neglect or abandonment pursuant to the provisions of this chapter;

(8) To develop uniform criteria to screen, select, train and remove guardians ad litem;

(9) To establish a priority list of those proceedings under this chapter in which a guardian ad litem shall be appointed in districts where there are insufficient numbers of guardians ad litem.

(b) Each child advocate coordinator shall submit an annual report for the preceding fiscal year to the grant administrator for delivery to the legislature no later than ten (10) days following the start of each regular session. Such report shall contain the number and type of proceedings filed in the district under this chapter, the number of children subject to proceedings in the district under this chapter and the number of appointed guardians ad litem, the nature of services the guardians ad litem provided, the number of guardians ad litem trained in each district, the number of hours of service provided by guardians ad litem and attorneys and a complete financial statement for the past year and financial support requirements for the next fiscal year.

SECTION 5. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1631, Idaho Code, and to read as follows:

16-1631. GUARDIAN AD LITEM -- DUTIES. Subject to the direction of the court, the guardian ad litem shall have the following duties which shall continue until resignation of the guardian ad litem or until the court removes the guardian ad litem or no longer has jurisdiction, whichever first occurs:

(a) To conduct an independent factual investigation of the circumstances of the child including, without limitation, the circumstances described in the petition.

(b) To file with the court a written report stating the results of the investigation, the guardian ad litem's recommendations and such other information as the court may require. The guardian ad litem's written report shall be delivered to the court, with copies to all parties to the case at least five (5) days before the date set for the adjudicatory hearing. The report shall not be admitted into evidence at the adjudicatory hearing, and shall be used by the court only for disposition if the child is found to be within the purview of the act.

(c) To act as an advocate for the child for whom appointed at each stage of proceedings under this chapter and is charged with the general representation of the child. To that end, the guardian ad litem shall participate fully in the proceedings and to the degree necessary to adequately represent the child, and shall be entitled to

confer with the child.

(d) To facilitate and negotiate to insure that the court, the department, if applicable, and the child's attorney, if any, fulfill their obligations to the child in a timely fashion.

(e) To monitor the circumstances of a child, if the child is found to be within the purview of the act, to assure compliance with law and to assure that the terms of the court's orders are being fulfilled and remain in the best interest of the child.

(f) To maintain all information regarding the case confidential and to not disclose the same except to the court or to other parties to the case.

(g) Such other and further duties as may be expressly imposed by the court order.

SECTION 6. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1632, Idaho Code, and to read as follows:

16-1632. GUARDIAN AD LITEM -- RIGHTS AND POWERS. The guardian ad litem will have the following rights and powers, which shall continue until resignation of the guardian ad litem or until the court removes the guardian ad litem or no longer has jurisdiction, whichever first occurs:

(a) The guardian ad litem, if represented by counsel, may file pleadings, motions, memoranda and briefs on behalf of the child, and shall have all of the rights of a party whether conferred by statute, rule of court or otherwise.

(b) All parties to any proceeding under this chapter shall promptly notify the guardian ad litem of all hearings, staffings, investigations, depositions and significant changes of circumstances of the child.

(c) Except to the extent prohibited or regulated by federal law, upon presentation of a copy of the order appointing guardian ad litem, any person or agency, including, without limitation, any hospital, school, organization, department of health and welfare, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the guardian ad litem to inspect and copy pertinent records necessary for the proceeding for which the guardian is appointed relating to the child and parent without consent of the child or parents.

SECTION 7. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1633, Idaho Code, and to read as follows:

16-1633. IMMUNITY FROM LIABILITY. Any person appointed as a guardian ad litem, the coordinator, or a guardian ad litem volunteer program employee shall be personally immune from any liability for acts, omissions or errors in the same manner as if such person were a volunteer officer or director under the provisions of section 6-1605,

Idaho Code.

SECTION 8. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1634, Idaho Code, and to read as follows:

16-1634. COMPLIANCE WITH FEDERAL LAW. For the purposes of the child abuse prevention and treatment act, 42 USC sections 5101 et seq., grant to this state under public law no. 93-247, or any related state or federal legislation, a guardian ad litem or other person appointed pursuant to section 16-1618, Idaho Code, shall be deemed a guardian ad litem to represent the interests of the minor in proceedings before the court. Any provisions of this act which shall cause this state to lose federal funding shall be considered null and void.

SECTION 9. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1635, Idaho Code, and to read as follows:

16-1635. EXEMPTION. Any person appointed as a guardian ad litem by court order shall be exempt from the provisions of chapter 32, title 54, Idaho Code.

SECTION 10. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1636, Idaho Code, and to read as follows:

16-1636. GUARDIAN AD LITEM ACCOUNT -- CREATION. (a) There is hereby created an account in the agency asset fund in the state treasury to be designated the guardian ad litem account.

(b) The account shall consist of:

(1) Moneys appropriated to the account;

(2) Donations, gifts and grants to the account from any source; and

(3) Any other moneys which may hereafter be provided by law.

(c) Moneys in the account may be expended for the purposes provided in sections 16-1630 through 16-1636, Idaho Code. Interest earned on the investment of idle money in the guardian ad litem account shall be returned to the guardian ad litem account.

(d) Disbursements of moneys from the account shall be by appropriation from the legislature to the supreme court, which shall in turn make payment of available moneys, upon request, to the grant administrator for the payment of grants to qualified recipients and for expenses incurred for carrying out the provisions of this act.

SECTION 11. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1637, Idaho Code, and to read as follows:

16-1637. GUARDIAN AD LITEM GRANTS. The grant administrator is hereby authorized and directed to award and administer grants from the money which shall be from time to time available to him from the guardian ad litem account. The foregoing power and authorization shall be subject to the following provisions:

(a) Grants may be made available to any person, organization, corporation, or agency for any of the following purposes:

(1) To enable such entity to act as the child advocate coordinator in any judicial district.

(2) To enable such entity to recruit, organize and administer a panel of guardians ad litem and volunteer lawyers to represent guardians ad litem.

(3) To enable such entity to recruit, organize, train and support persons or entities to act as guardian ad litem coordinators in judicial districts which do not yet have guardian ad litem coordinators.

(4) To enable such entity to pay the administrative and other miscellaneous expenses incurred in carrying out the provisions of the guardian ad litem program.

(b) The grant administrator shall endeavor in his allocation of funds available to him to foster the development and operation of a guardian ad litem program in each judicial district in the state; provided, however, the grant administrator shall have no obligation to seek out or organize child advocate coordinators or persons willing to act as such in judicial districts lacking a child advocate coordinator.

(c) Funds available to the grant administrator from the guardian ad litem account may be also used to pay the grant administrator's cost of performing its duties and obligations pursuant to this chapter.

SECTION 12. Sections 4 through 11 of this act shall remain in full force and effect only until July 1, 1991, and as of that date are repealed, unless a later enacted statute, which is enacted before July 1, 1991, deletes or extends that date.

Approved April 3, 1989.

CHAPTER 282
(H.B. No. 269)

AN ACT

RELATING TO SUBSTANCE ABUSE; AMENDING SECTION 39-303, IDAHO CODE, TO PROVIDE FOR A STATE SUBSTANCE ABUSE AUTHORITY, AND TO PROVIDE FOR THE COMMISSION OF ALCOHOL-DRUG ABUSE; AMENDING CHAPTER 3, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-303A, IDAHO CODE, TO PROVIDE FOR REGIONAL ADVISORY COMMITTEES; AND AMENDING SECTION 39-304, IDAHO CODE, TO INCLUDE COMMUNITY DETOXIFICATION IN AN APPROVED FACILITY AS A PART OF A TREATMENT PROGRAM.

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

SECTION 1. That Section 39-303, Idaho Code, be, and the same is hereby amended to read as follows:

39-303. DESIGNATION OF STATE SUBSTANCE ABUSE AUTHORITY. The Idaho department of health and welfare is hereby designated as the state substance abuse authority.

(a) ~~Statewide-and-regional-interdepartmental-coordinating-committees-are-established,-composed-of-the-bureau-chiefs-or--regional--program--managers-of-public-health,-mental-health,-education,-public-welfare,-correction,-highway,-public-safety,--vocational--rehabilitation,-judicial--districts,--representatives--of--local-government-units,-and-other-appropriate-public-and-private-agencies-and-the-bureau-chief--or-regional--program--managers.~~ The commission on alcohol-drug abuse is hereby established within the administrative direction of the department of health and welfare. The commission shall consist of not more than fourteen (14) members including such members as may be appointed by the governor. All members shall serve at the pleasure of the governor for terms of three (3) years. The commission shall have an advisory board comprised of such members as appointed by the governor who shall serve at the pleasure of the governor for three (3) years. The advisory board shall be comprised of representatives from public health, mental health, education, public welfare, corrections, transportation, public safety, vocational rehabilitation, and other appropriate public and private agencies with an interest in services related to alcohol and drug addiction. Commission and advisory board members shall serve without compensation but may be reimbursed for related travel and expense pursuant to chapter 20, title 67, Idaho Code. The ~~committees~~ commission shall meet at least quarterly at the call of the ~~bureau-chief-or--regional--program--managers~~ chair. The ~~committees~~ commission shall provide for the coordination of, and exchange of information on, all programs relating to alcoholism and drug addiction, and shall act as a permanent liaison among the departments engaged in activities affecting alcoholics and intoxicated persons and/or drug addicts. The ~~statewide--committee~~ commission shall assist the director ~~and-the-bureau-chief~~ in formulating a comprehensive plan for prevention of alcoholism or drug addiction and for treatment of alcoholics, intoxicated persons and drug addicts.

(b) In exercising ~~their~~ its coordinating functions, the ~~committees~~ commission shall assure that:

(1) The appropriate agencies provide all necessary medical, social, treatment, and educational services for alcoholics, intoxicated persons and drug addicts and for the prevention of alcoholism or drug addiction, without unnecessary duplication of services;

(2) The several agencies cooperate in the use of facilities and in the treatment of alcoholics, intoxicated persons and drug addicts; and

(3) All agencies adopt approaches to the prevention of alcoholism or drug addiction and the treatment of alcoholics, intoxicated

persons and drug addicts consistent with the policy of this act.

(c) The responsibilities of the commission shall be:

(1) To address, through education and public awareness, conditions leading to the abuse of alcohol and drugs;

(2) To be informed about alcohol-drug programs and services throughout the state and to advise the governor regarding alternatives and solutions;

(3) To provide advocacy functions pertaining to programs and services related to alcohol-drug issues;

(4) Under the administrative direction of the department of health and welfare, to apply for, accept, receive, disburse, expend, and carry out all responsibilities required, including monitoring and evaluation of federal, state, or private moneys made available to the commission to accomplish in whole or part, any of the coordinating purposes administered by this commission;

(5) To provide advice and consultation in the development and implementation of improved policies for alcohol-drug programs or services in the state, including judicial, education, employment, rehabilitation, social services, medical and treatment; and

(6) To present to the governor and legislative council on July 15 of each year a report on the commission's achievements and impact on alcohol-drug services, programs and policies.

SECTION 2. That Chapter 3, 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 39-303A, Idaho Code, and to read as follows:

39-303A. REGIONAL ADVISORY COMMITTEES. Regional advisory committees are established composed of regional directors of the department or their designees, regional substance abuse program staff, a member of the commission on alcohol-drug abuse, and representatives of other appropriate public and private agencies. Members shall be appointed by the regional director for terms determined by the regional director. The committees shall meet at least quarterly at the call of the chair, who shall also be appointed by the regional director. The committees shall provide for the coordination of, and exchange of information on all programs relating to alcoholism and drug addiction, and shall act as liaison among the departments engaged in activities affecting alcoholics and intoxicated persons. The regional advisory committees shall provide to the commission on alcohol-drug abuse information pertaining to local substance abuse program needs and other information as it pertains to the treatment and prevention of alcoholism and other drug addiction.

SECTION 3. That Section 39-304, Idaho Code, be, and the same is hereby amended to read as follows:

39-304. COMPREHENSIVE PROGRAM FOR TREATMENT. (1) The department shall establish a comprehensive and coordinated program for the treatment of alcoholics, intoxicated persons and drug addicts.

(2) The program shall include:

(a) Emergency detoxification treatment and medical treatment directly related thereto provided by a facility affiliated with or part of the medical service of a general hospital;
(b) Inpatient treatment;
(c) Intermediate treatment; ~~and~~
(d) Outpatient and follow-up treatment; and
(e) Community detoxification provided by an approved facility.

(3) The department shall provide for adequate and appropriate treatment for persons admitted pursuant to section 39-307, Idaho Code. Treatment shall not be provided at a correctional institution except for inmates.

(4) The department shall maintain, supervise, and control all facilities operated by it. The administrator of each such facility shall make an annual report of its activities to the director in the form and manner the director specifies.

(5) All appropriate public and private resources shall be coordinated with and utilized in the program whenever possible.

(6) The department shall prepare, publish and distribute annually a list of all approved public and private treatment facilities.

(7) The department may contract for the use of any facility as an approved public treatment facility if the director considers this to be an effective and economical course to follow.

(8) The program shall include an individualized treatment plan prepared and maintained for each client.

Approved April 3, 1989.

CHAPTER 283
(H.B. No. 388)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1990; APPROPRIATING MONEYS TO THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE FOR FISCAL YEAR 1990; 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 the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	$545,200	$180,600	$725,800
Interagency Billing and Receipts Account		42,800	42,800
TOTAL	$545,200	$223,400	$768,600

SECTION 2. There is hereby appropriated to the Joint Senate Finance-House Appropriations Committee, the following amounts to be expended for the designated programs from the listed accounts for the period July 1, 1989, through June 30, 1990:

I. LEGISLATIVE AUDITOR:

FROM:	
General Account	$ 632,000
Interagency Billing and Receipts Account	622,800
TOTAL	$1,254,800
II. LEGISLATIVE BUDGET OFFICE:	
FROM:	
General Account	$ 467,800
III. JOINT SENATE FINANCE-HOUSE APPROPRIATIONS INTERIM COMMITTEE:	
FROM:	
General Account	$ 24,000
GRAND TOTAL	$1,746,600

SECTION 3. There is hereby reappropriated to the Joint Senate Finance-House Appropriations Committee, for the designated programs, any unexpended and unencumbered balances of the moneys appropriated by Section 2, Section 3, and Section 5, Chapter 283, Laws of 1988, for the period July 1, 1989, through June 30, 1990, for nonrecurring expenditures only.

Approved April 3, 1989.

CHAPTER 284
(H.B. No. 133)

AN ACT

RELATING TO CONTROL OF LIVESTOCK DISEASES; AMENDING SECTION 36-106, IDAHO CODE, TO REQUIRE THE DEPARTMENT OF AGRICULTURE TO EMPLOY A VETERINARIAN FOR COORDINATING DISEASE PREVENTION WORK BETWEEN THE DEPARTMENT OF FISH AND GAME AND THE DEPARTMENT OF AGRICULTURE, TO PROVIDE FOR SHARING COSTS, AND TO PROVIDE FOR MONITORING AND EVALUATING THE DISEASE STATUS OF CERTAIN WILDLIFE.

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 man-

agement 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 therefor.

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, antelope, 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 dis-

eases to be tested for shall be arrived at by mutual agreement between the department of fish and game and the department of agriculture. Any moneys expended by the department of fish and game on wildlife disease research shall be mutually agreed upon by the department of fish and game and the department of agriculture.

In addition, a comprehensive animal health program for ~~any~~ all deer, elk, antelope, moose, bighorn sheep, or bison imported into, ~~or~~ transported ~~within~~, or resident 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 of the department of agriculture shall employ ~~or contract with~~ at least one (1) veterinarian licensed in Idaho whose duties shall include, but not be limited to, addressing wildlife disease issues and coordinating disease prevention work between the department of fish and game and the department of agriculture. 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 veterinarian shall be on the staff of the division of animal industries, 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, and the department of fish and game's portion shall be deposited directly into the livestock disease control account. The veterinarian shall be employed ~~or contracted with~~ on and after July 1, 1989.

10. In order to monitor and evaluate the disease status of wildlife and to protect Idaho's livestock resources, any suspicion by fish and game personnel of a potential communicable disease process in wildlife shall be reported within twenty-four (24) hours to the department of agriculture. All samples collected for disease monitoring or disease evaluation of wildlife shall be submitted to the division of animal industries, department of agriculture.

Approved April 3, 1989.

CHAPTER 285
(H.B. No. 378)

AN ACT

RELATING TO SALVAGE CERTIFICATES ON CERTAIN MOTOR VEHICLES; AMENDING SECTION 49-105, IDAHO CODE, TO PROVIDE A REFERENCE; AMENDING SECTION 49-114, IDAHO CODE, TO PROVIDE A DEFINITION FOR "MAJOR COMPONENT PART"; AMENDING SECTION 49-120, IDAHO CODE, TO PROVIDE A DEFINITION FOR "SALVAGE POOL"; AMENDING SECTION 49-123, IDAHO CODE, TO PROVIDE DEFINITIONS FOR "RECONSTRUCTED VEHICLE", "SALVAGE VEHICLE", "SPECIALLY CONSTRUCTED VEHICLE" AND "TOTAL LOSS VEHICLE"; AMENDING SECTION 49-518, IDAHO CODE, TO PROVIDE A FELONY OFFENSE FOR ANY ALTERATION OF A "RECONSTRUCTED VEHICLE" DECAL; AMENDING

SECTION 49-519, IDAHO CODE, TO PROVIDE FOR UNLAWFUL ASSIGNMENTS OF SALVAGE CERTIFICATES OR CERTIFICATES OF TITLE; AMENDING CHAPTER 5, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-524, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF A SALVAGE CERTIFICATE ON CERTAIN VEHICLES; AMENDING CHAPTER 5, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-525, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF A BRANDED CERTIFICATE OF TITLE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

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. See also "salvage pool", section 49-120, Idaho Code.

(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.

SECTION 2. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M.

(1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "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~~3) "Manufactured home." (See section 39-4105, Idaho Code)

(~~3~~4) "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~~5) "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~~6) "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~~7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(~~7~~8) "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~~9) "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~~10) "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~~11) "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~~12) "Motor number." (See "Identifying number", section 49-110, Idaho Code)

(~~12~~13) "Motor vehicle." (See "Vehicle", section 49-123, Idaho Code)

(~~13~~4) "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.

SECTION 3. That Section 49-120, Idaho Code, be, and the same is hereby amended to read as follows:

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) "Salvage pool" means a licensed vehicle dealer engaged primarily in the business of disposing of salvage vehicles, recovered stolen vehicles, or both.

(4) "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~~5) "Security agreement." (See section 28-9-105, Idaho Code)

(~~5~~6) "Security interest." (See section 28-1-201, Idaho Code)

(~~6~~7) "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~~8) "Semitrailer." (See "Trailer", section 49-121, Idaho Code)

(~~8~~9) "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~~10) "Signal." (See "Railroad sign", section 49-119, Idaho Code)

(~~10~~11) "Slow moving vehicle" means any vehicle not normally operated upon the highways.

(~~11~~12) "Snow tire." (See "Tires", section 49-121, Idaho Code)

(~~12~~13) "Sold." (See "Sell", "buy", and "purchase", this section)

(~~13~~14) "Solid rubber tire." (See "Tires", section 49-121, Idaho Code)

(~~14~~15) "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~~6) "Specially constructed vehicle." (See "Vehicle", section 49-123, Idaho Code)

(~~16~~7) "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~~8) "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~~9) "Stop" means the act of or complete cessation from movement.

(~~19~~20) "Stopping" means the act of any halting even momentarily of a vehicle.

(~~20~~1) "Street." (See "Highways", section 49-109, Idaho Code)

(~~21~~2) "Studded tire." (See "Tires", section 49-121, Idaho Code)

(~~22~~3) "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~~4) "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~~5) "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.

SECTION 4. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

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.~~ that has been rebuilt using like make and model parts and visually appears as a vehicle that was originally constructed

under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "reconstruct" brand is required, and other vehicles which have been reconstructed by the use of a glider kit or other kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

(i) Salvage vehicle. Every vehicle damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(j) 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, and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or

2. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or

3. A vehicle that has been constructed by using major component parts from one or more manufactured vehicles and cannot be identified as a specific make or model; or

4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

(k) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair due to scrapping, dismantling or destruction. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(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.

SECTION 5. That Section 49-518, Idaho Code, be, and the same is hereby amended to read as follows:

49-518. ALTERING OR FORGING CERTIFICATE -- STOLEN CARS -- DESTROYING OR ALTERING ENGINE OR DECAL NUMBER -- USE OF FICTITIOUS NAME -- FRAUD. It shall be a felony for any person to:

(1) Alter or forge any certificate of title to a vehicle, or any assignment thereof, or any cancellation of any liens on a vehicle; or

(2) Hold or use a certificate of title or assignment or cancellation knowing it to be altered or forged; or

(3) Procure or attempt to procure a certificate of title to a vehicle, or to pass or attempt to pass a certificate of title or any assignment to a vehicle, knowing or having reason to believe that the vehicle has been stolen; or

(4) Sell or offer for sale in this state a vehicle on which the motor number, or manufacturer's serial number, or "reconstructed vehicle" decal has been destroyed, removed, covered, altered or defaced, with knowledge of that destruction, removal, covering, alteration or defacement of the motor number, or manufacturer's serial number, or "reconstructed vehicle" decal; or

(5) Use a false or fictitious name, or give a false or fictitious address, or make a false statement in any application or affidavit required under the provisions of this chapter, or any bill of sale or sworn statement of ownership, or otherwise commits a fraud in any application; or

(6) Purport to sell or transfer a vehicle without delivering to the purchaser or transferee a certificate of title or salvage certificate duly assigned to the purchaser.

SECTION 6. That Section 49-519, Idaho Code, be, and the same is hereby amended to read as follows:

49-519. OPERATION OF VEHICLE WITHOUT CERTIFICATE OF TITLE -- FAILURE TO SURRENDER CERTIFICATE -- SALVAGE CERTIFICATE. It shall be unlawful, except as otherwise provided in this chapter, for a person:

(1) To operate a vehicle for which a certificate of title is required, without the certificate having been obtained in accordance with the provisions of this chapter; or

(2) To operate a vehicle for which the certificate of title has been cancelled; or

(3) Not being an enfranchised dealer, or acting upon behalf of such dealer, to acquire, purchase, hold or display for sale a new vehicle without having obtained a certificate of title as provided for in this chapter; or

(4) To fail to surrender a certificate of title or any certificate of registration or license plate upon cancellation of the same by the department, as provided by this chapter; or

(5) To fail to surrender the certificate of title to the department in connection with the destruction, dismantling or change of a vehicle in any respect that it is not the vehicle described in the certificate of title; or

(6) To sign as assignor, or for any person to have in his posses-

sion a salvage certificate or certificate of title which has been signed by the owner as assignor, without the name of the assignee and other information required on the form prescribed by the department.

(7) To violate any of the other provisions of this chapter or any laws, or rules or regulations promulgated pursuant to this title.

SECTION 7. That Chapter 5, 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 49-524, Idaho Code, and to read as follows:

49-524. SALVAGE CERTIFICATE TO REPLACE CERTIFICATE OF TITLE OR ORIGIN ON CERTAIN VEHICLES. (1) Every person acquiring a vehicle which is five (5) years old or less or which has a known market value in excess of five thousand dollars ($5,000) which has been determined to be a salvage vehicle, shall obtain a salvage certificate of ownership on that vehicle.

(2) The salvage certificate shall replace the certificate of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of ownership shall be issued by the department, the insurer, or a salvage pool, and shall be on a form prescribed by the department. The form shall provide for assignments of the salvage certificate.

(4) The fee for a salvage certificate shall be the same as for issuance of any regular Idaho certificate of title. The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle which is five (5) years old or less or which has a known market value in excess of five thousand dollars ($5,000) which has been determined to be a salvage vehicle, shall within thirty (30) days from receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(6) If a salvage pool receives a certificate of title for a vehicle which is five (5) years old or less or which has a known market value in excess of five thousand dollars ($5,000) which has been determined to be a salvage vehicle, he shall within thirty (30) days and upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(7) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department or the insurance company not later than fifteen (15) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff. The insurer

or department shall issue a salvage certificate to the owner prior to any sale or disposition of the salvage vehicle.

(8) If an insurer acquires the certificate of title of a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate in the name of the insurer and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing.

(9) If an insurer has acquired a vehicle in a settlement of a theft claim, has made application to and has been issued a new salvage certificate in the name of the insurer and the vehicle is subsequently recovered and is not a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of ownership, affidavit and any other documents required by the department to the transferee at the time of delivery of the vehicle.

(10) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction which does not require surrender of the certificate of title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or ownership document, surrender such title or document to the department and apply for a salvage certificate.

(11) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage certificate of ownership to the transferee.

(12) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate unless the salvage vehicle is six (6) years old or older with a fair market value of five thousand dollars ($5,000) or less or was damaged prior to July 1, 1989. The salvage vehicle purchaser shall display the salvage certificate upon the request of any peace officer or agent of the department.

SECTION 8. That Chapter 5, 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 49-525, Idaho Code, and to read as follows:

49-525. SALVAGE-CERTIFIED VEHICLE -- INSPECTIONS -- BRANDING -- BRANDED CERTIFICATE OF TITLE. (1) The department shall issue a certificate of title on any motor vehicle for which a salvage certificate has been issued by this or any other state, provided the requirements specified in this section have been met.

(2) An initial vehicle identification number inspection and major component parts inspection shall be conducted by an authorized department employee and shall include examination of the vehicle and its parts to determine that the identification numbers of the vehicle or its parts have not been removed, falsified, altered, defaced or destroyed and that there are no indications that the vehicle or any of its parts are stolen. Such certification shall not attest to the roadworthiness or safety condition of the vehicle. The fee for ini-

tial inspection shall be twenty-five dollars ($25.00) and shall be deposited in the state highway account. The department may contract with private or public entities to conduct the inspections.

(a) If the inspector determines that one (1), or no, major component part has damage requiring repair or replacement, the vehicle statement of facts shall indicate that the vehicle qualifies for an unbranded certificate of title. The owner may then submit an application with all required supporting documents to the department for issuance of a certificate of title.

(b) If the inspector determines that two (2) or more major component parts have damage requiring repair or replacement, the vehicle shall not be eligible for a certificate of title until it has been restored or reconstructed and has been reinspected as a reconstructed vehicle. The vehicle statement of facts shall indicate that the vehicle will require a "reconstructed vehicle" decal before issuance of a branded certificate of title.

(3) Every owner of a salvage vehicle which has been restored in this state to its operating condition, in compliance with chapter 9, title 49, Idaho Code, shall present the vehicle to the department for inspection as a reconstructed vehicle.

(a) If the inspector determines that the receipts for major component parts are valid, including the vehicle identification numbers of the vehicles from which the major component parts were removed, a "reconstructed vehicle" decal shall be affixed to the vehicle and the statement of facts shall indicate that the vehicle has been branded and that the certificate of title shall be branded accordingly.

(b) The fee for issuance of a "reconstructed vehicle" decal shall be ten dollars ($10.00) and shall be deposited in the state highway account.

(c) The owner may then submit an application for branded certificate of title to the department which application shall be accompanied by the salvage bill of sale, salvage certificate, vehicle statement of facts, indemnifying affidavit, bills of sale or invoices for major component parts and written affirmation which states:

1. That the owner personally rebuilt the vehicle or personally supervised its rebuilding and includes a description of work done to restore the vehicle to the operating condition that existed prior to the event which caused the salvage certificate to be issued;

2. That the identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced;

3. That the salvage certificate document or out-of-state title certificate attached to the application has not to the knowledge of the owner been forged, falsified or altered; and

4. That all information contained on the application and its attachments is true and correct.

(4) Upon presentation of the documents required by the department, the department shall issue a branded certificate of title which shall contain the word "reconstruct."

(5) If an otherwise correct application is made for a certificate of title on any salvage-certified vehicle which was not inspected as required by the provisions of subsection (2) of this section, the department shall brand the vehicle with the decal and shall issue a branded certificate of title.

(6) Each branded certificate of title received from another jurisdiction shall have its brand carried forward to all subsequent certificates of title issued in this state.

(7) The department may promulgate rules as necessary to implement the provisions of sections 49-524 and 49-525, Idaho Code.

SECTION 9. This act shall be in full force and effect on and after January 1, 1990.

Approved April 4, 1989.

CHAPTER 286
(H.B. No. 377)

AN ACT

RELATING TO WATER DISTRICTS; REPEALING SECTION 42-611, IDAHO CODE; AMENDING CHAPTER 6, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-619, IDAHO CODE, AUTHORIZING COUNTY COMMISSIONERS TO DETERMINE THAT THE COUNTY TREASURER SHALL NO LONGER PROCESS THE PAYMENT OF WATER DISTRICT EXPENSES FROM DISTRICT FUNDS, PROVIDING FOR THE ELECTION OR APPOINTMENT OF A WATER DISTRICT TREASURER WITH AUTHORITY TO RECEIVE AND DISBURSE DISTRICT FUNDS FOR DISTRICT EXPENSES, AND ESTABLISHING DUTIES AND RESPONSIBILITIES FOR THE OFFICE.

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

SECTION 1. That Section 42-611, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 6, 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 42-619, Idaho Code, and to read as follows:

42-619. ALTERNATE PLAN FOR PAYMENT OF DISTRICT EXPENSES. (1) The county commissioners of any county having determined that providing the service of payment of water district expenses by the county treasurer from water district funds pursuant to section 42-613, Idaho Code, is an undue burden upon the county and shall no longer be provided, shall notify the director of the department of water resources of this action by December 1 in the year preceding the year for which the action shall first be effective by providing to the director a certified copy of the resolution of the commissioners taking such action.

(2) Notice of the action of the county commissioners shall be given to the water users of the district by the department of water resources together with the notice of the annual meeting given pursuant to section 42-605, Idaho Code.

(3) At each annual meeting of a district for which the county commissioners have taken the action provided for in subsection (1) of this section, the water users shall provide for the election or appointment of a treasurer. If a treasurer is not elected at the annual meeting, the director of the department of water resources shall appoint a treasurer. The treasurer shall keep a complete, accurate and permanent record of all moneys received by and disbursed for and on behalf of the district. The treasurer shall deposit all moneys of the district in a designated depository approved at the annual meeting, and shall comply with the public depository law as contained in chapter 1, title 57, Idaho Code.

(4) Before undertaking the duties of the office, the treasurer shall take and subscribe to an oath before an officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the office, and shall file the oath with the director of the department of water resources. Upon issuance by the director of a certificate confirming the election or appointment of a treasurer, the actions taken by the treasurer in fulfillment of the duties of the office are covered by the state group surety bond as provided in sections 59-801 through 59-804, Idaho Code.

(5) The treasurer shall serve until a successor is elected or appointed, and qualified. A treasurer may be removed from office by the director for failure to perform the duties of the office in the manner provided for removal of a watermaster.

(6) Compensation for the services of the treasurer shall be set at the annual meeting and may be established on a fixed-sum, per diem, or voluntary basis. If a treasurer is appointed by the director in the absence of being elected at the annual meeting, the director shall fix the compensation to be paid, if any.

(7) With respect to any district for which the county commissioners have taken the action provided for in subsection (1) of this section, or for which the water users have taken the action provided for in subsection (10) of this section and have notified the county thereof, the county auditor shall in the time and manner provided by section 63-2104, Idaho Code, transmit to the treasurer of the water district a settlement of all moneys belonging to such district paid into the county treasury and apportioned to such water district on or after the second Monday of the preceding month; provided, however, that in the months of July and January the money may be transmitted no later than the 25th of the month. The treasurer of the water district shall immediately deposit the funds in the designated depository for the district.

(8) The treasurer of the water district shall only disburse moneys from the water district account upon submission of a written voucher approved by the watermaster for expenses incurred for water district purposes.

(9) It shall be the duty of the water district treasurer to prepare a statement of the financial affairs of the district at the end

of each fiscal year and to file the statement with the director of the department of water resources. An audit of the financial affairs of the district, by an independent public accounting firm, shall be made at district expense at intervals of not more than three (3) years for districts having an annual expense of more than three thousand dollars ($3,000), and at intervals of not more than five (5) years for districts having an annual expense of three thousand dollars ($3,000) or less. A certified copy of the audit shall be filed with the director of the department of water resources following the audit.

(10) In any water district for which the county commissioners have not taken the action provided for in subsection (1) of this section, the water users may at the annual meeting of the district approve a resolution authorizing the election or appointment of a district treasurer who shall exercise all duties and responsibilities of a treasurer provided for in this section.

Approved April 4, 1989.

CHAPTER 287
(H.B. No. 376)

AN ACT

RELATING TO UNCLAIMED PROPERTY; AMENDING SECTION 14-542, IDAHO CODE, TO PROVIDE FOR THE RETENTION OF UNCLAIMED RETIRED CAPITAL CREDITS BY ELECTRIC COOPERATIVES.

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

SECTION 1. That Section 14-542, Idaho Code, be, and the same is hereby amended to read as follows:

14-542. EXEMPTION. (1) Counties holding a certificate of exemption from the administrator shall not be subject to the provisions of this chapter.

~~(2)~~ A certificate of exemption shall be provided to a county on the following basis:

(a) The commissioners of such county file an election in writing with the administrator; and

(b) The county assumes the responsibilities of the administrator under this chapter to locate unclaimed property in county hands, and refund the same to its rightful owner, according to the provisions of this chapter; and

(c) The county establishes a revolving fund to pay claimants, and retains in said fund, an amount equal to twenty-five per cent (25%) of the accumulated unclaimed property or twenty thousand dollars ($20,000), whichever is less. Excess money in the revolving fund may be transferred to the county current expense fund; and

(d) The county provides the administrator with the information required in the reports of abandoned property, to enable the

administrator to maintain a complete central registry of all unclaimed property in the state.

In the event of revocation of the election or the administrator determines that the county has not complied with the requirements or exemption, the county's exemption shall terminate and the county shall transfer all unclaimed property and unclaimed property records to the administrator.

(2) A nonprofit corporation engaged in the transmission, distribution or delivery of electric power shall not be subject to the provisions of this chapter relative to the distribution (retirement) of capital credits to members of such nonprofit corporation after July 1, 1982. For the purposes of this section, a capital credit is defined as an amount paid by a member for electric service in excess of the costs and expenses incurred by a nonprofit corporation in furnishing the service which is credited to the member's capital account by the nonprofit corporation. For capital credits distributed by the board of directors of such a nonprofit corporation that are not claimed by their member-owners, the nonprofit corporation distributing capital credits shall assume the responsibilities of the administrator under this chapter relative to notice, publication of unclaimed property lists, and refunds to rightful member-owners. Such nonprofit corporations who distribute capital credits shall establish a revolving fund to pay member-owners such capital credits and shall at all times maintain in said fund an amount equal to twenty-five percent (25%) of the accumulated capital credits presumed abandoned by the board of directors of said nonprofit corporations or twenty thousand dollars ($20,000), whichever is less. Moneys in said fund in excess of the amount required to be maintained shall be transferred to the general account of said nonprofit corporations to be used for any purpose for which said corporation is incorporated.

Approved April 4, 1989.

CHAPTER 288
(H.B. No. 373)

AN ACT

RELATING TO SCHOOL ELECTIONS; AMENDING SECTION 33-405A, IDAHO CODE, TO REDEFINE RESIDENCE FOR THE PURPOSE OF VOTING IN SCHOOL ELECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-405A, Idaho Code, be, and the same is hereby amended to read as follows:

33-405A. RESIDENCE DEFINED. a. Residence, for the purpose of voting in school elections, shall be the ~~place in which a qualified elector has fixed his habitation and to which, whenever he is absent he has the intention of returning.~~ principal or primary home or place of

abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

b. In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section 63-105DD, Idaho Code, is filed, and motor vehicle registration.

~~b~~c. A qualified elector who has left his home and gone into another state or territory, county, school district or in the event of trustee election another district trustee zone for a temporary purpose only shall not be considered to have lost his residence.

~~c~~d. A qualified elector shall not be considered to have gained a residence in any school district or, in the event of a trustee election, any trustee zone of a school district of this state into which he comes for temporary purposes only, without the intention of making it his home but with the intention of leaving it when the elector has accomplished the purpose that brought him there.

~~d~~e. If a qualified elector moves to another school district or trustee zone or to another state or any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in the school district or trustee zone in which he had previously resided.

~~e.--No-person-shall-be-deemed-to-have-gained-or-lost-residence-for purposes--of--voting--in--a--school-district-election-by-reason-of-his absence-while-employed-in-the-service-of--this--state--or--the--United States,--while-a-student-of-any-institution-of-learning,-while-kept-at any-state-institution-at-public-expense,-or-absence--from--the--school district--or,--for--purposes-of-trustee-elections,-a-trustee-zone-with the-intent-to-have-the-school-district-or-trustee-zone-remain-his-residence.-If-a-person-is-absent-from-a-school-district-or--trustee--zone but--intends--to--maintain-his-residence-for-voting-purposes-there,-he shall-not-register-to-vote-in-any-other-state-nor-otherwise-attempt-to vote-in-any-election-conducted-outside-the--school--district,--or--for purposes-of-trustee-elections,-the-trustee-zone-during-his-absence.~~

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, 1989.

CHAPTER 289
(H.B. No. 364)

AN ACT

RELATING TO THE BOARD OF COSMETOLOGY; AMENDING SECTION 54-818, IDAHO

CODE, TO PROVIDE THAT THE BOARD OF COSMETOLOGY SHALL FIX VARIOUS FEES BUT NOT TO EXCEED AMOUNTS SET BY LAW; AMENDING SECTION 54-828, IDAHO CODE, TO PROVIDE THAT THE COMPENSATION PAID TO COSMETOLOGY BOARD EXAMINERS SHALL BE FIXED BY THE BOARD; AND AMENDING SECTION 54-832, IDAHO CODE, TO INCREASE THE COMPENSATION FOR BOARD MEMBERS.

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

SECTION 1. 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~~ fixed by administrative rules of the board in amounts not to exceed the following:

(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 2. That Section 54-828, Idaho Code, be, and the same is hereby amended to read as follows:

54-828. IDAHO BOARD OF COSMETOLOGY -- APPOINTMENT -- TERM. There is hereby created in the department of self-governing agencies a board to be known as the "Idaho Board of Cosmetology." It shall consist of three (3) registered cosmetologists, one (1) electrologist and one (1) currently active cosmetology school representative, appointed by the governor from among nominees recommended by any organized and generally recognized group of cosmetologists in this state. The members of the first board shall be appointed within thirty (30) days after the adoption of this act becomes effective without reference to recommendations, and one (1) member shall be appointed to serve a term for one (1) year, one (1) for two (2) years, one (1) for three (3) years and the cosmetology school representative for one (1) year from the date of appointment. Members of the board shall be appointed from and generally be representatives of the northern, south central, and southeastern sections of the state. On the expiration of the term of any member, his successor shall be appointed in like manner by the governor for a term of three (3) years. The original appointment of an electrologist shall be for a term of two (2) years and thereafter the term shall be three (3) years. Vacancies shall be filled in like manner for the unexpired portion of the term. Members of the board shall hold office until their successors have been appointed and have qualified. The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest.

The governor shall appoint two (2) active, licensed cosmeticians in each district who shall have authority to assist in conducting cosmetology examinations and they shall be paid ~~the same as board members~~ such amounts as the board determines, when performing board duties.

The action and report in writing of a majority of the board with reference to the violation of any of the provisions of this act shall be basis for the board to proceed according to the provisions of sections 54-816, 54-817, and 54-821, Idaho Code.

SECTION 3. That Section 54-832, Idaho Code, be, and the same is hereby amended to read as follows:

54-832. COMPENSATION AND EXPENSES OF BOARD MEMBERS. Each member of the board shall be compensated as provided by section 59-509(~~g~~h), Idaho Code.

Approved April 4, 1989.

CHAPTER 290
(H.B. No. 359)

AN ACT

RELATING TO BREW PUBS; AMENDING SECTION 23-1003, IDAHO CODE, TO PROVIDE THAT A BREW PUB MAY ALSO BE LICENSED AS A WHOLESALER AND SHALL COMPLY WITH ALL LAWS RELATING TO WHOLESALERS, AND TO ALLOW THE BREW PUB LICENSEE TO SELL BEER AND WINE AT THE BREW PUB PREM-

ISES.

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

SECTION 1. That Section 23-1003, Idaho Code, be, and the same is hereby amended to read as follows:

23-1003. BREWERS', DEALERS' AND WHOLESALERS' LICENSES. (a) Before any brewer shall manufacture, or any dealer or wholesaler import or sell, beer within the state of Idaho he shall apply to the director for a license so to do. The application form shall be prescribed and furnished by the director and require that the applicant therein show that he possesses all the qualifications and none of the disqualifications of a licensee. The application shall be accompanied by the required licensee fee; provided, that where the applicant is or will be within more than one (1) of the foregoing classifications he shall apply for each classification but shall pay only one (1) license fee, which shall be for the classification applied for requiring the highest fee. If the director is satisfied that the applicant possesses the qualifications and none of the disqualifications for such license, he shall issue a license for each classification applied for, subject to the restrictions and upon the conditions in this act specified, which license or licenses shall be at all times prominently displayed in the place of business of the licensee.

(b) Each wholesaler shall, in addition to the application, file with the director a notice in writing signed by the dealer or brewer and the wholesaler stating the geographic territory within which the wholesaler will distribute beer to retailers. Said territory will be the territory agreed upon between the dealer or brewer and the wholesaler and may not be changed or modified without the consent of both the dealer or brewer and the wholesaler. Provided however, nothing contained herein shall be interpreted to prohibit a brewer or dealer from permitting more than one (1) distributor for the same geographic territory.

(c) In the event that a wholesaler sells beer to a retailer who is located outside the geographical territory designated by such wholesaler on the notice provided for in subparagraph (b) hereof, the dealer or wholesaler who has designated the geographical territory in which the sale occurred may apply to a district court of this state for the issuance of an injunction enjoining sales of beer by the wholesaler outside of his designated geographical territory. The procedure for issuance of an injunction pursuant to this act shall be subject to the provisions of chapter 4, title 8, Idaho Code, and the Idaho Rules of Civil Procedure. Upon proof to the court that a wholesaler has made a sale of beer outside his designated geographical territory, the court shall issue an injunction directed to the wholesaler prohibiting sales of beer outside his designated geographical territory.

(d) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, upon payment of a retailer's annual license fee, may be issued a brewer's retail beer license for the retail sale of the products of ~~hhs~~ his

brewery at ~~hs~~ his licensed premise or one (1) remote retail location, or both. Any brewer selling beer at retail or selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(e) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, may be issued a brewer's pub license. Upon payment of a retailer's annual license fee, and subject to the fees in sections 23-1015 and 23-1016, Idaho Code, a brewer may, at his licensed brewery, at one (1) remote retail location, or both, sell at retail the products of any brewery by the individual bottle, can or glass. Any brewer selling beer at retail or selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, on the products of his brewery, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(f) A brewer licensed under the provisions of subsections (d) or (e) of this section may be licensed as a wholesaler for the sale of beer to retailers other than at the licensed brewery and one (1) remote retail location and shall not be required to pay an additional fee therefor. Such brewer shall, however, comply with and be subject to all other regulations or provisions of law which apply to a wholesaler's license, save and except as such laws may restrict such sales at the licensed brewery or one (1) other remote retail location. The holder of a brew pub license shall not be disqualified from holding a retail wine license or wine by the drink license for the sale of wine at the brew pub premises on the grounds that said licensee is also licensed as a wholesaler.

Approved April 4, 1989.

CHAPTER 291
(H.B. No. 358)

AN ACT

RELATING TO THE LICENSURE AND REGULATION OF BREWERS OF BEER; AMENDING SECTION 23-1001, IDAHO CODE, TO DEFINE THE TERM CERTIFICATE OF APPROVAL.

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

SECTION 1. That Section 23-1001, Idaho Code, be, and the same is hereby amended to read as follows:

23-1001. DEFINITIONS. As used in this ~~act~~ chapter:

(a) The word "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, and/or other ingredients in drinkable water.

(b) The word "person" includes any individual, firm, copartnership, association, corporation or any 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.

(c) The term "dealer" shall include any person who imports beer into this state for sale or produces or manufactures beer in the state for sale.

(d) The word "retailer" means any person engaged in the sale or distribution of beer to the consumer.

(e) The word "director" means the director of the department of law enforcement.

(f) The word "brewer" means any person having a factory or an establishment adapted for the making of beer.

(g) The word "wholesaler" means any person having a store or establishment for the wholesale and distribution of beer in wholesale or jobbing quantities to retailers.

(h) The word "package" means any container of bottled beer of not less than two (2) gallons capacity or keg of not less than four (4) gallons capacity.

(i) The word "carrier" means any person as herein defined who by any means transports beer in or into the state of Idaho.

(j) The word "premises" means the building and contiguous property owned, or leased or used under government permit by a licensee as part of the business establishment in the business of sale of beer at retail, which property is improved to include decks, docks, boardwalks, lawns, gardens, golf courses, ski resorts, courtyards, patios, poolside areas or similar improved appurtenances in which the sale of beer at retail is authorized under the provisions of law.

(k) "Certificate of approval" means a license issued to a brewer whose factory or establishment adapted for the making of beer is situated outside the state of Idaho.

Approved April 4, 1989.

CHAPTER 292
(H.B. No. 357)

AN ACT

RELATING TO THE DUTIES AND POWERS OF PROSECUTING ATTORNEYS AND CITY ATTORNEYS; AMENDING SECTION 31-2604, IDAHO CODE, TO CLARIFY THE DUTIES OF THE PROSECUTING ATTORNEY; AND AMENDING CHAPTER 2, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-208A, IDAHO CODE, TO PROVIDE DUTIES OF A CITY ATTORNEY.

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

SECTION 1. That Section 31-2604, Idaho Code, be, and the same is hereby amended to read as follows:

31-2604. DUTIES OF PROSECUTING ATTORNEY. It is the duty of the prosecuting attorney:

1. To prosecute or defend all actions, applications or motions,

civil or criminal, in the district court of his county in which the people, or the state, or the county, are interested, or are a party; and when the place of trial is changed in any such action or proceeding to another county, he must prosecute or defend the same in such other county.

2. To prosecute all felony criminal actions, irrespective of whom the arresting officer is; to prosecute all misdemeanor or infraction actions for violation of all state laws or county ordinances~~,--except city--ordinances,--and--except traffic-offenses-and-misdemeanor-crimes committed-within-the-municipal-limits-of-a-city--when--the--arrest--is made--or--a--citation-issued-by-a-city-law-enforcement-official,-which shall-be-prosecuted-by-the-city-attorney-or--his--deputy,--before--the magistrate's-division-of-the-district-court-for-his-county-when-called upon--by--said-courts,-and~~ when the arresting or charging officer is a state or county employee; to conduct preliminary criminal examinations which may be had before ~~such~~ magistrates~~,-and~~; to prosecute or defend all civil actions in which the county or state is interested~~,-before the-magistrate's-division-of-the-district-court--of--the--county~~; and when a written contract to do so exists between the prosecuting attorney and a city, to prosecute violations for state misdemeanors and infractions and violations of county or city ordinances committed within the municipal limits of that city when the arresting or charging officer is a city employee.

3. To give advice to the board of county commissioners, and other public officers of his county, when requested in all public matters arising in the conduct of the public business entrusted to the care of such officers.

4. To attend, when requested by any grand jury for the purpose of examining witnesses before them; to draw bills of indictments, informations and accusations; to issue subpoenas and other process requiring the attendance of witnesses.

5. On the first Monday of each month to settle with the auditor, and pay over all money collected or received by him during the preceding month, belonging to the county or state, to the county treasurer, taking his receipt therefor, and to file, on the first Monday of October in each year, in the office of the auditor of his county, an account verified by his affidavit, of all money received by him during the preceding year, by virtue of his office, for fines, forfeitures, penalties or costs, specifying the name of each person from whom he receives the same, the amount received from each, and the cause for which the same was paid.

6. To perform all other duties required of him by any law.

SECTION 2. That Chapter 2, 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 50-208A, Idaho Code, and to read as follows:

50-208A. DUTIES OF CITY ATTORNEY. (1) The city attorney shall be the legal advisor of the municipal corporation, may represent the city in all suits or proceedings in which the city is interested, and shall perform such other duties as may be prescribed by ordinances and reso-

lutions duly passed. Nothing herein, however, shall preclude any city from employing alternative additional counsel when deemed advisable.

(2) The city attorney, his deputies, or contract counsel shall prosecute those violations of county or city ordinances, state traffic infractions, and state misdemeanors committed within the municipal limits. In so doing, the city attorney, his deputies, or contract counsel shall exercise the same powers as the county prosecutor including, but not limited to, granting immunity to witnesses.

Approved April 4, 1989.

CHAPTER 293
(H.B. No. 347)

AN ACT

RELATING TO RECREATION DISTRICTS; AMENDING CHAPTER 43, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-4320A, IDAHO CODE, TO PROVIDE FOR DISSOLUTION OF INACTIVE DISTRICTS BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS.

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

SECTION 1. That Chapter 43, 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 31-4320A, Idaho Code, and to read as follows:

31-4320A. DISSOLUTION OF INACTIVE DISTRICT. Whenever a recreation district, created pursuant to this chapter, has failed to exercise the powers of a district, owns no property, levies no tax, and has incurred no indebtedness, within three (3) years of the creation of the district, the district may be dissolved by order of the county commissioners. The question of dissolution pursuant to this section shall be considered by the board of county commissioners at the first meeting of the commissioners following the second Monday in September, when, for the third consecutive year, no certification of a tax levy has been received from the recreation district. In the event of dissolution, the county commissioners shall cause one (1) certified copy of the order of dissolution to be filed in the office of the county recorder of the county. Immediately upon the entry of such order, the dissolution of the district shall be complete.

Approved April 4, 1989.

CHAPTER 294
(H.B. No. 345, As Amended in the Senate)

AN ACT

RELATING TO NEGOTIATION AGREEMENTS; AMENDING SECTIONS 33-1271, 33-1272, AND 33-1274, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND AMENDING SECTION 33-1273, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO PROVIDE QUALIFICATIONS FOR NEGOTIATORS FOR A LOCAL EDUCATIONAL ORGANIZATION.

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

SECTION 1. That Section 33-1271, Idaho Code, be, and the same is hereby amended to read as follows:

33-1271. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATION AGREEMENTS. The board of trustees of each school district, including specially chartered districts, or the designated representative(s) of such district, is hereby empowered to and shall upon its own initiative or upon the request of a local education organization representing professional employees, enter into a negotiation agreement with ~~professional employees~~ the local education organization or the designated representative(s) of such organization and negotiate with such ~~employees~~ party in good faith on those matters specified in any such negotiation agreement between the local board of trustees and the local education organization. A request for negotiations may be initiated by either party to such negotiation agreement. Accurate records or minutes of the proceedings shall be kept, and shall be available for public inspection at the offices of the board of education during normal business hours. Joint ratification of all final offers of settlement shall be made in open meetings.

SECTION 2. That Section 33-1272, Idaho Code, be, and the same is hereby amended to read as follows:

33-1272. DEFINITIONS. Definition of terms as used in this act:

1. "Professional employee" means any certificated employee of a school district, including charter districts; provided, however, that superintendents, supervisors or principals may be excluded from the professional employee group if a negotiation agreement between the board and local education organization so specifies.

2. "Local education organization" means any local district organization duly chosen and selected by a majority of the professional employees as their representative organization for negotiations under this act.

3. "Negotiations" mean meeting and conferring in good faith by ~~representatives--of~~ a local board of trustees and the authorized local ~~representative~~ education organization ~~of--professional--employees~~, or the respective designated representatives of both parties for the purpose of reaching an agreement, upon matters and conditions subject to negotiations as specified in a negotiation agreement between said par-

ties.

SECTION 3. That Section 33-1273, Idaho Code, be, and the same is hereby amended to read as follows:

33-1273. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES ~~REPRESENTATIVE----QUALIFICATIONS~~ -- NEGOTIATIONS. The ~~representative~~ local education organization ~~designed-or-selected-for-the-purpose-of-negotiations--by--the--majority--of--the--professional-employees-in-a-school district~~ shall be the exclusive representative for all professional employees in that district for purposes of negotiations. ~~Provided, however,-that-t~~The individual or individuals selected to negotiate for the professional employees shall be a member of the organization designated to represent the professional employees and shall be a professional employee of the local school district. However, in the event a local board of trustees chooses to designate any individual(s) other than the superintendent or elected trustee(s) of the school district as its representative(s) for negotiations, the local educational organization is authorized to designate any individual(s) of its choosing to act as its representative(s) for negotiations. A local board of trustees or its designated representative(s) shall negotiate matters covered by a negotiations agreement only with the ~~representative~~ local education organization or its designated ~~by-the-professional-employees of-a-school-district~~ representative(s).

SECTION 4. That Section 33-1274, Idaho Code, be, and the same is hereby amended to read as follows:

33-1274. APPOINTMENT OF MEDIATORS -- COMPENSATION. In the event the parties in negotiations are not able to come to an agreement upon items submitted for negotiations under a negotiations agreement between the parties, one or more mediators may be appointed. The issue or issues in dispute shall be submitted to mediation at the request of either party in an effort to induce the representatives of the board and the ~~representative~~ local education organization to resolve the conflict. The procedures for appointment of and compensation for the mediators shall be determined by both parties.

Approved April 4, 1989.

CHAPTER 295
(H.B. No. 343)

AN ACT

RELATING TO WATERSHED IMPROVEMENT DISTRICTS; AMENDING SECTION 42-3704, IDAHO CODE, TO CLARIFY THE LIMITATIONS ON THE SIZE OF A WATERSHED IMPROVEMENT DISTRICT.

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

SECTION 1. That Section 42-3704, Idaho Code, be, and the same is hereby amended to read as follows:

42-3704. DEFINITION OF WATERSHED IMPROVEMENT DISTRICTS. Watershed improvement districts may be established in this state pursuant to this act, and when so established shall be governmental subdivisions of this state and public bodies corporate and politic.

Such watershed improvement districts may be organized within one or more counties of this state and the boundaries of such district may transcend county boundaries. In no instance shall a district involve more than 250,000 acres of private lands.

Approved April 4, 1989.

CHAPTER 296
(H.B. No. 331)

AN ACT

RELATING TO SCHOOL CONSOLIDATION; AMENDING CHAPTER 3, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-310B, IDAHO CODE, TO PROVIDE AUTHORITY TO CONDUCT FEASIBILITY STUDIES AND DEVELOP PLANS FOR SCHOOL CONSOLIDATION AND TO BE REIMBURSED FOR COSTS INCURRED; AMENDING SECTION 33-311, IDAHO CODE, TO PROVIDE THAT EXISTING BONDED INDEBTEDNESS SHALL REMAIN WITH THE RESPECTIVE DISTRICTS IN A CONSOLIDATION; AMENDING SECTION 33-1003, IDAHO CODE, TO PROVIDE THAT THE SUPPORT PROGRAM ALLOWANCE FOR A CONSOLIDATED DISTRICT SHALL NOT BE LESS THAN THE SUPPORT FOR THE FORMER DISTRICTS FOR A SEVEN YEAR PERIOD FOLLOWING CONSOLIDATION; AND AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1007A, IDAHO CODE, TO PROVIDE APPLICATION OF THE SUPPORT PROGRAM TO A FEASIBILITY STUDY AND PLAN REIMBURSEMENT AND SCHOOL CONSOLIDATIONS.

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

SECTION 1. That Chapter 3, 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 33-310B, Idaho Code, and to read as follows:

33-310B. FEASIBILITY STUDY AND PLAN FOR CONSOLIDATION. All school districts operating one or more high schools may conduct a feasibility study and prepare a plan for school consolidation, which may also include school district consolidation. The cost of such feasibility studies shall be reimbursed at an amount not to exceed five thousand dollars ($5,000) per study, in accordance with rules and regulations promulgated by the state board of education. The state board of education shall review and act upon all plans for school consolidation.

SECTION 2. That Section 33-311, Idaho Code, be, and the same is hereby amended to read as follows:

33-311. PLAN OF CONSOLIDATION SUBMITTED TO ELECTORS. The state board of education may approve or disapprove any plan proposing consolidation, and if it approves the same it shall give notice thereof to the board of trustees of each school district proposing to consolidate and to the board of county commissioners in each county in which the proposed consolidated district would lie. Notice ~~of~~ to the board of county commissioners shall include the legal description of the boundaries of the proposed consolidated district and a brief statement of the approved proposal, and shall be accompanied by a map of the proposed consolidated district.

Not more than ten (10) days after receiving the notice from the state board of education, each board of county commissioners receiving such notice shall enter the order calling for an election on the question of approving or disapproving, and shall cause notice of such election to be posted and published. The notice shall be posted and published, the election shall be held and conducted and its results canvassed, in the manner and form of sections 33-401 through 33-406, Idaho Code.

If the qualified school electors of any one (1) district proposing to consolidate, and voting in the election, shall constitute a majority of all such electors voting in the entire area of the proposed consolidated district, the proposed consolidation shall not be approved unless a majority of such electors in such district, voting in the election, and a majority of such electors in each of the remaining districts, voting in the election, shall approve the proposed consolidation.

If the qualified school electors in no one (1) of the districts proposing to consolidate, and voting in the election, constitute a majority of all such electors voting in the entire area of the proposed consolidated district, the proposed consolidation shall not be approved unless a majority of all such electors in each district, voting in the election, shall approve the proposed consolidation.

~~Whenever~~ In any plan of consolidation ~~shall--propose--that~~ the existing bonded debt of any district or districts proposing to consolidate, shall ~~be-assumed-by-and~~ not become the obligation of the proposed consolidated school district~~,-at-the-same-time-of--the--election hereinabove--prescribed,--the--question-of-assuming-such-debt-shall-be submitted-to-the-electors-having--the--qualification--of--electors--in school--bond--elections~~. The debt or debts shall ~~not-be-assumed-by-the proposed-consolidated-district-unless-the-question-be-approved-by--the qualified--electors-voting-on-the-question-and-by-the-majority-thereof now,-or-hereafter,-required-by-section-3,-article-VIII,-of-the-Constitution-of-Idaho;-and-if-the-assumption-of-debt-be--not--approved,--the proposed--consolidation-shall-not-be-operative~~ remain an obligation of the property within the districts proposing the consolidation. Upon voter approval of the proposed consolidation, the districts proposing to consolidate shall become subdistricts of the new district as if they had been created under the provisions of section 33-351, Idaho

Code. The subdistricts shall be called bond redemption subdistricts. The powers and duties of such bond redemption subdistricts shall not include authority to incur new indebtedness within the subdistricts.

When a consolidation is approved, as hereinabove prescribed, a new school district is thereby created, and the board of county commissioners of any county in which the consolidated district lies shall enter its order showing the creation of the district and a legal description of its boundaries.

SECTION 3. That Section 33-1003, Idaho Code, be, and the same is hereby amended to read as follows:

33-1003. SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PROGRAM. 1. Decrease in Average Daily Attendance. -- Any school district which has a decrease in total average daily attendance of one percent (1%) of its average daily attendance in the then current school year from the total average daily attendance used for determining the allowance in the educational support program for the school year immediately preceding, the allowance of funds from the educational support program may be based on the average daily attendance of the school year immediately preceding, less one percent (1%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district.

2. Application of Support Program to Separate Schools in District.

a. Separate Elementary School. -- Any separate elementary school shall be allowed to participate in the educational support program as though the school were the only elementary school operated by the district.

b. Hardship Elementary School. -- Upon application of the board of trustees of a school district, the state board of education is empowered to determine that a given elementary school or elementary schools within the school district, not otherwise qualifying, are entitled to be counted as a separate elementary school as defined in section 33-1001, Idaho Code, when, in the discretion of the state board of education, special conditions exist warranting the retention of the school as a separate attendance unit and the retention results in a substantial increase in cost per pupil in average daily attendance above the average cost per pupil in average daily attendance of the remainder of the district's elementary grade school pupils.

c. Separate Secondary School. -- Any separate secondary school shall be allowed to participate in the educational support program as though the school were the only secondary school operated by the district.

d. Minimum Pupils Required. -- Any elementary school having less than ten (10) pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education.

3. Remote Schools. -- The board of trustees of any Idaho school

district which operates and maintains a school which is remote and isolated from the other schools of the state because of geographical or topographical conditions may petition the state board of education to recognize and approve the school as a remote and necessary school. The petition shall be in form and content approved by the state board of education and shall provide such information as the state board of education may require. Petitions for the recognition of a school as a remote and necessary school shall be filed annually at least ninety (90) days prior to the date of the annual meeting of the board of trustees as established in section 33-510, Idaho Code.

Within forty-five (45) days after the receipt of a petition for the recognition of a remote and necessary school, the state board of education shall either approve or disapprove the petition and notify the board of trustees of its decision. Schools which the state board of education approves as being necessary and remote shall be allowed adequate funding within the support program for an acceptable educational program for the students of the school. In the case of a remote and necessary secondary school, grades 7-12, the educational program shall be deemed acceptable when, in the opinion of the state board of education, the accreditation standard relating to staff size, established in accordance with section 33-119, Idaho Code, has been met. The final determination of an acceptable program and adequate funding in the case of a remote and necessary elementary school shall be made by the state board of education.

4. Support program when district boundaries are changed.

a. In new districts formed by the division of a district, the support program computed for the district divided in its last year of operation, shall be apportioned to the new districts created by the division, in the proportion that the average daily attendance of pupils, elementary and secondary combined, residing in the area of each new district so created, is to the average daily attendance of all pupils, elementary and secondary combined, in the district divided in its last year of operation before the division.

b. When boundaries of districts are changed by excision or annexation of territory, the support program of any district from which territory is excised for the last year of operation before such excision shall be divided, and apportioned among the districts involved, as prescribed in subsection 4a hereof.

c. In new districts formed by consolidation of former districts, the support program allowance for a seven (7) year period following the formation of the new district, shall not be less than the combined support program allowances of the component districts in the last year of operation before consolidation. ~~Provided, however, the board of trustees of the new district may petition the state board of education for special consideration in determining financial unit factors for the educational support program of the consolidated district. The petition shall be in form and content approved by the state board of education. The petition shall include a plan for annual adjustments to move from the support unit factors which were allowed the individual districts prior to consolidation to the support unit factor allowed the consolidated~~

~~districts.--The plan must use divisors that are authorized in--the tables--of section 33-1002, Idaho Code, and must be fully adjusted within a seven (7) year period following the formation of the district.--Within sixty (60) days after the receipt of a petition for special consideration of support unit factors the state--board--of education shall approve or disapprove--the petition and notify the board of trustees of its decision.--Districts which the state board of--education--approves--for special consideration of support unit factors in the--support--program--shall--be--allowed--to--use--the approved factors for computation of its entitlement under the support program.~~

5. For the fiscal year which commences on July 1, 1986, and for each succeeding fiscal year, any school district whose adjusted market value for assessment purposes decreases forty percent (40%) or more from the previous year's adjusted market value for assessment purposes as such valuation existed on December 31, is eligible to receive an adjustment to its educational support program entitlement, subject to qualifications as follows:

(a) The adjusted market value for assessment purposes has decreased forty percent (40%) or more from the previous year's adjusted market value for assessment purposes as such valuation existed on December 31; and

(b) The school levy to be certified for the general maintenance and operation fund shall be no less than four-tenths of one percent (.4%); and

(c) The revenue generated by the four-tenths of one percent (.4%) tax levy is less than what could have been authorized under the provisions of section 63-2220(1)(i)(a), Idaho Code; and

(d) An eligible school district has made application to the state department of education for an adjustment to entitlement from the state educational support program on or before June 1 of the fiscal year. Such application must document the need for additional funds and must include a district plan to minimize impact of a reduced local tax base.

The application for adjustment to the educational support program shall be reviewed by the state department of education and any adjustment shall not be greater than fifty percent (50%) of the difference between the maximum revenue authorized under section 33-802(2)(a), Idaho Code, and the revenue that could have been authorized under the provisions of section 63-2220, Idaho Code.

SECTION 4. That Chapter 10, 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 33-1007A, Idaho Code, and to read as follows:

33-1007A. FEASIBILITY STUDY AND PLAN FOR SCHOOL CLOSURES AND/OR SCHOOL DISTRICT CONSOLIDATION. (1) The state superintendent of public instruction shall determine the reimbursable costs to any school district which are incurred under the provisions of section 33-310B, Idaho Code. The school district shall be entitled to reimbursement of all allowable costs pursuant to rules and regulations promulgated by

the state board of education.

(2) In school districts where the implementation of a school closure plan requires the consolidation of one or more schools, the support program allowance for the consolidated school for a seven (7) year period following school consolidation, shall not be less than the combined support program allowance of the component schools in the last year of operation.

Approved April 4, 1989.

CHAPTER 297
(H.B. No. 311)

AN ACT

RELATING TO LEGISLATIVE REVIEW OF HEALTH CARE ISSUES; AMENDING CHAPTER 4, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-456, IDAHO CODE, TO CREATE A SPECIAL LEGISLATIVE COMMITTEE TO MONITOR AND REVIEW ALL ASPECTS OF THE HEALTH CARE DELIVERY SYSTEM, TO PROVIDE FOR APPOINTMENTS TO THE COMMITTEE, TO PROVIDE FOR DUTIES AND RESPONSIBILITIES, TO PROVIDE FOR REPORTS FROM THE COMMITTEE, AND TO PROVIDE FOR TERMINATION OF THE COMMITTEE; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 4, 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 67-456, Idaho Code, and to read as follows:

67-456. SPECIAL COMMITTEE ON HEALTH CARE. In order to maintain a degree of continuous oversight of rural and urban health care issues, there is hereby established a special legislative committee on health care.

The committee shall consist of five (5) members of the senate, three (3) from the majority party appointed by the president pro tempore, and two (2) from the minority party appointed by the minority leader and five (5) members of the house of representatives, three (3) from the majority party appointed by the speaker of the house, and two (2) from the minority party appointed by the minority leader. The president pro tempore of the senate and the speaker of the house shall each appoint a co-chairman from among the appointed members. Appointments to the committee shall be for the term of office of the member appointed. If a vacancy occurs or exists, it shall be filled in a manner consistent with the appointment procedure set out in this section; except the appointment shall be for the remainder of the unexpired term. A committee member may be reappointed to the committee. The co-chairmen shall have authority to appoint ad hoc members of the general public for special projects and issues.

The committee shall have as a primary duty and responsibility the task of monitoring and reviewing all aspects of the health care delivery system in Idaho, including without limitation, delivery of rural health care services, organization of the state department of health and welfare, the health districts, health maintenance organizations, laws relating to the licensing of hospitals, nursing homes and other health care providers, and the federal programs involving or relating to health care services.

The director of the department of health and welfare shall provide all necessary staff support and services to the committee.

The committee shall report to the president pro tempore of the senate and the speaker of the house by not later than February 1 of each year on all matters that have come to its attention, and may report and make recommendations on any aspect of the health care delivery system in this state at any time.

Members of the committee shall be compensated from the legislative account on order of the president pro tempore of the senate or the speaker of the house at the rates applicable for committee members of the legislative council. The committee may meet not more than six (6) times in any calendar year.

The special committee shall cease to exist following its report to the Second Regular Session of the Fifty-third Idaho Legislature in 1995.

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 April 1, 1989.

Approved April 4, 1989.

CHAPTER 298
(H.B. No. 312)

AN ACT

RELATING TO THE CONTROL OF NOXIOUS WEEDS; AMENDING SECTION 22-2440, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A DECLARATION OF POLICY; AMENDING SECTION 22-2441, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE DUTIES OF PERSONS AND AGENCIES TO CONTROL NOXIOUS WEEDS; AMENDING SECTION 22-2442, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO FURTHER DEFINE TERMS; AMENDING SECTION 22-2443, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE POWERS AND DUTIES REGARDING ENFORCEMENT; AMENDING SECTION 22-2443A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE POWERS AND DUTIES OF COUNTIES REGARDING WEED CONTROL; AMENDING SECTION 22-2444, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE NOTICE PROVISIONS FOR CONTROL OF NOXIOUS WEEDS; AMENDING SECTION 22-2445, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE RESPONSIBILITIES OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE; AMENDING SECTION 22-2446, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE PROVISIONS REGARDING THE OBLIGATION

FOR THE COSTS OF CONTROLLING NOXIOUS WEEDS; AMENDING SECTION 22-2447, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 22-2450, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE LANGUAGE REGARDING CONTROL AUTHORITIES PURCHASING OR PROVIDING NECESSARY EQUIPMENT AND MATERIALS FOR THE ERADICATION OF NOXIOUS WEEDS; AMENDING SECTION 22-2451, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE WEED CONTROL PLANNING REQUIREMENTS; AMENDING SECTION 22-2452, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE APPEALS PROCEDURE; AMENDING SECTION 22-2453, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 22-2454, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROCEDURES FOR DISBURSEMENTS FROM AND REPAYMENTS TO THE NOXIOUS WEED FUND; AMENDING SECTION 22-2455, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE PROCEDURE FOR APPOINTMENT OF WEED CONTROL ADVISORY COMMITTEES; AMENDING SECTION 22-2456, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE EMERGENCY PROCEDURES FOR ERADICATION OF NOXIOUS WEEDS; AMENDING SECTION 22-2457, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT REFERENCE; AMENDING SECTION 22-2461, IDAHO CODE, TO REDESIGNATE THE SECTION; AND AMENDING SECTION 22-2462, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROCEDURES FOR CITING VIOLATORS.

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

SECTION 1. That Section 22-2440, Idaho Code, be, and the same is hereby amended to read as follows:

22-2447~~0~~. DECLARATION OF POLICY. ~~Noxious--weeds--pose--a--serious menace--to--the--public--welfare--and--the-state's-economic-stability. Therefore,-it-is-hereby-established-that-a-coordinated-and--continuing control-program-on-noxious-weeds-is-necessary.-Responsibility-for-control--of--noxious-weeds-rests-not-only-on-the-individual-landowner-and operator,-but-also-on-county,-state-and-federal-governments.~~ It is the purpose of this chapter to ~~provide-the-statutory-and--financial--means for--the-control-of~~ define noxious weeds~~,~~; legal requirements, duties, and responsibilities of persons; and to provide the statutory and financial means for the control of noxious weeds, wherever such noxious weeds occur in this state.

SECTION 2. That Section 22-2441, Idaho Code, be, and the same is hereby amended to read as follows:

22-2447~~1~~. DUTY OF PERSONS AND AGENCIES TO CONTROL NOXIOUS WEEDS. (1) ~~The-primary-duty-and-responsibility-for-controlling-noxious--weeds on-private-lands-rests-on-the-person-who-owns-or-controls-the-land.~~

~~(2)--The--primary--duty-and-responsibility-for-controlling-noxious weeds-on-the-lands,-lakes,-reservoirs,-ditches-and-water-courses,--and all--rights-of-way-appurtenant-thereto,-of-drainage-districts,-irrigation-districts,-and-canal-companies-rests-on--the--drainage--district, irrigation--district,--or--canal--company.--All--noxious--weed-control expenses-shall-be-a-proper-maintenance--expense--of--the--district--or canal-company.~~

~~(3)--The--primary--duty-and-responsibility-for-controlling-noxious weeds-on-the-lands-and-rights-of-way-of-highway-districts,-and--county highway--systems,--rests--on-the-administering-district-or-county.-All noxious-weed-control-expenses-shall-be-a--proper--highway--maintenance expense-of-the-district-or-county-system.~~

~~(4)--The--primary--duty-and-responsibility-for-controlling-noxious weeds-on-public-lands,-including-cities,-within-a-county,--other--than lands--owned--or--controlled--by--the-state-or-federal-government,-and other-than-those-lands-or-areas-for-which-responsibility--is--assigned by-subsections-(2)-and-(3)-of-this-section,-rests-on-the-county.~~

~~(5)--The--primary--duty-and-responsibility-for-controlling-noxious weeds-on-state-lands-rests-on-the-state.-To-the-extent--possible,--all noxious--weed--control--expenses-shall-be-considered-a-regular-maintenance-and-operating-expense-of-the-administering-agency.~~ It shall be the duty and responsibility of all persons and nonfederal agencies to control noxious weeds on land and property that they own, in accordance with this chapter and with rules and regulations promulgated by the director of the department of agriculture.

(2) Weed control must be for prevention or eradication unless the provisions of section 22-2480, Idaho Code, apply.

SECTION 3. That Section 22-2442, Idaho Code, be, and the same is hereby amended to read as follows:

22-24472. DEFINITIONS. As used in this chapter:

(1) "Agency" means:

(a) In the case of the federal government, any authority which exercises administrative control over defined areas of federal property within the state of Idaho;

(b) In the case of the state of Idaho, any department, board, commission, or institution ~~which-exercises-administrative--control over-lands-owned-or-controlled-by-the-state,-whether-by-fee-simple ownership,--lease,-rights-of-way,-or-easements;-and-shall-include, without-being--limited--to,--the--department--of--correction,--the department--of--fish--and-game,-the-transportation-department,-the department-of-lands-and-the-department-of-parks-and-recreation.~~

(c) In the case of local government, cities, counties and any legal subdivisions thereof, drainage districts, highway districts, or any special taxing district.

~~(2)--"Control,"--"controlled"--or--"controlling"-includes-being-in charge-of-or-being-in-possession,-whether-as--owner,--lessee,--renter, tenant,-or-holder-of-an-easement,-whether-under-statutory-authority-or otherwise.~~

(~~2~~3) "Applicable fund or account" means:

(a) In the case of the state of Idaho, the noxious weed account, which is hereby created and established in the dedicated fund and which shall be used exclusively for the purposes prescribed by this chapter;

(b) In each county, the noxious weed fund, which is hereby created and established and shall be maintained in each county and which shall be used exclusively for the purposes prescribed by this chapter.

(3) "Containment" means prevention of seed productions, seed dissemination and production of new plant shoots by vegetative means.

~~(4)~~ "Control authority" means:

(a) On the state level, the director of the department of agriculture;

(b) On the county level, the board of county commissioners~~,--or the board of directors of a weed control district.~~

(~~3~~5) "Director" means the director of the department of agriculture or his designated agent.

~~(4)--"Environment" includes water, air, land, all plants, man--and other--animals--living therein, and the interrelationships which exist among these.~~

(6) "Eradication" means completely eliminating all above-ground plant growth of a target noxious weed species for a time period longer than the expected longevity of the species.

(~~5~~7) "Land" means all ~~land and~~ soil or water ~~areas, including air space,--and--all plants, animals, structures, buildings, contrivances, and machinery--appurtenant--thereto--or--situated--thereon,--fixed--or mobile, including any used for transportation~~ or other growing medium.

(~~6~~8) "Noxious weed" means kind of species of any plant ~~which is determined by the director to be injurious to--public--health,--crops, livestock, land or other property~~ having the potential to cause injury to public health, crops, livestock, land or other property; and which is designated as noxious by the director.

(9) "Person" means any individual, partnership, firm, corporation, company, society, association, ~~the--state or any department, agency or subdivision thereof,~~ drainage district, irrigation district, highway district or any ~~other entity~~ taxing district.

~~(10) "Weed control" may--be--local,--regional,--or--statewide--in scope,--and shall include, but not be limited to, any of the following methods as determined by the weed control authority:~~

~~(a)~~ "Prevention" ~~is the--process--of--forestalling--or--hindering~~ means avoiding the introduction ~~and~~ or establishment of a ~~specific~~ plant species in areas not currently infested with ~~those weed~~ that species.

~~(b)--"Suppression"--is--the--process--of--limiting, containing, or reducing live plants, plant parts and seeds of the target--species from an area.~~

~~(c)--"Eradication" is the process designed to provide for the complete--elimination--of--all live plants, plant parts, and seeds of the target species from an area.~~

(11) "Quarantine" means the regulation of the production, movement, or existence of plants, plant products, animals, animal products, or any other article or material, or the normal activity of persons, to prevent or limit introduction or spread of a noxious weed.

(12) "Special management zone" is an area wherein specific requirements of this chapter may be modified.

(13) "Weed control" means any or all of the following: prevention, eradication, or containment.

SECTION 4. That Section 22-2443, Idaho Code, be, and the same is hereby amended to read as follows:

22-24~~73~~. ENFORCEMENT OF CHAPTER VESTED IN DIRECTOR -- POWERS AND DUTIES. (1) ~~(a)~~ The duty of enforcing this chapter and carrying out its provisions is vested in the director, and the control authorities designated in this chapter acting under the supervision and direction of the director. The director shall determine what weeds are noxious for the purposes of this chapter, and shall compile and keep current a list of such noxious weeds or group of noxious weeds, which list shall be published and incorporated in the rules and regulations of the director. The director shall, ~~from time to time, adopt and publish methods as official for control of noxious weeds and~~ make and publish such rules and regulations as in his judgment are necessary to carry out the provisions of this chapter and employ a statewide weed coordinator to carry out his duties and responsibilities.

(~~b~~2) The director is authorized to investigate the subject of noxious weeds; to require information, annual work plans, and reports from each county and from each state agency as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof; to cooperate with agencies and persons in carrying out ~~other acts administered by him; to cooperate with agencies of federal and state governments and persons in carrying out~~ his duties under this chapter, and ~~in the~~ to conduct ~~of investigation~~ matters outside this state in the interest of ~~the protection of the economic activities of this state from noxious weeds not generally distributed therein; with the consent of the federal agency involved, to control noxious weeds on federal lands within this state, with or without reimbursement, when deemed by him to be necessary to an effective weed control program; to advise and confer as to the extent of noxious weed infestations and the methods determined best suited to the control thereof; to call and attend meetings and conferences dealing with the subject of noxious weeds; to disseminate information and conduct educational campaigns in cooperation with the University of Idaho's extension service and others with respect to the control of noxious weeds; to procure materials and equipment and employ a statewide weed coordinator to carry out his duties and responsibilities; and to perform such other acts as may be necessary or appropriate to the administration of this chapter.~~

~~(c) When determined by the director that a county has failed to carry out any of its duties and responsibilities as a control authority, the director may request that the attorney general bring an action in the district court against the control authority to require compliance with the provisions of this chapter.~~

~~(d) The director is authorized to investigate the subject of noxious weeds, to require information, annual work plans, and reports from each state department, board, commission, or institution which exercises administrative control over lands owned or controlled by the state. The annual work plans shall be submitted to the director and the respective county control authority within those particular areas of jurisdiction.~~

~~(e) The director shall have the responsibility of cooperating with the federal government in planning, coordinating and executing a meaningful program of weed control on indigenous federal land. To the~~

~~extent-possible,-all-noxious-weed-control-expenses-should--be--considered-a-regular-maintenance-and-operating-expense-of-the-administrating federal-agency.~~

~~(2)--The--director-may-inspect-and-certify-Idaho-crops-and-imports and-exports-to-verify-freedom-from-noxious-weeds,--and--may--authorize county-weed-superintendents-and-others-to-perform-such-inspections-and certification~~ state noxious weed control; to advise and confer as to the extent of noxious weed infestations and the methods of control; to call and attend meetings and conferences dealing with the subject of noxious weeds; to disseminate information and conduct educational campaigns in cooperation with the University of Idaho's extension service and others with respect to the control of noxious weeds; to procure materials and equipment; to inspect and certify Idaho crops and imports and exports to verify freedom from noxious weeds, and may authorize county weed superintendents and others to perform such inspections and certification; and to perform such other acts as may be necessary or appropriate to the administration of the provisions of this chapter.

(3) If at any time the director determines that the county commissioners have failed to cooperate or carry out their duties and responsibilities as a control authority, the director shall notify them of the deficiency, and suggest corrective action. If the situation is not satisfactorily corrected within seven (7) days after the time outlined in the director's corrective action plan, the director shall initiate appropriate action and charge to the county all expenses including the hiring of necessary labor and equipment. Quarantine of specific crops or potential weed propagating activities may be a part of the control program.

SECTION 5. That Section 22-2443A, Idaho Code, be, and the same is hereby amended to read as follows:

22-2~~4~~43A. ~~ENFORCEMENT--OF--WEED-CONTROL-IN~~ COUNTY ~~---COUNTY-WIDE WEED--DISTRICT~~ POWERS AND DUTIES. (1) ~~Each--county~~ The county commissioners shall carry out the duties and responsibilities vested in ~~it~~ the county under this chapter ~~with-respect--to--land--under--its jurisdiction,--in-accordance-with~~ and rules and regulations prescribed by the director;~~,-Such-duties-shall-include--the--establishment--of--a coordinated--program--for-control-of-noxious-weeds-within-such-county. Each-county-shall-exercise-its-authority--and--responsibility--through the--board--of--county--commissioners.----If-at-any-time-the-board-of county-commissioners-has-failed-to-carry-out-its-responsibilities,-the director-shall-proceed-as-provided-in-section-22-2443(c),-Idaho--Code; or--if--the--board--of-county-commissioners-has-failed-for-a-period-of sixty-(60)-days-to-carry-out-any-program-ordered-by-the-director,--the provisions-of-subsection-(2)-of-this-section-shall-apply.~~

~~(2)--The--board-of-county-commissioners-may-initiate-the-organization-of-a-county-wide-weed-district-on-its-own-motion-or-shall-provide for-the-organization-of-a-county-wide-weed-district-within-thirty-(30) days-after-presentation-of-a-petition-signed-by-not--less--than--fifty (50)-resident-real-property-holders-of-said-county.~~

~~(a)--If--a--petition--is--prepared,--it--shall-be-presented-to-the~~

county clerk and recorder, and the petition shall be signed by not less than fifty (50) of the resident real property holders of the county. The area of the district shall be the same as the county.

(b) Upon the filing of the petition, the county clerk shall examine the petition and certify whether the required number of petitioners have signed. If the number of petition signers is sufficient, the clerk shall transmit the petition to the board of county commissioners.

(c) Upon receipt of a duly certified petition, the board of county commissioners shall give notice of an election to be held in the county for the purpose of determining whether or not the proposed district shall be organized and to elect five (5) persons to be the first board of directors for the district. Such notice shall include the date and hours of the election, the polling places, and the names of five (5) persons nominated by the county commissioners. These names shall be placed on the ballot with provision for five (5) write-in candidates. The terms of office shall be determined by the board of county commissioners and shall be staggered so that two (2) terms shall expire on January 1, following the general election occurring next after the organization of the district, and three (3) terms shall expire on January 1, following the second general election occurring after the organization of the district. The notice shall be published once each week for three (3) consecutive weeks prior to such election in a newspaper of general circulation in the county. The election to establish a county wide weed district may be conducted at any general election.

(d) The election shall be held and conducted as nearly as may be in the same manner as a general election in this state, except that electors need not be registered in order to vote in such election. The board of county commissioners shall appoint three (3) judges, one (1) of whom shall act as clerk for the election. Each elector may be required to take an oath that he is a resident of the county, and otherwise possesses all the qualifications of an elector before casting his vote. At such election the electors shall vote for or against the organization of the district, and for members of the first board of directors.

(e) The judges of election shall certify the returns of the election to the board of county commissioners. If a majority of the votes cast at said election are in favor of the organization, the board of county commissioners shall declare the district organized, and shall further designate the first board of directors elected.

(f) At the general election occurring next after the organization of a county wide weed district, and at each general election thereafter, there shall be elected the number of directors of the district whose terms expire on the following January 1. The term of an elected director shall be four (4) years, commencing on January 1, next following election. Vacancies in the office of an elected director shall be filled by appointment of the board of county commissioners for the balance of the term.

(g) Not later than sixty (60) days prior to a general election,

nomination may be filed with the county clerk and recorder, and if a nominee does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot, separate and distinct from all other contests to be voted on at the general election. The conduct of and the results of such election shall be governed by the laws applicable to general elections.

(h) The board of directors of a county wide weed district shall conduct the affairs of the district, and their authority and responsibility shall be the same as that conferred upon a board of county commissioners by the provisions of this chapter. The board of directors shall receive such compensation and expenses as are fixed by the board of county commissioners.

(i) If the election cannot be held in conjunction with a general election, at the same time as the board of county commissioners gives notice of an election for the organization of a county wide weed district, the board of county commissioners may require that the petitioners file a bond with the county auditor in an amount sufficient to cover the costs of the election. The county auditor shall estimate the amount of such costs, and the election need not be conducted if such bond has been ordered by the board of county commissioners but has not been filed with the county auditor. The bond shall be made payable to the county noxious weed fund, but shall be enforced only if moneys in the noxious weed fund are insufficient to pay the costs of the election, and then only so much as is necessary to pay the balance of costs not paid from the moneys available in the fund. All costs for all other elections for a county wide weed district shall be a proper charge against the noxious weed fund.

(4) A county may cooperate with any person or with the federal government in carrying out its duties and responsibilities under this chapter, and shall cooperate with the director in carrying out other acts administered by him.

(5) (a) Each county shall employ one or more weed control superintendents who shall be certified by the director to be qualified to detect and treat noxious weeds. The same person may be a weed control superintendent for more than one (1) county control authority. Such employment may be for such tenure, and at such rates of compensation and reimbursement for travel expenses, as the county may prescribe, and without regard to any provisions of law relating to age or dual compensation.

(b) Under the direction of the employing county, it shall be the duty of every weed control superintendent to examine all land within the county for the purpose of determining whether the provisions of this chapter and regulations of the director have been complied with; he shall compile such data on infested areas and areas eradicated and such other reports as the director or county may require; consult and advise upon matters pertaining to the best and most practical methods of noxious weed control and render assistance and direction for the most effective control; investigate or aid in the investigation and prosecution of any violation of this chapter; assist the county assessor as provided in this

~~chapter; and perform such other duties as required by the county in the performance of its duties. Weed control superintendents shall cooperate and assist one another to the extent practicable. County weed control superintendents shall supervise the carrying out of the coordinated control program within the county.~~

~~(6) Upon formation of a county wide weed district, all rights, title and interest in lands and personal property owned by the county for weed control purposes shall be transferred to and thereafter be vested in the board of directors of the weed district, and control over all moneys in the noxious weed fund shall be transferred to the board of directors, and within the limits of the law, they may establish the county weed levy. Upon dissolution of a county wide weed district, all rights, title and interest in lands and personal property owned by the district for weed control purposes shall be transferred to and thereafter be vested in the board of county commissioners, and control over all moneys in the noxious weed fund shall be transferred to the board of county commissioners.~~ establish and maintain a coordinated program for control of noxious weeds in the county; employ a county weed superintendent, who may be a superintendent for more than one (1) county and who shall be qualified to detect and treat noxious weeds, whose employment shall be for such tenure and at such rates of compensation and reimbursement for travel expenses as prescribed by the county, and without regard to any provisions of law relating to retirement age or dual compensation; designate one (1) of its members as the liaison between the county weed superintendent and the county commissioners; within sixty (60) days of receipt of a petition by any affected persons, arrange for a public meeting to be held to review the county weed program and allow public comment. County control authorities may designate weeds in addition to the state noxious weed list as noxious within their county, but such additional species are not subject to provisions of the state noxious weed laws.

(2) It shall be the duty of every county weed superintendent to examine all land within the county for the purpose of determining whether the provisions of this chapter and rules and regulations of the director have been complied with; compile data and submit reports as the director or county may require; consult, advise and provide direction on matters pertaining to the most effective and most practical methods of noxious weed control; investigate or aid in the investigation and prosecution of any violation of this chapter; and cooperate with and assist other county weed superintendents. The county weed superintendent may enter upon all lands within the county where there are noxious weeds to ascertain conditions, if a reasonable attempt has been made to contact the owner prior to entry, and there is probable cause for the entry.

SECTION 6. That Section 22-2444, Idaho Code, be, and the same is hereby amended to read as follows:

22-24~~44~~75. NOTICES FOR CONTROL OF NOXIOUS WEEDS -- EFFECT ~~--- PUBLIC--MEETING REQUIRED ON PETITION~~. (1) Notices for control of noxious weeds shall consist of two (2) kinds: (a) a general notice for control of noxious weeds to be published in a newspaper of general circu-

lation within the county; and (b) individual notices in a form prescribed by the director.

(2) Failure to publish the notice for control or serve individual notices herein provided does not relieve any person from ~~the necessity of~~ full compliance with this chapter and regulations thereunder. In all cases said published notice shall be deemed legal and sufficient notice. The general notice for control shall be published at least one time between March 1st and April 30th and shall contain a list of the Idaho noxious weeds and shall specifically indicate those noxious weeds known to be in or imminently threatening to the county, and shall stipulate the obligation to control.

(3) Whenever any county finds it necessary to secure more prompt or definite control of noxious weeds than is accomplished by the general notice, it shall cause individual notices to be served upon the person or agency owning and ~~the person~~ controlling such land, giving specific instructions when and how certain named weeds are to be controlled. The individual notice shall also contain information concerning the right to appeal pursuant to section 22-245~~2~~81, Idaho Code. Individual notices shall be applicable only to the current growing season.

~~Within sixty (60) days of a petition by any affected person, a public meeting shall be held to review the county weed program and allow public comment.~~

~~(4) (a) Whenever the owner or person in control of private land on which noxious weeds are present has neglected or failed to initiate control as required pursuant to this chapter within five (5) working days from receipt of an individual notice given pursuant to this section, the county having jurisdiction shall have proper control methods used on such land, including necessary destruction of crops, and shall advise the owner and person in control of the cost incurred in connection with such operation. The cost of any such control shall be at the expense of the owner. If unpaid for sixty (60) days or longer the amount of such expense shall become a lien upon the property and shall be subject to collection by the county by sale of the property in the same manner as for delinquent 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 deposited to the noxious weed fund of the county.~~

~~(b) Whenever the owner or person in control of lands other than private lands or federal lands on which noxious weeds are present has neglected or failed to control them as required pursuant to this chapter, and any notice given pursuant to this section, the control authority having jurisdiction shall have proper control methods used on such land, and shall advise the owner and person in control of the cost incurred in connection with such operation. The cost of any such control shall be at the expense of the owner or person in control of the land. If the costs have not been paid within sixty (60) days to the control authority which performed the work, the control authority may direct that suit be brought in a court of competent jurisdiction for the unpaid charges.~~

(4) Whenever the owner of any nonfederal land on which noxious weeds are present has neglected or failed to initiate control as required pursuant to this chapter within five (5) working days from receipt of an individual notice given pursuant to this section, the county having jurisdiction shall have proper control methods used on such land, including necessary destruction of crops, and shall advise the owner of the cost incurred in connection with such operation. The cost of any such control on private land shall be at the expense of the owner. If unpaid for sixty (60) days or longer the amount of such expense shall become a lien upon the property. Thereafter the lien shall be subject to collection by the county by sale of the property in the same manner as for delinquent taxes. The cost of control on lands other than private or federal shall be at the expense of the person or agency who owns the land. If the costs have not been paid to the control authority which performed the work within sixty (60) days, the control authority may direct that suit be brought in a court of competent jurisdiction for the unpaid charges. Nothing contained in this section shall be construed to require satisfaction of the imposed obligation by the sale of property or to bar the application of any other available remedy. Amounts collected under this section shall be deposited to the noxious weed fund of the county.

(5) When it appears to a control authority that upon any tract of land under its jurisdiction there is an infestation of noxious weeds beyond the ability of the owner ~~and the person in control~~ of such land to control, the control authority~~, subject to the approval of the director,~~ may quarantine such land and put into immediate operation the necessary means for the control of such noxious weeds including necessary destruction of crops. The control authority shall, prior to the entry upon such land, serve individual notices on the owner~~, if known, and the person in control~~ thereof of such quarantine and of the date of the proposed entry, and shall also advise the same persons of the completion of the control operation and the cost thereof. If the owner is not known or readily available, notice shall be deemed satisfied after eight (8) days from postmark of registered mail to the address as shown on the assessment roll of the county.

~~(6) A weed control authority who finds noxious weeds on land that is unoccupied or on land the occupant of which is not readily determinable, and after inquiry determines that it is not practicable to serve a notice pursuant to subsection (1) of this section within seventy-two (72) hours, may cause the noxious weeds to be destroyed immediately by any means consistent with sound weed control practices. Immediately upon taking action under this subsection, the authority shall notify the owner of the land, by registered mail addressed to his address as shown on the assessment roll of the county, of the action taken.~~

SECTION 7. That Section 22-2~~44~~5, Idaho Code, be, and the same is hereby amended to read as follows:

22-244576. STATE AUTHORIZED TO COOPERATE WITH FEDERAL GOVERNMENT OR ITS AGENCIES. (1) The state of Idaho is hereby authorized and the director shall have the responsibility to cooperate with the federal

government or any established agency thereof, in any program of noxious weed control which shall be deemed advisable, for the welfare of the people of the state of Idaho. The director is empowered to accept any advisable program and to make any necessary regulations which are not in contradiction to the purposes of this chapter. The director is hereby authorized and directed to accept any funds or grants in aid from the federal government for noxious weed control purposes and to account for such moneys as prescribed by the state auditor. ~~Expenditures shall be made by the director in the manner provided by law and in conformance with the provisions of federal requirements.~~ All such federal funds are hereby appropriated to the purpose for which they are received.

(2) With consent of the federal agency involved, the director may control noxious weeds on federal land within the state, with or without reimbursement.

SECTION 8. That Section 22-2446, Idaho Code, be, and the same is hereby amended to read as follows:

22-244~~6~~77. COST OF CONTROLLING NOXIOUS WEEDS. (1) The cost of controlling noxious weeds on ~~all~~ private land, ~~including highways, roadways, streets, alleys and rights of way, owned or controlled by a state department, agency, commission or board~~ shall be ~~paid by the state department, agency, commission or board in control thereof out of funds available for that purpose.~~

~~(2) The cost of controlling noxious weeds on all land owned or controlled by a county shall be paid by the county in control thereof out of the county noxious weed fund or such other funds as the control authority has available for that purpose.~~

~~(3) Notwithstanding any other provisions of this chapter relating to payment of cost, when determined by a control authority to be justified in the interest of an effective weed control program, such control authority may control noxious weeds on land under its jurisdiction, without costs to the owner or person in control thereof. Such justification shall be in writing and shall be open to inspection by any person owning or controlling land under the jurisdiction of such control authority~~ the obligation of the owner. On other land, the cost of control of noxious weeds shall be the obligation of the entity or organization that has the authority to set management and maintenance revenue for the land. In counties which have the responsibility for roads, highways, airports, fairgrounds, landfills, and any other departments; it shall be the responsibility of the respective departments to budget for the control of noxious weeds from their general maintenance and operation accounts.

(2) Notwithstanding any other provisions of this chapter relating to payment of cost, when determined by a control authority to be justified in the interest of an effective weed control program, a control authority may control noxious weeds on land in the county without costs to the owner thereof.

SECTION 9. That Section 22-2447, Idaho Code, be, and the same is hereby amended to read as follows:

22-24~~78~~. PREVENTION OF DISSEMINATION OF NOXIOUS WEEDS. To prevent the dissemination of noxious weeds through any article, including machinery, equipment, plants, materials and other things, the director shall, from time to time, publish a list of articles capable of disseminating noxious weeds, and designate treatment of such articles as, in his opinion, would prevent such dissemination. Until such article is treated in accordance with the applicable regulations, it shall not be moved from designated premises except under and in accordance with the written permission of the control authority having jurisdiction of the area in which such article is located, and the control authority may hold or prevent its movement from such premises. The movement of any such article which has not been so treated, except in accordance with such written permission, may be stopped by the control authority having jurisdiction over the place in which such movement is taking place and further movement and disposition shall only be in accordance with such control authority's direction.

SECTION 10. That Section 22-2450, Idaho Code, be, and the same is hereby amended to read as follows:

22-245~~0~~79. CONTROL AUTHORITIES AUTHORIZED TO PURCHASE OR PROVIDE NECESSARY EQUIPMENT AND MATERIALS. Control authorities, independently or in combination, may purchase or provide for needed or necessary equipment and materials for the control of weeds on land under their jurisdiction and may sell such materials to persons owning or controlling land under their jurisdiction and may make available to others the use of machinery and other equipment and operators as they deem necessary for the control of weeds, and the cost ~~to the persons owning and controlling land under their jurisdiction~~ shall be charged at the retail value for such material, machinery, other equipment and operators. All funds so received shall be deposited to the noxious weed fund. Each control authority shall keep a record showing the procurement, sale and rentals of materials and equipment, which record shall be open to inspection by residents of this state. A control authority may use any equipment or material procured as provided for in this section upon lands whether or not owned ~~or controlled~~ by it, and whether or not within its control area, for the ~~treatment and eradication~~ control of noxious weeds.

SECTION 11. That Section 22-2451, Idaho Code, be, and the same is hereby amended to read as follows:

22-245~~1~~80. PLANS FOR CONTROL WHICH MAY BE EXTENDED OVER A PERIOD OF YEARS. (1) ~~It is recognized that the control of noxious weeds presents a problem for immediate as well as for future action. It is further recognized that immediate control is practicable on some areas and some farms, and that control on other areas and farms must necessarily be extended over a period of time. Therefore, it is the intention of this chapter that control authorities may use their discretion and by agreement with the owners of land may propose and accept plans for control which may be extended over a period of years. The control~~

~~authorities,--upon--the--recommendation-and-advice-of-the-weed-control superintendents-or-the-advisory-committees,-may-make-an-agreement-with the-owner-of-any-parcel-of-land,-which-agreement-shall-be--a--contract between--the--landowner--and-the-respective-control-authority,-and-the control-authority-shall-have-the-power-and-it-shall--be--its--duty--to enforce--the--terms-of-any-such-agreement.-It-shall-be-within-the-discretion-of-the-control-authority-to-make-any-terms--which--will--serve best--the--interests-of-the-owner-or-owners-of-such-parcel-of-land-and the-common-welfare-which-will-comply-with-law.~~

~~(2)--There-are-certain-areas-which-have-widespread--concentrations of--a--particular--weed.-The-director-may-designate-special-management zones-for-each-Idaho-noxious-weed-where-the-intensity--of--infestation is-so-great-that-short-term-control-is-not-reasonably-attainable.-Control--requirements-within-these-zones-may-be-modified-with-the-consent of-the-director~~ The director may permit modification of specific weed control requirements in certain areas after he has consulted with the county control authority, and has designated the area as a special management zone.

(2) By agreement with the owners of land, control authorities may propose and accept plans for weed control which may be extended over a period of years. The agreement shall be a contract between the landowner and the respective control authority, and the control authority shall have the power and it shall be its duty to enforce the terms of any such agreement.

SECTION 12. That Section 22-2452, Idaho Code, be, and the same is hereby amended to read as follows:

22-245~~2~~81. APPEALS BY AGGRIEVED PERSONS. (1) If any person shall be dissatisfied with the amount of any charge made against it by a cont~~rol authority~~ for control work or for the purchase of materials or use of equipment, he may, within thirty (30) days after being advised of the amount of the charge, file a protest with the director.

(2) If any person shall be dissatisfied with the control measures used or the manner in which control is conducted upon his property, he may, within thirty (30) days file a protest with the director.

(3) Any person served with an individual notice ~~setting-out-the manner-and-duration-of-control-of-noxious-weeds~~ may, within two (2) days of receipt of the notice, appeal to the board of county commissioners ~~the-methods-and-or-duration-of-control-of--noxious--weeds--set out--in-the-individual-notice.~~ A hearing shall be set by the board of county commissioners within five (5) days after receipt of notice of the appeal. Notice of the hearing shall be sent by the board of county commissioners to the appellant ~~and--to--the--control--authority which-issued-the-individual-notice.~~

(4) Other than the procedures specifically set out in this chapter, procedures for hearings thereon and appeals pertaining to this chapter shall be as provided in chapter 52, title 67, Idaho Code.

SECTION 13. That Section 22-2453, Idaho Code, be, and the same is hereby amended to read as follows:

22-245~~3~~82. 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 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.

SECTION 14. That Section 22-2454, Idaho Code, be, and the same is hereby amended to read as follows:

22-245~~4~~83. DISBURSEMENTS FROM AND REPAYMENTS TO THE NOXIOUS WEED FUND. (1) The noxious weed fund ~~shall~~ may be a revolving fund, and the moneys in the fund may be used for any purpose consistent with the provisions of this chapter. Other than the moneys received from the ad valorem tax authorized by section 22-245~~3(1)~~82, Idaho Code, ~~or the assessments authorized by section 22-2453(2), Idaho Code,~~ the moneys in the noxious weed fund need not be budgeted or appropriated in the manner required by chapter 16, title 31, Idaho Code, but shall be available for expenditure at any time. An accounting of all transactions in the noxious weed fund, whether budgeted and appropriated or not, shall be maintained and reported in the report required by section 31-2307, Idaho Code.

(2) Disbursements from the noxious weed fund shall be made for the purpose of paying for materials, freight and drayage on materials, rental or purchase of equipment, personal services for weed control purposes, and any other incidental charges that may be necessary for the promotion of weed control work within the county.

~~(3) Reimbursements or repayments to the noxious weed fund resulting from the sale of materials or services shall be available for expenditure at any time.~~

SECTION 15. That Section 22-2455, Idaho Code, be, and the same is hereby amended to read as follows:

22-245~~5~~84. WEED CONTROL ADVISORY COMMITTEES. (1) ~~When there is not an established county wide weed district, the board of~~ The county commissioners in each county may appoint a county weed control advisory committee, consisting of not less than five (5) members, who shall be persons knowledgeable of ~~and concerned about the damage done by~~ noxious weeds and the damage done by such weeds. The members of the county advisory committee shall be appointed for terms of two (2) years.

(2) It shall be the duty and responsibility of each county weed

control advisory committee to assist the ~~board of~~ county commissioners and the county weed ~~control~~ superintendent in carrying out the planning and implementation of noxious weed control programs, to act as liaison to other county weed control advisory committees, and to provide a forum for public input on matters relating to the control of noxious weeds.

~~The members of the county advisory committee shall be appointed for terms of four (4) years, which shall expire on the second Monday of January following each gubernatorial election, and appointments to fill vacancies shall be for the unexpired term.~~

(3) Members of the county advisory committee may be reimbursed for actual and necessary expenses when on committee business. All expense payments shall be made from the noxious weed fund.

SECTION 16. That Section 22-2456, Idaho Code, be, and the same is hereby amended to read as follows:

22-24~~5~~56. EMERGENCY PROCEDURES FOR ERADICATION OF NOXIOUS WEEDS. (1) Whenever the director finds~~, upon the advice of any county weed control authority or the county supervisor,~~ that an emergency situation exists, whether actual or potential, concerning noxious weed infestations anywhere in the state, he may take any appropriate action necessary to control or quarantine such noxious weed infestation.

(2) After serving at least a five (5) day notice to the affected county control authority, landowner, and person in charge of the land, the director may temporarily designate a weed as noxious for a ~~six~~ nine (6~~9~~) month period. The notice requirement may be satisfied by publication in a newspaper of general circulation serving the area.

SECTION 17. That Section 22-2457, Idaho Code, be, and the same is hereby amended to read as follows:

22-24~~5~~786. DEFICIENCY WARRANTS FOR EXCESS COSTS OF WEED CONTROL. In the event the actual cost for the control of noxious weeds in any one (1) year under the provisions of section 22-24~~5~~56~~(1)~~, Idaho Code, exceeds the appropriations made for that purpose, the director may authorize the issuance of deficiency warrants for the purposes of defraying such excess costs and when so authorized the state auditor shall, after notice to the state treasurer, draw deficiency warrants against the general account.

SECTION 18. That Section 22-2461, Idaho Code, be, and the same is hereby amended to read as follows:

22-246~~1~~87. 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 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 19. That Section 22-2462, Idaho Code, be, and the same is hereby amended to read as follows:

22-246~~2~~88. VIOLATIONS -- PENALTIES. (1) Any person knowing of the existence of any noxious weeds on lands owned or controlled by him, who fails to control such weeds in accordance with this chapter and any person who intrudes upon any land under quarantine or who moves or causes to be moved any article covered by this chapter except as provided for who prevents or threatens to prevent entry upon land as provided in this chapter, or who interferes with the carrying out of the provisions of this chapter or who violates any of the provisions of this chapter, shall be guilty of a misdemeanor and shall be subject to a fine not to exceed one thousand dollars ($1,000) or up to one (1) year in jail or both such fine and imprisonment for each violation.

(2) ~~Any--control--authority,--and-where-such-control-authority-is composed-of-more-than-one-(1)-person,-e~~ Each member of ~~such~~ a control authority, and any county weed control superintendent, who shall fail and refuse to perform the duties required of him by this chapter and rules and regulations thereunder shall be subject to a civil fine not to exceed five hundred dollars ($500) for each violation. The director or a control authority may bring an action to enforce the provisions of this chapter, and the penalty provided for under this section.

(3) Control authorities and law enforcement officers are authorized to cite persons for any violation of the provisions of this chapter.

(4) A county weed ~~board or~~ advisory committee shall be a political subdivision within the meaning of section 6-902, Idaho Code.

Approved April 4, 1989.

CHAPTER 299
(H.B. No. 314, As Amended in the Senate)

AN ACT

RELATING TO AGRICULTURAL COMMODITY DEALER OR PRODUCER LIENS; AMENDING SECTION 45-1802, IDAHO CODE, TO PROVIDE THAT A LIEN MAY ATTACH WHETHER THE PURCHASER OF THE AGRICULTURAL PRODUCT USES IT TO INCREASE THE VALUE OF HIS LIVESTOCK OR WHETHER HE USES IT TO MAINTAIN THE CURRENT STATUS, HEALTH, OR VALUE OF HIS LIVESTOCK.

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

SECTION 1. That Section 45-1802, Idaho Code, be, and the same is hereby amended to read as follows:

45-1802. LIEN CREATED -- WHO MAY HAVE. An agricultural commodity producer or an agricultural commodity dealer who sells an agricultural product has a lien on the agricultural product or the proceeds of the sale of the agricultural product until payment is made in full. The

lien created in this chapter may attach regardless of whether the purchaser uses the agricultural product purchased to increase the value of his livestock or whether he uses the agricultural product purchased to maintain the value, health or status of his livestock without actually increasing the value of his agricultural product.

Approved April 4, 1989.

CHAPTER 300
(H.B. No. 317, As Amended)

AN ACT

RELATING TO BONDED WAREHOUSE AND COMMODITY DEALERS; AMENDING SECTION 69-205, IDAHO CODE, TO REMOVE SURPLUS LANGUAGE; AMENDING SECTION 69-206, IDAHO CODE, TO PROVIDE THAT AN APPLICANT FOR A WAREHOUSEMAN'S LICENSE MUST FURNISH CERTAIN FINANCIAL STATEMENTS AND TO PROVIDE THAT THE APPLICANT MUST MEET CERTAIN NET WORTH REQUIREMENTS; AND AMENDING SECTION 69-521, IDAHO CODE, TO PROVIDE THAT APPLICANTS FOR A COMMODITY DEALER'S LICENSE MUST SUBMIT CERTAIN FINANCIAL STATEMENTS, AND TO PROVIDE THAT COMMODITY DEALERS MUST ANNUALLY SUBMIT CERTAIN FINANCIAL STATEMENTS.

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

SECTION 1. That Section 69-205, Idaho Code, be, and the same is 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 commodities~~;--and--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--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 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 commodities.

SECTION 2. That Section 69-206, Idaho Code, be, and the same is

hereby amended to read as follows:

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 commodities that may be stored or accepted for storage on the premises, including commodities owned by the warehouseman, for which such license is sought for the full market value of such agricultural 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 commodity or 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~~ shall submitted to the department a ~~current financial statement prepared by a licensed accountant according to~~ reviewed financial statement prepared by an independent certified public accountant, a statement of current assets and current liabilities, and a statement of net worth, all of which shall be prepared in accordance with generally accepted accounting principles ~~showing that the applicant has and does maintain current assets equal to or greater than current liabilities~~;

(7) For a warehouseman license an applicant shall have and maintain a net worth of at least fifty thousand dollars ($50,000) or maintain a bond in the amount of two thousand dollars ($2,000) for each one thousand dollars ($1,000) or fraction thereof of net worth deficiency; however, a person shall not be licensed as a warehouseman if the person has a net worth of less than twenty-five thousand dollars ($25,000). A bond submitted for purposes of this subsection shall be in addition to any bond otherwise required under the provisions of this chapter;

(8) The applicant has complied with and abided by all the terms of this chapter and the rules and regulations prescribed hereunder;

(~~8~~9) 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.

SECTION 3. That Section 69-521, Idaho Code, be, and the same is hereby amended to read as follows:

69-521. FINANCIAL STATEMENTS. In order to obtain a commodity dealer's license, the applicant ~~must~~ shall submit a ~~current~~ reviewed financial statement prepared by an independent certified public accountant, a statement of current assets and current liabilities and a statement of net worth, all of which shall be prepared in accordance with generally accepted accounting principles. This statement must have been prepared not more than ninety (90) days prior to the date of application and shall conform to the applicable requirements of this chapter as to annual financial statements.

Once licensed, every licensee shall annually prepare a financial statement either at the close of business, December 31, or at the end of their fiscal year and file the statement with the department not later than ninety (90) days thereafter. These statements ~~must~~ shall be prepared in conformity with generally accepted accounting principles and shall include, but not be limited to, a ~~balance sheet and income statement~~ reviewed financial statement prepared by an independent certified public accountant, a statement of current assets and current liabilities, and a statement of net worth.

Approved April 4, 1989.

CHAPTER 301
(H.B. No. 325)

AN ACT

RELATING TO LICENSE TO RETAIL LIQUOR; AMENDING SECTION 23-903, IDAHO CODE, TO PROVIDE FOR RENEWAL OF LIQUOR BY THE DRINK LICENSES WHEN THE STATUS OF A CITY HAS CHANGED.

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

SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby amended to read as follows:

23-903. LICENSE TO RETAIL LIQUOR. The director of the department of law enforcement is hereby empowered, authorized, and directed to issue licenses to qualified applicants, as herein provided, whereby the licensee shall be authorized and permitted to sell liquor by the

drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink, but only in accordance with the rules and regulations promulgated by the director and the provisions of this chapter. No license shall be issued for the sale of liquor on any premises outside the incorporated limits of any city except as provided in this chapter and the number of licenses so issued for any city shall not exceed one (1) license for each one thousand five hundred (1,500) of population of said city or fraction thereof, as established in the last preceding census, or any subsequent special census conducted by the United States bureau of the census, except that upon proper application thereof not more than two (2) licenses may be issued for each incorporated city with a population of one thousand five hundred (1,500) or less, unless the retail licensing of liquor by the drink has been previously disapproved under the provisions of sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided, however, that any license heretofore issued may be renewed from year to year without regard to the population or status of the city for which such license is issued. Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide golf course, or ski resort, or to the lessee of any premises situate thereon, no part of which said golf course or ski resort or the premises thereon is situate within the incorporated limits of any city. For the purpose of this section a golf course shall comprise an actual, bona fide golf course, which is regularly used for the playing of the game of golf, and having not less than nine (9) tees, fairways and greens laid out and used in the usual and regular manner of a golf course. Nine (9) hole courses must have a total yardage of at least one thousand (1,000) yards, and eighteen (18) hole courses must have a total yardage of at least two thousand (2,000) yards as measured by totaling the tee-to-green distance of all holes. The course must be planted in grass except that it may provide artificial tee mats. Where any such golf course is owned or leased by an association of members and is used or enjoyed by such members, or their guests, none of the disqualifications contained in section 23-910, Idaho Code, shall apply to such association as a licensee where such disqualifications, or any of them, would apply only to a member of such association where such member has no interest therein except as a member thereof. Also for the purpose of this section a ski resort shall comprise real property of not less than ten (10) acres in size, exclusive of the terrain used for skiing and upon which the owner, operator, or lessee of the ski resort has made available himself, or through others, including but not limited to the owners of condominiums, permanent bona fide overnight accommodations available to the general public for one hundred (100) persons or more, and which real property is contiguous to or located within the area in which skiing occurs, and which real property is regularly operated as a ski resort in the winter time, and where the owner, operator, or lessee of the ski resort is also the owner, operator, or lessee of the area served by a bona fide chair ski lift facility or facilities. The fees for licenses granted to ski resorts shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed

premises shall be permitted on any golf course or any ski resort or within the area comprising the same.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of an actual, bona fide equestrian facility located on not less than forty (40) contiguous acres, with permanently erected seating of not less than six thousand (6,000) seats, no part of which equestrian facility or the premises thereon is situate within the incorporated limits of any city, and which facility shall have at least three (3) days per year of a professionally sanctioned rodeo. Not more than one (1) licensed premises shall be permitted at any equestrian facility or within an area comprising such a facility. The license shall be solely for the equestrian facility and shall not be transferred to any other location. The fees for licenses granted to equestrian facilities shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of a restaurant operated on an airport owned or operated by a county or municipal corporation or on an airport owned or operated jointly by a county and municipal corporation, and which said airport is served by a trunk or local service air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board of the United States of America. Not more than one (1) license shall be issued on any airport.

Nothing herein contained shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and to sell alcoholic beverages for consumption to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this section will revert to the director when, in his judgment, the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club which on July 1, 1983, holds a liquor license, may continue to possess that license. Any club which possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (a), (b) and (c) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(f), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses, shall pertain to club licenses. The burden of producing sufficient documentation of qualifications for club licensure shall be with the club applicant.

Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide convention center which is within the incorporated limits of a

city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room which will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, ~~as~~ and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (c) of section 23-904, Idaho Code. No license issued to a convention center hereunder shall be transferable to another location or facility, nor shall the holder of a convention center license be eligible for the issuance of a license in the same city pursuant to any other provision of this chapter. For purposes of this section, the term holder shall include an owner, operator or lessee and shall include a stockholder, director, or officer of a corporation, or a partner in a partnership, which corporation or partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as herein defined.

Approved April 4, 1989.

CHAPTER 302
(S.B. No. 1137, As Amended)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1602, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 16-1606, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF A PROTECTIVE ORDER; AMENDING SECTION 16-1610, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF A PROTECTIVE ORDER; AMENDING SECTION 16-1612, IDAHO CODE, TO PROVIDE FOR THE REMOVAL OF AN ALLEGED OFFENDER FROM THE HOME OF THE VICTIM OF ABUSE OR NEGLECT, AND TO PROVIDE FOR A SHELTER CARE HEARING; AND AMENDING SECTION 16-1614, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF A TEMPORARY CUSTODY ORDER OR A PROTECTIVE ORDER.

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

SECTION 1. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

16-1602. DEFINITIONS. For purposes of this chapter:

(a) "Abused" means any case in which a child has been the victim of:

(1) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

(2) Sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

(b) "Abandoned" means the failure of the parent to maintain a normal parental relationship with his child, including but not limited to reasonable support or regular personal contact. Failure to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment.

(c) "Adjudicatory hearing" means a hearing to determine the truth of the allegations in the petition filed under this chapter.

(d) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(e) "Child" means an individual who is under the age of eighteen (18) years.

(f) "Commit" means to transfer legal and physical custody.

(g) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(h) "Custodian" means a person, other than a parent or legal guardian, to whom legal custody of the child has been given by court order or who is acting in loco parentis.

(i) "Department" means the department of health and welfare and its authorized representatives.

(j) "Disposition hearing" means a hearing to determine whether the best interests of the child require protective supervision or vesting legal custody of the child in an authorized agency.

(k) "Family or household member" shall have the same meaning as in section 39-6303(2), Idaho Code.

(l) "Law enforcement agency" means a city or village police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

(~~l~~m) "Legal custody" means a relationship created by order of the court, which vests in a custodian the following duties and rights:

(1) To have physical custody and control of the child, and to determine where and with whom the child shall live.

(2) To supply the child with food, clothing, shelter and incidental necessities.

(3) To provide the child with care, education and discipline.

(4) To authorize ordinary medical, dental, psychiatric, psycho-

logical, or other remedial care and treatment for the child, including care and treatment in a facility with a program of services for children; and to authorize surgery if the surgery is deemed by two (2) physicians licensed to practice in this state to be necessary for the child.

(mn) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior.

(no) "Neglected" means a child:

(1) Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the conduct or omission of his parents, guardian or other custodian or their neglect or refusal to provide them; provided, however, no child whose parent or guardian chooses for such child treatment by prayers through spiritual means alone in lieu of medical treatment, shall be deemed for that reason alone to be neglected or lack parental care necessary for his health and well-being, but further provided this subsection shall not prevent the court from acting pursuant to section 16-1616, Idaho Code; or

(2) Whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

(3) Who has been placed for care or adoption in violation of law.

(p) "Protective order" means an order created by the court granting relief as delineated in section 39-6306, Idaho Code, and shall be for a period not to exceed three (3) months unless otherwise stated herein. Failure to comply with the order shall be a misdemeanor.

(oq) "Protective supervision" means a legal status created by court order in neglect and abuse cases whereby the child is permitted to remain in his home under supervision by the department.

(pr) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after the transfer of legal custody, including but not necessarily limited to the right of visitation, consent to adoption, the right to determine religious affiliation, and the responsibility for support.

(qs) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

SECTION 2. That Section 16-1606, Idaho Code, be, and the same is hereby amended to read as follows:

16-1606. SUMMONS. (a) After a petition has been filed, the court may issue a summons requiring the person or persons who have custody of the child to bring the child before the court at the adjudicatory hearing held in accordance with section 16-1608, Idaho Code. If the person or persons so summoned shall be other than the parent or guardian of the child, then the parent or guardian shall also be notified in the manner hereinafter provided of the pendency of the case and the time and place set for the hearing. A summons may be issued requiring the appearance of any other person whose presence is required by the

child, his parents or guardian or any other person whose presence, in the opinion of the court, is necessary.

(b) A copy of the petition shall be attached to each summons.

(c) The summons shall notify the parents, guardian or legal custodian of their right to retain and be represented by counsel.

(d) If it appears that the child should be removed from his present condition or surroundings in order to protect his health or welfare, the court may so order by endorsement upon the summons. The endorsement shall require a peace officer or other suitable person to take the child at once to a place of shelter care designated by the court.

(e) If it appears that the child is safe in his present condition or surroundings and it is not in his best interest to remove him at this time, the court may issue a protective order based on an affidavit pending the adjudicatory hearing.

SECTION 3. That Section 16-1610, Idaho Code, be, and the same is hereby amended to read as follows:

16-1610. DECREE -- DISPOSITION HEARING. (a) If a preponderance of the evidence of the adjudicatory hearing shows that the child comes within the purview of this chapter, the court shall so decree and in its decree shall make a finding of the facts and conclusions of law upon which it exercises jurisdiction over the child.

(b) Upon entry of its decree, the court may consider any information relevant to the disposition of the child, but in any event shall either:

(1) Place the child under protective supervision in his own home for an indeterminate period not to exceed one (1) year from the date entered but the court may extend the period of time upon a showing by the authorized agency that continued supervision is necessary for the best interests of the child.

(2) Vest legal custody in the department or other authorized agency subject to residual parental rights. The court shall make written findings as to whether the department made reasonable efforts to prevent the placement of the child in foster care, including findings, when appropriate, that (i) reasonable efforts were made but were not successful in eliminating the need for foster care placement of the child, or (ii) reasonable efforts were not made because of immediate danger to the child.

(c) A decree vesting legal custody in the department shall be binding upon the department, and shall state the department shall prepare a written case plan within thirty (30) days of placement designed to make it possible for the child to return to his home; and shall be for an indeterminate period not to exceed one (1) year from the date entered, except that the department may file a petition with the court requesting renewal of the order and the court, after notice to the parties and hearing and finding, may renew the order if it finds such renewal necessary to safeguard the best interests of the child. Renewals may be made during minority, but no order shall have any force or effect beyond minority.

(d) A decree vesting legal custody in an authorized agency other

than the department shall be, for an indeterminate period of time not to exceed one (1) year from the date entered, but the court may extend the period of time during the child's minority upon a showing by the authorized agency that continued custody or supervision is necessary for the best interests of the child, and on such other terms as the court shall state in its decree to be in the best interests of the child and which the court finds to be acceptable to such authorized agency.

(e) In order to preserve the unity of the family system and to insure the best interests of the child whether issuing an order of protective supervision or an order of legal custody, the court may consider extending or initiating a protective order as part of the decree. The protective order shall be determined as in the best interests of the child and upon a showing of continuing danger to the child. The conditions and terms of the protective order shall be clearly stated in the decree.

(f) If the court does not find that the child comes within the purview of this chapter pursuant to subsection (a) of this section it shall dismiss the petition.

SECTION 4. That Section 16-1612, Idaho Code, be, and the same is hereby amended to read as follows:

16-1612. CUSTODY -- TIME FOR HEARING. (a) (1) A child may be taken into custody by a peace officer or other person appointed by the court without an order issued pursuant to subsection (d) of section 16-1606 or section 16-1610, Idaho Code, only where the child is endangered in his surroundings and prompt removal is necessary to prevent serious physical or mental injury to the child.

(2) An alleged offender may be removed from the home of the victim of abuse or neglect by a peace officer or other person appointed by the court without an order, issued pursuant to subsection (e) of section 16-1606, Idaho Code, only where the child is endangered and prompt removal of an alleged offender is necessary to prevent serious physical or mental injury to the child.

(b) When a child is taken into custody under subsection (a) of this section, he may be held for a maximum of forty-eight (48) hours, excluding Saturdays, Sundays and holidays, unless a shelter care hearing has been held pursuant to section 16-1614, Idaho Code, and the court orders an adjudicatory hearing.

(c) When an alleged offender is removed from the home under subsection (a) (2) of this section, a motion based on a sworn affidavit by the department must be filed simultaneously with the petition and the court shall determine at a shelter care hearing, held within a maximum of twenty-four (24) hours, excluding Saturdays, Sundays and holidays, whether the relief sought shall be granted, pending an adjudicatory hearing. Notice of such hearing shall be served upon the alleged offender at the time of removal or other protective relief.

SECTION 5. That Section 16-1614, Idaho Code, be, and the same is hereby amended to read as follows:

16-1614. SHELTER CARE HEARING. (a) Notwithstanding any other provision of this chapter, when a child is taken into custody pursuant to section 16-1612, Idaho Code, a hearing to determine whether the child should be released shall be held according to the provisions of this section.

(b) The parents or custodian from whom the child was removed shall be given notice of the shelter care hearing. Such notice shall include the time, place, and purpose of the hearing; and, that such person is entitled to be represented by legal counsel. Notice as required by this subsection shall be given at least twenty-four (24) hours before the shelter care hearing.

(c) Notice of the shelter care hearing shall be given to the parents or custodian from whom the child was removed by personal service and the return of service shall be filed with the court. Provided, however, that such service need not be made where the undelivered notice is returned to the court along with an affidavit stating that such parents or custodian could not be located or were out of the state.

(d) The shelter care hearing may be continued for a reasonable time upon request by the parent, custodian or counsel for the child.

(e) If, upon the completion of the shelter care hearing, it is shown that:

(1) a petition has been filed; and

(2) there is reasonable cause to believe the child comes within the purview of this chapter and that reasonable efforts to prevent the placement of the child in shelter care could not be provided because of the immediate danger to the child or were provided but were not successful in eliminating the need for foster care placement of the child; and

(3) it is in the best interests of the child to remain in temporary shelter care pending the conclusion of the adjudicatory hearing; or

(4) there is reasonable cause to believe that the child comes within the purview of this chapter, but a reasonable effort to prevent placement of the child outside the home could be affected by a protective order safeguarding the child's welfare and maintaining the child in his present surroundings; the court shall issue, within twenty-four (24) hours of such hearing, an order of temporary custody and/or a protective order. Any evidence may be considered by the court which is of the type which reasonable people may rely upon.

(f) Upon ordering temporary custody pursuant to subsection (e) of this section, the court shall also order an adjudicatory hearing to be held as soon as possible, but in no event later than ~~fifteen (15)~~ thirty (30) days from the date the petition was filed.

(g) If the court does not find that the child should remain in shelter care under subsection (e) of this section, the child shall be released and the court may dismiss the petition.

Approved April 4, 1989.

CHAPTER 303
(H.B. No. 65)

AN ACT

RELATING TO COURT PROCEEDINGS INVOLVING CHILDREN; AMENDING CHAPTER 1, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-110, IDAHO CODE, TO PROVIDE FOR SPEEDY DELIBERATION IN COURT PROCEEDINGS INVOLVING CHILDREN.

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

SECTION 1. That Chapter 1, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-110, Idaho Code, and to read as follows:

19-110. EXPEDITION OF COURT PROCEEDINGS. In all criminal cases and juvenile fact finding hearings that involve a child victim or witness, the court and the prosecuting attorney shall take all appropriate actions to ensure a speedy trial in order to minimize the length of time the child must endure the stress of his or her involvement in the proceedings. In ruling on any motion or other request for a delay or continuance of any proceeding, the court shall consider and give weight to any adverse impact that the requested delay or continuance may have on the well-being of a child victim or witness, and findings of fact shall be made on this issue.

Approved April 4, 1989.

CHAPTER 304
(H.B. No. 67)

AN ACT

RELATING TO WITNESSES IN CRIMINAL CASES; AMENDING CHAPTER 30, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-3025, IDAHO CODE, TO PROVIDE THAT, UNLESS THE PARTIES SO CONSENT, WITNESSES SHALL NOT BE TESTED PSYCHOLOGICALLY FOR THE PURPOSE OF ASSESSING THE WITNESS'S CREDIBILITY.

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

SECTION 1. That Chapter 30, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-3025, Idaho Code, and to read as follows:

19-3025. WITNESS PSYCHIATRIC, PSYCHOLOGICAL EXAMINATION. Except upon the agreement of the parties, the court shall not order a witness

in a prosecution for any offense or a victim of any offense to submit to a psychiatric or psychological examination for the purpose of assessing the witness's or victim's credibility.

Approved April 4, 1989.

CHAPTER 305
(H.B. No. 262)

AN ACT

RELATING TO CRIMINAL PROCEDURE; AMENDING SECTION 19-2604, IDAHO CODE, TO PROVIDE THAT A RECORD OF CONVICTION FOR PHYSICAL OR SEXUAL ABUSE OF A CHILD CANNOT BE REDUCED TO A MISDEMEANOR OR EXPUNGED FROM THE RECORD, AND TO CORRECT A TIME PERIOD TO COMPLY WITH EXISTING CODE.

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

SECTION 1. That Section 19-2604, Idaho Code, be, and the same is hereby amended to read as follows:

19-2604. DISCHARGE OF DEFENDANT -- AMENDMENT OF JUDGMENT. 1. If sentence has been imposed but suspended, or if sentence has been withheld, upon application of the defendant and upon satisfactory showing that the defendant has at all times complied with the terms and conditions upon which he was placed on probation, the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant; and this shall apply to the cases in which defendants have been convicted and granted probation by the court before this law goes into effect, as well as to cases which arise thereafter. The final dismissal of the case as herein provided shall have the effect of restoring the defendant to his civil rights.

2. If sentence has been imposed but suspended during the first one hundred and ~~twenty~~ eighty (1~~2~~80) days of a sentence to the custody of the state board of correction, and the defendant placed upon probation as provided in subsection 4 of section 19-2601, Idaho Code, upon application of the defendant, the prosecuting attorney, or upon the court's own motion, and upon satisfactory showing that the defendant has at all times complied with the terms and conditions of his probation, the court may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction.

3. Subsection 2 of this section shall not apply to any judgment of conviction for a violation of the provisions of sections 18-1506, 18-1507 or 18-1508, Idaho Code. A judgment of conviction for a viola-

tion of the provisions of any section listed in this subsection shall not be expunged from a person's criminal record.

Approved April 4, 1989.

CHAPTER 306
(H.B. No. 235)

AN ACT

RELATING TO CRIME VICTIM'S RIGHTS; AMENDING SECTION 19-5306, IDAHO CODE, TO REQUIRE THE PROSECUTOR TO ADVISE THE CRIME VICTIM PRIOR TO ENTERING INTO A PLEA AGREEMENT IF THE CRIME IS A CRIME OF VIOLENCE OR A CRIME AGAINST A CHILD.

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

SECTION 1. That Section 19-5306, Idaho Code, be, and the same is hereby amended to read as follows:

19-5306. RIGHTS OF VICTIM DURING INVESTIGATION AND PROSECUTION OF THE CRIME. (1) Upon request, each victim of a felony offense shall be:

(a) Assured the expeditious return of any stolen or other personal property by law enforcement agencies when no longer needed as evidence;

(b) Consulted by the presentence investigator during preparation of the presentence report and have included in that report a statement of the impact which the defendant's criminal conduct has had upon the victim;

(c) Afforded the opportunity to address under oath, the court at sentencing;

(d) Informed of the disposition of the case against the defendant, including any appeal;

(e) Notified by the commission of pardons and parole of relevant parole or commutation hearings, and be afforded the opportunity to present information to the commission, either in person or in writing;

(f) Notified whenever the defendant or suspect is released or escapes from custody. When release is ordered prior to final conviction, notice to the victim shall be given by the law enforcement authority from whose custody the defendant was released. When release is granted subsequent to a final conviction notice shall be given to the victim by the law enforcement authority from whose custody the defendant was released unless release is granted by the commission of pardons and parole in which case the commission shall notify the victim;

(g) Advised of a possible plea agreement by the prosecuting attorney prior to his entering into a plea agreement in all cases involving crimes of violence or crimes against children.

(2) Upon the filing of a felony complaint, the prosecuting attorney shall inform the victim of the various opportunities provided by

this section. The victim may request any notice or opportunity to be heard provided by this section by giving a written request on a form provided by the prosecuting attorney to the clerk of the district court. The clerk thereafter shall notify the appropriate authorities of the victim's requests. Notice thereafter shall be given to the victim at the address provided unless the victim subsequently provides a different address. The victim's address shall be kept confidential by the court except for carrying out the provisions of this chapter.

(3) The provisions of this section shall apply equally to the immediate families of homicide victims or immediate families of victims of such youthful age or incapacity as precludes them from exercising these rights personally.

(4) Neither the failure of any state, county or municipal officer or employee to carry out the requirements of this section nor compliance with it shall subject the state or the officer or employee to liability in any civil action.

Approved April 4, 1989.

CHAPTER 307
(H.B. No. 384)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE SPECIAL PROGRAMS FOR FISCAL YEAR 1990; 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, 1989, through June 30, 1990:

FROM:	
General Account	$1,296,900
Paul L. Fowler Scholarship Account	10,600
State Student Incentive Grant Account	253,100
Interagency Billing and Receipts Account	1,043,800
TOTAL	$2,604,400

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, 1989, through June 30, 1990:

	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				$ 507,500	$ 507,500
II. IDEP-IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General Account	$ 79,800	$7,100	$800	$ 185,900	$ 273,600
Interagency Billing and Receipts Account	43,800				43,800
TOTAL	$123,600	$7,100	$800	$ 185,900	$ 317,400
III. FAMILY PRACTICE RESIDENCY PROGRAM:					
FROM:					
General Account				$ 120,000	$ 120,000
IV. SCHOLARSHIPS AND GRANTS:					
FROM:					
General Account				$ 395,800	$ 395,800
Paul L. Fowler Scholarship Account		$ 800		9,800	10,600
State Student Incentive Grant Account				253,100	253,100
Interagency Billing and Receipts Account				1,000,000	1,000,000
TOTAL		$ 800		$1,658,700	$1,659,500
GRAND TOTAL	$123,600	$7,900	$800	$2,472,100	$2,604,400

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 361, Laws of 1988, to be used for nonrecurring expenditures only for the period July 1, 1989, through June 30, 1990.

Approved April 4, 1989.

CHAPTER 308
(H.B. No. 399)

AN ACT

RELATING TO NUTRIENTS IN SURFACE WATERS; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 39-103, IDAHO CODE, TO DEFINE THE TERM NUTRIENT; AMENDING SECTION 39-105, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE SHALL FORMULATE AND ADOPT A COMPREHENSIVE STATE NUTRIENT MANAGEMENT PLAN FOR THE SURFACE WATERS OF THE STATE OF IDAHO AND TO PROVIDE THE EFFECT OF THE PLAN; AND DECLARING AN EMERGENCY.

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

SECTION 1. (1) The legislature of the state of Idaho finds:

(a) Waterborne nutrients, including phosphorus and nitrogen, provide nourishment for aquatic plants and fish.

(b) Nutrient enrichment or overloading can result in overfeeding aquatic plant life, and a subsequent increase in the growth of algae.

(c) Nitrogen, phosphorus and the other nutrient elements are naturally occurring elements that exist in all living things and are essential to all life.

(d) Nutrients enter the water through rainfall, land runoff, decomposition of plants and animals, and other nonpoint sources as well as from point sources, including discharges from industrial operations and sewage treatment facilities.

(e) Effective nutrient management requires an understanding of a complicated array of technical factors, including nutrient sources, nutrient removal and use and the ability of a water body to clean itself.

(f) State and federal agencies are currently conducting comprehensive technical analyses to determine the magnitude of nutrient enrichment in certain bodies of water in the state of Idaho and to recommend methods to resolve potential nutrient overloading.

(g) A comprehensive statewide nutrient management plan offers a mechanism to facilitate collection and coordination of the information for a strong technical base to define methods to protect the rivers and lakes of the state of Idaho from nutrient overloading.

(2) Therefore, it is hereby declared that the purposes of this act are:

(a) To establish a comprehensive statewide nutrient management plan.

(b) To develop the plan on a hydrologic basin unit basis with a lake system emphasis.

(c) To affirm primary responsibility for nutrient management to the state to assure a consistent and effective program throughout the state.

(d) To clearly express the legislature's intent that comprehensive basin planning is necessary to optimize management actions designed to achieve the desired water quality benefits.

SECTION 2. That Section 39-103, Idaho Code, be, and the same is hereby amended to read as follows:

39-103. DEFINITIONS. Whenever used or referred to in this act, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

1. "Board" means the board of health and welfare.

2. "Department" means the department of health and welfare.

3. "Director" means the director of the department of health and welfare.

4. "State" means the state of Idaho.

5. "Air contaminant" or "air contamination" means the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas or

other gaseous fluid or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

6. "Air pollution" means the presence in the outdoor atmosphere of any contaminant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

7. "Emission" means a release or discharge into the outdoor atmosphere of any air contaminant or combination thereof.

8. "Water pollution" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge of any contaminant into the waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, esthetic or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life.

9. "Waters" means all the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, flow through or border upon this state.

10. "Solid waste" means garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

11. "Solid waste disposal" means the collection, storage, treatment, utilization, processing or final disposal of solid waste.

12. "Laboratory" means not only facilities for biological, serological, biophysical, cytological and pathological tests, but also facilities for the chemical or other examination of materials from water, air or other substances.

13. "Person" means any human being, any municipality, or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing, or any other legal entity.

14. "Public swimming pool" means an artificial structure, and its appurtenances, which contains water more than two (2) feet deep which is used or intended to be used for swimming or recreational bathing, and which is for the use of any segment of the public pursuant to a general invitation but not an invitation to a specific occasion or occasions.

15. "Public water supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collec-

tively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use in incorporated municipalities; or unincorporated communities where ten (10) or more separate premises or households are being served or intended to be served; or any other supply which serves water to the public and which the department of health and welfare declares to have potential health significance.

16. "Substantive" means that which creates, defines or regulates the rights of any person or implements, interprets or prescribes law or policy, but does not include statements concerning only the internal management of the department and not affecting private rights or procedures available to the public.

17. "Nutrient" means any one (1) of the natural elements including, but not limited to, carbon, hydrogen, oxygen, nitrogen, potassium, phosphorus, magnesium, sulfur, calcium, sodium, iron, manganese, copper, zinc, molybdenum, vanadium, boron, chlorine, cobalt and silicon, that are essential to plant and animal growth.

SECTION 3. 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 con-

ditions 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 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.

o. The formulation and adoption of a comprehensive state nutrient management plan for the surface waters of the state of Idaho in consultation with the appropriate state or federal agencies, local units of government, and with public involvement as provided for under the administrative procedures act. The director shall recommend by March 1, 1990, to the board for adoption, rules and regulations setting forth procedures for development of the plan, including mechanisms to keep the public informed and encourage public participation in plan development. The plan shall be developed on a hydrologic basin unit basis with a lake system emphasis. The panhandle hydrologic basin plan shall be completed no later than July 1, 1992. The remaining basin plans shall be completed no later than January 1, 1995. Each plan shall identify nutrient sources; the dynamics of nutrient removal, use, and dispersal; and preventative or remedial actions where feasible and necessary to protect the surface waters of the state. The director shall formulate and recommend to the board for adoption rules and regulations as necessary to implement the plan. The plan shall be used by the department and other appropriate agencies including soil conservation districts, public health districts and local units of government in developing programs for nutrient management. State and local units of government shall exercise their police powers in compliance with the comprehensive state nutrient management plan of this act. Local nutrient management programs adopted by any local unit of government prior to the completion of the state comprehensive nutrient management plan or a hydrologic basin plan shall be consistent with the criteria for inclusion in the comprehensive state nutrient management plan as enumerated in this subsection, as evidenced by findings of fact by the local units of government and confirmed by the division of environmental quality and the local health district board. The director shall recommend by March 1, 1990, to the board for adoption, rules and regulations for procedures to determine consistency.

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 federal water pollution control 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 corpora-

tion 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 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 April 3, 1989.

CHAPTER 309
(H.B. No. 401)

AN ACT

RELATING TO SALES AND USE TAXES ON CERTAIN INTERSTATE VEHICLES; AMENDING SECTION 63-3622R, IDAHO CODE, TO PROVIDE THAT CERTAIN VEHICLES WITH A MAXIMUM GROSS REGISTERED WEIGHT OF TWENTY-SIX THOUSAND POUNDS AND SUBSTANTIALLY USED IN INTERSTATE COMMERCE ARE EXEMPT FROM SALES AND USE TAXES SO LONG AS THEY CONTINUE TO BE SO USED; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3622R, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622R. MOTOR VEHICLES AND USED MOBILE HOMES. There are exempted from the taxes imposed by this chapter:

(a) Sales of motor vehicles with a maximum gross registered weight of twenty-six thousand (26,000) pounds or less and trailers other than trailers defined in subsection (d) of this section for use outside of this state, even though delivery be made within this state, but only when:

(1) The vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and

(2) Said motor vehicles and trailers will be titled and licensed immediately under the laws of another state, will not be used in this state more than twenty-five percent (25%) of the mileage in any calendar year, and will not be required to be titled under the

laws of this state.

(b) Sale of motor vehicles and motor equipment not required to be licensed and used as log jammers or log loaders.

(c) Sale of used manufactured homes, whether or not such used manufactured homes are sold for use outside this state, and whether or not such used manufactured homes are sold by a dealer. Every manufactured home sale after its sale as a "new manufactured home," as defined in section 63-3606, Idaho Code, is a sale as a used manufactured home.

(d) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand (26,000) pounds, which shall be immediately registered under the international registration plan or similar proportional or pro rata registration system, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under such proportional or pro rata registration system when such vehicles and trailers are substantially used in interstate commerce. If such a vehicle or trailer is not substantially used in interstate commerce during any calendar year, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code. For the purpose of this subsection, "substantially used in interstate commerce" means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any calendar year.

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 April 1, 1989.

Approved April 3, 1989.

CHAPTER 310
(H.B. No. 9)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-104, IDAHO CODE, TO REDEFINE "CHAUFFEUR"; AMENDING SECTION 49-105, IDAHO CODE, TO REDEFINE "DEALER" AND "URBAN DISTRICT"; AMENDING SECTION 49-114, IDAHO CODE, TO REDEFINE "MANUFACTURER"; AMENDING SECTION 49-119, IDAHO CODE, TO REDEFINE "RESIDENT"; AMENDING SECTION 49-120, IDAHO CODE, TO REDEFINE "SPECIAL MOBILE EQUIPMENT"; AMENDING SECTION 49-123, IDAHO CODE, TO REDEFINE "AUTHORIZED EMERGENCY VEHICLE" AND "COMMERCIAL VEHICLE"; AMENDING SECTION 49-124, IDAHO CODE, TO REDEFINE "WRECKER"; AMENDING SECTION 49-202, IDAHO CODE, TO RENUMBER THE PARAGRAPHS; AMENDING SECTION 49-207, IDAHO CODE, TO ALLOW LOCAL AUTHORITIES TO DECREASE THE MAXIMUM PERMISSIBLE SPEED LIMITS OUTSIDE URBAN DISTRICTS; AMENDING SECTION 49-213, IDAHO CODE, TO MODIFY REQUIREMENTS IN DESIGNATING HANDICAPPED PARKING SPACES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE PROPER REFERENCES; AMENDING SECTION 49-406, IDAHO CODE, TO REDEFINE "IDAHO OLD TIMER"

AND "IDAHO CLASSIC" VEHICLES; REPEALING SECTION 49-134B, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 80, LAWS OF 1988; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-406A, IDAHO CODE, TO DESIGNATE THE "IDAHO CLASSIC MOTORCYCLE" AS A CLASS OF VEHICLES EXEMPT FROM OPERATING FEES; AMENDING SECTION 49-410, IDAHO CODE, TO CLARIFY THE REQUIREMENTS FOR PARKING PRIVILEGES, LICENSE PLATES, CARDS, FEES AND PENALTIES FOR THE HANDICAPPED; AMENDING SECTION 49-426, IDAHO CODE, TO REMOVE LOG LOADERS AND LOG JAMMERS FROM THE LIST OF VEHICLES EXEMPT FROM OPERATING FEES; AMENDING SECTION 49-430, IDAHO CODE, TO PROVIDE AN INFRACTION PENALTY FOR FAILURE TO RENEW A MOTOR VEHICLE REGISTRATION; AMENDING SECTION 49-434, IDAHO CODE, TO PROVIDE CORRECTIONS; AMENDING SECTION 49-443, IDAHO CODE, TO CHANGE THE FORM AND CONTENT OF THE STANDARD ISSUE OF LICENSE PLATES BEGINNING JANUARY 1, 1992; AMENDING SECTION 49-448, IDAHO CODE, TO ALTER THE DISTRIBUTION OF RECREATIONAL VEHICLE LICENSE FEES; REPEALING SECTION 49-451, IDAHO CODE; AMENDING SECTION 49-673, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM MANDATED SEAT BELT USE; AMENDING SECTION 49-910A, IDAHO CODE, TO EXPAND THE CLASS OF DESIGNATED EMERGENCY VEHICLES USING CERTAIN LIGHTING; AMENDING SECTION 49-1010, IDAHO CODE, TO SPECIFY THE DIMENSIONS OF COMBINATIONS OF VEHICLES THAT MAY BE OPERATED ON THE HIGHWAYS; AMENDING SECTION 49-1208, IDAHO CODE, TO PROVIDE THAT A PLEA OR FINDING OF GUILTY IS COMPARABLE TO A CONVICTION AND TO PROVIDE FOR SUSPENSION OR REVOCATION OF A RESIDENT OPERATOR'S LICENSE; AMENDING SECTION 49-1314, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-1603, IDAHO CODE, TO ALTER THE DEALER ADVISORY BOARD MEMBERSHIP; AMENDING SECTION 49-1608, IDAHO CODE, TO ALLOW ADDITIONAL FORMS OF SECURITY TO SATISFY BONDING REQUIREMENTS FOR LICENSING OF VEHICLE DEALERS; AMENDING SECTION 49-1610, IDAHO CODE, TO PROVIDE A PROCEDURE FOR RECOVERY AGAINST A DEALER'S BOND OR OTHER SECURITY; AMENDING SECTION 49-2444, IDAHO CODE, TO ADJUST THE EXPIRATION DATE FOR IDENTIFICATION CARDS; AMENDING SECTIONS 40-701, 40-827 AND 48-902, IDAHO CODE, TO CORRECT CODE CITATIONS; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 49-104, Idaho Code, be, and the same is hereby amended to read as follows:

49-104. 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~~ seventy thousand (670,000) 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.

SECTION 2. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

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.

SECTION 3. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

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.

SECTION 4. That Section 49-119, Idaho Code, be, and the same is hereby amended to read as follows:

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 or a full-time student in the state of Idaho, notwithstanding that the period of ~~residing therein~~ residency 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.

SECTION 5. That Section 49-120, Idaho Code, be, and the same is hereby amended to read as follows:

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.

SECTION 6. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, and other emergency vehicles designated by the director of the department of law enforcement.

(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, 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 49-402, 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 vehi-

cles 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.

SECTION 7. That Section 49-124, Idaho Code, be, and the same is hereby amended to read as follows:

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. A wrecker engaged in a motor vehicle recovery operation and which is blocking part or all of one or more lanes of traffic shall be designated an emergency vehicle.

SECTION 8. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (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.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

(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

(b) For recording the transfer of any interest upon a certificate of title $3.00

(c) For issuance of every certificate of title on a new motor vehicle sold by a registered dealer to a purchaser $3.00

(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

(e) For furnishing a duplicate copy of any certificate of title or receipt of registration $3.00

(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

(g) For answering inquiries as to registration or ownership of motor vehicles or operator's license records, per vehicle registration, title or per operator's license record $2.00

(h) For services in furnishing copies of files of motor vehicle or other registrations, motor vehicle titles, operator's licenses or chauffeur's licenses, per hour $10.00

(i) Placing "stop" cards in motor vehicle registration or title files, each $2.00

(j) For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

(k) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace officer or designated agent of the state of Idaho, per inspection $3.00

(l) For all duplicate registration stickers, each ..... $.50

(m) For issuing letters of temporary vehicle clearance to Idaho based motor carriers $5.00

(3) The fees required in this section shall not apply when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department shall pay one dollar ($1.00) of the fee collected by a county assessor or other agent of the department 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 remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway account. The fee collected under subsection (2)(k), of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if 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 conducted by the department.

(5) The department as often as practicable may provide to law enforcement agencies the record of stolen and recovered motor vehicles and suspensions and revocations of operator and chauffeur licenses via the Idaho law enforcement telecommunications system (ILETS).

(6) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Boise, Idaho, all instruments required 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, one, a motor or identification number file, the other a file by the name of the owner.

(7) The department shall file each registration application received, and when satisfied as to the genuineness and regularity of the application, and that the applicant is entitled to the registration, shall register the vehicle therein described and the owner thereof in suitable records under a distinctive registration number assigned to the vehicle and to the owner thereof, alphabetically under the name of the owner, and numerically and alphabetically under the engine or identification number and name of the vehicle.

(8) The department shall not grant an application for the registration of a vehicle when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department, or has failed to comply with the provisions of section 49-436, Idaho Code, in past registration periods; or

(c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid.

(d9) 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.

(910) The department shall rescind and cancel the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier as defined in section 61-801, Idaho Code, has his permit revoked for any cause except at the request of the permit holder, as provided in section 61-808, Idaho Code, or whenever an interstate carrier has his registration revoked by reason of a revocation of his interstate commerce commission oper-

ating 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.

(1~~0~~1) 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.

(1~~1~~2) The department shall institute educational programs, demonstrations, exhibits and displays;

(1~~2~~3) The department shall examine persons and vehicles by written, oral and physical tests without compulsion except as provided by law;

(1~~3~~4) The department shall employ expert and special help as needed in the department;

(1~~4~~5) The department shall compile accident statistics and disseminate information relating to those statistics;

(1~~5~~6) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(1~~6~~7) The department shall place and maintain traffic-control devices, conforming to 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. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission.

(1~~7~~8) 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.

(1~~8~~9) 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.

(~~19~~20) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(2~~0~~1) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(2~~1~~2) Wherever a highway crosses one or more railroads at grade,

the department or local authorities within their respective jurisdictions 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 these stop signs shall be mandatory except when in the determination of the department or local authorities the existence of stop signs at a given crossing would constitute a greater hazard than their absence.

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. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(2~~2~~3) 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.

(2~~3~~4) 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.

SECTION 9. That Section 49-207, Idaho Code, be, and the same is hereby amended to read as follows:

49-207. MUNICIPAL REGISTRATION PROHIBITED -- POWER TO ENACT REGULATORY ORDINANCES NOT ABOLISHED. (1) Authorities of counties and cities shall have no power to pass, enforce or maintain any ordinance requiring from any owner of a vehicle or any dealer to which this title shall be applicable, any tax, license or permit for the free use of the public highways of a county or city, or prohibiting or excluding any owner or dealer from the free use of such highways or excluding or prohibiting any vehicle registered in compliance with the provisions of this title from the free use of the highways. Powers given by general statutes to local authorities in cities to enact general ordinances applicable equally and generally to all vehicles and the use of highways to bring about the orderly passage of vehicles upon certain highways in such cities where the traffic is heavy and continuous, and powers given to cities to regulate vehicles offered to the public for hire, or processions, assemblages or parades on the highways or in public places shall remain in full force and effect, and all ordinances which may have been or which may be enacted in pursuance of those powers shall remain in full force and effect. These provisions of law shall not be construed to prevent cities from enacting

and enforcing general ordinances prescribing additional requirements as to speed, manner of driving, or operating vehicles on any of the highways of such cities, and prescribing other requirements pertaining to signals to be given by drivers or operators of motor vehicles, the carrying of lights on motor vehicles, the turning of motor vehicles on highways, and requirements for motor vehicles in passing other vehicles and pedestrians.

(2) 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 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~~.

(3) 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 highways and shall declare a reasonable and safe maximum limit which may be greater or less than the limit permitted under this title for an urban district.

(4) Any altered limit established shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice are erected upon the highway. Any alteration of maximum limits on state highways or extensions in a municipality by local authorities shall not be effective until the alteration has been approved by the department.

SECTION 10. That Section 49-213, Idaho Code, be, and the same is hereby amended to read as follows:

49-213. 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, or a special card as prescribed in section 49-410, 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 for use by the handicapped. 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~~,-to~~. These parking spaces shall 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 49-410, Idaho Code. ~~The parking space shall be conspicuously painted indicated by blue paint.~~

(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 49-109, 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~~ special license plates or card or temporary card for the handicapped~~, a special card for the handicapped, or a special temporary card, or both, as prescribed in section 49-410, 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).

(3) Law enforcement officials are empowered to enter upon private property open to public use to enforce the provisions of this section.

SECTION 11. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. 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

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~~ first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the 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 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-~~11~~443, 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.

(8) A financial institution repossessing vehicles under the terms of a security agreement shall move the 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~~4, 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 12. That Section 49-406, Idaho Code, be, and the same is hereby amended to read as follows:

49-406. IDAHO OLD TIMER -- IDAHO CLASSIC. (1) 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~~ 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"~~; and a~~. 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~~, 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 operating fee levied in this chapter, the operating fee for an "Idaho Old Timer" or "Idaho Classic" shall be ten dollars ($10.00), and no annual operating renewal shall be required.

(3) The owner of a vehicle applying for registration under 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 the affidavit that the vehicle is an authentic res-

toration 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 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 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, and 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 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 department, the applicant may retain the "Idaho Old Timer" or "Idaho Classic" plates after sale of the vehicle and upon payment of fees specified in subsection (2) of this section may reuse the plates on another "Idaho Old Timer" or "Idaho Classic."

(5) The department has the power to revoke registrations for cause shown for failure of the applicant to comply with the provisions of this section.

SECTION 13. That Section 49-134B, Idaho Code, as enacted by Section 1, Chapter 80, Laws of 1988, be, and the same is hereby repealed.

SECTION 14. 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 49-406A, Idaho Code, and to read as follows:

49-406A. IDAHO CLASSIC MOTORCYCLE. (1) Any motorcycle which is over thirty (30) years of age and which is primarily a collectors' item used for participation in club activities, exhibitions, tours, parades and occasional pleasure use not to include work, business or general transportation shall, for the purposes of this section, be known as an "Idaho classic motorcycle."

(2) In lieu of the annual registration fee levied in this chapter, the operating fee for an "Idaho classic motorcyle" shall be ten dollars ($10.00), but no annual renewal registration shall be required.

(3) The owner applying for registration of any motorcycle under the provisions of 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 the affidavit that the motorcycle is in an authentic, original or restored condition without major modifications from factory specifications. In any instance when 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, the plate issued shall bear no date but shall bear the inscription "Idaho Classic Motorcycle", the registration number shall be shown thereon, and the plate shall be valid without renewal as long as the motorcycle is in existence. The plate is issued for the applicant's use only for that motorcycle, 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 department, the applicant may retain the "Idaho classic motorcycle" plate after the sale of the motorcycle and upon payment of fees specified in subsection (2) of this section he may reuse the plate on another "Idaho classic motorcyle."

(5) The department has the power to revoke registrations for cause shown for failure of the applicant to comply with the provisions of this section.

SECTION 15. That Section 49-410, Idaho Code, be, and the same is hereby amended to read as follows:

49-410. 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 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) ~~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.

(3) Fees for special license plates for the handicapped shall be as provided in section 49-402, Idaho Code, for vehicles not in excess of eight thousand (8,000) pounds gross weight, and as provided in section 49-434, Idaho Code, for vehicles in excess of eight thousand (8,000) pounds gross weight. Nothing in this section shall be construed as abrogating provisions of section 49-449, 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.

(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 of. In addition to the annual registration of the vehicle, renewal 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 the plates shall display the international handicapped symbol.

International Handicapped Symbol

(5) Any motor vehicle displaying special license plates for the handicapped, without regard to the state of residence or displaying the special card provided in subsection (1) of this section, 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.

(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 a temporarily disabled person. When the card is affixed, special parking privileges are granted temporarily as provided in subsection (5) of this section. 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.

(7) Any person who shall submit satisfactory proof to the department that he is a permanently handicapped person as provided in section 49-109, 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 a permanently handicapped person. When the card is affixed, special parking privileges are granted as provided in subsection (5) of this section. Any unauthorized use of the card shall constitute an infraction.

SECTION 16. That Section 49-426, Idaho Code, be, and the same is hereby amended to read as follows:

49-426. EXEMPTIONS FROM OPERATING FEES. The provisions of this chapter with respect to operating fees shall not apply to:

(1) Motor vehicles owned or leased by the United States, the state, a city, a county, any department thereof, any political subdivision or municipal corporation of the state, any taxing district of the state, or any organization, whether incorporated or unincorporated, 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.

(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 67-7101, Idaho Code, need not be registered under the provisions of this chapter while being used exclusively in connection with agricultural, horticultural, 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 49-619, Idaho Code.

SECTION 17. That Section 49-430, Idaho Code, be, and the same is hereby amended to read as follows:

49-430. REGISTRATION TO BE RENEWED. (1) Reregistration of vehicles shall be accomplished annually or by registration period in the same manner as the original registration and upon the payment of the required fee. 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.

(2) A violation of the provisions of this section shall be an infraction.

SECTION 18. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. OPERATING FEES. (1) 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.	311.688	515.40

(2) 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.

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); or 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.

(3) In addition to the registration and license fees provided by subsections (1) and (2), 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 (6) 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

(4) In addition to the registration and license fees of this section, there shall be paid on all farm vehicles, and any commercial vehicle exclusively engaged in the transportation of logs, pulp wood, stull, poles, piling, rough lumber, ores, ore concentrates, 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.

(5) If any motor vehicle, trailer or semitrailer, or combinations thereof, is authorized under the provisions of section 49-1011, 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.

(6) 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 (1) and (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 (3) or (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.

(7) The license, registration and use fees of this section shall not be applicable to trailers registered pursuant to section 49-402, Idaho Code.

SECTION 19. That Section 49-443, Idaho Code, be, and the same is hereby amended to read as follows:

49-443. LICENSE PLATES TO BE FURNISHED BY DEPARTMENT -- FORM AND CONTENTS. (1) The assessor shall furnish to every owner whose vehicle is registered by that office, pursuant to section 49-402, Idaho Code, one (1) license plate for a motorcycle, trailer, truck-tractor, or semitrailer and two (2) license plates for every other motor vehicle. The department may extend the life of the current series of license plates outstanding since January 1973 and each subsequent year, and may thereafter issue a new series of semi-permanent license plates for an indefinite period of time, but in no event for a period less than five (5) years. Any series of license 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 49-402, 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 plates are not issued, replaced, or cancelled, license plates shall be retained by the owner until lost, stolen, mutilated, or illegible. At that time and under those circumstances, the owner shall then apply for a duplicate or substitute. The assessor shall also furnish for each registration, and to validate the license plate, a pressure-sensitive, serially numbered registration sticker. 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) License plates issued for vehicles required to be registered in accordance with the provisions of section 49-402, Idaho Code, shall be issued color coded registration validation stickers showing the year of registration. Each registration validation sticker shall bear a number from 1 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.

(5) Every license plate shall have displayed upon it the registration number assigned to the vehicle and its owner, the name "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 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 license plate and 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 license plate must bear upon its face the inscription "Famous Potatoes."

(6) The department shall furnish to every owner whose vehicle is registered under sections 49-434 and 49-435, Idaho Code, a pressure-sensitive, serially-numbered registration sticker to validate the license plate.

(7) The board shall have authority to require the return to the department of all license plates and registration stickers upon termination of the lawful use of them by the owner.

(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.

(9) Commencing January 1, 1992, with the general reissue of license 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 license plate must bear upon its face the

inscriptions "Famous Potatoes" and "Scenic Idaho."

SECTION 20. That Section 49-448, Idaho Code, be, and the same is hereby amended to read as follows:

49-448. DISPOSITION OF FEES. The revenues received from the annual license fees imposed by section 49-445, Idaho Code, for recreational vehicle registration shall be paid over monthly to the county treasurer, to be distributed as follows:

(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;

(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 established in the dedicated fund of the state treasury;

(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, created in section 40-701~~ distributed as follows: ninety-nine percent (99%) of the one-half (1/2) shall be distributed to the state recreational vehicle account and one percent (1%) of the one-half (1/2) shall be distributed to the search and rescue account created in section 67-2903, Idaho Code.

SECTION 21. That Section 49-451, Idaho Code, be, and the same is hereby repealed.

SECTION 22. That Section 49-673, Idaho Code, be, and the same is hereby amended to read as follows:

49-673. SAFETY RESTRAINT USE. (1) Except as provided in section 49-672, Idaho Code, and subsection (2)(b) of 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 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 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 that vehicle;

(d) Mail carriers.

(3) If a person is convicted of a violation of any traffic law,

other than a violation of the provisions of sections 49-1229 or 49-1230, 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 49-326, 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 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 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 National Highway Traffic Safety Administration and Federal Highway Administration pursuant to 23 U.S.C. 402.

SECTION 23. That Section 49-910A, Idaho Code, be, and the same is hereby amended to read as follows:

49-910A. 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 of law enforcement for use on vehicles shall be restricted to the following class of vehicles:

(1) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.

(2) Designated emergency vehicles. Fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, ambulances ~~and~~, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, and wreckers, as defined in section 49-124, 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 49-915, Idaho Code, only fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, 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.

(3) All vehicles. Any motor vehicle 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 24. That Section 49-1010, Idaho Code, be, and the same is hereby amended to read as follows:

49-1010. SIZE OF VEHICLES AND LOADS. No vehicle shall exceed the dimensions specified below, except that certain devices determined by the 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 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 49-1004, 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 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 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 (3)(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~~ combi-

nation, including the connecting tongue and excluding the truck tractor except as noted below ..... 60 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 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 board with an overall combination length not to exceed one hundred and five (105) feet.

SECTION 25. That Section 49-1208, Idaho Code, be, and the same is hereby amended to read as follows:

49-1208. PROOF REQUIRED UPON CERTAIN CONVICTIONS. (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 or has entered a plea of guilty 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, no operator's or chauffeur's license shall be issued to that person until he gives and maintains proof of financial responsibility.

(2) Whenever the department or a court suspends, or the department revokes a resident's license or nonresident's operating privilege by reason of a conviction, or forfeiture of bail, or upon a plea or

finding of guilty, the license or privilege shall remain suspended or revoked unless the person shall have previously given or shall immediately give and maintain proof of financial responsibility.

SECTION 26. That Section 49-1314, Idaho Code, be, and the same is hereby amended to read as follows:

49-1314. TESTING BLOOD OF PERSONS KILLED IN ACCIDENTS. (1) The director of the department of ~~health--and--welfare~~ law enforcement, jointly with the various county coroners, shall provide a system and procedure whereby all morticians in Idaho shall obtain blood samples from all pedestrians and motor vehicle operators who have died as a result of and contemporaneously with an accident involving a motor vehicle.

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

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

(4) The results of such tests shall be used 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 27. That Section 49-1603, Idaho Code, be, and the same is hereby amended to read as follows:

49-1603. DEALER ADVISORY BOARD. (1) There shall be a dealer advisory board to consist of ~~eight~~ seven (~~8~~7) 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, and each member of the board shall serve until his successor is appointed and qualified. Members of the advisory board shall be compensated as provided by section 59-509(b), Idaho Code, and payments of compensation shall be paid from the state highway account as part of the expenses of administering the provisions of this chapter. A majority of the members of the advisory board shall constitute a quorum, the presence of which at any meeting 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 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 has elected its officers, the secretary shall certify the results of 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. All members of the advisory board shall be entitled to vote on any question, matter, or thing which properly comes before it.

SECTION 28. That Section 49-1608, Idaho Code, be, and the same is hereby amended to read as follows:

49-1608. LICENSE BOND. (1) Before any dealer's license shall be issued by the department to any applicant, the applicant shall procure and file with the department good and sufficient bond in the amount shown, ~~with a corporate surety duly licensed to do business within this state, approved as to form by the attorney general, and~~ conditioned that the applicant shall not practice any fraud, make any fraudulent representation or violate any of the provisions of this chapter, rules and regulations of the department, or provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or federal motor vehicle safety standards, or odometer fraud in the conduct of the business for which he is licensed.

(a) All dealers, including wholesale, but excluding a dealer exclusively in the business of motorcycles and motor scooters, twenty thousand dollars ($20,000).

(b) A dealer exclusively in the business of motorcycle and motor scooter sales, ten thousand dollars ($10,000).

(~~3~~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. The bond 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.

(~~2~~3) 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.

SECTION 29. That Section 49-1610, Idaho Code, be, and the same is

hereby amended to read as follows:

49-1610. 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 salesmen acting for the dealer, in his behalf or within the scope of the employment of salesman, or shall suffer any loss or damage by reason of the violation by the dealer or salesman of any of the provisions of this chapter, that person shall have a right of action against the dealer and his salesman.

(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 chapter, or any party to a franchise who is so injured in his business or property by a violation of a provision of this 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 chapter, may bring an action for damages and equitable relief, including injunctive relief.

(3) A license or a renewal shall not be issued to any applicant unless and until 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 the applicant upon whom all process may be served in any action or actions which may subsequently be commenced against the applicant arising out of any claim for damages suffered by any person by reason of the violation of the applicant of any of the terms and provisions of this chapter or provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or of federal motor vehicle safety standards. The applicant shall stipulate and agree in the appointment that any process directed to the applicant in such a case which is served upon the director, or in his absence his designee, shall be of the same legal force and effect as if served upon the applicant personally. The applicant shall further stipulate and agree in writing that the agency created by 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 the provisions of this chapter. The instrument appointing the director as 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 upon the director, two (2) copies of the process shall be left with the director. Not later than two (2) days after the service of the process upon him, the director shall mail one (1) copy 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. The licensee shall then have and be allowed thirty (30) days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. For the purpose of venue where the licensee is served with

process 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 salesman of any of the provisions of this chapter, chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or any rule or regulation of 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:

1. Be accompanied by a certified copy of the judgment;

2. State the amount of the claim if different from the judgment amount; and

3. 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 the provisions of subsection (4) of this section, 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 salesman for violation of the provisions of this chapter, rules and regulations of the department, the provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, the federal motor vehicle safety standards or odometer fraud, shall be grounds for revocation of the dealer and the salesman's licenses.

(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 49-1610, 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.

SECTION 30. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. CARD ISSUED. The 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~~ on the cardholder's birthday in the third year following issuance of the card.

SECTION 31. 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)(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) Until July 1, 1990, 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 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.

(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~~ 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 32. That Section 40-827, Idaho Code, be, and the same is hereby amended to read as follows:

40-827. 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 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-~~1~~2640~~1~~2, 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~~4, 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 reg-

istration 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~~ 49-404, 49-405, 49-408, 49-409, 49-410, 49-414, 49-415 and 49-416, 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.

SECTION 33. That Section 48-902, Idaho Code, be, and the same is hereby amended to read as follows:

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 49-10~~1~~23, Idaho Code, which is sold in this state, but does not include: (a) motorcycle or farm tractor, as defined in sections 49-10114 and 49-107, Idaho Code; or (b) house trailer as defined in section 49-10~~2~~21, 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.

SECTION 34. 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, 1989.

Approved April 5, 1989.

CHAPTER 311
(H.B. No. 29)

AN ACT

RELATING TO THE SALES TAX; REPEALING SECTION 63-3611, IDAHO CODE; AND AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3611, IDAHO CODE, TO DEFINE THE TERM RETAILER ENGAGED IN BUSINESS IN THIS STATE.

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

SECTION 1. That Section 63-3611, Idaho Code, be, and the same is hereby repealed.

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 63-3611, Idaho Code, and to read as follows:

63-3611. RETAILER ENGAGED IN BUSINESS IN THIS STATE. "Retailer engaged in business in this state" as used in this chapter means and includes any of the following:

(a) Any retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent,

by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business or maintaining a stock of goods.

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

(c) Any retailer, with respect to a lease or rental, deriving rentals from a lease or rental of tangible personal property situated in this state.

(d) Any retailer engaging in any activity in connection with servicing tangible personal property in this state.

(e) Any retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting to consumers located in this state.

(f) Any retailer who, pursuant to a contract with a broadcaster or publisher located in this state, solicits orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this state and only secondarily to bordering jurisdictions.

(g) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing or repair facilities.

(h) Any retailer owned or controlled by the same interests which own or control any retailer engaged in business in the same or a similar line of business in this state.

(i) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under the provisions of this section.

(j) Any retailer who, pursuant to a contract with a cable television operator located in this state, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this state.

Approved April 5, 1989.

CHAPTER 312
(H.B. No. 32)

AN ACT

RELATING TO STATE EMPLOYEES; AMENDING SECTION 59-1604, IDAHO CODE, TO PROVIDE THAT CREDITED STATE SERVICE SHALL BE EARNED FOR EACH HOUR PAID TO NONCLASSIFIED EMPLOYEES FOR HOURS WORKED AND FOR LEAVE TAKEN.

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

SECTION 1. That Section 59-1604, Idaho Code, be, and the same is hereby amended to read as follows:

59-1604. CREDITED STATE SERVICE. (1) For the purposes of payroll, vacation or annual leave, sick leave and other applicable purposes, credited state service shall be earned by:

(a) The elective officers of the executive department, except the lieutenant governor;

(b) Nonclassified officers and employees of any department, commission, division, agency or board of the executive department, except for part-time members of boards, commissions and committees;

(c) Officers and employees of the legislative department, except members of the house of representatives and the senate.

(2) One (1) hour of credited state service shall be earned by each eligible state officer or employee specified in subsection (1) above 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. The state board of examiners shall adopt comparative tables and charts to compute credited state service on daily, weekly, bi-weekly, calendar month and annual periods.

(3) Members of the legislature, the lieutenant governor, and members of part-time boards, commissions and committees, shall not be eligible for annual leave or sick leave. Members of the legislature, the lieutenant governor, and members of part-time boards, commissions and committees shall, for retirement and longevity purposes only, be credited for each calendar month of service actually served, whether in session or not.

(4) Credited state service for those officers and employees identified by section 67-5303(i), Idaho Code, shall be as determined by the state board of education, except no such officer or employee shall be credited with more than two thousand eighty (2080) hours during any twelve (12) month period.

Any policy and procedures determined by the state board of education must be communicated to the state auditor in writing at least one hundred eighty (180) days in advance of the effective date of the policy and procedures.

(5) Service for retirement purposes shall be as provided in chapter 1~~2~~3, title 59, Idaho Code, or in chapter 20, title 1, Idaho Code.

Approved April 5, 1989.

CHAPTER 313
(H.B. No. 123)

AN ACT
RELATING TO LIMITATIONS ON BUDGET REQUESTS OF TAXING DISTRICTS; AMEND-

ING SECTION 63-2220, IDAHO CODE, TO PROVIDE BASE PROTECTION 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 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 or the levy authorized by section 33-802(3), Idaho Code, 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; or

(vi) in the case of a nonschool district for which no increase in the dollar amount of ad valorem taxes is certified for operating budget purposes in any one year, such a district may, in the following year, recover a portion of the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed two-thirds (2/3) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed.

(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, 1989.

Approved April 5, 1989.

CHAPTER 314
(H.B. No. 129, As Amended in the Senate)

AN ACT

RELATING TO THE SALE OF KEG BEER; AMENDING SECTION 23-1018, IDAHO CODE, TO PROVIDE A PENALTY FOR PROVIDING FALSE INFORMATION ON THE PURCHASE OF A KEG OF BEER.

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

SECTION 1. That Section 23-1018, Idaho Code, be, and the same is hereby amended to read as follows:

23-1018. SALE OF KEG BEER -- PENALTIES. (1) Retail and wholesale licensees selling keg beer for consumption off licensed premises shall place an identification tag onto all kegs of beer at the time of sale and require the signing of a receipt therefor by the purchaser in order to allow kegs to be traced if the contents are used in violation of this act. The keg identification shall be in the form of a numbered label prescribed and supplied by the director of the department of law enforcement, which identifies the seller and which is removable or obliterated when the keg is processed for refilling. The receipt shall be on a form prescribed and supplied by the director of the department of law enforcement and shall include the name and address of the purchaser and such other information as may be required by the director of the department of law enforcement.

(2) Any licensee selling keg beer for off-premises consumption who fails to require the signing of a receipt at the time of sale and fails to place a numbered identification label onto the keg shall be subject to having his license suspended as set forth in section 23-1038, Idaho Code.

(3) Possession of a keg containing beer which is not identified as required by subsection (1) of this section is a misdemeanor.

(4) Any purchaser of keg beer who knowingly provides false information on the receipt required by subsection (1) of this section shall be guilty of a misdemeanor.

(5) As used in this section, "keg" means any brewery-sealed, individual container of beer having a liquid capacity of more than four (4) gallons.

Approved April 5, 1989.

CHAPTER 315
(H.B. No. 140)

AN ACT

RELATING TO HUNTING; AMENDING SECTION 36-401, IDAHO CODE, TO DELETE THE REQUIREMENT THAT IT IS UNLAWFUL FOR A PERSON TO HAVE IN HIS POSSESSION ANY UNCASED FIREARM WHILE IN THE FIELDS OR FORESTS OF THE STATE WITHOUT HAVING PROCURED THE PROPER LICENSE FOR HUNTING AND/OR FISHING.

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

SECTION 1. That Section 36-401, Idaho Code, be, and the same is hereby amended to read as follows:

36-401. HUNTING, TRAPPING, FISHING ~~OR-CARRYING-UNCASED-FIREARM~~ -- LICENSE REQUIREMENT -- EXCEPTIONS. It is a misdemeanor for any person to hunt, trap, or fish for or take any wild animal, bird or fish of this state ~~or-have-in-his-possession-any-uncased-firearm-while-in-the fields-or-forests-of--the--state~~, without first having procured a license as hereinafter provided. Provided that no license shall be required:

~~(a)--Uncased-Firearms.--For--residents--of--this--state--to--carry uncased-firearms-on-property-owned,-leased-or-controlled-by-them-or-on adjoining-property-for-the-purpose-of-taking-predatory-animals.~~

(~~b~~a) 1. For children under the age of fourteen (14) years who are residents of this state to fish during the open season therefor.

2. For nonresident children under the age of fourteen (14) years to fish during the open season therefor provided they are accompanied by the holder of a valid fishing license, and provided further that any fish caught by such nonresident children shall be included in the bag and possession limit of such license holder.

3. For resident children under the age of twelve (12) years to hunt, take or kill predatory, unprotected birds and animals by means other than with firearms.

4. For resident children under the age of fourteen (14) years to trap muskrats from irrigation ditches or property on which they live during the open season.

(~~c~~b) For any person to fish on a "free fishing day" as may be designated by the commission.

(~~d~~c) Senior Residents. For "senior residents" age seventy (70)

years or older who are holders of a "senior resident permit" to hunt and fish during the open season.

(~~e~~d) Blind Persons. For resident blind persons who are holders of a "permit for the blind" to fish during the open season.

(~~f~~e) Institutional Inmates. For any inmate of the state hospital north, state hospital south, Idaho state school and hospital, and state veteran's home to fish during open seasons, provided said inmate has a permit therefor from the director. The director is authorized to issue such permits upon the request of the head of the respective institution having custody of said inmate upon a showing that the institution recommends the issuance of such permit and will assume full responsibility for and control over said inmate while using said permit.

(~~g~~f) Resident Military Personnel. For resident persons engaged in the military service of the United States, while on temporary furlough or leave, upon receipt of a temporary permit from the director, to hunt and fish during the open season.

(~~h~~g) Disabled Persons. For any resident person who is permanently and totally disabled as certified by a physician licensed to practice in the state of Idaho, to hunt and fish during the open season, providing such person has obtained a permit from the director.

(~~i~~h) Youth Training Center Students. For students of the Idaho youth training center, under the supervision of an officer of said school, to fish during the open season.

(~~j~~i) Boy Scouts. For boy scouts who are official participants in attendance at national or international encampments at Farragut State Park to take fish during the encampment period from Lake Pend Oreille in such areas and such numbers as may be designated by the commission.

(~~k~~j) Nothing contained herein shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

Approved April 5, 1989.

CHAPTER 316
(H.B. No. 141, As Amended,
As Amended in the Senate)

AN ACT

RELATING TO POWERS AND DUTIES OF THE FISH AND GAME COMMISSION; AMENDING SECTION 36-104, IDAHO CODE, TO PROVIDE THAT THE FISH AND GAME COMMISSION SHALL MAKE A GOOD FAITH EFFORT TO OBTAIN A CONSERVATION EASEMENT WHEN IT IS CONSIDERING PURCHASING LANDS.

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

SECTION 1. That Section 36-104, Idaho Code, be, and the same is hereby amended to read as follows:

36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization

-- Meetings. The members of the commission shall annually meet at their offices in the city of Boise and organize by electing from their membership a chairman, who shall hold office for a period of one (1) year, or until his successor has been duly elected. In addition to the regular annual meeting, to be held in January, said commission shall hold other regular quarterly meetings in April, July and October of each year at such places within the state as the commission shall select for the transaction of business. Special meetings may be called at any time and place by the chairman or a majority of the members of the commission. Notice of the time, place and purpose of any and all special meetings shall be given by the secretary to each member of the commission prior to said meeting.

(b) Authorization for Commission Powers and Duties. For the purpose of administering the policy as declared in section 36-103, Idaho Code, the commission is hereby authorized and empowered to:

1. Investigate and find facts regarding the status of the state's wildlife populations in order to give effect to the policy of the state hereinbefore announced.

2. Hold hearings for the purpose of hearing testimony, considering evidence and determining the facts as to when the supply of any of the wildlife in this state will be injuriously affected by the taking thereof, or for the purpose of determining when an open season may be declared for the taking of wildlife. Whenever said commission determines that the supply of any particular species of wildlife is being, or will be, during any particular period of time, injuriously affected by depletion by permitting the same to be taken, or if it should find a longer or different season, or different bag limit should be adopted for the better protection thereof, or if it finds that an open season may be declared without endangering the supply thereof, then it shall make an order embodying its findings in respect to when, under what circumstances, in which localities, by what means, what sex, and in what amounts and numbers the wildlife of this state may be taken.

3. Whenever it finds it necessary for the preservation, protection, or management of any wildlife of this state, by reason of any act of God or any other sudden or unexpected emergency, declare by written order the existence of such necessity, and the cause thereof, and prescribe and designate all affected areas or streams, and close the same to hunting, angling or trapping, or impose such restrictions and conditions upon hunting, angling or trapping as said commission shall find to be necessary.

(A) Every such emergency order shall be made in accordance with the provisions of section 67-5203, Idaho Code.

(B) Any person knowingly hunting, angling or trapping in an area or stream closed by any such emergency order, and before such order has been rescinded, shall be deemed guilty of a misdemeanor.

4. At any time it shall deem necessary for the proper management of wildlife on any game preserve in the state of Idaho, declare an open season in any game preserve as it deems appropriate.

5. (A) Upon notice to the public, hold a public drawing giving to license holders, under the wildlife laws of this state,

the privilege of drawing by lot for a controlled hunt permit authorizing the person to whom issued to hunt, kill, or attempt to kill any species of wild animals or birds designated by the commission under such rules and regulations as it shall prescribe.

(B) The commission may, under rules and regulations as it may prescribe, authorize the director to issue additional controlled hunt permits and collect fees therefore authorizing owners, lessees in control of land valuable for habitat or propagation purposes of deer, elk or antelope, or members of their immediate families, to hunt deer, elk or antelope in controlled hunt units containing the eligible land owned or controlled by those individuals in areas where permits for deer, elk or antelope are limited.

(C) There shall be no fee charged to any individual for submitting an application to participate in a controlled hunt; provided, however, a permit fee of not to exceed three dollars ($3.00) for deer, ten dollars ($10.00) for moose, sheep and goat and five dollars ($5.00) for elk, antelope and such other species as may be determined in the future, shall be charged for the privilege of participating in a controlled hunt. All procedures under this section shall be under the control and in the discretion of the director of the department of fish and game. It is a misdemeanor for any person to transfer any such permit to any other person, or for any person to make use of such permit issued to any other person.

6. Adopt rules and regulations pertaining to the importation, exportation, release, sale, possession or transportation into, within or from the state of Idaho of any species of live, native or exotic wildlife or any eggs thereof.

7. Acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease, agreement, gift, or other device, lands or waters suitable for the purposes hereinafter enumerated~~, and~~ in this paragraph. When considering purchasing lands pursuant to this paragraph, the commission shall first make a good faith attempt to obtain a conservation easement, as provided in chapter 21, title 55, Idaho Code, before it may begin proceedings to purchase, condemn or otherwise acquire such lands. If the attempt to acquire a conservation easement is unsuccessful and the commission then purchases, condemns or otherwise acquires the lands, the commission shall record in writing the reasons why the attempt at acquiring the conservation easement was unsuccesful and then file the same in its records and in a report to the joint finance-appropriations committee. The commission shall develop, operate, and maintain the same lands, waters or conservation easements for said purposes, which are hereby declared a public use:

(A) For fish hatcheries, nursery ponds, or game animal or game bird farms;

(B) For game, bird, fish or fur-bearing animal restoration, propagation or protection;

(C) For public hunting, fishing or trapping areas to provide

places where the public may fish, hunt, or trap in accordance with the provisions of law, or the regulation of the commission;

(D) To extend and consolidate by exchange, lands or waters suitable for the above purposes.

8. Enter into cooperative agreements with educational institutions, and state, federal, or other agencies to promote wildlife research and to train students for wildlife management.

9. Enter into cooperative agreements with state and federal agencies, municipalities, corporations, organized groups of landowners, associations, and individuals for the development of wildlife rearing, propagating, management, protection and demonstration projects.

10. In the event owners or lawful possessors of land have restricted the operation of motor-propelled vehicles upon their land, the commission, upon consultation with all other potentially affected landowners, and having held a public hearing, if requested by not less than ten (10) residents of any county in which the land is located, may enter into cooperative agreements with those owners or possessors to enforce those restrictions when the restrictions protect wildlife or wildlife habitat. Provided, however, the commission shall not enter into such agreements for lands which either lie outside or are not adjacent to any adjoining the proclaimed boundaries of the national forests in Idaho.

(A) The landowners, with the assistance of the department, shall cause notice of the restrictions, including the effective date thereof, to be posted on the main traveled roads entering the areas to which the restrictions apply. Provided, however, that nothing in this subsection shall allow the unlawful posting of signs or other information on or adjacent to public highways as defined in subsection (5) of section 40-109, Idaho Code.

(B) Nothing in this section authorizes the establishment of any restrictions that impede normal forest or range management operations.

(C) It shall be a misdemeanor for any person to violate such restrictions on the use of motor-propelled vehicles or to tear down or lay down any fencing or gates enclosing such a restricted area or to willfully remove, mutilate, damage or destroy any notices, signs or markers giving notice of such restrictions. The commission may promulgate rules and regulations to administer the restrictions and cooperative agreements addressed in this subsection.

11. Capture, propagate, transport, buy, sell or exchange any species of wildlife needed for propagation or stocking purposes, or to exercise control of undesirable species.

12. Adopt rules and regulations pertaining to the application for, issuance of and administration of a lifetime license certificate system.

(c) Limitation on Powers. Nothing in this title shall be construed to authorize the commission to change any penalty prescribed by law for a violation of its provisions, or to change the amount of

license fees or the authority conferred by licenses prescribed by law.

(d) Organization of Work. The commission shall organize the department, in accordance with the provisions of title 67, Idaho Code, into administrative units as may be necessary to efficiently administer said department. All employees of the department except the director shall be selected and appointed by the director in conformance with the provisions of chapter 53, title 67, Idaho Code.

Approved April 5, 1989.

CHAPTER 317
(H.B. No. 156)

AN ACT

RELATING TO PERMITS FOR TRANSPORTERS OF HAZARDOUS WASTE; AMENDING SECTION 49-2202, IDAHO CODE, TO ALLOW THE TRANSPORTATION DEPARTMENT TO SELECT VENDORS FOR THE PURPOSE OF SELLING HAZARDOUS WASTE PERMITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-2202, Idaho Code, be, and the same is hereby amended to read as follows:

49-2202. 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.

(5) The department may select vendors to serve as agents on state highways for the purpose of selling hazardous waste 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 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 department, the premium on the bond to be paid by the department.

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 5, 1989.

CHAPTER 318
(H.B. No. 175)

AN ACT

RELATING TO REGISTRATION OF UTILITY TRAILERS; AMENDING SECTION 49-122, IDAHO CODE, TO REDEFINE "UTILITY TRAILER"; AMENDING SECTION 49-123, IDAHO CODE, TO PROVIDE CODE REFERENCES; AMENDING SECTION 49-402, IDAHO CODE, TO REMOVE PROVISIONS ON REGISTRATION OF TRAILERS, TO PROVIDE CORRECT CODE REFERENCES, AND TO RENUMBER THE SUBSECTION; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-402A, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF UTILITY TRAILERS; AMENDING SECTION 49-431, IDAHO CODE, TO PROVIDE A TRANSFER FEE FOR UTILITY TRAILERS, TO PROVIDE PROPER NOMENCLATURE AND TO PROVIDE CODE REFERENCES; AMENDING SECTION 49-434, IDAHO CODE, TO PROVIDE LICENSE FEES FOR RENTAL UTILITY TRAILERS AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTION 49-443, IDAHO CODE, TO PROVIDE FOR UTILITY TRAILER LICENSE PLATES, TO PROVIDE CODE REFERENCES, AND TO RENUMBER THE SUBSECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-122, Idaho Code, be, and the same is hereby amended to read as follows:

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 4~~0~~9-434, 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.

SECTION 2. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

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 sections 49-402 and 49-402A, 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 sections 49-402 and 49-402A, 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 sections 49-402 and 49-402A, 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.

SECTION 3. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. 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

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 the beginning. Registration periods shall expire midnight on the last day of the registration period in the year designated by the 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~~	~~10.00~~

~~(6)~~ All vehicles required in subsections (2) through (5~~4~~) 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~~6) A vehicle may be registered by the department under the provisions of subsections (1)~~, (2), (3),~~ through (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~~443, 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.

(~~8~~7) A financial institution repossessing vehicles under the terms of a security agreement shall move the 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~~4, 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 4. 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 49-402A, Idaho Code, and to read as follows:

49-402A. UTILITY TRAILERS -- REGISTRATION, FEES AND TRANSFERS. (1) The department shall register a utility trailer for a ten (10) year period, and shall issue a license plate with the month and year of expiration designated by a validation sticker.

(2) The license fee shall be thirty dollars ($30.00) for the ten (10) year period.

(3) If ownership or interest in the trailer transfers as a result of a sale, neither the registration card nor plate can be transferred to another person. The registration card and plate shall remain in the

possession of the transferor and may be transferred to another utility trailer owned by the transferor, and shall be valid until expiration of the original registration.

SECTION 5. That Section 49-431, Idaho Code, be, and the same is hereby amended to read as follows:

49-431. ASSIGNMENT OR TRANSFER OF INTEREST -- PROCEDURE. (1) Whenever the owner of a vehicle registered under the provisions of sections 49-402 and 49-402A, Idaho Code, transfers or assigns his title or interest thereto, the registration card and license plate shall remain with and in the possession of the transferor, and before the license plate shall be displayed upon another vehicle owned by the transferor, the transferor shall have that vehicle registered as provided for in section 49-441, 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. The transfer fees collected under the provisions of this subsection (1) shall be paid to the county treasurer where the vehicle is registered and placed in the county current expense fund.

(a) For ~~that registration,~~ all vehicles registered under the provisions of section 49-402(1), Idaho Code, the transferor shall pay the operating fee as specified in that subsection less the operating fee already paid, plus a transfer fee of two dollars ($2.00). If the transferor shall have an older vehicle to be registered, the transferor shall pay a transfer fee of two dollars ($2.00).

(b) For vehicles registered in accordance with subsections (2) through (~~5~~4) of section 49-402, Idaho Code, the operating fee shall be the fee specified in ~~section--49-437,--Idaho--Code~~ those subsections, plus a transfer fee of two dollars ($2.00). ~~The transfer fees collected under the provisions of this subsection shall be paid to the county treasurer where the vehicle is registered and placed in the county current expense fund.~~

(c) For utility trailers registered under the provisions of section 49-402A, Idaho Code, the original registration shall continue until its expiration date, upon payment of a transfer fee of two dollars ($2.00).

(2) Upon a change of registered ownership of any motor vehicle upon which the license plates have been computed as specified in section 49-434, Idaho Code, the license plates shall be returned to the department. No part of the registration or license fees shall be subject to refund.

(3) In the event of a transfer by operation of law of the title or interest of an owner in and to a vehicle registered as specified in sections 49-402, 49-402A, 49-434 and 49-435, 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 shall expire and the registration card and plates shall be surrendered to the department. The vehicle shall not be operated upon the highways until and unless the person entitled thereto shall apply for and

obtain a new registration card and plates in accordance with the provisions of section 49-441, Idaho Code. 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 vehicle upon the highway from the place of removal or place where formerly kept by the owner to a place of keeping or storage, provided the place of removal and place of destination are both located within the state of Idaho, 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 vehicle a placard bearing the name and address of the person authorizing and directing such movement, the placard to be plainly readable from a distance of one hundred (100) feet during daylight.

SECTION 6. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. OPERATING FEES. (1) 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

(2) 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.

In addition, an annual license fee shall be required for each trailer, rental utility trailer, or semitrailer in a combination of vehicles in the amount of fifteen dollars ($15.00); or 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.

(3) In addition to the registration and license fees provided by subsections (1) and (2), 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 (6) 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

(4) In addition to the registration and license fees of this section, there shall be paid on all 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.

(5) If any motor vehicle, trailer or semitrailer, or combinations thereof, is authorized under the provisions of section 49-1011, 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.

(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 (1) and (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 (3) or (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.

~~(7) The license, registration and use fees of this section shall not be applicable to trailers registered pursuant to section 49-402, Idaho Code.~~

SECTION 7. That Section 49-443, Idaho Code, be, and the same is hereby amended to read as follows:

49-443. LICENSE PLATES TO BE FURNISHED BY DEPARTMENT -- FORM AND CONTENTS. (1) The assessor shall furnish to every owner whose vehicle is registered by that office, pursuant to sections 49-402 and 49-402A, Idaho Code, one (1) license plate for a motorcycle, trailer, truck-tractor, or semitrailer and two (2) license plates for every other motor vehicle. The department may extend the life of the current series of license plates outstanding since January 1973 and each subsequent year, and may thereafter issue a new series of semi-permanent license plates for an indefinite period of time, but in no event for a period less than five (5) years. Any series of license 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 49-402, 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) License plates for utility trailers registered under the provisions of section 49-402A, Idaho Code, are issued for ten (10) years. These plates shall use the design in effect on the date of manufacture. If a design change occurs, plates from the effective date of the design change shall be manufactured using the new design. Unexpired plates need not be reissued to conform to a design change.

(4) During intervening years in which license plates are not issued, replaced, or cancelled, license plates shall be retained by the owner until lost, stolen, mutilated, or illegible. At that time and under those circumstances, the owner shall then apply for a duplicate or substitute. The assessor shall also furnish for each registration, and to validate the license plate, a pressure-sensitive, serially numbered registration sticker. 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.

(5) License plates issued for vehicles required to be registered in accordance with the provisions of sections 49-402 and 49-402A, Idaho Code, shall be issued color coded registration validation stickers showing the year of registration. Each registration validation sticker shall bear a number from 1 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.

(6) Every license plate shall have displayed upon it the regis-

tration number assigned to the vehicle and its owner, the name "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 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 license plate and 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 license plate must bear upon its face the inscription "Famous Potatoes."

(~~6~~7) The department shall furnish to every owner whose vehicle is registered under sections 49-434 and 49-435, Idaho Code, a pressure-sensitive, serially-numbered registration sticker to validate the license plate.

(~~7~~8) The board shall have authority to require the return to the department of all license plates and registration stickers upon termination of the lawful use of them by the owner.

(~~8~~9) 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 8. This act shall be in full force and effect on and after January 1, 1990.

Approved April 5, 1989.

CHAPTER 319
(H.B. No. 186, As Amended)

AN ACT

RELATING TO DISTRICT COURT REPORTERS; AMENDING SECTION 1-1102, IDAHO CODE, TO PROVIDE THAT THE SALARY OF DISTRICT COURT REPORTERS SHALL BE IN ACCORDANCE WITH THE SALARY SCHEDULE SET FORTH; TO PROVIDE THAT THE SUPREME COURT SHALL ESTABLISH AND MAINTAIN A PERSONNEL PLAN FOR COURT REPORTERS, AND TO PROVIDE FOR LEGISLATIVE RATIFICATION OF SALARY SCHEDULES.

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

SECTION 1. That Section 1-1102, Idaho Code, be, and the same is hereby amended to read as follows:

1-1102. OATH, BOND, SALARY AND EXPENSES -- COST OF LIVING ADJUST-

MENTS. (1) Said reporter shall take the oath required to be taken by the judicial officers; and be bonded to the state of Idaho in the form and manner prescribed by chapter 8, title 59, Idaho Code; hold his office during the pleasure of said judge, and shall receive an annual salary ~~of twenty-seven thousand dollars ($27,000) per annum, to~~ commencing on July 1, 1989, according to the following schedule:

Years as Idaho District Court Reporter	Annual Salary
0-1 (if hired after 7-1-89)	$27,000
1-2	$28,505
3-4	$29,503
5 or more	$30,683

The salary shall be paid on regular pay periods not less frequently than monthly as determined by order of the ~~S~~supreme ~~C~~court. The supreme court may, in its discretion, authorize a higher starting salary than that set forth in subsection (1) of this section for any shorthand reporter who has been certified as either a certified shorthand reporter or registered public reporter and who has previous court reporting experience in another state.

(2) Commencing July 1, 1990, the chief justice of the supreme court shall establish and maintain, consistent with the provisions of this section and other applicable provisions of law, a personnel plan for district court reporters governing their appointment, promotion, classification, minimum qualifications, compensation, expenses, leave, transfer, lay-off, removal, discipline and other incidents of employment of those district court reporters. The salary schedule promulgated pursuant to the authority conferred in this section shall be of temporary effect and must be ratified by the legislature at the regular legislative session first following its adoption. Any such salary schedule, or portions thereof, not approved in the above manner shall be rejected, null and void and of no force and effect on July 1 of the year, following submission of such schedule to the legislature. Provided, however, that any such salary schedule, or portions thereof, previously ratified by the legislature in the manner provided for herein shall continue in full force and effect until modified in the manner provided for herein. To the extent possible, the personnel plan shall recognize performance as measured by factors such as productivity, reliability, effectiveness and longevity.

(3) There shall be paid in addition to said salary, to each of the court reporters of the district courts, out of the state treasury, for each term of district court held by the judge thereof, for the trial and disposition of causes and the transaction of business under the laws of the state, in other counties than that in which said court reporter resides, his actual and necessary expenses for traveling and attending each term: provided, however, that no stenographic reporter shall be paid his salary, or any portion thereof, unless he shall have first taken and subscribed an oath that he has prepared the transcript of the testimony on appeal either in a civil or criminal action, or specified portion thereof, in the order in which the copy of the order directing him to prepare the same has been served upon him: provided, however, that the estimated cost of transcribing such transcript shall have been paid to such reporter at the time of the service of the copy

of the order upon him.

Approved April 5, 1989.

CHAPTER 320
(H.B. No. 192, As Amended)

AN ACT

RELATING TO THE COMMODITY INDEMNITY PROGRAM; AMENDING SECTION 69-255, IDAHO CODE, TO PROVIDE A START-UP DATE FOR THE PROGRAM AND TO CORRECT A REFERENCE; AMENDING SECTION 69-257, IDAHO CODE, TO REMOVE A CAP ON ASSESSMENTS; AMENDING SECTION 69-258, IDAHO CODE, TO PROVIDE THAT THE BOND OR SECURITY REQUIREMENT REMAINS IN PLACE FOR TWO YEARS AFTER THE EFFECTIVE DATE OF THE PROGRAM; AMENDING SECTION 69-259, IDAHO CODE, TO REMOVE REFERENCES TO ANNUAL ASSESSMENTS; AMENDING SECTION 69-260, IDAHO CODE, TO CORRECT TERMINOLOGY; AMENDING SECTION 69-261, IDAHO CODE, TO PROVIDE A DATE BY WHICH AN ADVISORY COMMITTEE MUST BE APPOINTED; AMENDING SECTION 69-262, IDAHO CODE, TO PROVIDE THAT APPROVED CLAIMS BE PAID AT THE RATE OF NINETY PER CENT AND TO CORRECT A REFERENCE; REPEALING SECTIONS 69-264 AND 69-265, IDAHO CODE; AMENDING CHAPTER 2, TITLE 69, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 69-264, IDAHO CODE, TO PROVIDE A MINIMUM BALANCE FOR THE COMMODITY INDEMNITY ACCOUNT, TO PROVIDE FOR PRO RATA PAYMENTS, AND TO PROVIDE FOR A SUBSEQUENT FULL PAYMENT OF CLAIMS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 69-255, Idaho Code, be, and the same is hereby amended to read as follows:

69-255. SHORT TITLE -- INDEMNITY ACCOUNT PROGRAM -- START-UP PROCEDURE. The provisions of this section and sections 69-256 through 69-2~~6~~87, 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~~. 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. The program shall commence on May 1, 1989.

SECTION 2. That Section 69-257, Idaho Code, be, and the same is hereby amended to read as follows:

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.~~

SECTION 3. That Section 69-258, Idaho Code, be, and the same is hereby amended to read as follows:

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 requirement that a surety bond or other security ~~posted~~ be obtained 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~~ for 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.

SECTION 4. That Section 69-259, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ If the commodity indemnity account balance, less any outstanding claims, exceeds five million dollars ($5,000,000) on ~~the annual~~ an 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.

SECTION 5. That Section 69-260, Idaho Code, be, and the same is hereby amended to read as follows:

69-260. FINANCIAL DIFFICULTIES -- ADDITIONAL ~~ASSESSMENT~~ BOND 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.

SECTION 6. That Section 69-261, Idaho Code, be, and the same is hereby amended to read as follows:

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.

SECTION 7. That Section 69-262, Idaho Code, be, and the same is hereby amended to read as follows:

69-262. PROOF OF CLAIMS -- PROCEDURE -- HEARING -- INSPECTION OF WAREHOUSE. In the event a warehouse or dealer fails, as defined in section 69-202(67), 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 to the claimant an amount equal to ninety per cent (90%) of 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.

SECTION 8. That Sections 69-264 and 69-265, Idaho Code, be, and the same are hereby repealed.

SECTION 9. That Chapter 2, Title 69, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 69-264, Idaho Code, and to read as follows:

69-264. MINIMUM BALANCE -- SUBSEQUENT PAYMENTS. The minimum balance in the commodity indemnity account shall be five hundred thousand dollars ($500,000). At no time shall the balance be allowed to fall below the minimum balance. The director may pay claims, on a pro rata basis if necessary, until the minimum balance is reached. If the director cannot fully pay a claim before the minimum balance is reached, he shall, when the commodity indemnity account contains sufficient funds, pay off the claim.

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 5, 1989.

CHAPTER 321
(H.B. No. 385)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990.

FOR:	
Personnel Costs	$2,795,800
Operating Expenditures	848,600
Capital Outlay	148,500
Trustee and Benefit Payments	1,246,200
TOTAL	$5,039,100
FROM:	
Industrial Administration Account	$4,255,500
Crime Victims Compensation Account	783,600
TOTAL	$5,039,100

SECTION 2. There is hereby appropriated to the Industrial Commission 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, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. COMPENSATION:					
FROM:					
Industrial Administration					

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Account	$1,418,600	$ 472,000	$ 75,300	$ 530,200	$2,496,100
B. REHABILITATION:					
FROM:					
Industrial Administration Account	$1,328,600	$ 357,600	$ 73,200		$1,759,400
C. CRIME VICTIMS:					
FROM:					
Crime Victims Compensation Account	$ 48,600	$ 19,000		$ 716,000	$ 783,600
GRAND TOTAL	$2,795,800	$ 848,600	$148,500	$1,246,200	$5,039,100

Approved April 5, 1989.

CHAPTER 322
(H.B. No. 389)

AN ACT

RELATING TO SALES TAXES; AMENDING SECTION 63-3622I, IDAHO CODE, RELATING TO THE EXEMPTION OF RELIGIOUS LITERATURE FROM SALES AND USE TAXES UNDER CHAPTER 36, TITLE 63, IDAHO CODE, BY STRIKING REFERENCES TO RELIGIOUS LITERATURE, BONA FIDE CHURCHES OR RELIGIOUS DENOMINATIONS AND TO EXPAND THE EXEMPTION TO INCLUDE ENTITIES QUALIFIED UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE THAT PUBLISH AND SELL LITERATURE; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3622I, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622I. ~~RELIGIOUS~~ LITERATURE. There is exempted from the taxes imposed by this chapter the sale or purchase, or the storage, use or other consumption of ~~religious~~ literature, pamphlets, periodicals, tracts and books published and sold by ~~a bona fide church or religious denomination~~ an entity qualified under section 501(c)(3) of the internal revenue code; no part of the net earnings of which inures to the benefit of a private individual or shareholder.

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 April 1, 1989.

Approved April 5, 1989.

CHAPTER 323
(H.B. No. 390)

AN ACT

RELATING TO TAXES; AMENDING SECTION 63-4207, IDAHO CODE, AS ENACTED BY SECTION 1, HOUSE BILL NO. 153, FIRST REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE TO THE TAX COMMISSION ENFORCEMENT, ASSESSMENT, AND COLLECTION POWERS FOR TAXES IMPOSED ON MARIJUANA AND CONTROLLED SUBSTANCES.

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

SECTION 1. That Section 63-4207, Idaho Code, as enacted by Section 1, House Bill No. 153, First Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

63-4207. COMMISSION TO ADMINISTER TAX -- NO CRIMINAL IMMUNITY FOR DEALERS -- OTHER SECTIONS APPLICABLE. (1) The commission shall administer the provisions of this chapter and may adopt rules necessary to enforce the provisions of this chapter.

(2) Nothing in this chapter requires persons lawfully in possession of marijuana or a controlled substance to pay the tax required under this chapter.

(3) Nothing in this chapter provides immunity of any kind for a dealer from criminal prosecution under Idaho law.

(4) In addition to the enforcement and penalty provisions of this chapter, the deficiency in tax and notice of deficiency as well as the collection and enforcement procedures of the Idaho income tax act, sections 63-3038, 63-3039, 63-3042, 63-3043, 63-3044, 63-3045, 63-3047, 63-3048, 63-3049 through 63-3065A, Idaho Code, shall apply and be available to the state tax commission for the enforcement of the provisions of this chapter for the assessment and collection of any amounts due and said sections shall be considered to be a part of this chapter.

Approved April 5, 1989.

CHAPTER 324
(H.B. No. 392)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1990; 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 Office of the Governor not exceed the following amount for the period

July 1, 1989, through June 30, 1990:

FROM:	
General Account	$ 872,300
Job Training Partnership Act Account	121,000
Federal Program Administration Account	1,136,800
TOTAL	$2,130,100

SECTION 2. There is hereby appropriated to the Office of the Governor the following amount, to be expended for the designated programs from the listed accounts, for the period July 1, 1989, through June 30, 1990:

I. GOVERNOR'S OFFICE ADMINISTRATION:	
FROM:	
General Account	$ 814,000
Job Training Partnership Act Account	121,000
TOTAL	$ 935,000
II. GOVERNOR'S RESIDENCE:	
FROM:	
General Account	$ 25,800
III. GOVERNOR'S EXPENSE ALLOWANCE: To be expended pursuant to Section 67-808d, Idaho Code:	
FROM:	
General Account	$ 7,000
IV. FEDERAL PROGRAM ADMINISTRATION:	
FROM:	
General Account	$ 25,500
Federal Program Administration Account	1,136,800
TOTAL	$1,162,300

SECTION 3. There is hereby reappropriated to the Office of the Governor any unexpended and unencumbered balances of the moneys appropriated by Section 2, Chapter 91, Laws of 1988, for the period July 1, 1989, through June 30, 1990.

Approved April 5, 1989.

CHAPTER 325
(H.B. No. 393)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 1990; 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 Office of the Governor for the Division of Financial Management the following amount,

to be expended according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$833,500	$196,500	$ 76,500	$1,106,500
State Planning and Commerce Development Account		10,500	25,000	35,500
Indirect Cost Recovery Account		21,300		21,300
Interagency Billing and Receipts Account	33,200	21,800	3,600	58,600
TOTAL	$866,700	$250,100	$105,100	$1,221,900

SECTION 2. There is hereby reappropriated to the Office of the Governor for the Division of Financial Management, any unexpended and unencumbered balances of the moneys appropriated by Section 1, Chapter 92, Laws of 1988, for the period July 1, 1989, through June 30, 1990.

Approved April 5, 1989.

CHAPTER 326
(H.B. No. 396)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1990; 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, 1989, through June 30, 1990:

FROM:	
General Account	$ 902,900
State Historical Society Foundation Account	302,900
Historical Preservation Account	489,800
TOTAL	$1,695,600

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 the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. HISTORICAL PRESERVATION AND EDUCATION:					
FROM:					
General Account	$544,700	$228,000	$ 48,800	$ 2,500	$ 824,000
State Historical Society Foundation Account	30,500	94,300	58,500		183,300
Historical Preservation Account	253,200	196,600		40,000	489,800
TOTAL	$828,400	$518,900	$107,300	$42,500	$1,497,100
B. HISTORIC SITES MAINTENANCE AND INTERPRETATION:					
FROM:					
General Account	$ 39,300	$ 34,300	$ 5,300		$ 78,900
State Historical Society Foundation Account	87,400	23,900	8,300		119,600
TOTAL	$126,700	$ 58,200	$ 13,600		$ 198,500
GRAND TOTAL	$955,100	$577,100	$120,900	$42,500	$1,695,600

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 130, Laws of 1988, to be used for nonrecurring expenditures only for the period July 1, 1989, through June 30, 1990.

Approved April 5, 1989.

CHAPTER 327
(H.B. No. 397)

AN ACT

APPROPRIATING MONEYS FOR DEPOSIT IN THE PUBLIC HEALTH TRUST ACCOUNT FOR FISCAL YEAR 1990; AND APPROPRIATING MONEYS TO THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 1990.

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

SECTION 1. There is hereby appropriated $2,853,200 from the General Account to be deposited in the Public Health Trust Account for the period July 1, 1989, through June 30, 1990.

SECTION 2. There is hereby appropriated to the Public Health Districts $2,853,200 from the Public Health Trust Account for the period July 1, 1989, through June 30, 1990.

Approved April 5, 1989.

CHAPTER 328
(H.B. No. 402)

AN ACT

APPROPRIATING MONEYS FOR THE PERSONNEL COMMISSION FOR FISCAL YEAR 1990.

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 the designated expense classes from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$1,241,800
Operating Expenditures	307,300
Capital Outlay	7,200
TOTAL	$1,556,300
FROM:	
Personnel Commission Account	$1,556,300

Approved April 5, 1989.

CHAPTER 329
(H.B. No. 403)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND FOR FISCAL YEAR 1990.

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 the designated expense classes from the listed accounts, for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$423,200	$ 56,700	$17,500	$393,800	$ 891,200
Idaho Commission for the Blind Account	418,700	212,200	24,100	329,000	984,000
Blind Commission Donations Account			2,000		2,000
Randolph Sheppard Account	24,600	42,900		50,200	117,700
Interagency Billing and Receipts Account		6,900		11,800	18,700
TOTAL	$866,500	$318,700	$43,600	$784,800	$2,013,600

Approved April 5, 1989.

CHAPTER 330
(H.B. No. 405)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1990; 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, 1989, through June 30, 1990:

FOR:	
Office of the Secretary of State	$ 723,700
Commission on Uniform Laws	11,300
Idaho Commission on the Arts	1,232,800
Centralized Uniform Commercial Code	618,900
TOTAL	$2,586,700
FROM:	
General Account	$1,778,200
Interagency Billing and Receipts Account	280,100
Idaho Commission on the Arts Account	528,400
TOTAL	$2,586,700

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

grams according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

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	$516,400	$199,900	$7,400		$ 723,700
B. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Account		$ 11,300			$ 11,300
C. IDAHO COMMISSION ON THE ARTS:					
FROM:					
General Account	$187,100	$ 45,200	$7,300	$184,700	$ 424,300
Interagency Billing and Receipts Account		89,300		190,800	280,100
Idaho Commission on the Arts Account	104,300	200,600		223,500	528,400
TOTAL	$291,400	$335,100	$7,300	$599,000	$1,232,800
D. CENTRALIZED UNIFORM COMMERCIAL CODE:					
FROM:					
General Account					$ 618,900
GRAND TOTAL					$2,586,700

SECTION 3. It is legislative intent that an amount not to exceed $1,000 of the amounts appropriated in Section 2, may be used at the discretion of the Secretary of State to assist in defraying expenses relating to or resulting from the discharge of 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 April 5, 1989.

CHAPTER 331
(H.B. No. 409)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$ 5,141,500
Operating Expenditures	5,389,000
Capital Outlay	402,500
Trustee & Benefit Payments	2,522,400
TOTAL	$13,455,400
FROM:	
General Account	$ 2,387,900
Interagency Billing and Receipts Account	9,127,800
Permanent Building Fund Account	972,800
Federal Surplus Property Revolving Account	362,400
Risk Retention Account	330,100
Employee Group Insurance Account	274,400
TOTAL	$13,455,400

SECTION 2. There is hereby appropriated to the Department of Administration 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, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 99,000	$ 67,100			$ 166,100
Interagency Billing and Receipts Account	435,600	239,100		$ 27,400	702,100
TOTAL	$ 534,600	$ 306,200		$ 27,400	$ 868,200
II. GENERAL SERVICES:					
FROM:					
General Account	$ 340,400	$ 55,600	$ 10,000		$ 406,000
Interagency Billing and Receipts Account	910,400	516,600	215,700		1,642,700
TOTAL	$1,250,800	$ 572,200	$225,700		$ 2,048,700
III. PUBLIC WORKS:					
FROM:					
General Account				$1,434,500	$ 1,434,500
Interagency Billing and Receipts Account	$ 807,500	$2,229,500	$ 24,200	1,060,500	4,121,700

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Permanent Building Fund Account	665,000	271,500	36,300		972,800
TOTAL	$1,472,500	$2,501,000	$ 60,500	$2,495,000	$ 6,529,000
IV. PURCHASING:					
FROM:					
General Account	$ 288,800	$ 80,600	$ 11,900		$ 381,300
Interagency Billing and Receipts Account	993,300	1,563,600	104,400		2,661,300
Federal Surplus Property Revolving Account	222,500	139,900			362,400
TOTAL	$1,504,600	$1,784,100	$116,300		$ 3,405,000
V. INSURANCE MANAGEMENT:					
FROM:					
Employee Group Insurance Account	$ 160,500	$ 113,900			$ 274,400
Risk Retention Account	218,500	111,600			330,100
TOTAL	$ 379,000	$ 225,500			$ 604,500
GRAND TOTAL	$5,141,500	$5,389,000	$402,500	$2,522,400	$13,455,400

Approved April 5, 1989.

CHAPTER 332
(H.B. No. 411)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$1,742,900
Operating Expenditures	1,341,300
Capital Outlay	70,000
TOTAL	$3,154,200

FROM:

Insurance Administration Account	$2,650,500
Arson, Fire and Fraud Prevention Account	503,700
TOTAL	$3,154,200

SECTION 2. There is hereby appropriated to the Department of Insurance 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, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
Insurance Administration Account	$ 452,100	$ 445,400	$ 8,200	$ 905,700
B. REGULATION:				
FROM:				
Insurance Administration Account	$ 983,700	$ 705,500	$55,600	$1,744,800
C. ARSON FIRE AND FRAUD:				
FROM:				
Arson, Fire and Fraud Prevention Account	$ 307,100	$ 190,400	$ 6,200	$ 503,700
GRAND TOTAL	$1,742,900	$1,341,300	$70,000	$3,154,200

Approved April 5, 1989.

CHAPTER 333
(H.B. No. 412)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1990; AND TRANSFERRING SUCH MONEYS TO THE GENERAL ACCOUNT.

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

SECTION 1. It is legislative intent that the expenditures for the Public Utilities Commission not exceed the following amount for the period July 1, 1989, through June 30, 1990:

FOR:

Personnel Costs	$1,817,800
Operating Expenditures	1,044,400
Capital Outlay	73,500
TOTAL	$2,935,700

FROM:

General Account	$ 183,700

Public Utilities Commission Account	2,752,000
TOTAL	$2,935,700

SECTION 2. There is hereby appropriated to the Public Utilities Commission 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, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. UTILITIES REGULATION:				
FROM:				
Public Utilities Commission Account	$ 866,600	$ 715,500	$16,000	$1,598,100
B. REGULATED CARRIERS:				
FROM:				
Public Utilities Commission Account	$ 298,200	$ 178,500	$34,000	$ 510,700
C. ADMINISTRATION:				
FROM:				
General Account	$ 183,700			$ 183,700
Public Utilities Commission Account	469,300	$ 150,400	$23,500	643,200
TOTAL	$ 653,000	$ 150,400	$23,500	$ 826,900
GRAND TOTAL	$1,817,800	$1,044,400	$73,500	$2,935,700

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 $183,700 for the period July 1, 1989, through June 30, 1990.

Approved April 5, 1989.

CHAPTER 334
(H.B. No. 414)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1990; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND EXPRESSING LEGISLATIVE INTENT.

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, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$ 4,342,500

Operating Expenditures	1,491,800
Capital Outlay	1,494,300
Trustee and Benefit Payments	4,349,200
TOTAL	$11,677,800
FROM:	
General Account	$ 3,305,300
Dedicated Accounts	6,457,800
Federal Accounts	1,914,700
TOTAL	$11,677,800

SECTION 2. There is hereby appropriated to the Department of Parks and Recreation 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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Account	$ 474,700	$ 99,200			$ 573,900
Park and Recreation Account	205,900	246,800	$ 23,600		476,300
Parks and Recreation Capital Improvement Account			18,000		18,000
Motorbike Recreation Account		15,800			15,800
Recreational Vehicle Account	7,500	5,200			12,700
Federal Surcharge Account	54,800	35,700			90,500
TOTAL	$ 742,900	$ 402,700	$ 41,600		$1,187,200
II. PARK OPERATIONS:					
FROM:					
General Account	$2,002,400	$ 160,400	$ 9,800		$2,172,600
Parks and Recreation Capital Improvement Account		206,900	272,000		478,900
Park and Recreation Account	606,200	240,700	1,500		848,400
Park Donation Account		5,500			5,500
Harriman State Park Account	60,200	56,800	2,000		119,000
TOTAL	$2,668,800	$ 670,300	$ 285,300		$3,624,400
III. PARK DEVELOPMENT:					
FROM:					
General					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Account	$ 158,400		$ 250,000	$ 57,700	$ 466,100
Parks and Recreation Capital Improvement Account			307,500		307,500
Park and Recreation Account	$ 32,000	$ 18,900	19,000		69,900
Harriman State Park Account			30,000		30,000
TOTAL	$ 190,400	$ 18,900	$ 606,500	$ 57,700	$ 873,500
IV. RECREATIONAL RESOURCES:					
FROM:					
General Account	$ 81,300	$ 11,400			$ 92,700
State Vessel Account				$1,070,000	1,070,000
Park and Recreation Account		34,900		12,000	46,900
Waterways Improvement Account	53,300	27,800	$ 75,000	568,800	724,900
Off-Road Motor Vehicle Account	89,700	22,400	433,500	193,900	739,500
State Snowmobile Account				230,000	230,000
Motorbike Recreation Account	4,400	1,000		33,000	38,400
Federal Pass-Through Account				1,500,000	1,500,000
Cross-Country Skiing Account		6,300	9,000	24,000	39,300
Park and Recreation Federal Account		6,000			6,000
Federal Surcharge Account	81,000	3,300			84,300
Recreational Vehicle Account	60,100	56,600	14,000	547,800	678,500
Coast Guard Boat Safety Account	60,000	52,500	9,400	112,000	233,900
TOTAL	$ 429,800	$ 222,200	$ 540,900	$4,291,500	$5,484,400
V. LAVA HOT SPRINGS FOUNDATION:					
FROM:					
Lava Hot Springs Foundation Account	$ 310,600	$ 177,700	$ 20,000		$ 508,300
GRAND TOTAL	$4,342,500	$1,491,800	$1,494,300	$4,349,200	$11,677,800

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 64, Laws of 1988, to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990.

SECTION 4. It is legislative intent that the State Parks and Recreation Board express to the U.S. Army Corps of Engineers a commitment to receive the Three Meadows/Freeman Creek complex on Dworshak Reservoir into the state park system.

Approved April 5, 1989.

CHAPTER 335
(S.B. No. 1266)

AN ACT

RELATING TO THE IDAHO NATIONAL ENGINEERING LABORATORY; PROVIDING LEGISLATIVE INTENT; AND AMENDING CHAPTER 8, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-806, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR SHALL BE RESPONSIBLE FOR COORDINATION OF ENVIRONMENTAL PROGRAMS RELATING TO THE IDAHO NATIONAL ENGINEERING LABORATORY AND TO REQUIRE A REPORT TO THE LEGISLATURE.

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

SECTION 1. (1) With passage of this legislation, the state of Idaho begins development of a comprehensive oversight program for the Idaho national engineering laboratory (INEL). The purposes of this program are:

(a) To assure INEL's continued positive contribution to national research, development, and security and to Idaho's society and economy;

(b) To assure that all present and future activities at the INEL protect the health and safety of Idahoans and the land, air, water and wildlife of Idaho;

(c) To assure that the people of Idaho have a vigilant and independent overseer, acting on their behalf, with full access to all unclassified INEL premises and information;

(d) To provide Idahoans and their elected officials independent, thorough, factual analysis of the environmental and public health features and impacts of all present and proposed INEL activities or projects.

(2) It is the policy of the state of Idaho to establish a comprehensive state INEL oversight program to achieve these goals. This program may include the following elements:

(a) Independent, authoritative auditing and analysis of the design and results of the environmental monitoring network at the INEL;

(b) Full participation in ranking, design and auditing the progress of remedial decisions and actions;
(c) Thorough, factual advance analysis of environmental and public health impacts associated with proposed new INEL projects;
(d) Development of an ongoing, legally binding framework of agreements with the United States department of energy, comprehensively enumerating the state's regulatory, permitting and policy authority over environmental emissions at INEL, INEL-related transportation, new projects, and remedial priorities and actions;
(e) Active public information and outreach of the people of the state of Idaho. It is the intent of the legislature that the state's INEL oversight program be both a reliable, ongoing source of clear factual information about INEL, and directly responsive to the concerns of Idahoans; and
(f) Annual plain-language reporting to the legislature and the people of the state of Idaho, on the status and trends of relevant INEL decisions, operations, and actions, and on the status of the state oversight program. Reports shall include recommendations to the legislature, state agencies and the United States department of energy.

SECTION 2. That Chapter 8, 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 67-806, Idaho Code, and to read as follows:

67-806. COORDINATION OF PROGRAMS RELATING TO THE IDAHO NATIONAL ENGINEERING LABORATORY. (1) The governor shall coordinate and oversee activities relating to the Idaho national engineering laboratory (INEL).
(2) The governor shall prepare and present to the second regular session of the centennial legislature in 1990 an assessment and recommendations for a comprehensive state oversight program, reflecting the purposes and elements enumerated in this act. This report shall:
(a) Assess INEL's existing monitoring network and current state resources; compare monitoring networks and state audit or evaluation systems for such networks at other department of energy facilities in the country; analyze, and integrate within the recommended state system the INEL monitoring program of Idaho state university and propose specific design, staff, funding and public reporting means for the state monitoring system;
(b) Identify Idaho's existing statutory and regulatory authorities over INEL decisions and operations; identify statutory and regulatory authority needed to fulfill the purposes of this act, recommend statutory or regulatory changes needed to fill any gaps between existing and needed authorities;
(c) Assess Idaho's present role in review, approval and design of priorities and actions of a remedial nature at the INEL including recommendations to strengthen that role if needed to fulfill the purposes of this act;
(d) Make recommendations which, if implemented, would assure Idaho's capability for timely analysis of environmental and

health-related impacts of prospective INEL projects which may have significant environmental impact;

(e) Propose specific means by which a state oversight program will report to, involve, and serve as an INEL information source for the people of Idaho; and

(f) Assess the specific staff levels, positions and interagency coordinating mechanism necessary for an effective state oversight program; and assess the necessary funding levels between federal and state funds which will be needed for an effective state program.

(3) Nothing contained in this act shall be construed to limit the governor's present authority to continue to initiate actions, including oversight and monitoring, deemed necessary to achieve the purposes of this act.

Approved April 5, 1989.

CHAPTER 336
(S.B. No. 1306)

AN ACT
APPROPRIATING MONEYS TO THE LOTTERY COMMISSION FOR FISCAL YEAR 1990.

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

SECTION 1. There is hereby appropriated to the Lottery Commission in the Department of Self-governing Agencies the following amount from the listed account for the period July 1, 1989, through June 30, 1990:

FROM:

State Lottery Account $4,700,000

Approved April 5, 1989.

CHAPTER 337
(H.B. No. 287, As Amended)

AN ACT
RELATING TO RECALL OF IRRIGATION DISTRICT DIRECTORS; AMENDING CHAPTER 2, TITLE 43, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 43-214, 43-215, 43-216, 43-217, 43-218, 43-219, 43-220, 43-221, 43-222, 43-223, 43-224, 43-225, 43-226, 43-227, 43-228, 43-229, 43-230, 43-231 AND 43-232, IDAHO CODE, TO PROVIDE INITIAL RECALL PROCEEDINGS AND TO LIST THE CHARGES FOR WHICH A RECALL MAY BE INITIATED; TO PROVIDE FOR THE FILING OF A RECALL PETITION; TO PROVIDE FOR THE FORMULATION OF A BALLOT SYNOPSIS BY THE SECRETARY AND PETITIONING OF THE MAGISTRATE COURT TO DETERMINE THE SUFFICIENCY OF THE PETITION; TO PROVIDE THE PROCEDURES FOR A HEARING BY THE MAGISTRATE COURT AS TO THE ADEQUACY OF THE BALLOT SYNOPSIS AND THE SUFFI-

CIENCY OF THE CHARGES, IF ANY; TO LIMIT THE FILING OF A RECALL PETITION TO SIX MONTHS PRIOR TO THE NEXT REGULAR DIRECTOR'S ELECTION AND TO LIMIT THE TIME FOR OBTAINING AND FILING SUPPORTING SIGNATURES; TO PROVIDE FOR THE PETITION FORM; TO PROVIDE ADDITIONAL PETITION FORMAT REQUIREMENTS; TO PROVIDE A FORMULA FOR DETERMINING THE NUMBER OF SIGNATURES REQUIRED ON THE RECALL PETITION; TO PROVIDE FOR RECEIVING PETITIONS BY THE SECRETARY OF THE IRRIGATION DISTRICT AND FOR ESTABLISHING A DATE FOR CANVASSING PETITIONS; TO PROVIDE PROCEDURES FOR VERIFICATION AND CANVASS OF SIGNATURES; TO PROVIDE FOR FIXING A DATE FOR A RECALL ELECTION; TO PROVIDE PROCEDURES FOR RESPONDING TO PETITION CHARGES BY THE DIRECTOR WHOSE RECALL IS DEMANDED; TO PROVIDE FOR THE DESTRUCTION OF RECALL PETITIONS WHEN INSUFFICIENT SIGNATURES ARE OBTAINED; TO PROVIDE FOR REPORTING FRAUDULENT SIGNATURES TO PROSECUTING ATTORNEYS; TO PROVIDE PROCEDURES FOR CONDUCTING SPECIAL RECALL ELECTIONS AND THE BALLOT FORM TO BE USED; TO PROVIDE FOR ASCERTAINING THE RESULTS OF A RECALL ELECTION AND TO ESTABLISH WHEN THE RECALL BECOMES EFFECTIVE; TO PROVIDE THAT THE MAGISTRATE COURT OF THE COUNTY IN WHICH THE DIRECTOR SUBJECT TO RECALL RESIDES SHALL HAVE ORIGINAL JURISDICTION OVER COMPLIANCE WITH THE LAW; TO PROVIDE THAT A PERSON WHO SIGNS A RECALL PETITION WITH OTHER THAN HIS TRUE NAME IS GUILTY OF A FELONY AND THAT A PERSON WHO KNOWINGLY SIGNS MORE THAN ONE PETITION OR MAKES A FALSE STATEMENT OF RESIDENCE IS GUILTY OF A MISDEMEANOR; TO DEFINE A MISDEMEANOR IN RELATION TO A RECALL ELECTION AND TO DEFINE A FELONY IN RELATION TO A RECALL ELECTION.

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 NEW SECTIONS, to be known and designated as Sections 43-214, 43-215, 43-216, 43-217, 43-218, 43-219, 43-220, 43-221, 43-222, 43-223, 43-224, 43-225, 43-226, 43-227, 43-228, 43-229, 43-230, 43-231 and 43-232, Idaho Code, and to read as follows:

43-214. INITIATING RECALL PROCEEDINGS -- STATEMENT -- CONTENTS -- VERIFICATION -- DEFINITIONS. Whenever any legal voter of the irrigation district, either individually or on behalf of an organization, desires to demand the recall and discharge of a director of an irrigation district, under the provisions of article VI, section 6, of the constitution of the state of Idaho, he shall prepare a typewritten petition. The petition may recite that the director has wilfully neglected or failed to perform faithfully a duty imposed by law; or acted in an arbitrary and capricious manner; or has committed an unlawful act; or has wrongfully acted so as to interfere with, interrupt, or adversely affect the performance of his official duty; or has violated his oath of office. The petition may describe the act or acts complained of, if applicable, in concise language, give a detailed description including the approximate date, location and nature of each act complained of, be signed by the person making the charge, give his respective post office address and be verified, under oath,

that he believes the charge or charges to be true and that he has knowledge of the alleged facts relating to the charges if any have been alleged in the recall petition.

43-215. PETITION -- WHERE FILED. Any person making a charge shall file it with the secretary of the district, whose duty it is to receive and to promptly serve a copy of the charge upon the director whose recall is demanded.

43-216. BALLOT SYNOPSIS. (1) Within fifteen (15) days after receiving a petition, the secretary of the district shall formulate a ballot synopsis of not more than two hundred (200) words.

(2) The synopsis shall set forth the name of the person seeking to be recalled and if any charges have been filed in the petition, a concise statement of the elements of the charge. Upon completion of the ballot synopsis, the secretary shall certify and transmit the exact language of the ballot synopsis to the person filing the petition and the director subject to recall. The secretary shall additionally certify and transmit the charges, if any, and the ballot synopsis to the magistrate court of the county in which the director subject to recall resides and shall petition the magistrate court to approve the synopsis and to determine the sufficiency of the charges, if any.

43-217. DETERMINATION BY MAGISTRATE COURT -- CORRECTION OF BALLOT SYNOPSIS. Within fifteen (15) days after receiving the petition, the magistrate court shall have conducted a hearing on and shall have determined, without cost to any party the adequacy of the ballot synopsis. If any charges have been included in the petition and ballot synopsis, the magistrate court shall dismiss those charges that are frivolous and designed to harass the director. The clerk of the magistrate court shall notify the person subject to recall and the person demanding recall of the hearing date. Both persons may appear with counsel. The court may hear arguments as to the adequacy of the ballot synopsis and if any charges have been included in the petition and ballot synopsis, the sufficiency of the charges. The court shall not consider the truth of the charges if any have been included, but only their sufficiency. Any decision regarding the ballot synopsis by the magistrate court is final. The court shall certify and transmit the ballot synopsis to the director subject to recall, the person demanding the recall, and the secretary of the irrigation district.

43-218. FILING SUPPORTING SIGNATURES -- TIME LIMITATIONS. (1) The sponsors of a recall demanded of any director of an irrigation district shall stop circulation and file all petitions with the appropriate irrigation district secretary not less than six (6) months before the next regular election in which any director is subject to reelection.

(2) The sponsors of a recall demanded of any director shall have a maximum of thirty (30) days in which to obtain and file supporting signatures after the approval of a ballot synopsis by the magistrate court.

43-219. PETITION -- FORM. Recall petitions shall be printed on single sheets of paper of good writing quality including, but not limited to, newsprint not less than eight and one-half (8 1/2) inches in width and not less than fourteen (14) inches in length. No petition may be circulated or signed prior to the approval of a ballot synopsis by the magistrate court. Such petitions shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly (1) signs more than one (1) of these petitions, (2) signs this petition when he is not a legal voter, or (3) makes herein any false statement, may be fined, or imprisoned, or both.

Petition for the recall of (here insert the name of the person whose recall is petitioned for) to the (here insert the name and title of the secretary of the irrigation district with whom the charge is filed).

We, the undersigned citizens and legal voters of (the irrigation district's official name), respectfully direct that a special election be called to determine whether or not (here insert the name of the person) be recalled and discharged from his office; and each of us for himself says: I have personally signed this petition; I am a legal voter of the state of Idaho in (the irrigation district's official name) and county written after my name, and my residence address is correctly stated, and to my knowledge, have signed this petition only once.

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

State of Idaho)
) ss.
County of)

I, , swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

(Signature) .....
Post Office address .....
.....

Subscribed and sworn to before me this day of , 19 .
(Notary Seal) .....
Notary Public
Residing at .....

43-220. PETITION -- SIZE. Each recall petition at the time of circulating, signing and filing with the secretary of the irrigation district with whom it is to be filed, shall consist of not more than five (5) sheets with numbered lines for not more than twenty (20) signatures on each sheet, with the prescribed warning, title and form of petition on each sheet, and a full, true and correct copy of the orig-

inal statement of the charges against the director referred to therein, printed on sheets of paper of like size and quality as the petition, firmly fastened together.

43-221. NUMBER OF SIGNATURES REQUIRED. When the person, demanding the recall of a director has secured sufficient signatures upon the recall petition he may submit the same to the secretary of the irrigation district for filing in his office. The number of signatures required shall be equal to twenty percent (20%) of the total number of eligible voters residing in the district as compiled by the secretary.

43-222. CANVASSING PETITION FOR SUFFICIENCY OF SIGNATURES -- NOTICE. Upon the filing of a recall petition in his office, the secretary of the irrigation district with whom the charge was filed shall stamp on each petition the date of filing, and shall notify the person filing them and the director whose recall is demanded of the date when the petitions will be canvassed, which date shall be not less than five (5) nor more than ten (10) days from the date of its filing.

43-223. VERIFICATION AND CANVASS OF SIGNATURES -- PROCEDURE. (1) Upon the filing of a recall petition, the secretary of the irrigation district shall proceed to verify and canvass the names of legal voters on the petition.

(2) The verification and canvass of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed recall so long as they make no record of the names, addresses, or other information on the petitions or related records during the verification process except upon the order of the magistrate court. The secretary of the irrigation district may limit the number of observers if in his opinion a greater number would cause undue delay or disruption of the verification process. Any such limitation shall apply equally to both sides, but in no case shall fewer than two (2) observers on each side be allowed. If the secretary of the irrigation district finds the same name signed to more than one (1) petition, he shall reject all but one (1) such valid signature.

43-224. FIXING DATE FOR RECALL ELECTION -- NOTICE. If, at the conclusion of the verification and canvass, it is found that a petition for recall bears the required number of signatures of certified legal voters, the secretary of the irrigation district shall promptly certify the petitions as sufficient and fix a date for the special election to determine whether or not the director charged shall be recalled and discharged from office. The special election shall be held not less than fourteen (14) days nor more than forty-five (45) days from the certification. Notice shall be given in the manner as required by law for all other irrigation district elections as provided in section 43-206, Idaho Code.

43-225. RESPONSE TO PETITION CHARGES. When a date for a special election is set, the secretary of the irrigation district shall serve a notice of the date of the election to the director whose recall is demanded and the person demanding recall. Such notice may be made only

in person or by certified mail, return receipt requested. After having been served a notice of the date of the election and the ballot synopsis, the director whose recall is demanded may submit to the secretary of the irrigation district a response, not to exceed two hundred (200) words in length, to the charge contained in the ballot synopsis. Such response shall be submitted by the seventh consecutive day after service of the notice. The secretary of the irrigation district shall promptly send a copy of the response to the person who filed the petition.

43-226. DESTRUCTION OF INSUFFICIENT RECALL PETITION. If it is found that the recall petition does not contain the requisite number of signatures of certified legal voters, the secretary of the irrigation district shall so notify the person filing the petition, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the secretary finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the secretary shall declare the petition null and void ab initio in its entirety.

43-227. INVALID NAMES -- RECORD OF. The secretary of the irrigation district shall keep a record of all names appearing thereon which are not certified to be legal residents of the district, and of all names appearing more than once thereon, and he may report the same to the prosecuting attorneys of the respective counties where such names appear to have been signed, to the end that prosecutions may be had for such violation of the provisions of this chapter.

43-228. CONDUCT OF ELECTION -- FORM OF BALLOT. The special election to be called for the recall of directors of irrigation districts shall be conducted in the same manner as regular irrigation district elections are conducted. The secretary of the irrigation district shall provide for the holding of recall elections and the necessary places and officers, ballot boxes, ballots, poll books, voting machines, supplies, and returns as are required by law for holding regular irrigation district elections. The ballots at any recall election shall contain a full, true, and correct copy of the ballot synopsis of the charge, the director's response to the charge if such has been filed, and shall be so arranged that any voter can, by making one cross (X), express his desire to have the director charged recalled from his office, or retained therein. The following form shall substantially comply with the provisions of this section:

RECALL BALLOT

(Here insert the ballot synopsis of the charge.)

(Here insert the irrigation director's response to the charge.)

FOR the recall of (here insert the name of the director of the irrigation district) .....

AGAINST the recall (here insert the name of the director of the irrigation district) .....

43-229. ASCERTAINING THE RESULT -- WHEN RECALL EFFECTIVE. The votes on a recall election shall be counted, canvassed, and the results certified in the manner provided by law for counting, canvassing, and certifying the results of an election for directors. If a majority of all votes cast at the recall election is for the recall of the director charged, he shall thereupon be recalled and discharged from his office and there shall be declared a vacancy in the office.

43-230. ENFORCEMENT PROVISIONS -- MANDAMUS -- APPEALS. The magistrate court of the county in which the director subject to recall resides has original jurisdiction to compel the performance of any act required of any public officer or to prevent the performance by any such officer of any act in relation to the recall not in compliance with law.

43-231. VIOLATIONS BY SIGNERS. Every person who signs a recall petition with any other than his true name is guilty of a felony. Every person who knowingly (1) signs more than one (1) petition for the same recall, (2) signs a recall petition when he is not a legal voter, or (3) makes a false statement as to his residence on any recall petition is guilty of a misdemeanor.

43-232. VIOLATIONS -- CORRUPT PRACTICES. (1) Every person is guilty of a misdemeanor, who:

(a) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purpose or effect of any recall petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such recall petition;

(b) Presents to any officer for filing any recall petition to which is attached, appended or subscribed any signature which the person so filing the petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;

(c) Circulates or causes to circulate any recall petition, knowing the same to contain false, forged or fictitious names;

(d) Makes any false affidavit concerning any recall petition or the signatures appended thereto;

(e) Offers, proposes or threatens for any pecuniary reward or consideration:

(i) To offer, propose, threaten or attempt to sell, hinder or delay any recall petition or any part thereof or any signatures thereon;

(ii) To offer, propose or threaten to desist from beginning, promoting or circulating any recall petition;

(iii) To offer, propose, attempt or threaten in any manner or form to use any recall petition or any power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

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

any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

Approved April 5, 1989.

CHAPTER 338
(H.B. No. 284)

AN ACT

RELATING TO THE COMPENSATION OF THE BOARD OF DIRECTORS OF IRRIGATION DISTRICTS; AMENDING SECTION 43-319, IDAHO CODE, TO PROVIDE THAT THE BOARD OF DIRECTORS OF AN IRRIGATION DISTRICT SHALL FIX THE COMPENSATION BOARD MEMBERS SHALL RECEIVE FOR EACH DAY SPENT ATTENDING THE MEETINGS OR WHILE ENGAGED IN OFFICIAL BUSINESS UNDER THE ORDER OF THE BOARD.

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

SECTION 1. That Section 43-319, Idaho Code, be, and the same is hereby amended to read as follows:

43-319. COMPENSATION OF DIRECTORS AND OFFICERS. The members of the board of directors shall ~~each receive not more than thirty five dollars ($35.00) nor less than five dollars ($5.00) per day~~ fix the compensation board members shall receive for each day spent attending the meetings, or while engaged in official business under the order of the board and actual and necessary expenses. The term "actual and necessary expenses," shall be deemed to include all traveling expenses and hotel expenses necessarily incurred by any director when absent from his residence in the performance of the duties of his office. The board shall fix the compensation to be paid to the other officers named in this title, to be paid out of the treasury of the district: provided, that such board shall, upon the petition of fifty (50) or a majority of the freeholders within such district, submit to the electors, at any general election, a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board twenty (20) days prior to a general election, and the result of the election shall be determined and declared in all respects as other elections are determined and declared under this title.

Approved April 5, 1989.

CHAPTER 339
(H.B. No. 277)

AN ACT

RELATING TO THE PRACTICE OF ARCHITECTURE; AMENDING SECTION 54-305, IDAHO CODE, TO PROVIDE THAT AN ARCHITECT MAY BE DISCIPLINED AS THE

RESULT OF CRIMINAL ACTION AND TO PROVIDE THE TYPES OF SANCTIONS WHICH CAN BE LEVIED AGAINST AN ARCHITECT AS THE RESULT OF DISCIPLINARY ACTION; AMENDING SECTION 54-308, IDAHO CODE, TO PROVIDE FOR THE FORM AND USE OF AN ARCHITECT'S SEAL, TO PROVIDE THAT A TECHNICAL SUBMISSION WHICH DOES NOT HAVE THE SEAL, SIGNATURE AND DATE AS REQUIRED BY THIS ACT DOES NOT CONSTITUTE AN ACCEPTABLE SUBMISSION FOR THE PURPOSE OF OBTAINING A BUILDING PERMIT; AND AMENDING SECTION 54-309, IDAHO CODE, TO REDEFINE "BUILDING" AND THE "PRACTICE OF ARCHITECTURE", AND TO DEFINE "TECHNICAL SUBMISSIONS."

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

SECTION 1. That Section 54-305, Idaho Code, be, and the same is hereby amended to read as follows:

54-305. ~~REVOCATION--AND--SUSPENSION--OF--LICENSES----~~ GROUNDS FOR DISCIPLINE -- APPEAL -- PENALTIES -- SUBSEQUENT LICENSE. 1. The board may refuse to grant, or may temporarily suspend or otherwise restrict a license to practice architecture in this state for a period not to exceed two (2) years, or may revoke a license, upon any one (1) of the following grounds:

a. The employment of any fraud or deception in applying for a license or in passing the examination required under this chapter.

b. The employment of a fraud or deceit in the practice of his profession or procuring any contract in the practice of his profession by fraudulent means~~,--or--upon--conviction--of--a--felony involving-the-practice-of-architecture~~.

c. A display of incompetency or recklessness in the practice of architecture resulting in a detriment to life, health, or public safety.

d. The conviction ~~of-a-crime-involving-moral-turpitude,-or-adjudication-of-mental-incompetency-or--insanity~~, finding of guilt, receipt of a withheld judgment or suspended sentence in this or any other state for a felony or a misdemeanor, which misdemeanor involved a violation of the provisions of this act, a willful violation of state or local building codes, or a violation of other laws relating to public health and safety and which were committed in the course of practicing architecture.

e. Affixing of his signature to, or impressing his seal upon, any plans, drawings, specifications, or other instruments of service which have not been prepared by him ~~in-his-office~~, or under his immediate and responsible direction, or has permitted his name to be used for the purpose of assisting any person, not a licensed architect, to evade the provisions of this chapter.

f. Receiving of rebates, commissions, grants of money or other favors in connection with the work, without the knowledge of the party for whom he is working, or having a pecuniary interest in the performance of the contract for the work designed, planned or supervised by him without the knowledge and consent of the owner.

g. Practicing architecture contrary to the provisions and requirements of this chapter.

h. Violation of rules of conduct for architects which the board may adopt in accordance with guidelines published by the national council of architectural registration boards.

i. Practicing architecture without being licensed, in violation of licensing laws of the jurisdiction in which the practice took place.

2. Before any license shall be revoked or suspended, or the issuance thereof denied under subsection 3 of section 54-302A, Idaho Code, the holder or applicant shall be entitled to at least twenty (20) days' notice in writing of the nature of the charge against him and of the time and place of the meeting before the board for the purpose of hearing and determining such charge. Any revocation or suspension of license shall be certified in writing by the said board and attested to with the official seal of said board affixed thereto; and such revocation or suspension of license shall be filed in the office of the secretary of state, who shall be paid the usual fee for filing similar documents in his office.

3. The holder of any license may within twenty (20) days after the filing of such certificate with the secretary of state appeal from such order of revocation or suspension to the district court in the county where a copy of such license is filed, by filing with the clerk of said court a notice of appeal, together with a certified copy of the certificate of revocation or suspension and payment to said clerk a fee of five dollars ($5.00). Such appeal shall be conducted in accordance with chapter 52, title 67, Idaho Code.

4. Upon the finding of the existence of grounds for discipline of any person holding a license, seeking a license, or renewing a license under the provisions of this chapter, the board may impose one or more of the following penalties:

a. Suspension of the offender's license for a term to be determined by the board;

b. Revocation of the offender's license;

c. Restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of architecture in a particular manner for a term to be determined by the board;

d. Refusal to renew the offender's license;

e. Placement of the offender on probation and supervision by the board for a period to be determined by the board;

f. Imposition of an administrative fine not to exceed two thousand dollars ($2,000).

5. Any person whose license has been revoked, suspended or the issuance of which has been denied by said board for cause and the order denying, revoking or suspending the same not having been revoked by a court of competent jurisdiction, may apply for a reissuance, or reinstatement or issuance of a license and the board, for reasons it may deem sufficient, may reissue, or reinstate or issue the license to such person, provided, however, that it shall not ~~reissue a license~~ take such action until the expiration of one (1) year after the date of an such order ~~of revocation~~.

SECTION 2. That Section 54-308, Idaho Code, be, and the same is

hereby amended to read as follows:

54-308. LICENSED ARCHITECT'S SEAL. 1. Every licensed architect shall have a seal, the impression of which must contain the name ~~or firm--name~~ and Idaho architect license number of the architect ~~or architects,-his-or-their-place-of-business~~ and the words "licensed architect" ~~or--"licensed-architects,"~~ "state of Idaho," with which he ~~or-they~~ shall ~~stamp~~ seal all ~~original--drawings--and--specifications~~ technical submissions issued from his ~~or-their~~ office.

2. The seal may be a rubber stamp. Whenever the seal is applied to a technical submission, the original signature of the architect and the date thereof shall be written adjacent to or across the seal. Facsimile signatures shall not be utilized. The signature and seal shall appear on all technical submissions prepared by the architect or prepared under his direction and personal supervision, and the original signature and seal may be placed on original submissions or on prints or copies of original submissions, at the option of the architect. The design and use of the seal shall be as required by board rule.

3. Technical submissions involving the practice of architecture which are submitted to any public or governmental agency for the purpose of obtaining a building permit which are not clearly identified by the affixed seal of the architect and the original signature of the architect and date thereof shall be deemed unacceptable submissions for the purpose of obtaining such building permit.

SECTION 3. That Section 54-309, Idaho Code, be, and the same is hereby amended to read as follows:

54-309. DEFINITIONS -- LIMITATION ON APPLICATION. 1. Within the meaning and intent of this chapter, the following words shall be defined as follows:

a. "Architect" means a person who engages in the practice of architecture as herein defined, and is licensed under the provisions of this chapter.

b. "Building" is ~~a-structure-consisting-of--foundations,--floors,-walls,--columns,-beams,-and-roof,-or-other-structural-features,-or-a-combination-of-any-number-of-these-parts-and-may-include-related mechanical-and-electrical-equipment-and-site,-which-are-incidental thereto~~ an enclosure including improvements related thereto, which has as its principal purpose the adaptation of space for occupancy, or habitation by human beings.

c. "Practice of architecture" consists of rendering or offering ~~to-render-to-the-owner-or-client-any-one--or--combination--of--the following--services:--advice,--consultation,--preliminary-studies,-plans,-drawings,-specifications,-designs,-including-aesthetic--and structural--design,--or--responsible--observation-of-construction,-wherein-expert-knowledge-and-skill-are-required-in-connection-with the-erection,-enlargement,-alteration,-or-repair-of--any--building or-buildings,-as-defined-herein,-wherein-the-safeguarding-of-life,-health--and-property-is-concerned-or-involved~~ those services hereinafter described, in connection with the design, construction,

enlargement, or alteration of a building or a group of buildings. The services covered within this definition include architectural planning, advice and consultation; providing preliminary studies; architectural designs, drawings and specifications; technical submissions; and, administration of construction contracts.

d. "Technical submissions" involving the practice of architecture, consist of designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture.

2. Nothing contained in this chapter shall be held or construed to have any application to, or to prevent or affect the following:

a. The practice of engineering or any other profession or trade for which a license is required under any law of this state, or the practice of consultants, officers, and employees of the United States while engaged solely in the practice of architecture for said government.

b. Draftsmen, students, clerks of work, project representatives, and others working under the supervision of those lawfully practicing as architects under the provisions of this chapter from acting under the instruction, control, or supervision of their supervisors, or to prevent the employment of clerks of work or inspectors of buildings paid by the owners from acting, if under the control or direction of a licensed architect who has prepared the drawings and specifications for the building.

c. The rendering of any architectural service required in the erection, enlargement, alteration, or repair of any building, where such building is to be, or is used as a single or multiple family residence not exceeding two (2) stories in height, or as a farm building; or for the purpose of outbuildings or auxiliary buildings in connection with such residential or farm premises.

d. The rendering of any architectural service required in the erection, enlargement, alteration, or repair of any building which does not involve the public health or safety.

e. The preparation of shop drawings by persons other than architects for use in connection with the execution of their work; or the preparation of drawings of fixtures, or other appliances or equipment, or for any work necessary to provide for their installation.

f. Expert consultation rendered to an architect by a consultant, whether licensed or not, employed by the architect to consult, advise, and assist as long as the architect approves, adopts and is responsible for the results of such consultation, advice and assistance.

Approved April 5, 1989.

CHAPTER 340
(H.B. No. 274, As Amended)

AN ACT

RELATING TO TRUST DEEDS; AMENDING SECTION 45-1503, IDAHO CODE, TO PROVIDE THAT THE HOLDER OF AN OBLIGATION SECURED BY A TRUST DEED MAY NOT WAIVE HIS SECURITY AND SUE DIRECTLY ON THE OBLIGATION, UNLESS THE BENEFICIARY'S INTEREST IN THE PROPERTY COVERED BY THE TRUST DEED HAS BECOME SUBSTANTIALLY VALUELESS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 45-1503, Idaho Code, be, and the same is hereby amended to read as follows:

45-1503. TRANSFERS IN TRUST TO SECURE OBLIGATION — FORECLOSURE. (1) Transfers in trust of any estate in real property as defined in section 45-1502(5), Idaho Code, may hereafter be made to secure the performance of an obligation of the grantor or any other person named in the deed to a beneficiary. Where any transfer in trust of any estate in real property is hereafter made to secure the performance of such an obligation, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which such transfer is security, and a deed of trust executed in conformity with this act may be foreclosed by advertisement and sale in the manner hereinafter provided, or, at the option of beneficiary, by foreclosure as provided by law for the foreclosure of mortgages on real property. If an obligation secured by a trust deed is breached, the beneficiary may not institute a judicial action against the grantor or his successor in interest to enforce an obligation owed by the grantor or his successor in interest unless:

(a) The trust deed has been foreclosed by advertisement and sale in the manner provided in this chapter and the judicial action is brought pursuant to section 45-1512, Idaho Code; or

(b) The action is one for foreclosure as provided by law for the foreclosure of mortgages on real property; or

(c) The beneficiary's interest in the property covered by the trust deed is substantially valueless as defined in subsection (2) of this section, in which case the beneficiary may bring an action against the grantor or his successor in interest to enforce the obligation owed by grantor or his successor in interest without first resorting to the security.

(2) As used in this section, "substantially valueless" means that the beneficiary's interest in the property covered by the trust deed has become valueless through no fault of the beneficiary, or that the beneficiary's interest in such property has little or no practical value to the beneficiary after taking into account factors such as the nature and extent of the estate in real property which was transferred in trust; the existence of senior liens against the property; the cost to the beneficiary of satisfying or making current payments on senior

liens; the time and expense of marketing the property covered by the deed of trust; the existence of liabilities in connection with the property for clean up of hazardous substances, pollutants or contaminants; and such other factors as the court may deem relevant in determining the practical value to the beneficiary of the beneficiary's interest in the real property covered by the trust deed.

(3) The beneficiary may bring an action to enforce an obligation owed by grantor or his successor in interest alleging that the beneficiary's interest in the property covered by the trust deed is substantially valueless without affecting the priority of the lien of the trust deed and without waiving his right to require the trust deed to be foreclosed by advertisement and sale and the beneficiary may, but shall not be required to, plead an alternative claim for foreclosure of the trust deed as a mortgage in the same action. If the court finds that the property is not substantially valueless, the beneficiary may seek judicial foreclosure of the trust deed, or he may dismiss the action and foreclose the trust deed by advertisement and sale in the manner provided in this chapter. If the court finds that the beneficiary's interest in the property covered by the trust deed is substantially valueless and enters a judgment upon the obligation, when that judgment becomes final the beneficiary shall execute a written request to the trustee to reconvey to the grantor or his successor in interest the estate in real property described in the trust deed. If the beneficiary obtains judgment on an obligation secured by a trust deed pursuant to subsection (1)(c) of this section, the lien of the judgment shall not relate back to the date of the lien of the trust deed.

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 5, 1989.

CHAPTER 341
(H.B. No. 256)

AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2744A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A PROPER REFERENCE; AND AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2744A, IDAHO CODE, TO PROVIDE A PROCEDURE FOR FORFEITURE OF REAL PROPERTY.

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

SECTION 1. That Section 37-2744A, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744AB. AUTHORIZATION TO RECEIVE AND ADMINISTER FEDERAL FOR-

FEITURES AND PRIVATE DONATIONS. The director of the department of law enforcement is authorized to receive and dispose of any real or personal property which has been seized by a federal drug enforcement agency, or any donations from private citizens, the proceeds of which shall be placed in the drug enforcement donation account created in section ~~63-3067C~~ 57-816, Idaho Code.

SECTION 2. That Chapter 27, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-2744A, Idaho Code, and to read as follows:

37-2744A. REAL PROPERTY SUBJECT TO FORFEITURE. (a) Any real property, including any interest therein and any appurtenances thereto or improvements thereon, which is used in any manner or part, to commit or to facilitate the commission of a violation of the provisions of this chapter punishable by more than one (1) year of imprisonment, shall be subject to forfeiture under the provisions of this section.

(b) Property subject to forfeiture under the provisions of this section may be seized by the director upon determining that a parcel of property is subject to forfeiture, by filing a notice of forfeiture with the recorder of the county in which the property or any part thereof is situated. The notice must contain a legal description of the property sought to be forfeited; provided, however, that in the event the property sought to be forfeited is part of a greater parcel, the director may, for the purposes of this notice, use the legal description of the greater parcel. The director shall also send by certified mail a copy of the notice of forfeiture to any persons holding a recorded interest or of whose interest the director has actual knowledge. The director shall post a similar copy of the notice conspicuously upon the property and publish a copy thereof once a week for three (3) consecutive weeks immediately following the seizure in a newspaper published in the county. The owner or party in lawful possession of the property sought to be forfeited may retain possession and use thereof and may collect and keep income from the property while the forfeiture proceedings are pending.

(c) In the event of a seizure pursuant to subsection (a) of this section, a complaint instituting forfeiture proceedings under subsection (d) of this section shall be filed in the district court in the county in which the real property is situated within ninety (90) days of the date of seizure. The complaint shall be served in the same manner as other complaints subject to the Idaho rules of civil procedure on all persons having an interest in the real property sought to be forfeited.

(d) Real property sought to be forfeited under the provisions of this section shall not be subject to an action for detainer or any other collateral action, but is deemed to be in the custody of the director subject only to the orders and decrees of the district court having jurisdiction over the forfeiture proceedings. Forfeiture proceedings shall be civil proceedings in which the burden of proof shall be on the director to prove by a preponderance of the evidence that the property sought to be forfeited is subject to forfeiture. Upon

being satisfied that an owner or claimant as defined in paragraph (4) of this subsection should not be subjected to forfeiture because that person had no knowledge or reason to believe that the real property was being used or had been used for the purposes alleged by the department, the director shall release the property to the owner or other claimant. The procedure applicable to such cases shall be the same as that prescribed by the Idaho rules of civil procedure. Following service the director may, where appropriate, seek default judgment pursuant to the Idaho rules of civil procedure. If an answer is filed the court shall proceed to set the case for hearing before the court without a jury.

(1) Following the hearing, if the court finds that the property is subject to forfeiture pursuant to subsection (a) of this section the court shall order the property forfeited to the director and title shall vest as of the date of the original seizure.

(2) Following the hearing, if the court finds that the property is not subject to forfeiture pursuant to subsection (a) of this section, the court shall order the property released to the owner or owners thereof.

(3) Any owner who has an answer on file may show by competent evidence that his interest in the property sought to be forfeited is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the real property was being used, or had been used in any manner in violation of the provisions of this section. If the court finds that the property was not used in violation of the provisions of this section or is not subject to forfeiture under the provisions of this section, the court shall order the property released to the owner.

(4) An owner, co-owner or claimant of any right, title or interest in the real property sought to be forfeited may prove that his right, title or interest, whether under a lien, mortgage, or otherwise, was created without any knowledge or reason to believe that the real property was being used or had been used for the purposes alleged by the department;

(A) In the event of such proof, the court shall order the real property released to the innocent owner, purchaser, lien holder or mortgagee.

(B) If the amount due to such person is less than the value of the real property, the real property 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 or county where the sale is to take place at least one (1) week prior to sale of the real property. The proceeds from such sale shall be distributed as follows in the order indicated:

(i) To the innocent owner, purchaser or mortgagee of the real property, if any, up to the value of his interest in the real property.

(ii) The balance, if any, in the following order:

1. To the director for all expenditures made or incurred by the department in connection with the sale, including expenditure for any necessary

repairs or maintenance of the real property, and for all expenditures made or incurred by the department in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, travel, investigation, title company fees and insurance premiums.

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

(C) In any case, the director may, within thirty (30) days after judgment, pay the balance due to the innocent owner, purchaser, lien holder or mortgagee and thereby purchase the real property for use in the enforcement of this act.

(e) In issuing any order under the provisions of this section, the court shall make a determination that the property, or a portion thereof, was actually used in violation of the provisions of this act. The size of the property forfeited shall not be unfairly disproportionate to the size of the property actually used in violation of the provisions of this section.

(f) When property is forfeited under the provisions of this section the director may:

(1) Retain it for official use; or

(2) Sell the property at public auction. The proceeds shall be distributed by the director as follows:

(A) To reimburse for all expenditures made or incurred in connection with the sale, including expenditures for any necessary repairs or maintenance, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited to, expenditures for attorneys' fees, title company fees, insurance premiums, recording costs, witnesses' fees, reporters' fees, transcripts, printing, travel and investigation.

(B) The remainder, if any, shall be credited to the drug enforcement donation account.

(3) Recommend to the court that the property, or proceeds thereof, be 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 or proceeds. Property distributed pursuant to this recommendation shall be used by the city or county for purposes consistent with the provisions of this chapter.

Approved April 5, 1989.

CHAPTER 342
(H.B. No. 254, As Amended in the Senate)

AN ACT

RELATING TO THE UNLAWFUL USE OF DRIVERS' LICENSES AND IDENTIFICATION CARDS; AMENDING SECTION 49-331, IDAHO CODE, TO PROVIDE FOR SUSPEN-

SION OF A LICENSE FOR UNLAWFUL USE, AND TO PROVIDE THAT A CONVICTION UNDER THIS SECTION SHALL NOT BE USED FOR SETTING RATES FOR OR NONRENEWAL OF MOTOR VEHICLE INSURANCE; AND AMENDING SECTION 49-2446, IDAHO CODE, TO PROVIDE FOR SUSPENSION OF AN IDENTIFICATION CARD FOR UNLAWFUL USE, AND TO PROVIDE THAT A CONVICTION UNDER THIS SECTION SHALL NOT BE USED FOR SETTING RATES FOR OR NONRENEWAL OF MOTOR VEHICLE INSURANCE.

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

SECTION 1. That Section 49-331, Idaho Code, be, and the same is hereby amended to read as follows:

49-331. 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 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 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 specified in this chapter.

In addition to the misdemeanor penalties that may be imposed for violation of the provisions of paragraphs (1) through (6) of this section, the court upon conviction may enter an order directing the department to suspend the operator's license, the chauffeur's license, a permit to drive, or any nonresident's driving privileges for a period of ninety (90) days. A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.

SECTION 2. That Section 49-2446, Idaho Code, be, and the same is hereby amended to read as follows:

49-2446. FRAUDULENT MISREPRESENTATION. It is unlawful for any person to fraudulently misrepresent his 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.

In addition to the misdemeanor penalties that may be imposed for violation of the provisions of this section, the court upon conviction may enter an order directing the department to suspend the operator's license, the chauffeur's license, a permit to drive, or any nonresident's driving privileges for a period of ninety (90) days. A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.

Approved April 5, 1989.

CHAPTER 343
(H.B. No. 253)

AN ACT

RELATING TO THE DISCOVERY OF THE WITNESSES OF A CRIME WITHIN THE STATE'S INFORMATION; AMENDING SECTION 19-1302, IDAHO CODE, BY DELETING THE REQUIREMENT THAT A PROSECUTOR MUST LIST THE STATE'S WITNESSES ON HIS INFORMATION AT THE TIME OF FILING.

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

SECTION 1. That Section 19-1302, Idaho Code, be, and the same is hereby amended to read as follows:

19-1302. FILING AND ENDORSEMENT OF INFORMATION. All informations shall be filed in the court having jurisdiction of the offense specified therein by the prosecuting attorney as informant; to which he shall subscribe his name ~~thereto-and-indorse-thereon-the-names-of-the witnesses-known-to-him-at-the-time-of-filing-the--same;--and--at--such time--before--the-trial-of-any-case-as-the-court-may-rule-or-otherwise prescribe,-he-shall-indorse-thereon-the-names-of-such-other--witnesses as--shall--then-be-known-to-him;-provided,-however,-that-the-witnesses called-by-the--state--in--rebuttal--need--not--be--indorsed--upon--the information.~~

Approved April 5, 1989.

CHAPTER 344
(H.B. No. 251, As Amended)

AN ACT

RELATING TO RECALL ELECTIONS; AMENDING SECTION 34-1703, IDAHO CODE, TO REFORMAT THE RECALL PETITIONS; AMENDING SECTION 34-1707, IDAHO CODE, TO CHANGE TIME PERIODS FOR ELECTION SCHEDULES; AMENDING SECTION 34-1708, IDAHO CODE, TO CHANGE LANGUAGE ON THE RECALL BALLOT;

AND AMENDING SECTION 34-1710, IDAHO CODE, TO ALLOW RECALL ELECTIONS TO BE HELD WITH OTHER ELECTIONS.

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

SECTION 1. That Section 34-1703, Idaho Code, be, and the same is hereby amended to read as follows:

34-1703. FORM OF PETITION. (1) The recall petition for state officers other than members of the state legislature shall be in substantially the following form:

RECALL PETITION

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

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

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

~~NAME RESIDENCE POST OFFICE COUNTY ELECTION PRECINCT DATE~~
~~(IF IN A CITY, STREET AND NUMBER)~~

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

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

RECALL PETITION

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

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

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

~~NAME RESIDENCE POST OFFICE LEGISLATIVE DISTRICT~~
~~COUNTY ELECTION PRECINCT DATE~~

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

~~(IF IN A CITY, STREET AND NUMBER)~~

(Here follow twenty numbered lines for signatures.)

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

RECALL PETITION

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

We, the undersigned citizens and registered electors of the County of ...., respectfully demand that ...., holding the office of ...., of the County of ...., be recalled by the registered electors of the County of .... for the following reasons, to-wit:
(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the County of ...., my residence, post office address, ~~county, election precinct~~ and the date I signed this petition are correctly written after my name.

~~NAME-RESIDENCE-POST-OFFICE-COUNTY-ELECTION-PRECINCT-DATE (IF-IN-A-CITY,-STREET-AND-NUMBER)~~

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

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

RECALL PETITION

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

We, the undersigned citizens and registered electors of the City of ...., respectfully demand that ...., holding the office of ...., of the City of ...., be recalled by the registered electors of the City of .... for the following reasons, to-wit:
(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of ...., my residence, post office address, ~~county, election precinct~~ and the date I signed this petition are correctly written after my name.

~~NAME-RESIDENCE-POST-OFFICE-COUNTY-ELECTION-PRECINCT-DATE (STREET-AND-NUMBER)~~

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

SECTION 2. That Section 34-1707, Idaho Code, be, and the same is hereby amended to read as follows:

34-1707. SUFFICIENCY OF PETITION -- NOTIFICATION -- EFFECT OF RESIGNATION -- SPECIAL ELECTION. (1) (a) In the event that a petition filed with the secretary of state does not contain the required number of certified signatures after being returned by the county clerks, the secretary of state shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional

signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the secretary of state finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the secretary of state shall declare the petition null and void ab initio in its entirety.

(b) In the event that a petition filed with the secretary of state is found by the secretary of state to contain the required number of certified signatures, the secretary of state shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

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

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the secretary of state, a special election shall be ordered by the secretary of state, unless he is the officer being recalled, in which event the governor shall order such special election. The special election must be held within not less than ~~thirty~~ forty-five (~~30~~45) days nor more than ~~forty~~ sixty (~~40~~60) days, and the date of the special election shall be specified in the order. If the officer being recalled is one (1) specified in section 34-1701(1)(a), Idaho Code, the special election shall be conducted statewide. If the officer being recalled is one (1) specified in section 34-1701 (1)(b), Idaho Code, the special election shall be conducted only in the legislative district.

(2) (a) In the event that a petition filed with a county clerk does not contain the required number of certified signatures, the county clerk shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the clerk shall declare the petition null and void ab initio in its entirety.

(b) In the event that a petition filed with the county clerk is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

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

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the county clerk, a special election shall be ordered by the county clerk. The special election must be held within not less than ~~thirty~~ forty-five (~~30~~45)

days nor more than ~~forty~~ sixty (~~45~~60) days, and the date of the special election shall be specified in the order. The special election shall be conducted county-wide.

(3) (a) In the event that a petition filed with a city clerk does not contain the required number of certified signatures, the city clerk shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the city clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the clerk shall declare the petition null and void ab initio in its entirety.

(b) In the event that a petition filed with a city clerk is found by the city clerk to contain the required number of certified signatures, the city clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

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

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the city clerk, a special election shall be ordered by the city clerk. The special election must be held within not less than ~~thirty~~ forty-five (~~30~~45) days nor more than ~~forty~~ sixty (~~45~~60) days, and the date of the special election shall be specified in the order. The special election shall be conducted city-wide.

SECTION 3. That Section 34-1708, Idaho Code, be, and the same is hereby amended to read as follows:

34-1708. FORM OF RECALL BALLOT. The ballot at any recall election shall be headed "RECALL BALLOT" and on the ballot shall be printed in not more than two hundred (200) words the reason for demanding the recall of the officer named in the recall petition, and in not more than two hundred (200) words the officer's justification of his course in office. ~~Following such arguments shall be printed the following instructions to the voter "To vote on the recall make a mark in the square at the right of yes or no," and immediately thereunder the question "Shall ..... (naming the officer) be recalled?" And immediately to the right of such question shall be printed the words "yes" and "no" not less than three sixteenths (3/16) of an inch in height, and at the right of "yes" and at the right of "no" a square shall be printed on the ballot in which the voter may indicate his preference.~~ Then the question of whether the officer should be recalled shall be placed on the ballot in a form substantially similar to the following:

☐ FOR recalling ..... who holds office of ....

☐ AGAINST recalling ..... who holds office of ....

SECTION 4. That Section 34-1710, Idaho Code, be, and the same is

hereby amended to read as follows:

34-1710. CONDUCT OF SPECIAL RECALL ELECTION. Special elections for the recall of an officer shall be conducted and the results thereof canvassed and certified in all respects as near as practicable, in like manner as general elections, except as otherwise provided; but in no case shall a special recall election be held within ninety (90) days next preceding a primary, ~~or~~ general, or city general election if recall is for a city official. Nothing in this chapter shall preclude the holding of a recall election with another election.

Approved April 5, 1989.

CHAPTER 345
(H.B. No. 246)

AN ACT

RELATING TO THE DISTRIBUTION OF FUNDS COLLECTED UNDER THE IDAHO CIGARETTE TAX ACT TO THE CENTRAL TUMOR REGISTRY ACCOUNT; AMENDING SECTION 63-2520, IDAHO CODE, TO INCREASE THE MONEYS DISTRIBUTED TO THE CENTRAL TUMOR REGISTRY ACCOUNT FROM ONE HUNDRED THOUSAND DOLLARS TO ONE HUNDRED TEN THOUSAND DOLLARS.

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

SECTION 1. That Section 63-2520, Idaho Code, be, and the same is hereby amended to read as follows:

63-2520. DISTRIBUTION OF MONEYS COLLECTED. Revenues received from the taxes imposed by this chapter, and any revenues received from licenses, permits, penalties, interest, or deficiency additions, shall be distributed by the tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) The balance remaining with the state treasurer after deducting the amount described in paragraph (a) above shall be distributed as follows:

(1) 43.3% of such balance shall be distributed to the permanent building account created by section 57-1108, Idaho Code.

(2) 6.7% of such balance shall be distributed to the water pollution control account.

(3) 1% of such balance shall be distributed to the central tumor registry account. The amount of money so distributed to the central tumor registry account shall not exceed one hundred ten thousand dollars ($1~~0~~10,000) per fiscal year, and at such time as one hundred ten thousand dollars ($1~~0~~10,000) has been distributed to the central tumor registry account during any fiscal year, all such distributions in excess of one hundred ten thousand dollars

($~~10~~10,000) shall be made instead to the general account of the state of Idaho.

(4) 2.5% of such balance shall be distributed to the cancer control account created by section 57-1702, Idaho Code. Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:

(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;

(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general account on July 1 and the state auditor shall order such transfer.

(5) All remaining moneys shall be distributed to the general account of the state of Idaho.

Approved April 5, 1989.

CHAPTER 346
(H.B. No. 245, As Amended in the Senate)

AN ACT

RELATING TO THE COMPOSITION OF ELECTION BOARDS; AMENDING SECTION 34-2412, IDAHO CODE, TO PROVIDE THAT COUNTY CLERKS MAY DESIGNATE THE NUMBER OF ELECTION BOARD CLERKS, AND TO PROVIDE FOR REPRESENTATION BY ALL POLITICAL PARTIES.

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

SECTION 1. That Section 34-2412, Idaho Code, be, and the same is hereby amended to read as follows:

34-2412. COMPOSITION OF PRECINCT ELECTION BOARDS. (1) The election board of each election precinct in which a voting machine or vote tally system is used shall consist of an election judge and ~~no fewer than three (3) nor more than four (4)~~ one (1) or more clerks. ~~The clerks of an election board shall not all be members of the same political party.~~ Each election board shall contain personnel representing all existing political parties if a list of applicants has been provided to the county clerk by the precinct committeemen of the precincts at least sixty (60) days prior to the primary election. The county clerk shall establish the number of election board clerks.

(2) The qualifications and duties of election judges shall apply to the appointment of election board clerks in counties or precincts where voting machines or vote tally systems are used.

(3) The board of county commissioners or the governing body of a city, district or other political subdivision, not later than forty (40) days before an election, may create, unite, combine or divide one

or more election precincts for the purpose of using one or more voting machines or vote tally systems therein at the election. The number of registered voters to be included in each of the election precincts shall be determined by such board of county commissioners or governing body of a city, district or other political subdivision.

Approved April 5, 1989.

CHAPTER 347
(H.B. No. 241)

AN ACT

RELATING TO COUNTY OFFICERS; REPEALING SECTION 31-2002, IDAHO CODE; AMENDING SECTION 31-2004, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 31-2007, IDAHO CODE, TO REQUIRE THAT THE APPOINTMENT OF DEPUTIES MUST BE DOCUMENTED; AND AMENDING SECTION 31-2014, IDAHO CODE, TO PERMIT COUNTY OFFICERS TO HIRE AN ATTORNEY TO ACT AS LEGAL ADVISOR.

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

SECTION 1. That Section 31-2002, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 31-2004, Idaho Code, be, and the same is hereby amended to read as follows:

31-2004. DEPUTIES -- APPOINTMENT DURING ABSENCE OF OFFICERS. Any county officer who may be granted leave of absence from the county wherein he resides and holds office, is required to appoint a ~~good and sufficient~~ deputy to act for him and in his place while absent.

SECTION 3. That Section 31-2007, Idaho Code, be, and the same is hereby amended to read as follows:

31-2007. APPOINTMENT TO BE ~~IN WRITING~~ DOCUMENTED AND FILED. The appointment of deputies and subordinate officers must be ~~made in writing,~~ documented and filed in the office of the county recorder.

SECTION 4. That Section 31-2014, Idaho Code, be, and the same is hereby amended to read as follows:

31-2014. CERTAIN OFFICERS NOT TO PRACTICE LAW. Sheriffs, clerks of courts and their deputies~~, and constables,~~ are prohibited from practicing law or acting as attorneys or counselors-at-law, or having as a partner a lawyer or any one who acts as such. Provided, however, any county elected official, with the approval of the board of county commissioners, may hire an attorney to act as his legal advisor.

Approved April 5, 1989.

CHAPTER 348
(H.B. No. 240)

AN ACT

RELATING TO APPORTIONMENT OF FUNDS FROM THE HIGHWAY DISTRIBUTION ACCOUNT; AMENDING SECTION 40-701, IDAHO CODE, TO PROVIDE FOR A ONE TIME ONLY ADDITIONAL DISTRIBUTION OF ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS TO THE LOCAL HIGHWAY NEEDS ASSESSMENT ACCOUNT AND TO CORRECT A CODE CITATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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)(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) Until July 1, 1990, moneys in the highway distribution account shall be distributed as follows:

(a) For the 1989 fiscal year only, an additional sum of one hundred seventy-five thousand dollars ($175,000) 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. This one time only distribution shall not be considered as part of the balance of the account for the purposes of distributions to the account under section 63-2412(1)(e), Idaho Code.

(b) From the balance remaining in the highway distribution account, 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 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.

(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 sec-

tion 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 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 5, 1989.

CHAPTER 349
(H.B. No. 231)

AN ACT

RELATING TO PUBLICATION OF NOTICES; REPEALING SECTION 40-206, IDAHO CODE; AMENDING CHAPTER 2, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-206, IDAHO CODE, TO PROVIDE FOR THE PUBLICATION OF NOTICES BY HIGHWAY DISTRICTS OR COUNTIES FOR COUNTY HIGHWAY SYSTEMS.

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

SECTION 1. That Section 40-206, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 2, 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 40-206, Idaho Code, and to read as follows:

40-206. PUBLICATION OF NOTICES. Whenever publication of a notice by a county highway system or highway district is required for an override or bond election, candidate declarations, notice of election of commissioners or a hearing, it shall appear in a newspaper printed and published within the district or county, or in some newspaper of general circulation in the county or district, and the notice shall be published as follows:

(1) The publication of notice for an override or bond election shall be published at least three (3) times in a weekly newspaper or at least six (6) consecutive times in a daily newspaper. The last notice shall be published not less than five (5) days prior to an override or bond election, except as otherwise specifically provided in this title.

(2) (a) The publication of notice for a declaration of candidacy for election as a commissioner shall be published for at least one (1) time in a weekly newspaper or at least two (2) consecutive

times in a daily newspaper. The first notice shall be published not more than ten (10) days prior to the first Tuesday in September, and the last notice shall be published not more than ten (10) days prior to the first Tuesday in October.

(b) The publication of notice for election of commissioners shall be published for at least three (3) successive times in a weekly newspaper, or one (1) time each week for three (3) successive weeks in a daily newspaper, and the last notice shall be published not less than five (5) days prior to the election.

(3) The publication of notice for a hearing shall be published at least one (1) time in a weekly newspaper or at least two (2) consecutive times in a daily newspaper. The last notice shall be published not less than five (5) days prior to the hearing, except as otherwise specifically provided in this title.

Approved April 5, 1989.

CHAPTER 350
(H.B. No. 222)

AN ACT

RELATING TO RIGHTS AND POWERS OF IRRIGATION OR CANAL COMPANIES; AMENDING SECTION 42-2401, IDAHO CODE, TO PROVIDE THAT A NOTICE OF MEETING OF THE STOCKHOLDERS OR THE ELECTION OF DIRECTORS MAY BE GIVEN BY PUBLICATION OR BY MAIL.

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

SECTION 1. That Section 42-2401, Idaho Code, be, and the same is hereby amended to read as follows:

42-2401. ADDITIONAL RIGHTS AND POWERS GRANTED IRRIGATION OR CANAL COMPANIES. Any corporation heretofore organized or any corporation that shall hereafter be organized for the operation, control or management of an irrigation project or canal system, or for the purpose of furnishing water to its shareholders and not for profit or hire, shall have and exercise all the rights, powers, and privileges in addition to those already granted and existing.

1. To divide into districts the territory included in such project or system and to change from time to time the number and boundaries of such districts.

2. To elect its directors from such districts by a vote in which all the stockholders of the corporation may participate, determine the number of directors to be elected from each district, fix their terms of office and prescribe the times and manner of choosing their successors.

3. To hold regular annual meetings at which the stockholders who are represented in person or by proxy shall constitute a quorum for the transaction of business and shall have the power by a majority vote of the stock so represented to elect directors and transact any

other business of the corporation proper to be done.

4. To provide for the appointment of an executive committee from the board of directors, to be composed of not less than three (3) thereof. Such committee shall have all the powers, rights and privileges of the board of directors and may meet at such times and places as the bylaws may provide or the board of directors may determine, and the acts of such committee shall in all matters be valid as against the corporation.

5. To provide by amendment to its articles of incorporation or by adopting new articles of incorporation for the treatment and eradication of noxious weeds growing on the lands within the boundaries of said irrigation project and adjacent thereto and to drain excess water from said lands.

6. To change or amend its articles of incorporation or bylaws or adopt new articles or new bylaws, by a two-thirds (2/3) vote of the stock represented, at any regular meeting of the stockholders, or at any special meeting duly called for that purpose in accordance with the provisions of sections 30-310 and 30-311, Idaho Code: provided, that any proposed changes in the articles of incorporation or bylaws or any new articles of incorporation or bylaws shall be either proposed at a meeting of the stockholders or approved by at least one-third (1/3) of the board of directors; and before being finally adopted the board of directors shall cause such proposed articles, bylaws, or changes therein (or a summary of them) to be published in a newspaper of general circulation published in the county in which the main office of the canal company is situated, for at least once each week for four (4) weeks prior to the meeting at which such articles, bylaws, or changes therein are finally adopted and said notice shall state the time and place at which the vote on final adoption will be taken.

7. To prohibit any officer, director, manager or employee of the corporation from acting as proxy for any other person at any meeting of the stockholders.

8. To prescribe by its articles of incorporation or bylaws the manner in which the powers given by law shall be exercised.

9. To provide by amendment to its articles of incorporation or by adoption of new articles of incorporation that the directors be divided into two (2) or three (3) classes, each class to be as nearly equal in number as possible; the term of office of directors of the first class to expire at the first annual meeting of directors after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two (2) classes, or until the third succeeding annual meeting, if there be three (3) classes. Immediately after the first election following such amendment or adoption as herein provided, each such class shall be selected by lot by the elected directors at their organizational meeting.

10. To provide for a notice of a meeting of the stockholders or

the election of directors which notice may be given by an advertisement thereof for two (2) weeks in a newspaper of general circulation within the canal company service area and the county in which the principal place of business of the corporation is located or which notice may be given by written notice, placed in the United States mail, postage prepaid, and addressed to the stockholder at his last known post office address.

Approved April 5, 1989.

CHAPTER 351
(H.B. No. 220, As Amended)

AN ACT

RELATING TO RAPE OF A SPOUSE; AMENDING SECTION 18-6107, IDAHO CODE, TO PROVIDE THAT MARRIAGE IS NOT A DEFENSE TO THE CRIME OF RAPE UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 18-6107, Idaho Code, be, and the same is hereby amended to read as follows:

18-6107. RAPE OF SPOUSE. No person shall be convicted of rape for any act or acts with that person's spouse, except ~~as provided hereafter:~~

~~1. A spouse has initiated legal proceedings for divorce or legal separation; or~~

~~2. The spouses have voluntarily been living apart for one hundred eighty (180) days or more~~ under the circumstances cited in paragraphs 3. and 4. of section 18-6101, Idaho Code.

Approved April 5, 1989.

CHAPTER 352
(H.B. No. 213, As Amended in the Senate)

AN ACT

RELATING TO THE STATE LOTTERY; AMENDING SECTION 67-7404, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 67-7408, IDAHO CODE, TO MODIFY THE DUTIES OF THE COMMISSION; AMENDING SECTION 67-7409, IDAHO CODE, TO EXEMPT CERTAIN EMPLOYEES FROM THE STATE MERIT SYSTEM; AMENDING SECTION 67-7410, IDAHO CODE, TO PROVIDE FOR INVESTIGATIONS IN ACCORDANCE WITH THE STATUTES THAT CREATED THE STATE LOTTERY; AMENDING SECTION 67-7412, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 67-7417, IDAHO CODE, TO PROVIDE FOR BONDING UNDER RULES AND REGULATIONS ADOPTED BY THE LOTTERY COMMISSION; AMENDING SECTION 67-7418, IDAHO CODE, TO PROVIDE FOR

ACCOUNTING UNDER RULES AND REGULATIONS ADOPTED BY THE LOTTERY COMMISSION; AMENDING SECTION 67-7419, IDAHO CODE, TO PROVIDE FOR PAYMENTS PURSUANT TO LOTTERY COMMISSION RULES AND REGULATIONS; AMENDING SECTION 67-7420, IDAHO CODE, REVISING PROCEDURES FOR AWARDING CONTRACTS FOR MAJOR PROCUREMENTS; AMENDING SECTION 67-7421, IDAHO CODE, TO REVISE PROCEDURES FOR DISCLOSURES BY LOTTERY VENDORS FOR MAJOR PROCUREMENTS; AMENDING SECTION 67-7422, IDAHO CODE, TO PROVIDE FOR SEPARATION OF LOTTERY VENDORS AND LOTTERY RETAILERS; AMENDING SECTION 67-7423, IDAHO CODE, TO PROVIDE THAT NO CONTRACT WITH A RETAILER, VENDOR OR CONTRACTOR WHO HAS NOT COMPLIED WITH THE LOTTERY COMMISSION'S DISCLOSURE REQUIREMENTS SHALL BE ENTERED INTO OR BE ENFORCEABLE; AMENDING SECTION 67-7424, IDAHO CODE, TO PROVIDE THAT INFORMATION REQUIRED BY THE LOTTERY COMMISSION OF PROSPECTIVE CONTRACTORS, RETAILERS OR VENDORS SHALL BE PROVIDED UNDER OATH; AMENDING SECTION 67-7425, IDAHO CODE, TO PROVIDE THAT ANY PERSON WILFULLY MAKING A MATERIAL MISSTATEMENT OR MATERIAL OMISSION OF ANY DISCLOSURE ITEM REQUIRED BY THE LOTTERY COMMISSION SHALL BE GUILTY OF A FELONY; AMENDING SECTION 67-7426, IDAHO CODE, TO REQUIRE COMPLIANCE BY RETAILERS OR VENDORS WITH APPLICABLE LAWS; AMENDING SECTION 67-7427, IDAHO CODE, TO PROVIDE FOR VENDOR PERFORMANCE BONDS OR OTHER SECURITY WHEN REQUIRED BY THE COMMISSION; AMENDING SECTION 67-7430, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE; AMENDING SECTION 67-7433, IDAHO CODE, TO PROVIDE COMPUTATION OF A PRIZE EXPENSE ON AN ANNUAL BASIS; AMENDING SECTION 67-7435, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 67-7436, IDAHO CODE, TO REVISE AUDIT REQUIREMENTS; AMENDING SECTION 67-7437, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 67-7438, IDAHO CODE, TO PROVIDE PRIZE CLAIMING PROCEDURES PURSUANT TO LOTTERY COMMISSION RULES; AMENDING SECTION 67-7439, IDAHO CODE, TO PROVIDE THAT NO TAX SHALL BE IMPOSED ON IDAHO LOTTERY TICKETS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 67-7440, IDAHO CODE, TO REVISE LANGUAGE REGARDING RESTRICTED PLAYERS; AMENDING SECTION 67-7441, IDAHO CODE, TO REVISE LANGUAGE AND TO PROVIDE CITATIONS REGARDING RECORDS; AMENDING SECTION 67-7442, IDAHO CODE, TO ALLOW THE LOTTERY COMMISSION TO MEET IN EXECUTIVE SESSION TO EVALUATE THE CONFIDENTIAL PROPRIETARY INFORMATION PROVIDED AS PART OF A MAJOR PROCUREMENT PROPOSAL OF A VENDOR, RETAILER OR CONTRACTOR; AMENDING SECTION 67-7445, IDAHO CODE, TO REVISE CONDITIONS OF PURCHASE; AMENDING SECTION 67-7448, IDAHO CODE, TO REVISE LANGUAGE REGARDING PROHIBITED ACTS AND TO MAKE CERTAIN PROHIBITED ACTS A FELONY; REPEALING SECTION 67-7450, IDAHO CODE; AMENDING CHAPTER 74, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7450, IDAHO CODE, TO PROVIDE FOR AUDITS OF COMMISSION FUNDS, AND TO PROVIDE FOR REPORTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-7404, Idaho Code, be, and the same is hereby amended to read as follows:

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 major procurement for goods or services ~~for the state lottery~~ as defined in subsection (11) of this section.

(10) "Low, medium and high tier claims" mean the dollar amount of prizes awarded in accordance with rules and regulations of the state lottery.

(11) "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~~12) "Net income" means lottery revenue and nonlottery revenue, less expenses, as defined in this chapter.

(~~12~~13) "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 instrumentalities thereof.

(~~13~~14) "Share" means any intangible evidence of participation in a game conducted by the state lottery.

(~~14~~15) "Ticket" means any tangible evidence issued by the lottery

to provide participation in a game conducted by the state lottery.

SECTION 2. That Section 67-7408, Idaho Code, be, and the same is hereby amended to read as follows:

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 generally address, but not be limited to:

(a) The different types of lottery games to be conducted;

(b) The range of prize structures 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.

SECTION 3. That Section 67-7409, Idaho Code, be, and the same is hereby amended to read as follows:

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, sales personnel and security staff, who shall be exempt from the provisions of chapter 53, title 67, Idaho Code, 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~~ chapter 53, title 67, Idaho Code.

(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 con-

nection 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.

SECTION 4. That Section 67-7410, Idaho Code, be, and the same is hereby amended to read as follows:

67-7410. DIRECTOR OF LOTTERY SECURITY. The director shall hire a security director who shall manage the lottery's security division. The security division shall be responsible for the performance of background investigations of employees, lottery retailers, 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 inves-

tigations 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.

SECTION 5. That Section 67-7412, Idaho Code, be, and the same is hereby amended to read as follows:

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 lot-

tery 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~~ retailer 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~~ retailer 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.

SECTION 6. That Section 67-7417, Idaho Code, be, and the same is hereby amended to read as follows:

67-7417. LOTTERY GAME RETAILER BONDING. Under rules and regulations adopted by the commission, t~~T~~he director may require an appropriate bond from any lottery game retailer or may purchase blanket bonds covering the activities of selected lottery game retailers.

SECTION 7. That Section 67-7418, Idaho Code, be, and the same is hereby amended to read as follows:

67-7418. LOTTERY GAME RETAILER ACCOUNTING. Under rules and regulations adopted by the commission, t~~T~~he 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.

SECTION 8. That Section 67-7419, Idaho Code, be, and the same is hereby amended to read as follows:

67-7419. LOTTERY GAME RETAILER PAYMENTS. No payment by lottery game retailers to the state 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~~ commission rule. The director may require lot-

tery game retailers to deposit to the credit of the state 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 state lottery reports of receipts and transactions in the sale of tickets in the form and containing the information the ~~director~~ com~~mission re~~quires.

SECTION 9. That Section 67-7420, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ may 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~~ commission shall take particular account of the sensitive and responsible nature of the state lottery and the paramount consideration of security and integrity.

SECTION 10. That Section 67-7421, Idaho Code, be, and the same is hereby amended to read as follows:

67-7421. LOTTERY VENDOR DISCLOSURES FOR MAJOR PROCUREMENTS. This section is provided to allow the ~~lottery~~ commission to evaluate the competence, integrity, background, character and the nature of the true ownership and control of lottery vendors. The ~~lottery~~ commission may require any person, as a part of a major procurement, to disclose at the time of submitting such bid, proposal or offer to the ~~lottery~~ commission the following information:

(1) If the vendor is a partnership or joint venture, the names and addresses of all of the general and limited partners or joint venturers; if such general and limited partners or joint venturers are themselves a partnership, joint venture, trust, association, corporation, subsidiary, or intermediary corporation, the same information required by this section shall be supplied for such entities also;

(2) If the vendor is a trust, the names and addresses of the trustee and all persons entitled to receive income or benefit of the trust;

(3) If the vendor is an association, the names and addresses of the members, officers and directors;

(4) If the vendor is a corporation, the names and addresses of the officers, directors and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in such corporation; except that, in the case of owners or holders of publicly held securities of an intermediary company, holding company, or parent company that is a publicly traded corporation,

only the names and addresses of those owning or holding five percent (5%) or more of such publicly held securities need be disclosed;

(5) If the ~~supplier~~ vendor intends to or does subcontract to another person or entity any integral or substantial portion of the work to be performed in supplying such materials, equipment or services, then the ~~supplier~~ vendor shall supply the information required by subparagraphs in this section for all such persons or entities;

(6) If the vendor is a corporation, the names of all the states in which the vendor is incorporated to do business, and the nature of that business;

(7) The names of other jurisdictions in which the ~~supplier~~ vendor has contracts to supply gaming materials, equipment or services and the types of gaming materials, equipment or services involved therewith;

(8) The details of any felony conviction of a criminal offense, state or federal, of the vendor or any person whose name and address are required by the disclosure requirements of this section;

(9) The details of any disciplinary action of a judicial nature taken by any state against the ~~supplier~~ vendor or any person whose name and address are required by this section regarding any matter related to the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(10) Audited financial statements for the most recent five (5) years and a statement of the gross receipts realized in the preceding year from the sale, lease or distribution of gaming materials, equipment or services. This information shall be 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~~ commission, by rule, regulation or contract procurement documents, may require as being necessary or appropriate in the public interest to accomplish the purposes of this section.

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

SECTION 11. That Section 67-7422, Idaho Code, be, and the same is hereby amended to read as follows:

67-7422. SEPARATION OF VENDORS AND RETAILERS. No person, firm, association or corporation contracting as a vendor 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.

SECTION 12. That Section 67-7423, Idaho Code, be, and the same is hereby amended to read as follows:

67-7423. ENFORCEABILITY OF CONTRACTS. No contract with any contractor, retailer or vendor who has not complied with the disclosure requirements established by the ~~lottery~~ commission, shall be entered into or be enforceable.

SECTION 13. That Section 67-7424, Idaho Code, be, and the same is hereby amended to read as follows:

67-7424. INFORMATION UNDER OATH. The information required by the ~~lottery~~ commission of prospective contractors, retailers and vendors shall be provided under oath.

SECTION 14. That Section 67-7425, Idaho Code, be, and the same is hereby amended to read as follows:

67-7425. MISSTATEMENTS OR OMISSIONS. Any person wilfully making a material misstatement or material omission of any disclosure item required by the ~~lottery~~ commission shall be guilty of a felony.

SECTION 15. That Section 67-7426, Idaho Code, be, and the same is hereby amended to read as follows:

67-7426. COMPLIANCE WITH APPLICABLE LAWS. Each lottery contractor, retailer and vendor shall perform its contract consistent with the applicable rules of the ~~lottery~~ commission, the laws of this state, federal laws, and the laws of the state or jurisdiction in which the lottery contractor, retailer or vendor is performing or producing, in whole or in part, any of the goods or services contracted for hereunder. No contract with any lottery contractor, retailer or vendor who fails to comply with such laws or rules shall be entered into or be enforceable.

SECTION 16. That Section 67-7427, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ commission. The ~~lottery~~ commission 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.

SECTION 17. That Section 67-7430, Idaho Code, be, and the same is hereby amended to read as follows:

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 state 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 state 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.

SECTION 18. That Section 67-7433, Idaho Code, be, and the same is hereby amended to read as follows:

67-7433. PRIZE EXPENSE. Total prize expense, net of unclaimed prizes, as determined on ~~a cumulative~~ an annual 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.

SECTION 19. That Section 67-7435, Idaho Code, be, and the same is hereby amended to read as follows:

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 state lottery.

SECTION 20. That Section 67-7436, Idaho Code, be, and the same is hereby amended to read as follows:

67-7436. AUDITS. ~~The state auditor or a~~ A certified public accounting firm appointed by the ~~state auditor~~ commission shall conduct audits of all accounts and transactions of the state lottery. The director~~, the state auditor~~ and ~~their~~ his agents conducting an audit under this chapter shall have access and authority to examine any and all lottery-related records of lottery ~~contractors~~ vendors and retailers. 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 state lottery, shall witness all drawings of the state lottery.

SECTION 21. That Section 67-7437, Idaho Code, be, and the same is hereby amended to read as follows:

67-7437. PRIZES. Except as otherwise provided in this section, any prize won under this chapter is not assignable. If the prize winner dies before the prize is paid, the prize shall be paid to the estate of the prize winner. A prize is subject to garnishment and recovery for unpaid taxes, child 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 state

lottery shall not pay a prize claim until the lottery ticket or share has passed the validation tests established by the state lottery.

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

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.

SECTION 22. That Section 67-7438, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ commission. 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.

SECTION 23. That Section 67-7439, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ Idaho 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 state lottery shall pay to a city, county, the state or any political subdivision or municipality thereof in which the state 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.

SECTION 24. That Section 67-7440, Idaho Code, be, and the same is hereby amended to read as follows:

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 state lot-

tery; 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 procurement; or

(3) Any other person doing business with the state lottery as may be determined by ~~the director~~ commission rule; or

(4) Any person related by blood, adoption or marriage and who is a member ~~in~~ of the same household ~~in the principal place of abode of any such person~~ as any member of the commission or employee of the state lottery.

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 state lottery without being cashed.

SECTION 25. That Section 67-7441, Idaho Code, be, and the same is hereby amended to read as follows:

67-7441. RECORDS. All papers, records, correspondence, communications and proceedings of the Idaho state lottery and the commission shall be open to the public except as otherwise provided by statute; provided, however, that business records and information provided to the state lottery pursuant to sections 67-7412(8) and (9) and 67-7420(8) and (9), Idaho Code, shall 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 confidential 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 commission shall prescribe. Any employee violating provisions of this section shall be guilty of a misdemeanor.

SECTION 26. That Section 67-7442, Idaho Code, be, and the same is hereby amended to read as follows:

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, retailer or contractor; 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.

SECTION 27. That Section 67-7445, Idaho Code, be, and the same is hereby amended to read as follows:

67-7445. CONDITIONS OF PURCHASE. By purchasing a ticket or share in a lottery game, a player agrees to abide by, and be bound by, the ~~lottery's~~ commission's rules and regulations and by lottery game rules developed by the ~~lottery~~ commission to apply to any particular lottery game involved. In particular, and without limitation, the player acknowledges, that the determination of whether the player is a valid winner is subject to winner validation procedures and confidential validation and security tests established by the state lottery for the particular lottery game.

SECTION 28. That Section 67-7448, Idaho Code, be, and the same is hereby amended to read as follows:

67-7448. PROHIBITED ACTS -- PENALTIES. (1) Any person may provide gift tickets or shares. With the ~~consent~~ approval of the commission, the ~~lottery~~ director or a lottery retailer may provide 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 state 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 state lottery. A person may not impersonate a state lottery representative.

Any person violating any of the provisions of this chapter except as provided in subsection (2) of this section 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.

(2) A person shall be guilty of a felony if he knowingly presents a counterfeit or altered state lottery ticket or share for payment or

knowingly transfers 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 person violating the provisions of this subsection shall be punished by imprisonment not in excess of five (5) years, a fine not in excess of twenty-five thousand dollars ($25,000) or both such fine and imprisonment.

SECTION 29. That Section 67-7450, Idaho Code, be, and the same is hereby repealed.

SECTION 30. That Chapter 74, 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 67-7450, Idaho Code, and to read as follows:

67-7450. AUDIT OF FUNDS -- REPORTS. (1) The right is reserved to the state of Idaho to audit funds of the commission at any time.

(2) On or before January 15 of each year, the director shall file with the senate state affairs committee, the house state 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 years and a projection of anticipated expenses by category for the current and next fiscal years. From and after January 15, 1990, 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.

(3) In addition to the reports required in subsection (2), the director shall also file the same report with the joint finance-appropriations committee. Notwithstanding any other provision of this chapter, the joint-finance appropriations committee may, by appropriation measure, limit or modify proposed expenditures of the commission.

SECTION 31. 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 5, 1989.

CHAPTER 353
(H.B. No. 202)

AN ACT

RELATING TO LICENSES FOR HUNTING, TRAPPING, FISHING OR CARRYING UNCASED FIREARMS; AMENDING SECTION 36-401, IDAHO CODE, TO PROVIDE THAT THE PHYSICIAN CERTIFYING THAT A PERSON IS PERMANENTLY AND

TOTALLY DISABLED MUST BE LICENSED EITHER IN THE UNITED STATES OR CANADA.

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

SECTION 1. That Section 36-401, Idaho Code, be, and the same is hereby amended to read as follows:

36-401. HUNTING, TRAPPING, FISHING OR CARRYING UNCASED FIREARM -- LICENSE REQUIREMENT -- EXCEPTIONS. It is a misdemeanor for any person to hunt, trap, or fish for or take any wild animal, bird or fish of this state or have in his possession any uncased firearm while in the fields or forests of the state, without first having procured a license as hereinafter provided. Provided that no license shall be required:

(a) Uncased Firearms. For residents of this state to carry uncased firearms on property owned, leased or controlled by them or on adjoining property for the purpose of taking predatory animals.

(b) 1. For children under the age of fourteen (14) years who are residents of this state to fish during the open season therefor.

2. For nonresident children under the age of fourteen (14) years to fish during the open season therefor provided they are accompanied by the holder of a valid fishing license, and provided further that any fish caught by such nonresident children shall be included in the bag and possession limit of such license holder.

3. For resident children under the age of twelve (12) years to hunt, take or kill predatory, unprotected birds and animals by means other than with firearms.

4. For resident children under the age of fourteen (14) years to trap muskrats from irrigation ditches or property on which they live during the open season.

(c) For any person to fish on a "free fishing day" as may be designated by the commission.

(d) Senior Residents. For "senior residents" age seventy (70) years or older who are holders of a "senior resident permit" to hunt and fish during the open season.

(e) Blind Persons. For resident blind persons who are holders of a "permit for the blind" to fish during the open season.

(f) Institutional Inmates. For any inmate of the state hospital north, state hospital south, Idaho state school and hospital, and state veteran's home to fish during open seasons, provided said inmate has a permit therefor from the director. The director is authorized to issue such permits upon the request of the head of the respective institution having custody of said inmate upon a showing that the institution recommends the issuance of such permit and will assume full responsibility for and control over said inmate while using said permit.

(g) Resident Military Personnel. For resident persons engaged in the military service of the United States, while on temporary furlough or leave, upon receipt of a temporary permit from the director, to hunt and fish during the open season.

(h) Disabled Persons. For any resident person who is permanently

and totally disabled as certified by a physician licensed to practice in the ~~state of Idaho~~ United States or Canada, to hunt and fish during the open season, providing such person has obtained a permit from the director.

(i) Youth Training Center Students. For students of the Idaho youth training center, under the supervision of an officer of said school, to fish during the open season.

(j) Boy Scouts. For boy scouts who are official participants in attendance at national or international encampments at Farragut State Park to take fish during the encampment period from Lake Pend Oreille in such areas and such numbers as may be designated by the commission.

(k) Nothing contained herein shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

Approved April 5, 1989.

CHAPTER 354
(H.B. No. 5, As Amended in the Senate)

AN ACT

RELATING TO THE IDAHO NATIONAL GUARD; AMENDING SECTION 46-113, IDAHO CODE, TO REQUIRE THAT THE ASSISTANT ADJUTANT GENERAL BE A RATED OFFICER AND TO DELETE THE REQUIREMENT THAT HE BE A RATED PILOT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 46-113, Idaho Code, be, and the same is hereby amended to read as follows:

46-113. ASSISTANT ADJUTANTS GENERAL. There shall be two (2) assistant adjutants general who shall be appointed by and serve at the pleasure of the adjutant general.

(a) One (1) of the assistant adjutants general shall be appointed from the Idaho army national guard and may be chief of staff to the adjutant general for all the Idaho army national guard forces. He shall perform such duties as are assigned to him by the adjutant general. No person shall be eligible for appointment as assistant adjutant general under this subsection unless he is a member of the Idaho army national guard with at least six (6) years service as commissioned officer therein and has attained the rank of major or above. He shall be a federally recognized officer and may hold the rank of brigadier general or such other rank as may hereafter be authorized by the table of organization for the army national guard.

(b) The other assistant adjutant general shall be appointed from the Idaho air national guard and may be chief of staff to the adjutant general for all the Idaho air national guard forces. He shall perform such duties as are assigned to him by the adjutant general. No person shall be eligible for appointment as assistant adjutant general under

this subsection unless he is a member of the Idaho air national guard with at least six (6) years service as a commissioned officer therein and has attained the rank of major or above. He shall be a federally recognized and rated officer ~~and a rated pilot~~ and may hold the rank of brigadier general or such other rank as may hereafter be authorized by the tables of organization for the air national guard.

(c) In the event of the absence or inability of the adjutant general to perform his duties, he shall designate one (1) of the assistant adjutants general to perform the duties of his office as acting adjutant general. If neither assistant adjutant general is available, he may designate any national guard officer to be the acting adjutant general.

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 5, 1989.

CHAPTER 355
(S.B. No. 1310)

AN ACT
APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 1990; 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 Office of the Governor for the Military Division, the following amount to be expended from the listed accounts for the period July 1, 1989, through June 30, 1990:

FROM:

General Account	$1,817,800
Adjutant General Receipts Account	208,600
Disaster Services Account	714,800
Federal and State Contracts Account	4,068,000
Federal Indirect Cost Account	30,000
Interagency Billing and Receipts Account	35,000
TOTAL	$6,874,200

SECTION 2. There is hereby reappropriated to the Office of the Governor for the Military Division any unexpended and unencumbered balances of the moneys appropriated by Section 2, Chapter 61, Laws of 1988, for the period July 1, 1989, through June 30, 1990.

Approved April 5, 1989.

CHAPTER 356
(S.B. No. 1309)

AN ACT
APPROPRIATING MONEYS FOR THE OFFICE ON AGING FOR FISCAL YEAR 1990.

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 the designated expense classes from the listed accounts, for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Account	$157,600	$233,000	$1,053,600	$1,444,200
Office on Aging Account	339,900	405,000	3,990,600	4,735,500
TOTAL	$497,500	$638,000	$5,044,200	$6,179,700

Approved April 5, 1989.

CHAPTER 357
(S.B. No. 1148)

AN ACT
RELATING TO A GOVERNOR'S RESIDENCE; AUTHORIZING AND DIRECTING THE STATE BOARD OF LAND COMMISSIONERS TO ACT AS CUSTODIAN OF CERTAIN PROPERTIES; AUTHORIZING THE DISPOSAL OF PROPERTY AS IT BECOMES SURPLUS AND DIRECTING MONEYS REALIZED FROM THE SALE TO BE CREDITED TO THE GOVERNOR'S RESIDENCE ACCOUNT; CREATING THE GOVERNOR'S RESIDENCE ACCOUNT IN THE AGENCY ASSET FUND AND APPROPRIATING THE MONEYS FOR THE PURPOSES SPECIFIED, AUTHORIZING THE DIVISION OF PUBLIC WORKS TO ACCEPT, STORE AND USE GIFTS AND DONATIONS, AND PROVIDING FOR INVESTMENT OF IDLE MONEYS IN THE ACCOUNT; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. The State Board of Land Commissioners is hereby authorized and directed, for and on behalf of the state of Idaho, to become the custodian of the real property and residence situated thereon located at 1805 North 21st Street, Boise, Idaho. The property above described shall be declared surplus.

SECTION 2. The Department of Lands is hereby directed, for and on

behalf of the state of Idaho, to dispose of the property described in Section 1 of this act by sale, according to prescribed procedures of the Department of Lands. The moneys realized from the sale of the property shall be deposited to the Governor's Residence Account in the Agency Asset Fund.

SECTION 3. (a) There is hereby created in the Agency Asset Fund in the state treasury the Governor's Residence Account, which shall consist of all moneys received from any and all gifts, grants, or endowments from any and all persons, firms, organizations, corporations, and otherwise, for the purpose of site acquisition, planning, construction of, decorating, equipping, completing and/or furnishing the governor's residence and/or landscaping the grounds surrounding such residence. All moneys which shall be deposited to such account are perpetually appropriated and set apart for the purposes for which the moneys are received, the same to be available for such purposes immediately upon their being credited to the said account, upon authorization for expenditure being given by the Permanent Building Fund Advisory Council, and the Division of Public Works.

(b) The Division of Public Works is authorized to accept, store and subsequently use all gifts or donations from all persons, firms, organizations, corporations, and otherwise, of materials, supplies, or other items for use in the governor's residence.

(c) The state treasurer shall invest the idle moneys in the account, and the interest on such investments shall be paid to the account.

SECTION 4. There is hereby reappropriated to the Office of the Governor, to be deposited to the Governor's Residence Account, any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 91, Laws of 1988, for the Governor's Residence and Expense Program, remaining at the time of sale of the property described in Section 1 of this act or on June 30, 1989.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 5, 1989.

CHAPTER 358
(S.B. No. 1157, As Amended)

AN ACT

RELATING TO THE TITLING OF ALL TERRAIN VEHICLES, MOTORBIKES, AND SNOWMOBILES; AMENDING SECTION 49-501, IDAHO CODE, TO PROVIDE THAT, BEGINNING ON JANUARY 1, 1990, ALL TERRAIN VEHICLES, MOTORBIKES, AND SNOWMOBILES MAY BE TITLED AND AFTER JANUARY 1, 1991, SUCH VEHICLES MUST BE TITLED FOR ALL TRANSFERS OF OWNERSHIP.

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

SECTION 1. That Section 49-501, Idaho Code, be, and the same is hereby amended to read as follows:

49-501. APPLICATION TO CERTAIN VEHICLES -- EXEMPTIONS. The provisions of this chapter shall apply exclusively to every vehicle required to be registered with the department ~~under the laws of this state~~ in chapter 4, title 49, Idaho Code, and optionally to all terrain vehicles, motorbikes, and snowmobiles as defined in section 67-7101, Idaho Code, beginning on January 1, 1990, and becoming mandatory on January 1, 1991, for all transfers of ownership, except that the board may, by rules and regulations, exempt vehicle and motor vehicle registrations under provisions of subsection (3) of section 49-441 and sections 49-434 and 49-435, Idaho Code, from the titling requirements of this chapter. Trailers whose unladen weight is less than two thousand (2,000) pounds, vehicles owned by the federal government, and vehicles exempt from registration under the provisions of section 49-426, Idaho Code, are exempt from the provisions of this chapter.

Approved April 5, 1989.

CHAPTER 359
(S.B. No. 1159, As Amended)

AN ACT

RELATING TO SEED AND FARM LABOR LIENS; REPEALING CHAPTERS 3 AND 16, TITLE 45, IDAHO CODE; AMENDING TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 3, TITLE 45, IDAHO CODE, TO PROVIDE PURPOSE AND SCOPE OF THE CHAPTER, TO PROVIDE DEFINITIONS, TO PROVIDE A FARM LABORER'S LIEN ON CROPS, TO PROVIDE A SEED LIEN ON CROPS, TO PROVIDE WHEN A SEED OR LABOR LIEN ATTACHES, TO REQUIRE A NOTICE OF LIEN BE FILED WITH SECRETARY OF STATE, TO PROVIDE A CIVIL PENALTY FOR FALSE CLAIMS, TO PROVIDE A PERIOD OF DURATION FOR SEED AND LABOR LIENS, TO PROVIDE THE LIENOR MUST RELEASE THE LIEN IF THE LIEN IS PAID AND DEMAND IS MADE, TO REQUIRE THE SECRETARY OF STATE TO COMPILE AND PUBLISH A LIST OF NOTICES OF LIENS, TO REQUIRE THE SECRETARY OF STATE TO ISSUE A CERTIFICATE LISTING ALL LIENS IN CROPS OF A CERTAIN PRODUCER UPON REQUEST, TO PROVIDE WHEN A BUYER OF CROPS TAKES FREE OF THE LIEN, TO PROVIDE THE DUTY OF THE BUYER WHO DOES NOT TAKE FREE OF THE LIEN, TO PROVIDE THE SECRETARY OF STATE WITH RULEMAKING AUTHORITY, TO PROVIDE AN EFFECTIVE DATE AND TRANSITION PERIOD; AND TO PROVIDE THAT THE ACT SHALL NOT BECOME EFFECTIVE UNLESS AN ADEQUATE APPROPRIATION IS MADE TO THE SECRETARY OF STATE.

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

SECTION 1. That Chapters 3 and 16, Title 45, Idaho Code, be, the

same are hereby repealed.

SECTION 2. That Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 3, Title 45, Idaho Code, and to read as follows:

CHAPTER 3
LIENS IN CROPS

45-301. PURPOSE AND SCOPE. (1) The purpose of this chapter is to provide a unified system for creation of liens and to provide notice of claims of liens in farm crops.

(2) The scope of this chapter is limited to liens in the crops of producers, and such liens are limited in amount to the value of the seeds or labor used in the production of the crops, plus expenses incurred in obtaining recovery pursuant to this chapter.

45-302. DEFINITIONS. For the purposes of this chapter:

(1) "Buyer" means a person who purchases, on his own behalf or as an agent for others, a crop from a producer.

(2) "Claimant" means a provider of seed or farm labor who files a notice of claim of lien in a crop.

(3) "Crop year" means the calendar year in which a crop would normally be harvested.

(4) "Crops" mean products of the soil. As it relates to liens for seed, the term "crops" shall be limited to annual crops. As it relates to liens for farm labor, it shall include annual crops as well as fruits, berries, grapes and nursery products.

(5) "Person" means an individual, partnership, corporation, or association.

(6) "Producer" means a farm operator to whom a claimant has provided seed or farm labor.

45-303. FARM LABORER'S LIEN. (1) Any person who performs farm labor on a farm in furtherance of production of a crop shall have a lien in the crop for the agreed or reasonable value of the labor.

(2) The farm laborer's lien shall have priority over any security interest in the same crop.

(3) A landlord's interest in a crop produced on premises which are leased in consideration of a share of the crop is not subject to a farm laborer's lien.

45-304. SEED LIEN. (1) Any person who furnishes seed to a producer to be sown or planted on lands owned, rented or otherwise lawfully occupied by the producer, shall have a lien in the crop or crops produced from the seed for the purchase price of the seed.

(2) The seed lien shall have priority over any security interest in the same crop, but shall be subordinate to a farm laborer's lien in the same crop.

(3) A landlord's interest in a crop produced on premises which are leased in consideration of a share of the crop is not subject to a seed lien.

45-307. ATTACHMENT OF LIEN. (1) A lien in a crop attaches when a claimant files a notice of claim of lien with the secretary of state.

(2) A lien attaches to the crop subject to the lien, but not to proceeds of the sale of the crop.

45-308. NOTICE OF CLAIM OF LIEN. (1) A claimant must file with the secretary of state a notice of claim of lien between thirty (30) days before and ninety (90) days after completion of his labor for or providing seed to the producer. If a notice of claim of lien is filed before completion of the labor or delivery of the seed, there must exist a written or verbal contract for such labor or seed.

(2) The notice of claim of lien must include:

(a) The nature of the lien (farm laborer's or seed);

(b) The name and address of the producer;

(c) The name and address of the claimant;

(d) The county or counties where the crop or crops covered by the lien are grown;

(e) The type(s) of crop (name of commodity) to which the lien applies;

(f) The crop year of the crop(s) to which the lien applies; and

(g) Such other information as the secretary of state shall by administrative rule require.

(3) The notice of claim of lien shall be signed by the claimant, his agent, or his attorney-in-fact, and the signer shall certify to the truth of the claim. Notarization is not required.

(4) The notice of claim of lien shall be filed on a standard form prescribed by the secretary of state.

45-309. CIVIL PENALTY FOR FALSE CLAIM. (1) Any person who signs and files a notice of claim of lien which he knows or has reason to believe is false shall be liable to the producer in the amount of the actual damages caused by the false claim or five hundred dollars ($500), whichever is greater, plus reasonable attorney's fees and costs.

(2) If the notice of claim of lien is signed by a person other than the claimant, and the claimant knows or has reason to believe the claim is false, the claimant and the person who signed the claim shall be jointly and severally liable for the amount described in subsection (1) of this section.

45-310. DURATION OF LIEN. (1) A notice of claim of lien for farm labor remains in effect for six (6) months from the date of filing.

(2) A notice of claim of lien for seed remains in effect for sixteen (16) months from the date of filing. If a crop subject to a lien for seed is not harvested within ten (10) months after the date of filing, the notice of claim of lien may be extended for six (6) months by filing a notice of extension of claim of lien. The notice of extension shall contain such information as the secretary of state shall by administrative rule require, and shall be filed within sixty (60) days prior to the lapse of the original sixteen (16) month period.

(3) Civil action to enforce a lien on crops shall be commenced

within the periods set forth in subsections (1) and (2) of this section.

45-311. DUTY TO RELEASE UPON SATISFACTION. (1) When a claimant's lien has been satisfied, the claimant shall, within thirty (30) days after satisfaction, file with the secretary of state a notice of release of lien.

(2) The notice of release shall be signed by the claimant, his agent, or his attorney-in-fact.

(3) The notice of release shall be filed on a standard form prescribed by the secretary of state.

45-312. LIST OF LIENS IN FARM CROPS. (1) The secretary of state shall publish a list of all presently effective notices of claim of lien in farm crops. The list shall be distributed to all persons who register therefor, on a schedule to be set by administrative rule of the secretary of state, but not less frequently than semimonthly.

(2) The list shall be published in a format established by administrative rule of the secretary of state, and may be in either complete form or in cumulative supplements to a complete list.

45-313. LIEN SEARCH. (1) Upon request the secretary of state shall issue a certificate listing all liens in crops of a particular producer for which notices of claim are on file in his office. The requesting party may additionally request copies of all relevant notices of claim of lien.

(2) Upon the request of any person, the secretary of state shall provide, within twenty-four (24) hours (excluding weekends and holidays), a verbal listing of liens in crops as described in subsection (1) of this section, followed by the certificate.

(3) The secretary of state shall, by administrative rule, prescribe the standards and forms for the lien searches described in this section.

45-314. WHEN BUYER TAKES FREE OF LIEN. (1) A buyer takes free of a lien in crops if he purchases and pays for a crop before a notice of claim of lien is filed with the secretary of state.

(2) A buyer who has registered for, and has received, the list of liens described in section 45-312, Idaho Code, takes free of a lien in crops if:

(a) When he purchases and pays for a crop, there is no notice of claim of lien in that crop on the current list of liens published under section 45-312, Idaho Code; and

(b) He has no actual notice of the existence of the lien.

As against buyers, a list is current until the third day after publication of the next list, or if mail is not delivered on that day, on the next day thereafter on which mail is delivered.

45-315. DUTY OF BUYER. A buyer who does not take free of a lien under section 45-314, Idaho Code, is obligated to secure permission of the claimant to pay the producer in full or to insure payment of the claimant from the purchase price.

45-316. ADMINISTRATIVE RULEMAKING. The secretary of state shall promulgate such administrative rules as are necessary to implement the provisions of this chapter and to set fees for all services provided for in this chapter.

45-317. EFFECTIVE DATE AND TRANSITION. (1) This chapter shall be effective as to all notices of claim of lien in crops filed on or after January 1, 1990.

(2) Notices of claim of farm laborer's lien, and notices of claim of seed lien recorded in the appropriate county recorders' offices under the prior law shall remain effective until the date they would normally expire under the prior law.

SECTION 3. This act shall not take effect unless and until a sufficient appropriation to support its implementation is passed for fiscal year 1990.

Approved April 5, 1989.

CHAPTER 360
(S.B. No. 1171)

AN ACT

RELATING TO THE OUTFITTERS AND GUIDES BOARD; AMENDING SECTION 36-2107, IDAHO CODE, TO PROVIDE THAT THE BOARD SHALL HAVE THE POWER TO APPOINT AN EXECUTIVE DIRECTOR TO SERVE AT THE PLEASURE OF THE BOARD.

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

SECTION 1. 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, revoke or

restrict the licenses of outfitters or guides, and to suspend, 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 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 appoint an executive director to serve at the pleasure of the board. The executive director shall be exempt from the provisions of chapter 53, title 67, Idaho Code, and shall receive a salary that is fixed by the board.

(h) 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 consti-

tute a continuous request for assistance outside the purview of enforcement of the provisions of this chapter.

Approved April 5, 1989.

CHAPTER 361
(S.B. No. 1190)

AN ACT

RELATING TO FISHING LICENSES; AMENDING SECTION 36-401, IDAHO CODE, TO PROVIDE THAT CHILDREN WHO ARE RESIDENTS OF FOSTER HOMES, FOSTER GROUP HOMES, OR CHILD WELFARE INSTITUTIONS MAY FISH WITHOUT A LICENSE DURING THE OPEN SEASON IF THEY ARE SUPERVISED.

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

SECTION 1. That Section 36-401, Idaho Code, be, and the same is hereby amended to read as follows:

36-401. HUNTING, TRAPPING, FISHING OR CARRYING UNCASED FIREARM -- LICENSE REQUIREMENT -- EXCEPTIONS. It is a misdemeanor for any person to hunt, trap, or fish for or take any wild animal, bird or fish of this state or have in his possession any uncased firearm while in the fields or forests of the state, without first having procured a license as hereinafter provided. Provided that no license shall be required:

(a) Uncased Firearms. For residents of this state to carry uncased firearms on property owned, leased or controlled by them or on adjoining property for the purpose of taking predatory animals.

(b) 1. For children under the age of fourteen (14) years who are residents of this state to fish during the open season therefor.

2. For nonresident children under the age of fourteen (14) years to fish during the open season therefor provided they are accompanied by the holder of a valid fishing license, and provided further that any fish caught by such nonresident children shall be included in the bag and possession limit of such license holder.

3. For resident children under the age of twelve (12) years to hunt, take or kill predatory, unprotected birds and animals by means other than with firearms.

4. For resident children under the age of fourteen (14) years to trap muskrats from irrigation ditches or property on which they live during the open season.

5. For children under the age of eighteen (18) who are residents of a licensed foster home, a foster group home, or a child welfare institution to fish during the open season therefor, provided they are accompanied and supervised by the director, officer, or other employee of the facility where the child resides.

(c) For any person to fish on a "free fishing day" as may be designated by the commission.

(d) Senior Residents. For "senior residents" age seventy (70)

years or older who are holders of a "senior resident permit" to hunt and fish during the open season.

(e) Blind Persons. For resident blind persons who are holders of a "permit for the blind" to fish during the open season.

(f) Institutional Inmates. For any inmate of the state hospital north, state hospital south, Idaho state school and hospital, and state veteran's home to fish during open seasons, provided said inmate has a permit therefor from the director. The director is authorized to issue such permits upon the request of the head of the respective institution having custody of said inmate upon a showing that the institution recommends the issuance of such permit and will assume full responsibility for and control over said inmate while using said permit.

(g) Resident Military Personnel. For resident persons engaged in the military service of the United States, while on temporary furlough or leave, upon receipt of a temporary permit from the director, to hunt and fish during the open season.

(h) Disabled Persons. For any resident person who is permanently and totally disabled as certified by a physician licensed to practice in the state of Idaho, to hunt and fish during the open season, providing such person has obtained a permit from the director.

(i) Youth Training Center Students. For students of the Idaho youth training center, under the supervision of an officer of said school, to fish during the open season.

(j) Boy Scouts. For boy scouts who are official participants in attendance at national or international encampments at Farragut State Park to take fish during the encampment period from Lake Pend Oreille in such areas and such numbers as may be designated by the commission.

(k) Nothing contained herein shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

Approved April 5, 1989.

CHAPTER 362
(S.B. No. 1209, As Amended)

AN ACT

RELATING TO SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES; AMENDING CHAPTER 1, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-115, IDAHO CODE, TO PROVIDE WHEN EQUIPMENT MUST BE EXPENSED AND WHEN IT MUST BE CAPITALIZED; AMENDING CHAPTER 1, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-117, IDAHO CODE, TO ALLOW SPECIAL REIMBURSEMENT RATES TO MEDICAID HEALTH CARE PROVIDERS ADMINISTERING CARE AND TREATMENT TO PATIENTS WITH SPECIAL NEEDS; AND AMENDING CHAPTER 1, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-118, IDAHO CODE, TO ALLOW OXYGEN CONCENTRATORS TO BE EXPENSED IN THE YEAR OF ACQUISITION.

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

SECTION 1. 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 56-115, Idaho Code, and to read as follows:

56-115. CAPITALIZATION OF ASSETS. For purposes of reporting costs to the department of health and welfare, each skilled care facility shall not capitalize minor movable equipment but shall expense it. Major movable equipment shall be capitalized. As used herein, equipment used directly or indirectly in providing health care for which medicaid reimbursement may be provided and which costs five hundred dollars ($500) or less shall be minor movable equipment and may be expensed as of the date of purchase. Major movable equipment which costs more than five hundred dollars ($500), must be capitalized and depreciated over the estimated useful life of the equipment under the rules of generally accepted accounting principles.

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 56-117, Idaho Code, and to read as follows:

56-117. PAYMENT OF SPECIAL RATES. The director shall have authority to pay facilities at special rates for care given to patients who have long term care needs beyond the normal scope of facility services. Patients with such needs may include, but are not limited to, ventilator assisted patients, certain pediatric patients, certain comatose patients, and certain patients requiring nasogastric or intravenous feeding devices. The payment for such specialized care will be in addition to any payments made in accordance with other provisions of this chapter. The cost to a facility for services provided pursuant to the provisions of this section will be excluded from the computation of payments or rates under other provisions of this chapter.

SECTION 3. That Chapter 1, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-118, Idaho code, and to read as follows:

56-118. REIMBURSEMENT FOR OXYGEN CONCENTRATORS. Oxygen concentrators used in lieu of supplying long-term care patients with bottled oxygen may, at the facility's option, be treated as an expense item in the year of acquisition and the cost thereof may be reported in the same expense category as oxygen.

Approved April 5, 1989.

CHAPTER 363
(S.B. No. 1069, As Amended in the House)

AN ACT

RELATING TO THE STATUTE OF LIMITATIONS ON TAXES; AMENDING SECTION 63-3075, IDAHO CODE, TO PROVIDE THAT NO COMPLAINT OR INDICTMENT WILL BE FILED AFTER SIX YEARS FROM THE COMMISSION OF THE OFFENSE; REPEALING SECTION 63-3070, IDAHO CODE; AMENDING SECTION 63-3068, IDAHO CODE, TO CLARIFY THE TIME WITHIN WHICH UNPAID TAXES UNDER THE IDAHO INCOME TAX ACT CAN BE ASSESSED; REPEALING SECTION 63-3636, IDAHO CODE; AND AMENDING SECTION 63-3633, IDAHO CODE, TO PROVIDE A SEVEN YEAR PERIOD OF LIMITATION UPON TAXES DUE FOR FAILURE TO FILE A RETURN, AND TO PROVIDE THAT THE LIMITATION DOES NOT APPLY IN CASES OF FRAUD, OR IN CASES WHERE THE TAXES WERE COLLECTED BUT NOT PAID TO THE STATE.

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

SECTION 1. That Section 63-3075, Idaho Code, be, and the same is hereby amended to read as follows:

63-3075. PENALTIES. (a) Any person required under this act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this act, who wilfully fails to pay such tax, make such returns, keep such records, or supply such information at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than three hundred dollars ($300), or imprisoned for not more than six (6) months or both.

(b) Any person required under this act to collect, account for and pay over any tax imposed by this act, who wilfully fails to collect or truthfully account for and pay over such tax, and any person who wilfully attempts in any manner to evade or defeat any tax imposed by this act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than ten thousand dollars ($10,000), or imprisoned for not more than five (5) years or both.

(c) Any person who wilfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, this act, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than ten thousand dollars ($10,000), or imprisoned for not more than five (5) years, or both.

(d) Notwithstanding the provisions of sections 19-402 and 19-403, Idaho Code, no person shall be prosecuted, tried, or punished for any of the offenses contained in subsections (a), (b), or (c) of this sec-

tion, unless the complaint or indictment is filed within six (6) years from the commission of the offense.

SECTION 2. That Section 63-3070, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 63-3068, Idaho Code, be, and the same is hereby amended to read as follows:

63-3068. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION OF TAX. Except as otherwise provided in this section ~~63-3070, Idaho Code~~:

(a) The amount of income taxes imposed by this act shall be assessed within three (3) years after the due date of the return or the date the return was filed, whichever is later, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period; provided, however, if an assessment has been made within the prescribed time, such tax may be collected by levy or by a proceeding in court within a period of six (6) years after assessment of the tax and provided, further, that this shall not be in derogation of any of the remedies elsewhere herein provided. The running of the period of limitations provided by this section shall be suspended for the period during which the state tax commission is prohibited from making the assessment or from collecting by levy or a proceeding in court, and for thirty (30) days thereafter.

(b) In the case of a false or fraudulent return with the intent to evade tax, or a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(c) In the case of a failure to file a return, for any reason, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(~~b~~d) In the case of income received during the lifetime of a decedent, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within six (6) months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent.

(~~c~~e) When taxable income for any year has been adjusted by federal internal revenue action or by voluntary action on the part of the taxpayer, and no corresponding adjustment has been reported by the taxpayer to the state of Idaho, the limitation upon assessment shall be one (1) year from the delivery by the taxpayer to the state tax commission of notice of final determination thereof together with copies of schedules supplied the taxpayer by the Internal Revenue Service. All items of income and deduction which were adjusted in the federal determination and all allocations and apportionments shall be subject to adjustment for Idaho tax purposes.

(~~d~~f) Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this act, both the state tax commission or its delegate or deputy and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed

upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SECTION 4. That Section 63-3636, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 63-3633, Idaho Code, be, and the same is hereby amended to read as follows:

63-3633. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION. Except as otherwise provided in this section:

(a) The amount of taxes imposed by this act shall be assessed within three (3) years ~~of--the--time-the-return-upon-which-the-tax asserted-to-be-due-was-or-should-have-been-filed~~ after the due date of the return or the date the return was filed, whichever is the later, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period; provided, however, if an assessment has been made within the prescribed time, such tax may be collected by levy or by a proceeding in court within a period of six (6) years after assessment of the tax and, provided further, that this shall not be in derogation of any of the remedies elsewhere herein provided. The running of the period of limitations provided by this section shall be suspended for the period during which the state tax commission is prohibited from making the assessment or from collecting by levy or a proceeding in court, and for thirty (30) days thereafter.

(b) In the case of a false or fraudulent return with the intent to evade tax, or a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(c) In the case of taxes owed by a person who has failed to file a return as provided in section 63-3621, Idaho Code, the amount of taxes imposed in this chapter shall be assessed within seven (7) years of the time the return upon which the tax asserted to be due should have been filed. Provided, however, that this period of limitation upon assessment and collection shall not apply in cases where the facts disclose a false or fraudulent act with the intent to evade tax, nor shall it apply in cases where a retailer or seller has collected taxes under this chapter and has failed to pay over such taxes to the state tax commission.

~~(b)~~(d) In the case of taxes due during the lifetime of a decedent, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within six (6) months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent.

(e) Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this act, both the state tax commission or its delegate or deputy and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed

upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Approved April 5, 1989.

CHAPTER 364
(S.B. No. 1162, As Amended in the House)

AN ACT
RELATING TO WORKMEN'S COMPENSATION; AMENDING SECTION 72-208, IDAHO CODE, TO PROVIDE A DEFINITION OF INTOXICATION.

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

SECTION 1. That Section 72-208, Idaho Code, be, and the same is hereby amended to read as follows:

72-208. INJURIES NOT COVERED -- WILFUL INTENTION -- INTOXICATION. (1) No compensation shall be allowed to an employee for injury proximately caused by the employee's wilful intention to injure himself or to injure another.

(2) If an injury is the proximate result of an employee's intoxication, all income benefits shall be reduced by fifty per cent (50%), provided that such reduction shall not apply where the intoxicants causing the employee's intoxication were furnished by the employer or where the employer permits the employee to remain at work with knowledge by the employer or his supervising agent that the employee is intoxicated.

(3) "Intoxication" as used in this section means being under the influence of alcohol or of controlled substances, as defined in section 37-2701(d), Idaho Code. Provided, however, that this definition shall not include an employee's use of a controlled substance for which a prescription has been issued authorizing such substance to be dispensed to him, or when such substance is dispensed directly by a practitioner to him, and where the employee's use of the controlled substance is in accordance with the instructions for use of the controlled substance.

Approved April 5, 1989.

CHAPTER 365
(S.B. No. 1172, As Amended in the House)

AN ACT
RELATING TO DISPOSAL OF SEWAGE OR OTHER WASTES FROM VESSELS; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 75, TITLE

67, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE JURISDICTION AND AUTHORITY, TO DEFINE TERMS, TO REGULATE MARINE SANITATION DEVICES, TO PROVIDE PROHIBITIONS AGAINST THE DISCHARGE OF SEWAGE OR OTHER WASTES, TO PROVIDE FOR ENFORCEMENT, TO PROVIDE PENALTIES, TO PROVIDE FOR DISPOSITION OF FINES, AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 75, Title 67, Idaho Code, and to read as follows:

CHAPTER 75
MARINE SEWAGE DISPOSAL ACT

67-7501. LEGISLATIVE INTENT. The legislature finds that the waters of Idaho streams, rivers and lakes are threatened with pollution from discharge of marine sewage and other wastes; that it is necessary to provide a uniform system for control and treatment of such marine sewage, graywater and other wastes; and that violators should be penalized.

67-7502. JURISDICTION AND AUTHORITY. This chapter shall apply to all vessels on the waters of and over which the state of Idaho shall have jurisdiction. The department of health and welfare is hereby granted authority to carry out the administration of the provisions of this chapter, and to promulgate rules and regulations in compliance with chapter 52, title 67, Idaho Code, to effectuate that purpose.

67-7503. DEFINITIONS. As used in this chapter:

(1) "Discharge" includes, but it not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(2) "Enforcement officer" means all persons designated as peace officers and authorized special deputies under Idaho law.

(3) "Manufacturer" means any person engaged in manufacturing, assembling, or importing of marine sanitation devices or of vessels subject to the standards and regulations promulgated under the federal water pollution control act, as amended.

(4) "Marine sanitation device" and "device" means any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage.

(5) "Other wastes" include, but are not limited to, garbage, refuse, wood debris, oil, tar, and other "pollutants" as defined in the federal water pollution control act, as amended.

(6) "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.

(7) "Person" means an individual, partnership, firm, corporation or association, but does not include an individual on board a public vessel.

(8) "Public vessel" means a vessel owned or bareboat chartered and operated by the United States, by a state or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

(9) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

(10) "Vessel" shall include every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the waters of the state of Idaho.

(11) "Waters of this state" mean any waters in the state of Idaho over which the state has jurisdiction.

67-7504. MARINE SANITATION DEVICES. (1) No manufacturer may sell, offer for sale, or distribute for sale or resale any vessel equipped with an installed marine sanitation device unless the device is operable, labeled and certified as provided by federal law.

(2) No owner may have a vessel on the waters of this state, and no person may operate any vessel on the waters of this state, equipped with an installed marine sanitation device unless the device is operable, labeled and certified as provided by federal law.

67-7505. PROHIBITION AGAINST DISCHARGE OF SEWAGE OR OTHER WASTES. (1) Except as provided by federal law, no person shall discharge or otherwise dispose of any sewage or other wastes from any vessel into or upon the waters of this state.

(2) When a vessel with an installed device is in an area where the discharge of sewage is prohibited, the device must be sealed to prevent overboard discharge.

67-7506. ENFORCEMENT. Any enforcement officer may stop and board any vessel, except public vessels, on the waters of this state for the purpose of inspecting a marine sanitation device or to enforce the provisions of this chapter.

67-7507. PENALTIES. (1) It shall be unlawful and constitute a misdemeanor for any person to violate any provisions of this chapter.

(2) Every person convicted of a violation of any provision of this chapter shall be punished by a fine of not less than one hundred dollars ($100) nor more than three hundred dollars ($300) for each offense or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

67-7508. DISPOSITION OF FINES. Notwithstanding the provisions of section 19-4705, Idaho Code, to the contrary, fines remitted for violations of this chapter shall be apportioned ten per cent (10%) to the state treasurer for deposit in the general account, twenty-two and one-half per cent (22 1/2%) to the district court fund and sixty-seven and one-half per cent (67 1/2%) to the sheriff of the county in which the violation occurred to be used to enforce boating and other water

related laws.

67-7509. 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 5, 1989.

CHAPTER 366
(S.B. No. 1004, As Amended)

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR INTOXICATING SUBSTANCES; AMENDING SECTION 18-8002, IDAHO CODE, TO PROVIDE FOR SUSPENSION OF DRIVING PRIVILEGES; AND AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATIONS.

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

SECTION 1. That Section 18-8002, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(a) His license will be seized by the police officer and a temporary permit will be issued; provided, however, that no peace officer shall issue a temporary permit pursuant to this section to a driver whose license or permit has already been and is suspended or revoked because of previous violations~~.~~;

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

(c) If he does not request a hearing or does not prevail at the hearing, his license will be suspended absolutely for one hundred eighty (180) days if this is his first refusal and one (1) year if this is his second refusal within five (5) years; and

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

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

(a) His license or permit shall be seized by the police officer and forwarded to the court and a temporary permit shall be issued by the police officer which allows him to operate a motor vehicle until the date of his hearing, if a hearing is requested, but in no event for more than thirty (30) days; provided, however, that no peace officer shall issue a temporary permit pursuant to this section to a driver whose license or permit has already been and is suspended or revoked because of previous violations;

(b) A written request may be made within seven (7) calendar days for a hearing before the court; if requested, the hearing must be held within thirty (30) days of the seizure unless this period is, for good cause shown, extended by the court for one (1) additional thirty (30) day period. The court, in granting such an extension, may, for good cause shown, extend the defendant's temporary driving privileges for one (1) additional thirty (30) day period. The hearing shall be limited to the question of why the defendant did not take the test, and the burden of proof shall be upon the defendant; the court shall suspend all his driving privileges immediately for one hundred eighty (180) days for a first refusal and one (1) year for a second refusal within five (5) years unless it finds that the police officer did not have probable cause to stop and request him to take the test or that the request violated his civil rights;

(c) If a hearing is not requested by written notice to the court concerned within seven (7) calendar days, upon receipt of a sworn statement by the police officer of the circumstances of the refusal, the court shall suspend his driving privileges for one hundred eighty (180) days for a first refusal and one (1) year for a second refusal within five (5) years, during which time he shall have absolutely no driving privileges of any kind; and

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

(5) Any suspension of driving privileges under this section shall be a civil penalty separate and apart from any other suspension imposed for a violation of other Idaho motor vehicle codes or for a conviction of an offense pursuant to this chapter, and may be appealed to the district court.

(6) No hospital, hospital officer, agent, or employee, or health care professional licensed by the state of Idaho shall be held liable in damages in any civil proceeding for a cause of action based upon assault, battery or false imprisonment, or be subject to prosecution

under chapter 9 or 29, title 18, Idaho Code, for any act arising out of administering an evidentiary test for alcohol concentration at the request of a police officer in the manner described by this section.

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

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

SECTION 2. 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 a period 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 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 the first forty-eight (48) hours of which must be consecutive, 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~~ one (1) year 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~~ one (1) year 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 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.

Approved April 5, 1989.

CHAPTER 367
(S.B. No. 1005)

AN ACT

RELATING TO EVIDENTIARY TESTING; AMENDING SECTION 18-8002, IDAHO CODE, TO PROVIDE FOR EVIDENTIARY TESTING OF DRIVERS FOR CONCENTRATION OF ALCOHOL, DRUGS OR INTOXICATING SUBSTANCES, TO DEFINE EVIDENTIARY TESTING, AND TO PROVIDE FOR ADDITIONAL TESTING OF DRIVERS TO DETERMINE THE PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES.

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

SECTION 1. That Section 18-8002, Idaho Code, be, and the same is hereby amended to read as follows:

18-8002. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES. (1) Any person who drives or is in actual physical control of a motor vehicle in this state shall be deemed to have given his consent to ~~an~~ evidentiary testing for concentration of alcohol~~,~~ as defined in section 18-8004, Idaho Code, and to have given his consent to evidentiary testing for the presence of drugs or other intoxicating substances ~~as defined in section 18-8004, Idaho Code~~, provided that such testing is administered at the request of a police officer having reasonable grounds to believe that person has been driving or in actual physical control of a motor vehicle ~~while under the influence of alcohol, drugs or of any other intoxicating substances~~ in violation of the provisions of section 18-8004, Idaho Code, or section 18-8006, Idaho Code.

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

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

(a) His license will be seized by the police officer and a temporary permit will be issued; provided, however, that no peace officer shall issue a temporary permit pursuant to this section to a driver whose license or permit has already been and is suspended or revoked because of previous violations~~;~~;

(b) He has the right to request a hearing within seven (7) days to show cause why he refused to ~~take the test~~ submit to, or complete evidentiary testing;

(c) If he does not request a hearing or does not prevail at the hearing, his license will be suspended absolutely for one hundred eighty (180) days; and

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

(4) If the motorist refuses to ~~take the~~ submit to or complete evidentiary testing after the information has been given in accordance with subsection (3) above:

(a) His license or permit shall be seized by the police officer and forwarded to the court and a temporary permit shall be issued by the police officer which allows him to operate a motor vehicle until the date of his hearing, if a hearing is requested, but in no event for more than thirty (30) days; provided, however, that no peace officer shall issue a temporary permit pursuant to this section to a driver whose license or permit has already been and is suspended or revoked because of previous violations;

(b) A written request may be made within seven (7) calendar days for a hearing before the court; if requested, the hearing must be held within thirty (30) days of the seizure unless this period is, for good cause shown, extended by the court for one (1) additional thirty (30) day period. The court, in granting such an extension, may, for good cause shown, extend the defendant's temporary driving privileges for one (1) additional thirty (30) day period. The hearing shall be limited to the question of why the defendant did not ~~take the test~~ submit to, or complete, evidentiary testing, and the burden of proof shall be upon the defendant; the court shall suspend all his driving privileges immediately for one hundred eighty (180) days unless it finds that the police officer did not have probable cause to stop and request him to take the test or that the request violated his civil rights;

(c) If a hearing is not requested by written notice to the court concerned within seven (7) calendar days, upon receipt of a sworn statement by the police officer of the circumstances of the refusal, the court shall suspend his driving privileges for one hundred eighty (180) days, during which time he shall have absolutely no driving privileges of any kind; and

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

(5) Any suspension of driving privileges under this section shall be a civil penalty separate and apart from any other suspension imposed for a violation of other Idaho motor vehicle codes or for a

conviction of an offense pursuant to this chapter, and may be appealed to the district court.

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

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

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

(9) For the purposes of this section, "evidentiary testing" shall mean a procedure or test or series of procedures or tests, including the additional test authorized in subsection (10) of this section, utilized to determine the concentration of alcohol or the presence of drugs or other intoxicating substances in a person.

(10) A person who submits to a breath test for alcohol concentration, as defined in subsection (4) of section 18-8004, Idaho Code, may also be requested to submit to a second evidentiary test of blood or urine for the purpose of determining the presence of drugs or other intoxicating substances if the police officer has reasonable cause to believe that a person was driving under the influence of any drug or intoxicating substance or the combined influence of alcohol and any drug or intoxicating substance. The police officer shall state in his or her report the facts upon which that belief is based.

Approved April 5, 1989.

CHAPTER 368
(S.B. No. 1147)

AN ACT

RELATING TO ASSESSMENTS OF IRRIGATION DISTRICTS; AMENDING SECTION 43-701, IDAHO CODE, TO ALLOW OWNERS OF TWO OR MORE LOTS WHICH HAVE BEEN SUBDIVIDED AND WHICH HAVE BEEN GIVEN NEW ASSESSMENT NUMBERS TO REQUEST THAT LOTS BE COMBINED FOR ASSESSMENT PURPOSES, AND TO PROVIDE PROCEDURES FOR THE IRRIGATION DISTRICT; AND AMENDING SECTION 43-707, IDAHO CODE, TO PROVIDE A PROCEDURE FOR PAYMENT WHEN SUBDIVIDED PARCELS HAVE BEEN COMBINED FOR ASSESSMENT PURPOSES; AND DECLARING AN EMERGENCY.

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. (1) 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.

(2) 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 the owners of two (2) or more lots each of which is less than five (5) acres in size in any subdivision which has been given new assessment numbers may request of the assessor in writing that those lots be combined for assessment purposes, whereupon the assessor shall combine those lots into a single assessment number, which may be the same as the number previously assigned to one (1) of the lots, which number with an accurate description of the lots designated by such number shall be included in his list of irrigation district assessment numbers filed with the board of directors; thereafter, such combined area shall be deemed to be a single parcel for all purposes related to the levy and collection of assessments and all subsequent assessments shall constitute a single lien against the entire combined area. The request to combine the parcels for assessment purposes shall include the name and mailing address of the person designated by the requesting landowners to receive notices from the district. All assessment notices which otherwise would be sent to the individual landowners, shall be sent to the person thus designated, and shall be deemed to have been sent to the owner of each parcel included in the combined area.

(3) 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.

(4) 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.

(5) 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 43-707, Idaho Code, be, and the same is hereby amended to read as follows:

43-707. PAYMENT OF ASSESSMENTS -- WHEN DELINQUENT. Except in districts which have prior to such assessment entered into contracts with the United States requiring payments to the United States on or before December first of that year, on or before the first day of November the secretary must deliver the assessment book to the treasurer of the district, who shall within ten (10) days publish a notice in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable and will become delinquent at five o'clock p.m. on the twentieth day of December next thereafter, and also the times and places at which the payment of the assessments may be made, which notice shall be published for the period of two (2) weeks. The treasurer must attend at the times and places specified in the notice to receive assessments, which must be paid in lawful money of the United States: provided, that maintenance warrants of the district may be accepted as cash in the hands of the original owner for the payment of the maintenance assessments; and that matured bonds of the district and the accrued interest coupons detached from any of the bonds of the district, when presented by landowners within the irrigation district, may be accepted as cash in payment of assessments levied for bond interest and principal, and in the event that the said bonds so used are of a greater denomination than the said assessments the treasurer shall indorse upon said bond or bonds the amount necessary to pay said assessment or assessments and the date of said payment, and take a receipt from such bond holder for the amount so credited, and either such receipt describing the bond so indorsed or such indorsement shall be prima facie evidence that the said sum so indorsed has been paid on said bond or bonds. He must mark the date of payment of any assessment in the assessment book opposite the name of the person paying and give a receipt to such person, specifying the amount of the assessment and the amount paid with a description of the property assessed. On the twentieth day of December, at five o'clock p.m. of each year, all unpaid assessments for the current year are delinquent; provided, that if any person shall pay one-half (1/2) of his assessment before they become delinquent as aforesaid, the remaining one-half (1/2) shall not become delinquent until the twentieth day of June at five o'clock p.m. of each year.

Where subdivided parcels have been combined for assessment purposes as permitted by section 43-701, Idaho Code, payment of any assessment against the parcels in the combined area shall be made by the designated person or by someone acting under his authority, by a single remittance or, if payment is made in two (2) installments, then by two (2) remittances. It shall be the responsibility of the owners

of the parcels within the combined area to determine their respective shares of the assessment and to provide funds to the designated person for payment of their respective shares thereof.

The treasurer of the district shall not be required to accept partial payments of any installment of an assessment.

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 5, 1989.

CHAPTER 369
(S.B. No. 1256, As Amended)

AN ACT

RELATING TO THE COMMISSION ON PARDONS AND PAROLE; AMENDING SECTION 20-223, IDAHO CODE, TO PROVIDE THAT EXCEPT FOR PROMULGATION OF RULES AND REGULATIONS BY THE COMMISSION, THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURES ACT SHALL NOT APPLY TO THE COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 20-223, Idaho Code, be, and the same is hereby amended to read as follows:

20-223. PAROLE, RULES AND REGULATIONS GOVERNING -- RESTRICTIONS --PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. (a) Subject to section 19-2513, Idaho Code, the commission shall have the power to establish rules, regulations, policies or procedures in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission.

(b) No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any of the said crimes or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one or more psychiatrists or psychologists to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those above enumerated. No psychiatrist or psychologist making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

(c) Before considering the parole of any prisoner, the commission shall afford the prisoner the opportunity to be interviewed. A parole shall be ordered only for the best interests of society when the commission reasonably believes that the prisoner no longer poses a threat to the safety of society, not as a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. A prisoner shall be placed on parole only when arrangements have been made for his employment or maintenance and care, and when the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. The commission may also by its rules, regulations, policies or procedures fix the times and conditions under which any application denied may be reconsidered.

(d) In making any parole or commutation decision with respect to a prisoner, the commission shall consider the compliance of the prisoner with any order of restitution which may have been entered according to section 19-5304, Idaho Code. The commission may make compliance with such an order of restitution a condition of parole.

(e) Except as provided in subsection (a) of this section, no provision of chapter 52, title 67, Idaho Code, shall apply to the commission.

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

Approved April 5, 1989.

CHAPTER 370
(S.B. No. 1246, As Amended)

AN ACT

RELATING TO A SEED ARBITRATION REVIEW COUNCIL; AMENDING SECTION 22-415, IDAHO CODE, TO PROVIDE AN ADDITIONAL LABEL REQUIREMENT; AMENDING CHAPTER 4, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-436, IDAHO CODE, TO CREATE AN ARBITRATION COUNCIL FOR BUYERS AND SELLERS OF SEED WITHIN THE DEPARTMENT OF AGRICULTURE.

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

SECTION 1. That Section 22-415, Idaho Code, be, and the same is hereby amended to read as follows:

22-415. LABEL REQUIREMENTS -- AGRICULTURAL, VEGETABLE, FLOWER, TREE AND SHRUB SEEDS. Before each container of seed is sold, offered for sale, exposed for sale, or delivered under a contract within this state for sowing purposes, it shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

(1) For agricultural seeds and mixtures:

(a) The name of the kind or the kind and variety of each agricul-

tural seed component in excess of five ~~per-cent~~ percent (5%) of the whole, and the percentage by weight of each pure seed. When more than one (1) pure seed is present, the word "mixture" or the word "mixed" and the name of the mixture shall be shown conspicuously on the label. Hybrids shall be labeled as hybrids.

(b) Lot number or other lot identification.

(c) Origin by state or foreign country, if known. If the origin is unknown, that fact shall be stated.

(d) Percentage by weight of all other crop seeds combined, none of which individually exceeds five percent (5%) of the total weight. If a mixture contains no crop seed, that shall be stated or shown.

(e) Percentage by weight of inert matter.

(f) Percentage by weight of all weed seeds.

(g) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present. All determinations of noxious weed seeds shall be subject to tolerances and methods of determination prescribed in the rules and regulations under this chapter.

(h) Germination for each named agricultural seed:

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

(ii) Percentage of hard seed, if present;

(iii) The calendar month and year the test was completed to determine the percentages~~.~~;

(iv) A tetrazolium test is deemed sufficient to meet germination labeling requirements if the species is included in the director's published list.

(i) Name and address of the person who labeled the seed, or who sells or delivers seed under a contract, or his federal consumer marketing service number or agricultural marketing service number.

(2) For vegetable seeds in packets or preplanted containers, mats, tapes or other planting devices:

(a) Name of kind of seed;

(b) Lot identification;

(c) The year for which the seed was packed for sale, or the percentage of germination and the calendar month and year the germination test was completed.

(d) For seeds which germinate less than the standard last established by the director in the rules and regulations promulgated under this chapter:

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

(ii) Percentage of hard seed, if present;

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

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

(v) A tetrazolium test is deemed sufficient to meet germination labeling requirements if the species is included in the director's published list.

(e) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds, a statement to indi-

cate the minimum number of seeds in each container.

(f) Name and address of the person who labeled the seed, or who sells or delivers seed under a contract, or his federal consumer marketing service number or agricultural marketing service number.

(3) For vegetable seeds, in mixtures, in bulk, or in containers other than packets and preplanted containers, mats, tape, or other devices:

(a) The name of each kind and variety present in excess of five percent (5%) of the whole, and the percentage by weight of each in order of predominance;

(b) Lot identification;

(c) Germination for each named vegetable seed~~;~~:

(i) Percentage germination exclusive of hard seed;

(ii) Percentage of hard seed, if present;

(iii) The calendar month and year the germination test was completed;

(iv) A tetrazolium test is deemed sufficient to meet germination labeling requirements if the species is included in the director's published list.

(d) The labeling requirements for vegetable seeds in containers of more than eight (8) ounces shall be satisfied if the seed is weighed from an accurately labeled container in the presence of the purchaser.

(e) Name and address of the person who labeled the seed, or his federal consumer marketing service number or agricultural marketing service number.

(4) For flower seeds:

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

(b) The calendar month and year the seed was tested or the year the seed was packaged;

(c) The name and address of the person who labeled or who sells the seed or his federal consumer marketing service number or agricultural marketing service number;

(d) In packets or preplanted containers, mats, tapes or other planting devices, and in addition to the requirements of paragraphs (a) through (c) of subsection (4) of this section:

(i) The minimum number of seeds in the container;

(ii) The percentage of germination exclusive of hard seed for those seeds which germinate less than the germination standards established in the rules and regulations promulgated under this chapter; and

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

(e) In containers other than packets or preplanted containers, mats, tapes or other planting devices, and in addition to requirements of paragraphs (a) through (c) of subsection (4) of this section:

(i) Lot number or other lot identification;

(ii) Percentage germination exclusive of hard seed, and the percentage of hard seed, if present.

(5) For tree and shrub seed:

(a) Common name of the species;
(b) The scientific name of the genus and species;
(c) Lot number or other lot identification;
(d) Origin, if known. If the origin is unknown that fact shall be stated~~.~~:
(i) For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, geographic description, or political subdivision~~.~~;
(ii) For seed collected from other than a predominantly indigenous stand, identify the area of collection and the origin of the stand, or state "origin not indigenous."
(e) The elevation, or the upper and lower limits of elevations, within which the seed was collected.
(f) Purity as a percentage of pure seed by weight.
(g) For those species for which standard germination testing procedures are prescribed by the director:
(i) Percentage germination exclusive of hard seed;
(ii) Percentage of hard seed, if present;
(iii) The calendar year and month the germination test was completed.
(h) Transported in bulk, an invoice is sufficient to meet labeling requirements when the container is identified with a lot number.
(i) The name and address of the person who sells the seed or his federal consumer marketing service number ~~of~~ or agricultural marketing service number.
(6) For all agricultural, vegetable, flower, tree and shrub seeds treated to prevent contamination, infection or disease:
(a) A word or statement indicating the seed has been treated;
(b) The common or generic name of the applied substance, or description of the process used;
(c) A caution or poison statement if the amount present with the seed is harmful or toxic to humans and other vertebrate animals; and
(d) An expiration date of any inoculant applied to the seed.
(7) For agricultural seeds coated with any substance which changes the size, shape or weight of the original seed:
(a) Percentage of pure seeds with coating material removed;
(b) Percentage of coating material; and
(c) Percentage of germination.
(8) The arbitration requirement provided in section 22-436, Idaho Code.

SECTION 2. That Chapter 4, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-436, Idaho Code, and to read as follows:

22-436. SEED ARBITRATION REVIEW COUNCIL. (1) Requirement of arbitration. When any buyer claims to have been damaged by the failure of any seed for planting to produce or perform as represented by the required label to be attached to such seed under section 22-415, Idaho

Code, or by warranty, or as a result of negligence, as a prerequisite to the buyer's right to maintain a legal action against the dealer or any other seller of such seed, the buyer shall first submit the claim to arbitration as provided in this section. Any applicable period of limitations with respect to such claim shall be tolled until ten (10) days after the filing of the report of arbitration with the director of the department of agriculture as provided in subsection (5)(i) of this section.

(2) Notice of arbitration requirement. Conspicuous language calling attention to the requirement for arbitration under this section shall be referenced or included on the analysis label required under section 22-415, Idaho Code, or otherwise attached to the seed bag or package. Arbitration shall not be required unless this notice is included. A notice in the following form, or equivalent language, shall be sufficient:

NOTICE OF REQUIRED ARBITRATION

Under the seed laws of some states, arbitration is required as a precondition of maintaining certain legal actions, counterclaims or defenses against a seller of seed. The buyer must file a complaint along with the filing fee within such time as to permit inspection of the crops, plants or trees and notify seller of complaint by certified mail.

(3) Effect of arbitration.

(a) Agreement to arbitrate. The report of arbitration shall be binding upon all parties to the extent, if any, that they have so agreed in any contract governing the sale of the seed.

(b) Commencement of legal action. In the absence of an agreement to be bound by arbitration, a buyer may commence legal proceedings against a seller or assert such claim as a counterclaim or defense in any action brought by the seller, at any time after the receipt of the report of arbitration.

(c) Use as evidence. In any litigation involving a complaint which has been the subject of arbitration under this section, any party may introduce the report of arbitration as evidence of the findings of the report, and the court may give such weight to the arbitration council's findings and recommendations as to damages and costs, as the court may see fit based upon all the evidence before the court. The court may also take into account any finding of the arbitration council with respect to the failure of any party to cooperate in the arbitration proceedings including, any finding as to the effect of delay in filing the arbitration claim upon the arbitration council's ability to determine the facts of the case.

(d) Investigation cost. The costs of conducting the investigation will be borne by the nonprevailing party.

(4) Seed arbitration council. The director of the department of agriculture shall appoint an arbitration council composed of five (5) members and four (4) alternate members. An Idaho department of agriculture representative shall serve as a permanent member. One (1) member and one (1) alternate shall be appointed upon the recommendation of each of the following:

(a) The associate dean of the college of agriculture; director of the Idaho agricultural experiment stations, college of agriculture, university of Idaho.

(b) The department head of plant, soil and entomological sciences, college of agriculture, university of Idaho.

(c) The president of Idaho-eastern Oregon seed association.

(d) The president of the Idaho crop improvement association.

Each alternate member shall serve only in the absence of the member for whom the person is an alternate. No member or alternate shall be involved in an investigation of a complaint if they, their employer or employee is named in the filed complaint.

Either the buyer or the seller may challenge any member or alternate of the council if there is reason to believe that a conflict of interest exists. In the event that a member or alternate is challenged, the director of the department of agriculture shall appoint, with the consent of the buyer and seller, a replacement, who shall be knowledgeable about agricultural husbandry.

The council shall elect a chairman and a secretary from its membership. The chairman shall conduct meetings and deliberations of the council and direct all of its other activities. The secretary shall keep accurate records of all such meetings and deliberations and perform such other duties for the council as the chairman may direct.

The purpose of the council is to conduct arbitration as provided in this section. The council may be called into session by or at the direction of the director or upon direction of its chairman to consider matters referred to it by the director or such chairman in accordance with this section.

(5) Procedures.

(a) Commencement. A buyer may invoke arbitration by filing a sworn complaint with the director together with a filing fee of one hundred dollars ($100) which is nonrefundable. The buyer shall serve a copy of the complaint upon the seller by certified mail. Except in case of seed which has not been planted, the claim shall be filed within such time as to permit effective inspection of the plants under field conditions.

(b) Seller's answer. Within twenty (20) days after receipt of a copy of the complaint, the seller shall file with the director an answer to the complaint and serve a copy of the answer upon the buyer by certified mail.

(c) Referral to arbitration council. The director shall refer the complaint and answer to the council for investigation, findings and recommendation.

(d) Investigation. Upon referral of a complaint for investigation the council shall make a prompt and full investigation of the matters complained of and report its findings and recommendations to the director within sixty (60) days of such referral or such later date as parties may determine.

(e) Scope of report. The report of the council shall include findings and recommendations as to costs, if any, for settlement of a complaint.

(f) Authority of council. In the course of its investigation, the council or any of its members may:

(i) Examine the buyer and the seller on all matters which the council considers relevant.

(ii) Grow to production a representative sample of the seed through the facilities of the director or a designated university.

(iii) Submit seed samples for testing by state seed laboratory or appropriate laboratory.

(iv) Hold informal hearings at such time and place as the chairman may direct upon reasonable notice to all parties.

(v) Upon the chairman's request, call person(s) in for comments knowledgeable on matter(s) under investigation.

(vi) Assess the cost of conducting the investigation to the nonprevailing party of a given complaint.

(g) Delegation. The council may delegate all or any part of any investigation to one (1) or more of its members. Any such delegated investigation shall be summarized in writing and considered by the council in its report.

(h) Compensation. The members of the council shall be compensated as provided in section 59-509(b), Idaho Code.

(i) Distribution of report. After the council has made its report the director shall promptly transmit the report by certified mail to all parties.

Approved April 5, 1989.

CHAPTER 371
(S.B. No. 1225, As Amended)

AN ACT

RELATING TO HOMESTEADS; REPEALING CHAPTERS 10 AND 13, TITLE 55, AND SECTIONS 55-1201, 55-1202, 55-1203, 55-1204, 55-1205 AND 55-1206, IDAHO CODE; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 10, TITLE 55, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FROM WHAT PROPERTY THE HOMESTEAD MAY BE SELECTED, TO LIMIT THE HOMESTEAD EXEMPTION, TO PROVIDE FOR AN AUTOMATIC HOMESTEAD EXEMPTION, A DECLARATION OF HOMESTEAD AND A DECLARATION OF ABANDONMENT, TO PROVIDE JUDGMENTS THE HOMESTEAD IS SUBJECT TO, TO PROVIDE FOR PRESUMPTION OF ABANDONMENT AND DECLARATION OF NONABANDONMENT, TO PROVIDE FOR CONVEYANCE OR ENCUMBRANCE OF A HOMESTEAD BY A HUSBAND AND WIFE, TO PROVIDE WHEN A HOMESTEAD IS EXEMPT FROM EXECUTION AND TO PROVIDE WHEN A HOMESTEAD IS PRESUMED VALID, TO PROVIDE WHEN A JUDGMENT AGAINST A HOMESTEAD OWNER SHALL BECOME A LIEN ON THE EXCESS VALUE OF THE HOMESTEAD PROPERTY, AND TO PROVIDE FOR DEVOLUTION AFTER DEATH; AND AMENDING SECTION 55-1201A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT CITATION.

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

SECTION 1. That Chapters 10 and 13, Title 55, and Sections 55-1201, 55-1202, 55-1203, 55-1204, 55-1205 and 55-1206, Idaho Code,

be and the same are hereby repealed.

SECTION 2. 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 10, Title 55, Idaho Code, and to read as follows:

CHAPTER 10
HOMESTEADS

55-1001. DEFINITIONS. For purposes of this chapter:

(1) "Dwelling house" and "mobile home" include manufactured housing.

(2) "Homestead" means and consists of the dwelling house or the mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated and by which the same are surrounded, or improved; or unimproved land owned with the intention of placing a house or mobile home thereon and residing thereon. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner. Property included in the homestead must be actually intended or used as a principal home for the owner.

(3) "Net value" means market value less all liens and encumbrances.

(4) "Owner" includes, but is not limited to, a purchaser under a deed of trust, mortgage, or contract.

55-1002. FROM WHAT PROPERTY SELECTED. If the owner is married, the homestead may consist of the community or jointly owned property of the spouses or the separate property of either spouse: Provided, that the same premises may not be claimed separately by the husband and wife with the effect of increasing the net value of the homestead available to the marital community beyond the amount specified in section 55-1003, Idaho Code. When the owner is not married, the homestead may consist of any of his or her property.

55-1003. HOMESTEAD EXEMPTION LIMITED. A homestead may consist of lands, as described in section 55-1001, Idaho Code, regardless of area, but the homestead exemption amount shall not exceed the lesser of (i) the total net value of the lands, mobile home, and improvements as described in section 55-1001, Idaho Code; or (ii) the sum of thirty thousand dollars ($30,000).

55-1004. AUTOMATIC HOMESTEAD EXEMPTION -- CONDITIONS -- DECLARATION OF HOMESTEAD -- DECLARATION OF ABANDONMENT. (1) Property described in section 55-1001, Idaho Code, constitutes a homestead and is automatically protected by the exemption described in section 55-1003, Idaho Code, from and after the time the property is occupied as a principal residence by the owner or, if the homestead is unimproved or improved land that is not yet occupied as a homestead, from and after the declaration or declarations required in this section are filed for record or, if the homestead is a mobile home not yet occu-

pied as a homestead and located on land not owned by the owner of the mobile home, from and after delivery of a declaration as described in section 55-1006, Idaho Code.

(2) An owner who selects a homestead from unimproved or improved land that is not yet occupied as a homestead must execute a declaration of homestead and file the same for record in the office of the recorder of the county in which the land is located. However, if the owner also owns another parcel of property on which the owner presently resides or in which the owner claims a homestead, the owner must also execute a declaration of abandonment of homestead on that other property and file the same for record with the recorder of the county in which the land is located.

(3) The declaration of homestead must contain:

(a) A statement that the person making it is residing on the premises or intends to reside thereon and claims the premises as a homestead;

(b) A legal description of the premises; and

(c) An estimate of the premises actual cash value.

(4) The declaration of abandonment must contain:

(a) A statement that a premises occupied as a residence or claimed as a homestead no longer constitutes the owner's homestead;

(b) A legal description of the premises; and

(c) A statement of the date of abandonment.

(5) The declaration of homestead and declaration of abandonment of homestead must be acknowledged in the same manner as a grant of real property is acknowledged.

55-1005. TO WHAT JUDGMENTS SUBJECT. The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

(1) Before the homestead was in effect, and which constitute liens upon the premises; or in an action in which an attachment was levied upon the premises before the homestead became effective.

(2) On debts secured by mechanic's, laborer's or vendor's lien upon the premises.

(3) On debts secured by mortgages, deeds of trust or other consensual liens upon the premises, executed and acknowledged by the husband and wife or by an unmarried claimant.

(4) On debts secured by mortgages, deeds of trust or other consensual liens upon the premises, executed and recorded before the homestead became effective.

55-1006. PRESUMPTION OF ABANDONMENT -- DECLARATION OF NONABANDONMENT. A homestead is presumed abandoned if the owner vacates the property for a continuous period of at least six (6) months. However, if an owner is going to be absent from the homestead for more than six (6) months but does not intend to abandon the homestead, and has no other principal residence, the owner may execute and acknowledge, in the same manner as a grant of real property is acknowledged, a declaration of nonabandonment of homestead and file the declaration for record in the office of the recorder of the county in which the property is situated. The declaration of nonabandonment of homestead

must contain:

(1) A statement that the owner claims the property as a homestead, that the owner intends to occupy the property in the future, and that the owner claims no other property as a homestead;

(2) A statement of where the owner will be residing while absent from the homestead property, the estimated duration of the owner's absence, and the reason for the absence; and

(3) A legal description of the homestead property.

55-1007. CONVEYANCE OR ENCUMBRANCE BY HUSBAND AND WIFE. The homestead of a married person cannot be conveyed or encumbered unless the instrument by which it is conveyed or encumbered is executed and acknowledged by both husband and wife, except that a husband or a wife or both jointly may make and execute powers of attorney for the conveyance or encumbrance of the homestead.

55-1008. HOMESTEAD EXEMPT FROM EXECUTION -- WHEN PRESUMED VALID. (1) Except as provided in section 55-1005, Idaho Code, the homestead is exempt from attachment and from execution or forced sale for the debts of the owner up to the amount specified in section 55-1003, Idaho Code. The proceeds of the voluntary sale of the homestead in good faith for the purpose of acquiring a new homestead, and proceeds from insurance covering destruction of homestead property held for use in restoring or replacing the homestead property, up to the amount specified in section 55-1003, Idaho Code, shall likewise be exempt for one (1) year from receipt, and also such new homestead acquired with such proceeds.

(2) Every homestead created under this chapter is presumed to be valid to the extent of all the property claimed exempt, until the validity thereof is contested in a court of general jurisdiction in the county in which the homestead is situated.

55-1009. JUDGMENT AGAINST HOMESTEAD OWNER -- LIEN ON EXCESS VALUE OF HOMESTEAD PROPERTY. A judgment against the owner of a homestead shall become a lien on the value of the homestead property in excess of the homestead exemption from the time the judgment creditor records the judgment with the recorder of the county where the property is located.

55-1010. DEVOLUTION AFTER DEATH. If the selection of the homestead was made by a married person from the community property, the land, on the death of either of the spouses, vests in the survivor, subject to no other liability than such as exists or has been created under the provisions of this title; in other cases, upon the death of the person whose property was selected as a homestead, it shall go to his heirs or devisees, subject to the power of the court to assign the same for a limited period to the family of the decedent; but in no case shall it be held liable for the debts of the owner, except as provided in this title.

SECTION 3. That Section 55-1201A, Idaho Code, be, and the same is hereby amended to read as follows:

55-~~1201A~~1011. 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~~ this chapter.

(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 5, 1989.

CHAPTER 372
(S.B. No. 1236)

AN ACT

RELATING TO FISHING CONTESTS; AMENDING SECTION 36-104, IDAHO CODE, TO AUTHORIZE THE FISH AND GAME COMMISSION TO ADOPT RULES AND REGULATIONS GOVERNING THE APPLICATION AND ISSUANCE OF PERMITS FOR, AND ADMINISTRATION OF FISHING CONTESTS ON WATERS UNDER THE JURISDICTION OF THE STATE.

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

SECTION 1. That Section 36-104, Idaho Code, be, and the same is hereby amended to read as follows:

36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization -- Meetings. The members of the commission shall annually meet at their offices in the city of Boise and organize by electing from their membership a chairman, who shall hold office for a period of one (1) year, or until his successor has been duly elected. In addition to the regular annual meeting, to be held in January, said commission shall

hold other regular quarterly meetings in April, July and October of each year at such places within the state as the commission shall select for the transaction of business. Special meetings may be called at any time and place by the chairman or a majority of the members of the commission. Notice of the time, place and purpose of any and all special meetings shall be given by the secretary to each member of the commission prior to said meeting.

(b) Authorization for Commission Powers and Duties. For the purpose of administering the policy as declared in section 36-103, Idaho Code, the commission is hereby authorized and empowered to:

1. Investigate and find facts regarding the status of the state's wildlife populations in order to give effect to the policy of the state hereinbefore announced.

2. Hold hearings for the purpose of hearing testimony, considering evidence and determining the facts as to when the supply of any of the wildlife in this state will be injuriously affected by the taking thereof, or for the purpose of determining when an open season may be declared for the taking of wildlife. Whenever said commission determines that the supply of any particular species of wildlife is being, or will be, during any particular period of time, injuriously affected by depletion by permitting the same to be taken, or if it should find a longer or different season, or different bag limit should be adopted for the better protection thereof, or if it finds that an open season may be declared without endangering the supply thereof, then it shall make an order embodying its findings in respect to when, under what circumstances, in which localities, by what means, what sex, and in what amounts and numbers the wildlife of this state may be taken.

3. Whenever it finds it necessary for the preservation, protection, or management of any wildlife of this state, by reason of any act of God or any other sudden or unexpected emergency, declare by written order the existence of such necessity, and the cause thereof, and prescribe and designate all affected areas or streams, and close the same to hunting, angling or trapping, or impose such restrictions and conditions upon hunting, angling or trapping as said commission shall find to be necessary.

(A) Every such emergency order shall be made in accordance with the provisions of section 67-5203, Idaho Code.

(B) Any person knowingly hunting, angling or trapping in an area or stream closed by any such emergency order, and before such order has been rescinded, shall be deemed guilty of a misdemeanor.

4. At any time it shall deem necessary for the proper management of wildlife on any game preserve in the state of Idaho, declare an open season in any game preserve as it deems appropriate.

5. (A) Upon notice to the public, hold a public drawing giving to license holders, under the wildlife laws of this state, the privilege of drawing by lot for a controlled hunt permit authorizing the person to whom issued to hunt, kill, or attempt to kill any species of wild animals or birds designated by the commission under such rules and regulations as it shall prescribe.

(B) The commission may, under rules and regulations as it may prescribe, authorize the director to issue additional controlled hunt permits and collect fees therefore authorizing owners, lessees in control of land valuable for habitat or propagation purposes of deer, elk or antelope, or members of their immediate families, to hunt deer, elk or antelope in controlled hunt units containing the eligible land owned or controlled by those individuals in areas where permits for deer, elk or antelope are limited.

(C) There shall be no fee charged to any individual for submitting an application to participate in a controlled hunt; provided, however, a permit fee of not to exceed three dollars ($3.00) for deer, ten dollars ($10.00) for moose, sheep and goat and five dollars ($5.00) for elk, antelope and such other species as may be determined in the future, shall be charged for the privilege of participating in a controlled hunt. All procedures under this section shall be under the control and in the discretion of the director of the department of fish and game. It is a misdemeanor for any person to transfer any such permit to any other person, or for any person to make use of such permit issued to any other person.

6. Adopt rules and regulations pertaining to the importation, exportation, release, sale, possession or transportation into, within or from the state of Idaho of any species of live, native or exotic wildlife or any eggs thereof.

7. Acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease, agreement, gift, or other device, lands or waters suitable for the purposes hereinafter enumerated, and develop, operate, and maintain the same for said purposes, which are hereby declared a public use:

(A) For fish hatcheries, nursery ponds, or game animal or game bird farms;

(B) For game, bird, fish or fur-bearing animal restoration, propagation or protection;

(C) For public hunting, fishing or trapping areas to provide places where the public may fish, hunt, or trap in accordance with the provisions of law, or the regulation of the commission;

(D) To extend and consolidate by exchange, lands or waters suitable for the above purposes.

8. Enter into cooperative agreements with educational institutions, and state, federal, or other agencies to promote wildlife research and to train students for wildlife management.

9. Enter into cooperative agreements with state and federal agencies, municipalities, corporations, organized groups of landowners, associations, and individuals for the development of wildlife rearing, propagating, management, protection and demonstration projects.

10. In the event owners or lawful possessors of land have restricted the operation of motor-propelled vehicles upon their land, the commission, upon consultation with all other potentially affected landowners, and having held a public hearing, if

requested by not less than ten (10) residents of any county in which the land is located, may enter into cooperative agreements with those owners or possessors to enforce those restrictions when the restrictions protect wildlife or wildlife habitat. Provided, however, the commission shall not enter into such agreements for lands which either lie outside or are not adjacent to any adjoining the proclaimed boundaries of the national forests in Idaho.

(A) The landowners, with the assistance of the department, shall cause notice of the restrictions, including the effective date thereof, to be posted on the main traveled roads entering the areas to which the restrictions apply. Provided, however, that nothing in this subsection shall allow the unlawful posting of signs or other information on or adjacent to public highways as defined in subsection (5) of section 40-109, Idaho Code.

(B) Nothing in this section authorizes the establishment of any restrictions that impede normal forest or range management operations.

(C) It shall be a misdemeanor for any person to violate such restrictions on the use of motor-propelled vehicles or to tear down or lay down any fencing or gates enclosing such a restricted area or to willfully remove, mutilate, damage or destroy any notices, signs or markers giving notice of such restrictions. The commission may promulgate rules and regulations to administer the restrictions and cooperative agreements addressed in this subsection.

11. Capture, propagate, transport, buy, sell or exchange any species of wildlife needed for propagation or stocking purposes, or to exercise control of undesirable species.

12. Adopt rules and regulations pertaining to the application for, issuance of and administration of a lifetime license certificate system.

13. Adopt rules and regulations governing the application and issuance of permits for and administration of fishing contests on waters under the jurisdiction of the state.

(c) Limitation on Powers. Nothing in this title shall be construed to authorize the commission to change any penalty prescribed by law for a violation of its provisions, or to change the amount of license fees or the authority conferred by licenses prescribed by law.

(d) Organization of Work. The commission shall organize the department, in accordance with the provisions of title 67, Idaho Code, into administrative units as may be necessary to efficiently administer said department. All employees of the department except the director shall be selected and appointed by the director in conformance with the provisions of chapter 53, title 67, Idaho Code.

Approved April 5, 1989.

CHAPTER 373
(S.B. No. 1240)

AN ACT

RELATING TO THE SALE AND PURCHASE OF WILDLIFE; AMENDING SECTION 36-501, IDAHO CODE, TO PROVIDE THAT A LICENSE IS NOT REQUIRED FOR PERSONS PURCHASING STEELHEAD TROUT FOR PERSONAL CONSUMPTION FROM LICENSED WHOLESALE OR RETAIL TROUT BUYERS OR FROM CERTAIN INDIAN FISHERMEN.

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

SECTION 1. That Section 36-501, Idaho Code, be, and the same is hereby amended to read as follows:

36-501. SALE AND PURCHASE OF WILDLIFE -- RESTRICTIONS -- EXCEPTIONS. It is a misdemeanor for any person to sell or buy any species of wildlife or parts thereof except as hereinafter provided.

(a) Sale of Unprotected Wildlife. The sale of legally taken species of wildlife classified as unprotected by law shall be lawful.

(b) Sale of Game Animals. The sale of legally taken hides, horns, or heads of game animals, when detached from the carcass, and mounted wildlife, where sale is not specifically prohibited by federal or state statutes or regulations, shall be lawful only when the wildlife to be sold is accompanied by a statement showing that the animals were lawfully taken.

(c) Sale of Furbearers. The sale of pelts and parts of furbearers when legally taken shall be lawful.

(d) Sale of Seized Wildlife. The sale and purchase of court confiscated, abandoned, or unclaimed wildlife shall be lawful when made in accordance with the provisions of section 36-1304, Idaho Code.

(e) Sale of Commercially Raised or Harvested Wildlife. The sale of wildlife legally raised or harvested commercially by properly licensed commercial operations shall be lawful.

(f) Sale of Steelhead Trout. 1. Any person holding a wholesale steelhead trout buyer's license may purchase or sell steelhead trout in the state of Idaho that have been taken by Indian fishermen lawfully exercising fishing rights reserved by federal statute, treaty or executive order. A wholesale license is necessary to purchase steelhead trout directly from Indian fishermen or from any other seller whose principal place of business is located outside of the state of Idaho.

2. Any person holding a retail steelhead trout buyer's license may purchase steelhead trout in the state of Idaho from an Idaho licensed wholesale steelhead trout buyer, or from any Indian fisherman lawfully exercising fishing rights authorized by federal statute, treaty, or executive order. A licensed retail steelhead trout buyer may sell steelhead trout directly to the consumer or to an establishment that prepares steelhead trout for consumption.

3. Establishments that prepare steelhead trout for consumption must possess a wholesale or retail steelhead trout buyer's license;

however, these licensed establishments may purchase steelhead trout from either wholesale or retail licensed steelhead trout buyers.

4. The fee for a wholesale license shall be fifty dollars ($50.00) per year. The fee for a retail license shall be ten dollars ($10.00) per year. All fees collected pursuant to this subsection shall be deposited in the fish and game account created pursuant to section 36-107, Idaho Code. These licenses shall expire December 31 of the year for which they are valid.

5. No license is required for any person purchasing steelhead trout for personal consumption from a licensed wholesale or retail steelhead trout buyer or from an Indian fisherman lawfully exercising fishing rights authorized by federal statute, treaty, executive order, or tribal code or regulation.

6. Purchases or sales under this section shall be made under conditions and reporting requirements prescribed by commission regulation, provided that said conditions and reporting requirements are limited to those necessary to identify the source of steelhead purchased.

Any person violating the provisions of this subsection shall be guilty of a misdemeanor and upon pleading guilty or being found guilty is punishable by a fine of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300) or imprisonment for a period not in excess of six (6) months or by both such fine and imprisonment.

(g) Commission May Permit Sales. The commission may, by regulation, permit the sale of other parts of wildlife when such sale will not injuriously affect the species permitted.

(h) Any person who pleads guilty to or is found guilty of two (2) or more violations of the provisions of this section, occurring within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony if the violations consisted of sales not permitted by regulation, or any other violation of the provisions of this section, involving bighorn sheep, mountain goat, moose, elk, deer, pronghorn antelope, wild turkey, whistling swan, sturgeon or chinook salmon or parts of any of the aforementioned animals, birds or fish.

Approved April 5, 1989.

CHAPTER 374
(S.B. No. 1275)

AN ACT

RELATING TO THE MEDICALLY INDIGENT; AMENDING SECTION 31-3502, IDAHO CODE, TO REDEFINE "RESIDENCY"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-3502, Idaho Code, be, and the same is

hereby amended to read as follows:

31-3502. DEFINITIONS. As used in this chapter, and chapter 34, title 31, Idaho Code, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) "Medically indigent" means any person who is in need of hospitalization and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor, does not have income and other resources available to him from whatever source which shall be sufficient to enable the person to pay for necessary medical services. Nothing in this definition shall preclude the board of county commissioners from requiring medically indigent persons to reimburse the county for a portion of their medical expenses, when investigation of their application pursuant to chapters 34 and 35, title 31, Idaho Code, determines their ability to do so.

(2) "Hospital" means a facility licensed as such in Idaho providing community service for in-patient, medical and/or surgical care of acute illness or injury and/or obstetrics, and excluding state institutions.

(3) "Dependent" means any person whom a taxpayer could claim as a dependent under the income tax laws of the state of Idaho.

(4) "Reimbursement rates" mean the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended. For long-term care facilities, maximum "reimbursement rates" mean the unadjusted medicaid rate of reimbursement allowed pursuant to the medical assistance program as determined by chapter 1, title 56, Idaho Code, or the unadjusted medicare rate of reimbursement established under title XVIII of the social security act, as amended, whichever is greater.

(5) "Board" means the board of county commissioners.

(6) "Sick" means any person affected with disease or who is unable to care for himself and who does not have the means to provide for his own support, but who does not necessarily require the services of a hospital as defined in subsection (2) of this section.

(7) "Indigent" means any person who is destitute of property and unable to provide for the necessities of life.

(8) "County hospital" means any county approved institution or facility for the care of sick persons.

(9) "Administrator" means the administrator appointed by the counties, collectively, by a valid agreement under the joint exercise of powers act, sections 67-2326 through 67-2333, Idaho Code.

(10) "Catastrophic health care costs" mean all medical expenses for which an applicant for relief under this chapter or any third party are not liable and which are incurred by a recipient, and not paid for or reimbursed by third party payers, during any twelve (12) month period, which exceed in aggregate the sum of ten thousand dollars ($10,000), or a lesser amount as determined by the negotiated catastrophic insurance policy.

(11) "Recipient" means an individual determined eligible for county medical assistance under uniform county guidelines on indigent eligibility adopted by the administrator pursuant to law.

(12) "Residency" or "residence", as used in this chapter, means a physical presence with a ~~domicile~~ home, house, place of abode, place of habitation, dwelling or place where one actually lives.

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 5, 1989.

CHAPTER 375
(S.B. No. 1241)

AN ACT

RELATING TO UNLAWFUL FISHING METHODS; AMENDING SECTION 36-902, IDAHO CODE, TO REMOVE FISHING FOR TROUT WITH OR BY THE AID OF ARTIFICIAL LIGHT AS AN UNLAWFUL FISHING METHOD.

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

SECTION 1. That Section 36-902, Idaho Code, be, and the same is hereby amended to read as follows:

36-902. UNLAWFUL FISHING METHODS -- DESTRUCTION OF FISH PROHIBITED -- EXCEPTIONS. Except as may be otherwise permitted by law or commission regulation it shall be a misdemeanor for any person to:

(a) Destructive Substances. Deposit, throw, place, allow or cause to pass into any of the waters of this state any deleterious drugs, toxicants, chemicals, poisonous substances, explosives, electrical current, or other material which may tend to destroy, kill, disable, or drive away fish.

(b) Mills. Operate any sawmill, reduction works or quartz mill upon any natural stream course or lake without having first constructed a proper dam for settling purposes as approved by the director.

(c) Net, Spear~~, Artificial Light~~. Catch, attempt to catch or kill any species of fish whatever in any of the streams, rivers, lakes, reservoirs or waters of this state with any seine, net, spear, snag hook, weir, fence, basket, trap, gill net, dip net, trammel net or any other contrivance ~~or to fish for trout with or by the aid of artificial light~~.

(d) Minnows. Take, transport, use or have in possession minnows, fish or the young of any fish or parts thereof for bait or to release in any manner live minnows, fish or the young of any fish into the waters of this state except where such use, possession or taking is done in connection with fishing in the waters of the Kootenai River.

(e) Chumming. Deposit or distribute any substance not attached to a hook for the purpose of attracting fish. Salmon eggs or other spawn may be used for bait only when attached to a hook on a line and fished in the conventional manner.

(f) Penalty. Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof: for subsections (a) and (b), be fined in a sum of not less than one hundred fifty dollars ($150) nor more than three hundred dollars ($300) for each offense, and/or by commitment to jail for a period of not more than six (6) months; for subsection (c), not less than fifty dollars ($50.00) nor more than three hundred dollars ($300), and/or by commitment to jail for a period of not more than six (6) months; for subsections (d) and (e), as provided in section 36-1402, Idaho Code.

Approved April 5, 1989.

CHAPTER 376
(S.B. No. 1276)

AN ACT

RELATING TO BLOOD TESTING; AMENDING CHAPTER 43, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4303A, IDAHO CODE, TO PROVIDE FOR BLOOD TESTING FOR BLOOD-TRANSMITTED OR BODY FLUID-TRANSMITTED VIRUSES AND DISEASES WITHOUT PATIENT CONSENT UNDER CONDITIONS SPECIFIED, PROVIDING FOR PROMULGATION OF RULES, PRESCRIBING CONFIDENTIALITY OF TEST RESULTS AND PROVIDING PENALTIES.

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

SECTION 1. That Chapter 43, 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 39-4303A, Idaho Code, and to read as follows:

39-4303A. BLOOD TESTING. (a) A physician may pursuant to section 39-4303(c), Idaho Code, consent to ordering tests of a patient's or a deceased person's blood or other body fluids for the presence of blood-transmitted or body fluid-transmitted viruses or diseases without prior consent of the patient if:

(1) There has been or is likely to be a significant exposure to the patient's or a deceased person's blood or body fluids by a person providing emergency or medical services to such patient which may result in the transmittal of a virus or disease; and

(2) The patient is unconscious or incapable of giving informed consent and the physician is unable to obtain consent from the patient's parents, spouse, guardian or competent relative under the requirements of subsections (a) and (b) of section 39-4303, Idaho Code.

(b) The department of health and welfare shall promulgate rules and regulations identifying the blood-transmitted or body fluid-transmitted viruses or diseases for which blood tests or body fluid tests can be ordered under this section and defining the term "significant exposure" as provided in this section.

(c) Results of tests conducted under this section which confirm the presence of a blood-transmitted or body fluid-transmitted virus or disease shall be reported to the director of the department of health and welfare in the name of the patient or deceased person. The department records containing such test results shall be used only by public health officials who must conduct investigations. The exposed person shall only be informed of the results of the test, and shall not be informed of the name of the patient or deceased person. Protocols shall be established by hospitals to maintain confidentiality while disseminating the necessary test result information to persons who may have a significant exposure to blood or other body fluids and to maintain records of such tests to preserve the confidentiality of the test results. Any person who willfully or maliciously discloses the results of a test conducted under this section, except pursuant to a written authorization by the person whose blood was tested or by the person's authorized representative, or as otherwise authorized by law, shall be guilty of a misdemeanor.

Approved April 5, 1989.

CHAPTER 377
(S.B. No. 1278)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1608, IDAHO CODE, TO PROVIDE THAT WHEN A CHILD IS CALLED AS A WITNESS, A FRIEND, PARENT, OR OTHER SUPPORTIVE PERSON MAY BE PERMITTED TO BE WITH THE CHILD ON THE WITNESS STAND UNLESS SUCH PRESENCE PREJUDICES THE CONSTITUTIONAL RIGHT OF THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN TO A FAIR HEARING.

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 no later than thirty (30) days 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) When a child is summoned as a witness in any hearing under this act, notwithstanding any other statutory provision, parents, a counselor, a friend, or other person having a supportive relationship with the child shall, if available, be permitted to remain in the courtroom at the witness stand with the child during the child's testimony unless, in written findings made and entered, the court finds that the constitutional right of the child's parent(s), guardian(s) or other custodian(s) to a fair hearing will be unduly prejudiced.

(d) 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 April 5, 1989.

CHAPTER 378
(S.B. No. 1302)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1990; AUTHORIZING AN AMOUNT FOR PAYMENT OF BANK SERVICE FEES; 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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$320,700	$ 37,400	$10,900	$369,000
Interagency Billing and Receipts Account	176,900	360,200	7,600	544,700
TOTAL	$497,600	$397,600	$18,500	$913,700

SECTION 2. Of the amount appropriated from the Interagency Billing and Receipts Account for Operating Expenditures in Section 1, an amount not to exceed $278,000 of interest earnings otherwise to be deposited in the General Account is to be used solely and only for the payment of bank service fees for the period July 1, 1989, through June 30, 1990, any other provisions of law notwithstanding.

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 April 5, 1989.

CHAPTER 379
(S.B. No. 1303)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1990; 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, 1989, through June 30, 1990:

FROM:	
General Account	$19,548,600
Carl Perkins Vocational Education Act Account	4,182,100
Interagency Billing and Receipts Account	263,700
Displaced Homemaker Account	140,000
State Council on Vocational Education Account	120,000
TOTAL	$24,254,400

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 from the listed accounts for the period July 1, 1989, through June 30, 1990:

A. ADMINISTRATION AND SUPERVISION:	
FROM:	
General Account	$ 1,210,900
Carl Perkins Vocational Education Act Account	278,900
TOTAL	$ 1,489,800
B. GENERAL PROGRAMS:	
FROM:	
General Account	$ 2,673,300
Carl Perkins Vocational Education Act Account	3,408,200

Interagency Billing and Receipts Account	128,700
TOTAL	$ 6,210,200
C. POST-SECONDARY PROGRAMS:	
FROM:	
General Account	$15,664,400
Carl Perkins Vocational Education Act Account	180,000
Interagency Billing and Receipts Account	135,000
TOTAL	$15,979,400
D. DISPLACED HOMEMAKER PROGRAM:	
FROM:	
Displaced Homemaker Account	$ 140,000
Carl Perkins Vocational Education Act Account	315,000
TOTAL	$ 455,000
E. IDAHO STATE COUNCIL ON VOCATIONAL EDUCATION:	
FROM:	
State Council on Vocational Education Account	$ 120,000
GRAND TOTAL	$24,254,400

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 2, Chapter 126, Laws of 1988, to be used for nonrecurring expenditures only for the period of July 1, 1989, through June 30, 1990.

Approved April 5, 1989.

CHAPTER 380
(S.B. No. 1307)

AN ACT
APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 1990.

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 amounts, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. STATE ATHLETIC DIRECTOR:				
FROM:				
General Account		$ 2,700		$ 2,700
Athletic Account		3,600		3,600
TOTAL		$ 6,300		$ 6,300
B. BOARD OF PHARMACY:				
FROM:				
General Account	$ 32,300			$ 32,300
Pharmacy Board Account	194,400	$ 136,200	$ 7,500	338,100
TOTAL	$ 226,700	$ 136,200	$ 7,500	$ 370,400
C. BOARD OF ACCOUNTANCY:				
FROM:				
State Board of Accountancy Account	$ 117,000	$ 124,000	$ 5,000	$ 246,000
D. BOARD OF DENTISTRY:				
FROM:				
State Board of Dentistry Account	$ 89,900	$ 43,900	$ 5,000	$ 138,800
E. BOARD OF ENGINEERING EXAMINERS:				
FROM:				
Professional Engineers Account	$ 97,900	$ 91,500	$ 1,300	$ 190,700
F. BOARD OF MEDICINE:				
FROM:				
State Board of Medicine Account	$ 172,900	$ 141,000	$ 21,900	$ 335,800
G. BOARD OF NURSING:				
FROM:				
State Board of Nursing Account	$ 200,300	$ 98,400	$ 3,800	$ 302,500
H. BUREAU OF OCCUPATIONAL LICENSES:				
FROM:				
Occupational License Account	$ 349,100	$ 222,900	$ 9,600	$ 581,600
I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:				
FROM:				
Public Works Contractors State License Board Account	$ 147,100	$ 85,500	$ 7,000	$ 239,600
J. IDAHO REAL ESTATE COMMISSION:				
FROM:				
Idaho Real Estate Brokers Commission Account	$ 462,900	$ 203,300	$ 42,500	$ 708,700
K. PROFESSIONAL GEOLOGISTS BOARD:				
FROM:				
Professional Geologists Account	$ 13,600	$ 12,600		$ 26,200
L. BOARD OF OPTOMETRY:				
FROM:				
State Board of Optometry				

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Account	$ 2,500	$ 11,300		$ 13,800
M. IDAHO CERTIFIED SHORTHAND REPORTERS BOARD:				
FROM:				
State Certified Shorthand Reporters Account	$ 3,300	$ 9,000		$ 12,300
N. OUTFITTERS AND GUIDES BOARD:				
FROM:				
Outfitters and Guides Board Account	$ 122,200	$ 104,400	$ 4,800	$ 231,400
O. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Board of Veterinary Medicine Account	$ 16,500	$ 16,800		$ 33,300
GRAND TOTAL	$2,021,900	$1,307,100	$108,400	$3,437,400

Approved April 5, 1989.

CHAPTER 381
(S.B. No. 1308)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEES RETIREMENT SYSTEM FOR FISCAL YEAR 1990.

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 the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$ 31,900	$ 7,300		$ 39,200
Public Employees Retirement System Account	1,189,000	637,700	$29,600	1,856,300
TOTAL	$1,220,900	$645,000	$29,600	$1,895,500

Approved April 5, 1989.

CHAPTER 382
(H.B. No. 362)

AN ACT

RELATING TO CHILD SEXUAL ABUSE; EXPRESSING LEGISLATIVE INTENT; AMENDING CHAPTER 14, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1405, IDAHO CODE, TO PROVIDE DUTIES OF THE ATTORNEY GENERAL REGARDING THE COMPILATION OF REPORTS OF CHILD SEXUAL ABUSE FROM STATE AND LOCAL UNITS OF GOVERNMENT.

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

SECTION 1. During the first regular session of the centennial legislature, many bills were proposed dealing with the problem of child sexual abuse. The legislature found that information regarding child sexual abusers was incomplete. The purpose of this act is to provide a mechanism whereby information can be collected and collated on a statewide basis so that future policy decisions of the legislature can be based upon a more substantial body of evidence.

SECTION 2. That Chapter 14, 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 67-1405, Idaho Code, and to read as follows:

67-1405. DUTIES OF THE ATTORNEY GENERAL REGARDING CHILD SEXUAL ABUSE REPORTS. 1. The department of health and welfare, each city police department, each county sheriff and the department of law enforcement shall submit to the office of the attorney general a report of each child sexual abuse incident reported to each agency of state or local government. The report shall contain such information as specified by the attorney general. It shall be the duty of the attorney general to the greatest extent possible to use and develop the information required in this section on forms currently in use by each governmental entity, thus avoiding unnecessary paperwork.

2. It shall be the duty of each county prosecuting attorney to submit to the office of the attorney general a report of each child sexual abuse case handled by the prosecuting attorney. The report required pursuant to this section shall be designed by the attorney general to minimize the paperwork impact on each county prosecutor.

3. The administrative office of the courts shall submit to the office of the attorney general a report showing the disposition of each child sexual abuse case handled by each of the district courts throughout the state. This reporting requirement may be satisfied by submission of a copy of a judgment made and entered in each case.

4. The commission on pardons and parole shall submit to the office of the attorney general a report showing the release or discharge of any individual convicted of a crime involving child sexual abuse. Such report shall be designed to minimize the paperwork impact upon the commission.

5. The office of the attorney general in conjunction with the

governor of the state of Idaho shall report, prepare and submit to the legislature a report showing all of the statistical data and information compiled as a result of the reporting requirement contained within this section. This report shall be prepared and submitted no later than January 20, of each year.

Approved April 5, 1989.

CHAPTER 383
(S.B. No. 1232)

AN ACT

RELATING TO CLEAN LAKES; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 64, TITLE 39, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE A DECLARATION OF POLICIES AND PURPOSES, TO PROVIDE FOR THE ESTABLISHMENT OF A REGIONAL CLEAN LAKES COORDINATING COUNCIL, TO PROVIDE MEMBERSHIP OF THE COUNCIL, TO PROVIDE ADVISORY COMMITTEES, TO PROVIDE A TECHNICAL ADVISORY GROUP, TO PROVIDE DUTIES OF THE REGIONAL COUNCIL, TO PROVIDE RESPONSIBILITIES, TO PROVIDE FOR LAKE MANAGEMENT PLANS, TO PROVIDE MONEYS, TO PROVIDE ORGANIZATION, TO PROVIDE FOR A QUORUM AND TO APPROPRIATE MONEYS TO THE PANHANDLE HEALTH DISTRICT FOR THE PERIOD JUNE 1, 1989, THROUGH JUNE 30, 1990.

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 64, Title 39, Idaho Code, and to read as follows:

CHAPTER 64
CLEAN LAKES ACT

39-6401. LEGISLATIVE INTENT. The legislature finds that the waters of Idaho lakes are threatened with deterioration that may endanger the natural beauty, wildlife values, recreational use and economic potential of the public lake resources; that the state holds all such public lakes in trust for the use of all its citizens; that to preserve and protect the public lakes and to increase and enhance the use and enjoyment of the lakes is in the best interest of all the citizens of the state; that natural lakes form an important basis of the state's economy and that the increasing demand upon the lake waters of this state require coordinated state and local action to maintain and improve the water quality of the lakes.

To this end the legislature declares that it is necessary to embark upon a program of lake water quality protection so that future generations of Idahoans may use and enjoy their natural heritage of clean lakes. This act creates a pilot clean lakes program, to be initiated in the five (5) northern counties of the state of Idaho. The pilot program, hereinafter referred to as the clean lakes program,

shall require a working partnership of federal, state and local agencies. The clean lakes program will conform to and compliment the program authorized by 33 U.S.C. 1324 of the federal water pollution control act.

39-6402. DEFINITIONS. Whenever used in this chapter:

(1) "Council" shall mean the regional clean lakes coordinating council.

(2) "County" shall mean counties created by title 31, Idaho Code, and the term shall include the board of county commissioners.

(3) "Lake" shall mean a natural lake including an entire lake or any portion of a lake which had defined boundaries and historical identification as a lake at the time Idaho became admitted to the union. The existence of a dam or other artificial impoundment at the outlet shall not disqualify an historic natural lake from being included. Lake does not include a reservoir constructed for reclamation or irrigation purposes.

(4) "Region" shall include the counties of Boundary, Bonner, Kootenai, Benewah and Shoshone.

39-6403. DECLARATION OF POLICIES AND PURPOSES. The clean lakes program will include:

(1) Coordination of the activities related to lake water quality enhancement to ensure comprehensive management of the lake resources;

(2) Determination of the priority of lakes for diagnosis, planning and implementation;

(3) Completion of baseline studies of lakes designated for diagnosis, outlining the limnological and environmental characteristics;

(4) Preparation and completion, with consultation with the appropriate agencies and public involvement, of a lake management plan for each lake designated for study;

(5) Development, in consultation with appropriate units of government, of a program of public information designed to help meet the objectives of the lake management plan;

(6) Promotion of public awareness activities to provide information to the general public on lake protection methods and responsibilities;

(7) Technical assistance to lake associations and interested citizens who are engaged in activities consistent with the intent of the clean lakes act; and

(8) Public reports through hearings and otherwise upon lake conditions and the progress of implementation of lake management plans.

Since the public of Idaho has a vested right in the preservation, enhancement, and enjoyment of all the public lakes of Idaho, public participation in every stage of the planning, implementation and recommending processes will be essential. At every stage of the program, consideration of delivering information and education to the general public will be given.

39-6404. ESTABLISHMENT OF A REGIONAL CLEAN LAKES COORDINATING COUNCIL. There is hereby created in the region encompassing Boundary, Benewah, Bonner, Kootenai and Shoshone counties a regional clean lakes

coordinating council. It shall be the responsibility of the clean lakes coordinating council to implement the clean lakes pilot program created by this chapter. The regional clean lakes coordinating council shall be assisted in carrying out its responsibilities by the staffs of the panhandle health district and the division of environmental quality of the department of health and welfare.

39-6405. MEMBERSHIP. The governor shall appoint one (1) member from each participating county to the council and two (2) members at large from the region. Two (2) members of the council will be county commissioners at the time of their appointment. The terms of the members shall be three (3) years with the initial term to be staggered in terms of one (1), two (2) and three (3) years by the governor when he makes the appointment. Members of the regional clean lakes coordinating council shall be compensated as provided in section 59-509(b), Idaho Code.

39-6406. PUBLIC ADVISORY COMMITTEE. The council shall create a public advisory committee comprised of nominees or designated representatives of any incorporated nonprofit membership lake association and any Indian tribe whose reservation touches upon a lake. The public advisory committee may meet with the council with full right to participate in all proceedings and discussions except that public advisory committee members shall not be voting members.

39-6407. TECHNICAL ADVISORY GROUP. To assist in its objectives, the council shall create a technical advisory group which may include the designated representatives of the public health district, city and county planning or engineering departments, Department of Health and Welfare, Department of Lands, Department of Fish and Game, Department of Parks and Recreation, Department of Water Resources, State Soil Conservation Commission, United States Forest Service, United States Bureau of Land Management, United States Army Corps of Engineers, United States Agricultural Conservation and Stabilization Services, United States Environmental Protection Agency, United States Geological Survey or any one or more of said agencies and such representatives of agriculture, conservation, forest products, sportsmen and mining interests as may be appointed by the county. Indian tribes may nominate a representative for the technical advisory group to the county for appointment to the group. Members shall serve without state compensation except such normal compensation received by members who are state employees serving in the normal course and scope of their employment.

39-6408. DUTIES OF THE REGIONAL COUNCIL. The regional council shall have the following duties:

(1) To coordinate the activities related to water quality enhancement to ensure a comprehensive management of the lake resources.

(2) To conduct a public awareness program to educate the general public on lake protection methods and responsibilities.

(3) To make an examination of environmental conditions in, upon

and around those lakes in the county or counties where the council recognizes public concern for protection and enhancement of lakes. Recognizing the desirability of avoiding duplication or overlapping with others, the council may accept, adopt, incorporate or expand upon any study or examination that has heretofore been made by any private association, city, county, state or federal agency or government or any combination thereof. The objective shall be to obtain a scientifically sound baseline study for planning future action by the council or by other appropriate agencies or governmental bodies.

(4) To undertake and complete lake management plans and recommendations based upon such examination and studies. The plan to be prepared shall specifically identify and address lake protection concerns upon the lake and within the surrounding area where land use, scenic values, residential development, wildlife habitat, commerce, and other forms of human activity is both influenced by the lake and may reasonably be expected to significantly impact the environmental status of the lake.

(5) To promote the implementation of the plan by serving in an advisory capacity to those county, state and federal units of government with responsibilities which affect lake management or lake water quality.

(6) To follow, observe and make public report through hearings and otherwise upon the implementation of lake management plans and upon lake conditions in general whether or not management plans have been adopted.

39-6409. RESPONSIBILITIES. (1) The responsibilities of a council are on-going and continuous. The council shall have the authority to complete the examination and studies and make its plans and recommendations for one (1) or more lakes without regard to the status of any studies or plans upon any other lake.

(2) The council shall not have any regulatory or enforcement powers.

39-6410. LAKE MANAGEMENT PLANS. (1) Whenever the council has obtained and accepted an examination and baseline study, it shall make the same available to all appropriate and interested city, county, health district and state agencies and to any interested or affected lake agencies and to the interested individuals or lake associations. For a period of ninety (90) days after dissemination, any interested agency or person or association may submit written suggestions, comments or proposals for a lake management plan or recommendations to the council.

(2) The council shall thereafter prepare a lake management plan and recommendation which shall be completed within one hundred eighty (180) days after dissemination of the examination and baseline study.

(3) The council shall identify sources and types of pollution within the planning area and identify existing and potential programs and measure ways in which this pollution might be abated, and summarize the past successes of these efforts, including notable voids in funding, regulatory powers or interagency coordination.

(4) The council shall identify areas in which public use of a

lake might be enhanced by the acquisition of scenic or conservation easements or development of existing publicly-owned land.

(5) The council shall identify undeveloped areas within the planning area and discuss potential future uses of these areas and the implications of these various uses on a lake.

(6) The council shall provide copies of its lake management plan and recommendation to all agencies, persons and associations who have indicated an interest in the examination and baseline study. The council shall thereupon provide for a public hearing upon its lake management plan and recommendations with notice given as provided in section 67-6509, Idaho Code.

(7) After receiving the information obtained at the public hearing, the council shall make such changes and revisions as it deems necessary and then within thirty (30) days after such public hearing shall deliver such lake management plan and recommendations to the appropriate board of county commissioners and to any other city, council, health districts, state or federal agency which the council deems should take action.

(8) Upon receipt of such lake management plan and recommendations, the county and other included agencies shall act thereon with such further public hearings as may be deemed appropriate within ninety (90) days after receipt of such lake management plan and recommendations. The county shall make formal written response thereto stating in detail what action has been taken.

(9) Any county shall have the authority under chapter 65, title 67, Idaho Code, to adopt a lake management plan or to adopt land use ordinances which apply to one (1) lake or more and are operative in, upon or around such lake or lakes without application in other areas within the county.

39-6411. MONEYS. Funds for the support of the regional council, counties, public health districts and state agencies in implementing this act shall be provided from the clean lakes trust account which is hereby created in the dedicated fund of the state treasury. Moneys in the clean lakes trust account may come from appropriations, grants, gifts, donations, user fees or such other sources as may be authorized by the legislature together with grants, transfers and appropriations make from the water pollution control account created by section 39-3605, Idaho Code. Moneys in the account may only be expended pursuant to appropriation.

39-6412. ORGANIZATION. (1) After appointment, the members of the council shall choose one (1) member as chairman of the council and shall elect a secretary and a treasurer of the council who may or may not be members of the council. The secretary and the treasurer may be one (1) person. The secretary shall keep a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts which shall be open to inspection to all other interested parties.

(2) The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the council in permanent records. He shall file with the clerk of the court, at the

expense of the council, a corporate fidelity bond in an amount not less than five thousand dollars ($5,000), conditioned on the faithful performance of the duties of his office.

(3) Members of the council shall serve without compensation. No member shall receive any compensation as an employee of the council or otherwise, other than that herein provided, and no member of the council shall be interested in any contract or transaction with the council except in his official representative capacity.

(4) It shall be the duty of the council to cause an audit to be made of all financial affairs of the council during each year ending December 31. A financial statement shall be certified by the person making such audit.

39-6413. QUORUM. (1) A majority of the members of a council shall constitute a quorum for the transaction of business. A majority vote of the members present shall be required to take action with respect to any matter. The vote of each member shall be individually recorded.

(2) The council may in other respects adopt its own rules of procedure.

SECTION 2. There is hereby appropriated $80,000 from the General Account for the period July 1, 1989, through June 30, 1990, to the Panhandle Health District to implement the provisions of this act.

Approved April 3, 1989.

CHAPTER 384
(H.B. No. 408)

AN ACT
EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

FROM:

General Account	$ 7,159,400
Idaho Law Enforcement Telecommunications Account	255,400
Drug Enforcement Donation Account	85,800
Federal Justice Assistance Account	2,318,600
Idaho Law Enforcement Account	9,952,300
Federal Motor Carrier Safety Account	1,008,200
Hazardous Material/Waste Enforcement Account	292,300
Idaho State Racing Commission Account	658,200

State Brand Board Account	1,541,000
Idaho Horse Breeders' and Owners' Award Account	100,000
Track Improvement and Industry Promotion Account	100,000
County Dog Racing Fund Account	140,000
Interagency Billing and Receipts Account	296,700
Peace Officers Account	781,700
Federal Highway Safety Account	310,500
TOTAL	$25,000,100

SECTION 2. There is hereby appropriated to the Department of Law Enforcement 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, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 984,200	$ 312,900			$ 1,297,100
Federal Motor Carrier Safety Account	30,100	1,000			31,100
Interagency Billing and Receipts Account	31,700	5,000			36,700
TOTAL	$ 1,046,000	$ 318,900			$ 1,364,900
II. POLICE SERVICES:					
FROM:					
General Account	$ 3,115,100	$1,511,100	$ 560,000		$ 5,186,200
Idaho Law Enforcement Telecommunications Account	97,000	158,400			255,400
Drug Enforcement Donation Account		15,000	70,800		85,800
Federal Justice Assistance Account	502,300	292,800	92,000	$1,431,500	2,318,600
Interagency Billing and Receipts Account	74,200	177,800	2,000		254,000
TOTAL	$ 3,788,600	$2,155,100	$ 724,800	$1,431,500	$ 8,100,000
III. IDAHO STATE POLICE:					
FROM:					
Idaho Law Enforcement Account	$ 6,852,000	$2,100,400	$ 999,900		$ 9,952,300
Hazardous Material/Waste Enforcement Account	108,700	117,600	66,000		292,300

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Motor Carrier Safety Account	759,000	218,100			977,100
Federal Highway Safety Account	300,000	10,500			310,500
TOTAL	$ 8,019,700	$2,446,600	$1,065,900		$11,532,200
IV. BRAND INSPECTION:					
FROM:					
State Brand Board Account	$ 1,274,800	$ 211,200	$ 55,000		$ 1,541,000
V. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Account	$ 346,300	$ 293,300	$ 18,600		$ 658,200
Idaho Horse Breeders' and Owners' Award Account				$ 100,000	100,000
Track Improvement and Industry Promotion Account				100,000	100,000
County Dog Racing Fund Account				140,000	140,000
TOTAL	$ 346,300	$ 293,300	$ 18,600	$ 340,000	$ 998,200
VI. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Account	$ 510,000	$ 134,600	$ 31,500		$ 676,100
Interagency Billing and Receipts Account		1,000			1,000
TOTAL	$ 510,000	$ 135,600	$ 31,500		$ 677,100
VII. POST ACADEMY:					
FROM:					
Peace Officers Account	$ 294,100	$ 370,100	$ 53,500	$ 64,000	$ 781,700
Interagency Billing and Receipts Account		5,000			5,000
TOTAL	$ 294,100	$ 375,100	$ 53,500	$ 64,000	$ 786,700
GRAND TOTAL	$15,279,500	$5,935,800	$1,949,300	$1,835,500	$25,000,100

Approved April 7, 1989.

CHAPTER 385
(S.B. No. 1332, As Amended in the House)

AN ACT

APPROPRIATING MONEY FOR DEPOSIT IN THE BUDGET RESERVE ACCOUNT; APPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR DEPOSIT IN THE BUDGET RESERVE ACCOUNT; PROVIDING FOR INVESTMENT AND DISPOSITION OF INTEREST EARNINGS; AND DECLARING AN EMERGENCY.

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

SECTION 1. The amount of $7,500,000 is hereby appropriated from the General Account for deposit in the Budget Reserve Account.

SECTION 2. An amount not to exceed $4,500,000 is hereby appropriated from the balance of any unexpended and unencumbered moneys in the General Account in excess of $29,200,000 as of June 30, 1989, as determined by the State Auditor, for deposit in the Budget Reserve Account.

SECTION 3. The funds in the Budget Reserve Account shall be expended only pursuant to appropriation by the Legislature. All funds in the Budget Reserve Account shall be invested by the State Treasurer and the interest earnings thereon shall be credited to the account subject to the provisions of Section 67-1210, 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 April 7, 1989.

CHAPTER 386
(S.B. No. 1173, As Amended in the House)

AN ACT

RELATING TO CREATION OF A PARK LAND TRUST WITHIN THE DEPARTMENT OF PARKS AND RECREATION; AMENDING CHAPTER 42, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-4240, 67-4241, 67-4242, 67-4243 AND 67-4244, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT CONCERNING LANDS FOR PARK AND RECREATION PURPOSES; TO CREATE THE PARK LAND TRUST, AND TO AUTHORIZE ACQUISITION OF PROPERTY; TO AUTHORIZE THE EXCHANGE OR SALE OF PROPERTY; TO PROVIDE FOR THE CONTROL, MANAGEMENT AND ADMINISTRATION OF PROPERTY, INCLUDING CONSULTATION WITH COUNTY COMMISSIONERS CONCERNING IMPACTS AND FEES IN LIEU OF AD VALOREM TAXES; AND TO CREATE AND PROVIDE FOR THE ADMINISTRATION OF THE PARK LANDS ACCOUNT.

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

SECTION 1. That Chapter 42, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4240, Idaho Code, and to read as follows:

67-4240. LEGISLATIVE INTENT. The legislature finds that in order to obtain the maximum long-term benefits to the people of Idaho, it is necessary for lands of outstanding park and recreation potential to be acquired and incorporated into the state park system in the most economical manner possible.

The legislature further recognizes that the land assets of the department must be reviewed from time to time to determine whether such assets are most suitable for achieving the department's objectives. If such assets are unsatisfactory for the purpose of providing outstanding park and recreation opportunities or because of geographic location or other factors are inefficient to manage, then such assets should be replaced by other, more suitable assets so that the full potential of the state park system shall be realized.

The purpose of this chapter is to provide a means to facilitate the disposition, by the parks and recreation board, of unsuitable park and recreation lands, and the acquisition of lands to improve the overall park and recreation opportunities offered by the state park system.

SECTION 2. That Chapter 42, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4241, Idaho Code, and to read as follows:

67-4241. PARK LAND TRUST -- CREATED -- ACQUISITION OF PROPERTY AUTHORIZED. The parks and recreation board may, by gift, purchase, agreement, device, donation, or otherwise, acquire property to be held by the department in a park land trust. The department may place any lands under its jurisdiction, where not prevented by deed or other restriction, in the park land trust.

SECTION 3. That Chapter 42, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4242, Idaho Code, and to read as follows:

67-4242. EXCHANGE OR SALE OF PROPERTY HELD IN PARK LAND TRUST. The parks and recreation board may:

(1) Exchange property held in the park land trust for any lands of equal value which it administers, provided such exchange is not prohibited by title restrictions on such lands;

(2) Exchange property held in the park land trust for property of equal or greater value which is owned publicly or privately and which has greater potential for park and recreation purposes, property which could be more efficiently managed by the department, or property which could be traded for other lands with high park and recreation poten-

tial. No power of eminent domain is hereby granted to the department;

(3) Sell property held in the park land trust as provided in section 67-4227, Idaho Code, at a price not less than its appraised value, and use the proceeds from such sale to acquire property for the park land trust which has substantial potential for park and recreation purposes, which can be efficiently managed by the department, or which can be traded for other lands with high park and recreation potential.

SECTION 4. That Chapter 42, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4243, Idaho Code, and to read as follows:

67-4243. CONTROL, MANAGEMENT, AND ADMINISTRATION OF PROPERTY HELD IN PARK LAND TRUST. The department of parks and recreation shall control, manage, and administer the property held in the park land trust as provided in chapter 42, title 67, Idaho Code. The department of parks and recreation shall, on all lands that were subject to ad valorem taxes on the day prior to the date of acquisition by the park land trust, consult with the county commissioners to determine impact of the acquisition and consider an in lieu of fee as if the lands had continued to be subject to ad valorem taxes.

SECTION 5. That Chapter 42, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4244, Idaho Code, and to read as follows:

67-4244. APPROPRIATION -- USE OF INCOME. The legislature may authorize an appropriation of moneys in the park lands account, which is hereby created in the agency asset fund of the state treasurer, for the purposes of this chapter. Income from the sale or management of property in the park land trust shall be returned as a recovered expense to the park land account and may be used to acquire property under section 67-4224, Idaho Code. All interest earned on idle moneys in the park land account shall accrue to that account.

Approved April 7, 1989.

CHAPTER 387
(S.B. No. 1251, As Amended in the House)

AN ACT

RELATING TO THE OPERATION OF BOATS; AMENDING SECTION 67-7034, IDAHO CODE, TO ELIMINATE A REQUIREMENT THAT A VESSEL BE OBSERVED OPERATING IN A CARELESS OR HEEDLESS MANNER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-7034, Idaho Code, be, and the same is hereby amended 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~~ or 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 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 7, 1989.

CHAPTER 388
(S.B. No. 1326)

AN ACT
APPROPRIATING MONEYS FOR THE FOREST UTILIZATION RESEARCH PROGRAM FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$113,900
Operating Expenses	12,000
TOTAL	$125,900
FROM:	
General Account	$125,900

Approved April 7, 1989.

CHAPTER 389
(S.B. No. 1304, As Amended)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1990; AND APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR A "BROADCASTING EQUIPMENT CHALLENGE GRANT," EXPRESSING LEGISLATIVE INTENT; AND PROVIDING APPLICATION FOR CERTAIN MONEYS.

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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
General Account	$ 575,800	$244,900	$781,400	$1,602,100
Corporation for Public Broadcasting	565,000	556,200		1,121,200
TOTAL	$1,140,800	$801,100	$781,400	$2,723,300

SECTION 2. There is hereby appropriated from the General Account to the State Board of Education an amount not to exceed $200,000 for the period July 1, 1989, through June 30, 1990. 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 equipment 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, 1989, through June 30, 1990, 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.

SECTION 3. The appropriation contained in Section 1 of this act for capital outlay shall not be subject to, nor shall the Idaho Educational Public Broadcasting System be required to comply with the requirements of Chapter 57, Title 67, Idaho Code. Further, approval of the plan or design by the Idaho State Board of Education for the facilities to be constructed or improved with this appropriation by the Idaho Educational Public Broadcasting System shall constitute the approval required for all purposes related to Chapter 9, Title 6, Idaho Code.

Approved April 7, 1989.

CHAPTER 390
(S.B. No. 1329)

AN ACT

EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN TRANSFERS BY THE STATE AUDITOR; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1990; 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 $21,500 shall be transferred by the State Auditor from the Apple Commission Account to the Agriculture Department Inspection Account for the purpose of apple maggot trapping and detection.

SECTION 2. It is legislative intent that the expenditures for the Department of Agriculture not exceed the following amount for the period July 1, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$ 9,430,600
Operating Expenditures	1,938,000
Capital Outlay	274,500
Trustee and Benefit Payments	578,500
TOTAL	$12,221,600
FROM:	
General Account	$ 2,170,000
Dedicated Accounts	9,747,100
Interagency Billing and Receipts Account	304,500
TOTAL	$12,221,600

SECTION 3. There is hereby appropriated to the Department of Agriculture 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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 185,300	$ 111,200	$ 4,100		$ 300,600
Interagency Billing and Receipts Account	36,400	168,100			204,500
Agriculture Department Inspection Account	220,300	15,200			235,500
TOTAL	$ 442,000	$ 294,500	$ 4,100		$ 740,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. ANIMAL INDUSTRY:					
FROM:					
General Account	$ 417,100	$ 27,400	$ 46,800		$ 491,300
Livestock Disease Control & T.B. Indemnity Account	305,200	163,100	48,800		517,100
Dairy Industry and Inspection Account	243,600	64,100	35,600		343,300
Livestock Dealer License Account	2,600	2,300			4,900
TOTAL	$ 968,500	$ 256,900	$131,200		$ 1,356,600
C. PLANT INDUSTRY:					
FROM:					
General Account	$ 212,500	$ 85,500		$ 86,900	$ 384,900
Agriculture Department Inspection Account	625,600	125,300	$ 45,400		796,300
Bee Inspection Account	16,100				16,100
Commercial Feed and Fertilizer Account	239,700	96,000			335,700
Pesticide Account	337,200	131,800	22,700		491,700
TOTAL	$1,431,100	$ 438,600	$ 68,100	$ 86,900	$ 2,024,700
D. AGRICULTURAL INSPECTIONS:					
FROM:					
General Account	$ 539,100	$ 132,800	$ 43,000		$ 714,900
Agriculture Department Inspection Account	108,700	42,500	400	$ 3,300	154,900
Fresh Fruit and Vegetable Inspection Account	5,483,800	568,600	27,700	205,000	6,285,100
Egg Inspection Account	88,200	21,300			109,500
Public Livestock Market Account	6,600				6,600
TOTAL	$6,226,400	$ 765,200	$ 71,100	$208,300	$ 7,271,000
E. SHEEP COMMISSION:					
FROM:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
General Account	$ 19,100	$ 6,000		$ 20,500	$ 45,600
Sheep Commission Account	89,400	24,700		112,800	226,900
TOTAL	$ 108,500	$ 30,700		$133,300	$ 272,500
F. HONEY ADVERTISING COMMISSION:					
FROM:					
Idaho Honey Advertising Account	$ 300	$ 12,300			$ 12,600
G. AGRICULTURAL MARKETING AND DEVELOPMENT:					
FROM:					
General Account	$ 175,200	$ 57,500			$ 232,700
Agriculture Department Inspection Account	23,600				23,600
Wheat Statistics Account	2,000	8,600			10,600
Interagency Billing and Receipts Account	40,000	60,000			100,000
Rural Rehabilitation Account	$ 13,000	13,700		$150,000	176,700
TOTAL	$ 253,800	$ 139,800		$150,000	$ 543,600
GRAND TOTAL	$9,430,600	$1,938,000	$274,500	$578,500	$12,221,600

SECTION 4. There is hereby reappropriated to the Department of Agriculture any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 60, Laws of 1988, to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990.

Approved April 7, 1989.

CHAPTER 391
(S.B. No. 1327)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1990; 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 Lands not exceed the following amount for the period July 1, 1989, through June 30, 1990:

FROM:	
General Account	$ 7,237,100
Dedicated Accounts	7,100,200
Federal Accounts	227,200
Interagency Billing and Receipts Account	273,400
TOTAL	$14,837,900

SECTION 2. There is hereby appropriated to the Department of Lands the following amount, to be expended for the designated programs according to designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. SUPPORTING SERVICES:					
FROM:					
General Account	$ 840,500	$ 259,700			$ 1,100,200
Interagency Billing and Receipts Account		14,900	$ 600		15,500
Fire Presuppression Account	223,000	23,200	8,200		254,400
Lands Federal Account		41,300			41,300
TOTAL	$1,063,500	$ 339,100	$ 8,800		$ 1,411,400
B. FOREST RESOURCES MANAGEMENT:					
FROM:					
General Account	$1,975,100	$ 356,800	$154,200		$ 2,486,100
Scaling Practices Operations Account	520,100	61,500	9,200		590,800
Water Pollution Control Account	29,700	4,100			33,800
Forest Practices Administration Account	120,900	25,500			146,400
Road Maintenance Account	60,000	198,600			258,600
10% Timber Lease Account	949,100	675,800	48,100		1,673,000
Forest Pest Account	33,300	59,200			92,500
Forest Practices Rehabilitation					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Account	97,700				97,700
Lands Federal Account	52,000	28,300			80,300
TOTAL	$3,837,900	$1,409,800	$211,500		$ 5,459,200
C. LAND, RANGE AND MINERAL RESOURCE MANAGEMENT:					
FROM:					
General Account	$1,223,600	$ 197,200	$ 61,200		$ 1,482,000
Interagency Billing and Receipts Account		43,100			43,100
10% Grazing Lease Account	76,800	82,800	12,000		171,600
Oil and Gas Commission Account		3,600			3,600
Dredge and Placer Mining Account	15,600	6,700			22,300
10% Recreation Lease Account	65,400	30,800			96,200
Pilgrim Cove Water System Account		5,100			5,100
TOTAL	$1,381,400	$ 369,300	$ 73,200		$ 1,823,900
D. SOIL & WATER CONSERVATION:					
FROM:					
General Account	$ 318,700	$ 33,400	$ 1,500	$213,600	$ 567,200
Interagency Billing and Receipts Account	198,900	15,900			214,800
Lands Federal Account	65,600			40,000	105,600
Resource Conservation and Rangeland Loan Account	6,000	16,600	36,700		59,300
TOTAL	$ 589,200	$ 65,900	$ 38,200	$253,600	$ 946,900
E. SCALING PRACTICES:					
FROM:					
Scaling Practices Account	$ 166,600	$ 32,300	$ 12,000		$ 210,900
F. FOREST & RANGE PROTECTION:					
FROM:					
General Account					$ 1,601,600
Keep Idaho Green Account					10,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fire Suppression Account					100,000
Fire Presuppression Account					1,206,500
State District Hazard Management Account					753,900
Clearwater Potlatch Hazard Management Account					993,200
Southern Idaho Hazard Management Account					320,300
TOTAL					$ 4,985,600
GRAND TOTAL					$14,837,900

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 68, Laws of 1988, to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990.

Approved April 7, 1989.

CHAPTER 392
(S.B. No. 1319)

AN ACT

RELATING TO THE LEGISLATIVE ACCOUNT; AMENDING SECTION 67-451, IDAHO CODE, TO INCREASE THE TRANSFERS TO THE LEGISLATIVE ACCOUNT FROM THE GENERAL ACCOUNT EFFECTIVE JUNE 1, 1989; AMENDING SECTION 67-451, IDAHO CODE, TO DECREASE THE TRANSFERS TO THE LEGISLATIVE ACCOUNT FROM THE GENERAL ACCOUNT EFFECTIVE JUNE 1, 1992; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE LEGISLATIVE ACCOUNT; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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 commencing June 1, 1989, 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
June 1	$ 650,000
~~July 1~~ September 1	$ 800,000

(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.

SECTION 2. 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 commencing September 1, 1992, 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
June 1	$ 450,000
~~July 1~~ September 1	$ 800,000

(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.

SECTION 3. Notwithstanding the provisions of section 67-451, Idaho Code, there is hereby appropriated the sum of $600,000 from the General Account to the Legislative Account.

SECTION 4. (1) 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 June 1, 1989.

(2) Section 2 of this act shall be in full force and effect on and after June 1, 1992.

(3) Section 3 of this act shall be in full force and effect on and after July 1, 1989.

Approved April 7, 1989.

CHAPTER 393
(S.B. No. 1321, As Amended)

AN ACT

RELATING TO THE LEGISLATIVE ACCOUNT; AMENDING SECTION 67-451, IDAHO CODE, TO PROVIDE THAT EXPENSES OF INTERIM LEGISLATIVE COMMITTEES MAY BE PAID IF PREVIOUSLY AUTHORIZED BY CONCURRENT RESOLUTION; AND DECLARING AN EMERGENCY.

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	$ 800,000

(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~~,~~ or legislators~~,--or--legislative committees~~ shall be paid in the same manner. Expenses for any interim 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.

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 7, 1989.

CHAPTER 394
(S.B. No. 1324)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 1990.

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 the designated expense classes from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:

Personnel Costs	$1,498,200
Operating Expenditures	355,500
Capital Outlay	29,000
TOTAL	$1,882,700

FROM:

Finance Administration Account	$1,882,700

Approved April 7, 1989.

CHAPTER 395
(S.B. No. 1323)

AN ACT

EXPRESSING LEGISLATIVE INTENT; TRANSFERRING FUNDS TO THE TAX COMMISSION ADMINISTRATION ACCOUNT; APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 1990; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 1990; 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 State Tax Commission not exceed the following amount for the period July 1, 1989, through June 30, 1990:

FROM:

General Account	$12,444,500
Tax Commission Administration Account	47,300
Highway Suspense Account	1,165,200
Multi-State Tax Compact Account	101,900
Interagency Billing and Receipts Account	126,600
Unclaimed Property Account	223,000
TOTAL	$14,108,500

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	25,200
3.	Hotel and Motel Tax Suspense Account	7,100
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	$ 47,300

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, 1989, through June 30, 1990:

A. GENERAL SERVICES:

FROM:

General Account	$ 2,456,500

Highway Suspense Account	215,000
Interagency Billing and Receipts Account	51,500
Tax Commission Administration Account	20,500
TOTAL	$ 2,743,500
B. AUDIT AND COLLECTIONS:	
FROM:	
General Account	$ 5,792,900
Highway Suspense Account	601,600
Tax Commission Administration Account	2,100
Unclaimed Property Account	223,000
Multi-State Tax Compact Account	101,900
TOTAL	$ 6,721,500
C. COUNTY SUPPORT:	
FROM:	
General Account	$ 1,801,700
Interagency Billing and Receipts Account	30,200
TOTAL	$ 1,831,900
D. REVENUE OPERATIONS:	
FROM:	
General Account	$ 2,393,400
Interagency Billing and Receipts Account	44,900
Highway Suspense Account	348,600
Tax Commission Administration Account	24,700
TOTAL	$ 2,811,600
GRAND TOTAL	$14,108,500

SECTION 4. There is hereby reappropriated to the State Tax Commission any unexpended and unencumbered balances of the moneys appropriated by Section 3, Chapter 96, Laws of 1988, to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990.

SECTION 5. There is hereby appropriated to the Board of Tax Appeals the following amount from the listed account for the period July 1, 1989, through June 30, 1990:

FROM:

General Account $57,300

SECTION 6. There is hereby reappropriated to the Board of Tax Appeals any unexpended and unencumbered balances of the moneys appropriated by Section 6, Chapter 96, Laws of 1988, to be used for nonrecurring expenditures only, for the period July 1, 1989, through June 30, 1990.

Approved April 7, 1989.

CHAPTER 396
(S.B. No. 1322)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 1990; 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, 1989, through June 30, 1990:

FROM:

General Account	$ 1,971,600
Idaho Travel and Convention Account	2,359,100
Idaho Development and Publicity Account	158,000
Economic and Community Affairs Account	9,052,000
TOTAL	$13,540,700

SECTION 2. There is hereby reappropriated to the Department of Commerce any unexpended and unencumbered balances of all moneys appropriated by Section 1, Chapter 53, Laws of 1988, to be used for nonrecurring expenditures only, for the period July 1, 1989 through June 30, 1990.

Approved April 7, 1989.

CHAPTER 397
(S.B. No. 1320)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

FROM:

General Account	$25,132,600
Interagency Billing and Receipts Account	368,900
Probation and Parole Receipts Account	541,200
Penitentiary Income Account	890,000
Job Training Partnership Account	304,000
On the Job Training Account	73,500
TOTAL	$27,310,200

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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND INSTITUTIONAL SUPPORT:					
FROM:					
General Account	$ 2,486,000	$1,849,900	$111,100	$493,800	$ 4,940,800
Job Training Partnership Account	261,700	42,300			304,000
On the Job Training Account	45,300	28,200			73,500
Probation and Parole Receipts Account	30,900	6,400			37,300
TOTAL	$ 2,823,900	$1,926,800	$111,100	$493,800	$ 5,355,600
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ 5,708,600	$ 970,100	$ 73,000		$ 6,751,700
Penitentiary Income Account		890,000			890,000
Interagency Billing and Receipts Account	41,500	91,400			132,900
TOTAL	$ 5,750,100	$1,951,500	$ 73,000		$ 7,774,600
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Account	$ 1,907,600	$ 711,600	$ 7,100	$ 48,700	$ 2,675,000
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Account	$ 1,024,000	$ 536,600	$ 52,400		$ 1,613,000
Interagency Billing and Receipts Account	16,900	36,600			53,500
TOTAL	$ 1,040,900	$ 573,200	$ 52,400		$ 1,666,500
E. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Account	$ 2,837,800	$ 581,100	$137,900		$ 3,556,800
Probation and Parole Receipts Account	449,400	54,500			503,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Interagency Billing and Receipts Account		124,700			124,700
TOTAL	$ 3,287,200	$ 760,300	$137,900		$ 4,185,400
F. PAROLE COMMISSION:					
FROM:					
General Account	$ 132,100	$ 45,600	$ 3,900		$ 181,600
G. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ 878,000	$ 357,300	$ 20,800		$ 1,256,100
Interagency Billing and Receipts Account	11,700	46,100			57,800
TOTAL	$ 889,700	$ 403,400	$ 20,800		$ 1,313,900
H. MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Account	$ 3,142,200	$ 915,400	$100,000		$ 4,157,600
GRAND TOTAL	$18,973,700	$7,287,800	$506,200	$542,500	$27,310,200

Approved April 7, 1989.

CHAPTER 398
(S.B. No. 1318)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE AUDITOR FOR FISCAL YEAR 1990; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES: REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND EXPRESSING LEGISLATIVE INTENT.

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, 1989, through June 30, 1990:

FOR:	
Auditing and Accounting	$1,826,900
Computer Center	3,928,700
Financial Improvement Practices	379,000
SAFIRS	600,000
TOTAL	$6,734,600

FROM:	
General Account	$2,803,500
Interagency Billing and Receipts Account	3,931,100
TOTAL	$6,734,600

SECTION 2. There is hereby appropriated to the State Auditor 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, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. AUDITING AND ACCOUNTING:				
FROM:				
General Account	$ 872,200	$ 952,300		$1,824,500
Interagency Billing and Receipts Account			2,400	2,400
TOTAL	$ 872,200	$ 952,300	$ 2,400	$1,826,900
II. COMPUTER CENTER:				
FROM:				
Interagency Billing and Receipts Account	$1,609,200	$ 999,000	$1,320,500	$3,928,700
III. FINANCIAL IMPROVEMENT PRACTICES:				
FROM:				
General Account	$ 53,700	$ 325,300		$ 379,000
IV. SAFIRS:				
FROM:				
General Account	$ 65,000	$ 535,000		$ 600,000
GRAND TOTAL	$2,600,100	$2,811,600	$1,322,900	$6,734,600

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 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.

SECTION 4. There is hereby reappropriated to the State Auditor for SAFIRS any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 286, Laws of 1988, for SAFIRS, and by Section 1 of House Bill 270, First Regular Session, Centennial Idaho Legislature, for SAFIRS, to be used for nonrecurring expenditures only for the period July 1, 1989, through June 30, 1990.

SECTION 5. It is legislative intent that when the computer center provides services to the other programs within the State Auditor's Office or to other state agencies, a fixed fee written contract which delineates the services to be performed and the cost to the program or agency, must be signed in advance by authorized representatives of the

computer center and the program or state agency for which the services are being performed.

Approved April 7, 1989.

CHAPTER 399
(S.B. No. 1317)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

FROM:	
General Account	$ 2,320,300
Federal Vocational Rehabilitation Account	7,528,300
Vocational Rehabilitation Cost Recovery Account	451,400
Interagency Billing and Receipts Account	7,000
TOTAL	$10,307,000

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 the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

A. RENAL DISEASE:	
FROM:	
General Account	$ 452,900
FOR:	
Trustee and Benefit Payments	$ 452,900
B. VOCATIONAL REHABILITATION:	
FROM:	
General Account	$ 1,867,400
Federal Vocational Rehabilitation Account	7,528,300
Vocational Rehabilitation Cost Recovery Account	451,400
Interagency Billing and Receipts Account	7,000
TOTAL	$ 9,854,100
FOR:	
Personnel Costs	$ 3,340,700
Operating Expenditures	628,600
Capital Outlay	214,300
Trustee and Benefit Payments	5,670,500
TOTAL	$ 9,854,100
GRAND TOTAL	$10,307,000

Approved April 7, 1989.

CHAPTER 400
(S.B. No. 1316)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1990; 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, 1989, through June 30, 1990:

FROM:

General Account	$ 2,594,900
Interagency Billing and Receipts Account	87,300
Indirect Cost Recovery Account	102,500
Professional Standards Commission Account	266,400
Driver Training Account	1,523,200
Commodity Distribution Account	478,400
Northwest Association of Schools and Colleges Account	5,200
Computer Services Account	544,400
Idaho Ag in the Classroom Account	22,000
Indian Education Account	250,700
Elementary-Secondary Education Account	24,553,000
Educational Block Grant Account	2,570,800
Food Services Account	17,599,600
Asbestos in Schools Account	988,100
Association for the Humanities in Idaho Account	38,200
TOTAL	$51,624,700

SECTION 2. There is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amount, to be expended for the designated programs from the listed accounts for the period July 1, 1989, through June 30, 1990:

A. MANAGEMENT:

FROM:

General Account	$ 284,900
Educational Block Grant Account	70,600
TOTAL	$ 355,500

B. FINANCE AND ADMINISTRATION:

FROM:

General Account	$ 1,197,300
Interagency Billing and Receipts Account	87,300
Indirect Cost Recovery Account	102,500
Driver Training Account	1,523,200
Asbestos in Schools Account	988,100
Commodity Distribution Account	478,400

Computer Services Account	544,400
Educational Block Grant Account	94,500
Food Services Account	17,599,600
TOTAL	$22,615,300
C. STATE-FEDERAL INSTRUCTIONAL SERVICES:	
FROM:	
General Account	$ 1,112,700
Professional Standards Commission Account	266,400
Northwest Association of Schools and Colleges Account	5,200
Association for the Humanities in Idaho Account	38,200
Idaho Ag in the Classroom Account	22,000
Indian Education Account	250,700
Elementary and Secondary Education Account	24,553,000
Educational Block Grant Account	2,405,700
TOTAL	$28,653,900
GRAND TOTAL	$51,624,700

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 189, Laws of 1988, to be used for nonrecurring expenditures only for the period July 1, 1989, through June 30, 1990.

Approved April 7, 1989.

CHAPTER 401
(S.B. No. 1315)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1990.

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 the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$ 946,900	$438,300	$295,900	$ 15,000	$1,696,100
Library Services and Construction Act Account	205,500	173,300	55,000	539,800	973,600
Access Project Public Library Account				25,000	25,000
Interagency Billing and Receipts Account		10,000	7,000	33,000	50,000
TOTAL	$1,152,400	$621,600	$357,900	$612,800	$2,744,700

Approved April 7, 1989.

CHAPTER 402
(S.B. No. 1314)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES FOR FISCAL YEAR 1990.

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, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$2,627,900
Operating Expenditures	781,900
Capital Outlay	102,400
TOTAL	$3,512,200
FROM:	
General Account	$ 436,100
Electrical Board Account	1,371,200
Plumbing Board Account	640,800
Idaho Building Code Account	393,500
Manufactured Housing Account	48,100
Interagency Billing and Receipts Account	526,100
Mine Safety Training Grant Account	96,400
TOTAL	$3,512,200

SECTION 2. There is hereby appropriated to the Department of Labor and Industrial Services the following amounts, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Account	$ 37,100	$ 3,800		$ 40,900
Electrical Board Account	159,300	16,400		175,700
Plumbing Board Account	66,600	12,700		79,300
Idaho Building Code Account	47,600	10,800		58,400
Interagency Billing and Receipts Account	45,700	17,400		63,100
TOTAL	$ 356,300	$ 61,100		$ 417,400
B. SAFETY COMPLIANCE:				
FROM:				
General Account	$ 58,100	$ 28,300		$ 86,400
Electrical Board Account	916,200	279,300		1,195,500
Plumbing Board Account	390,200	127,300	$ 44,000	561,500
Idaho Building Code Account	276,600	56,900	1,600	335,100
Manufactured Housing Account	33,500	14,600		48,100
Mine Safety Training Grant Account	27,200	15,400		42,600
TOTAL	$1,701,800	$521,800	$ 45,600	$2,269,200
C. INDUSTRIAL RELATIONS AND SAFETY:				
FROM:				
General Account	$ 219,000	$ 55,000	$ 34,800	$ 308,800
Interagency Billing and Receipts Account	316,500	124,500	22,000	463,000
Mine Safety Training Grant Account	34,300	19,500		53,800
TOTAL	$ 569,800	$199,000	$ 56,800	$ 825,600
GRAND TOTAL	$2,627,900	$781,900	$102,400	$3,512,200

Approved April 7, 1989.

CHAPTER 403
(S.B. No. 1299)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-119, IDAHO CODE, TO REDEFINE "RESIDENT."

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

SECTION 1. That Section 49-119, Idaho Code, be, and the same is

hereby amended to read as follows:

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~~, not including a full-time student who is a resident of another state, however, any person residing in Idaho and gainfully employed in Idaho, or a full-time student in the state of Idaho, may declare his residency, notwithstanding that the period of ~~residing therein~~ residency 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.

Approved April 7, 1989.

CHAPTER 404
(S.B. No. 1155)

AN ACT

RELATING TO AUDIT OF THE WEIGHT DISTANCE FEE FOR COMMERCIAL AND FARM VEHICLES; AMENDING SECTION 49-436, IDAHO CODE, TO PROVIDE AN APPEAL PROCESS FOR AN OWNER OF A COMMERCIAL OR FARM VEHICLE WISHING TO CONTEST AN ASSESSMENT MADE BY THE IDAHO TRANSPORTATION DEPARTMENT WHEN AUDITING THE WEIGHT DISTANCE FEE.

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

SECTION 1. That Section 49-436, Idaho Code, be, and the same is hereby amended to read as follows:

49-436. QUARTERLY REPORTS -- MAINTAINING RECORDS -- PENALTIES -- DEPOSIT OR BOND TO SECURE PAYMENT OF FEES -- APPEAL. (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 or farm vehicle having a maximum combined gross weight in excess of sixty thousand (60,000) pounds, shall file with the department a statement of the gross miles each 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.

(2) Every owner whose use fees are computed as specified in section 49-434, Idaho Code, shall maintain records and purchase documents to substantiate and justify the use of such schedule and shall permit the department to inspect the same upon demand. When 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 49-434 and 49-435, Idaho Code, cancelled until such time as adequate records are provided.

(3) An owner failing to file a report or pay any fee due within the time required as specified in this 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 may remit all or any part of the penalty if satisfied that the delay was excusable.

(4) (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 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 49-434, 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.

(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. The amount may be increased or reduced at any time.

(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.

(d) Any applicant or owner required 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. 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 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.

(5) An owner wishing to contest an assessment made by the department may within thirty (30) days from receipt of the assessment file an appeal with the department. Upon receipt of an appeal the director or his authorized representative shall schedule an informal conference between the owner and a representative of the department. The informal conference must be conducted within twenty (20) days from the date of receipt of notice of intent to appeal from the owner. The owner and the representative of the department shall reduce all conclusions, agreements and decisions to writing, if an informal conference is held, but attendance at and participation in the informal conference is at the option of the owner. If an informal conference is held, the written report of the results of that conference shall be provided to the director within ten (10) days. If the results of the informal conference are not satisfactory to the owner, he may continue with the appeal by informing the director in writing, and the director or his authorized representative shall appoint a hearing officer to conduct a contested case hearing in accordance with chapter 52, title 67, Idaho Code. The hearing officer may subpoena witnesses and evidence and administer oaths. The hearing officer shall prepare written findings of fact and conclusions of law for the director or his authorized representative. Upon receipt of findings of fact and conclusions of law the director or his authorized representative shall issue a final order affirming, modifying or reversing the original assessment. All final orders rendered by the director or his authorized representative shall be appealable in accordance with section 67-5215, Idaho Code.

Approved April 7, 1989.

CHAPTER 405
(S.B. No. 1126)

AN ACT

RELATING TO UNNUMBERED VESSELS AND USE PERMITS; AMENDING SECTION 67-7010, IDAHO CODE, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR AN OWNER OF A VESSEL TO HAVE SUCH VESSEL ON THE WATERS OF THIS STATE UNLESS IT IS PROPERLY REGISTERED; AND AMENDING SECTION 67-7011, IDAHO CODE, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR AN OWNER OF A VESSEL TO HAVE SUCH VESSEL ON THE WATERS OF THIS STATE UNLESS IT HAS A VALID USE PERMIT.

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

SECTION 1. That Section 67-7010, Idaho Code, be, and the same is hereby amended to read as follows:

67-7010. ~~OPERATION--OF~~ UNNUMBERED VESSELS. (1) It shall be unlawful for an owner of a vessel to have such vessel on the waters of the state of Idaho, or for any person to operate or permit the operation of any vessel on the waters of the state of Idaho unless it shall have a current certificate of registration and display a registration number and current validation stickers as provided by law.

SECTION 2. That Section 67-7011, Idaho Code, be, and the same is hereby amended to read as follows:

67-7011. USE PERMIT -- EXPIRATION -- FEES -- COLLECTION EXEMPTION. (1) It shall be unlawful for an owner of a vessel to have such vessel on the waters of the state of Idaho, or for any person to operate or permit the operation of any vessel on the waters of the state of Idaho unless the vessel shall have and display a valid use permit as provided by law.

(2) Every owner of a vessel without a valid Idaho certificate of registration shall apply for and obtain from the assessor or authorized vendor either a temporary use permit or an annual use permit, which use permit shall cover the vessel described in the application. A temporary use permit shall be valid for the maximum period of fifteen (15) consecutive days. An annual use permit shall be valid through December 31 of the year of issue.

(3) Application for a use permit shall be made to an assessor or authorized vendor by the owner upon an appropriate form provided by the department. Every application shall be signed by the owner and contain his residence address and a brief description of the vessel to be issued a permit, including the engine and serial numbers, horsepower, length, age, the last permit or sticker number, if any, and the location at which any previous permit or sticker number was issued, and in the case of the issuance of a use permit to a new vessel, the date of sale by which the manufacturer or dealer transferred the vessel to the person first operating it. The application may contain other information as may be required by the department.

(4) Upon receipt of the application in approved form and the appropriate fee, the assessor or authorized vendor shall enter it upon the records of its office and issue to the applicant a use permit sticker and a use permit stating the receipt of any fee paid, the name and address of the owner and the registration or other identifying number of the vessel, and the assessor or authorized vendor shall forward to the department a duplicate copy. The use permit sticker, which shall denote the dates it is valid, shall be affixed to the transom of the vessel and be clearly visible above the waterline on the port side, or in the case of a vessel not having a transom, on the port quarter at the stern. The use permit shall be pocket-size and shall be on board and available at all times for inspection on the vessel for

which issued whenever the vessel is in operation.

(5) Each assessor and authorized vendor shall record, on a form provided by the department, the names of all owners of vessels who make application for use permits, together with the amount of the fees paid by the owners. He shall, on or before the tenth of each month, forward to the department a duplicate copy of the record for the preceding month.

(6) All records of the department made or kept pursuant to this section shall be kept current and shall be public records.

(7) If any use permit becomes lost, mutilated, or illegible, the owner of the vessel on which the permit was issued shall obtain a duplicate of the permit from the department upon application and the payment of a fee of three dollars ($3.00). If a use permit sticker is lost, stolen, or destroyed, any sticker remnants and the use permit should be returned to the department along with a three dollar ($3.00) fee and an application for a duplicate use permit and use permit sticker.

(8) The use permit fees shall be:

(a) Temporary use permits

(1) All vessels $1.00/day, with minimum charge of $4.00

(b) Annual use permits

(1) Vessels 0-12 feet in length $5.00

(2) Vessels over 12 feet in length $5.00 plus $2.00 per foot for each additional foot in excess of 12 feet.

(9) The provisions of this section shall not apply to vessels owned by any charitable or religious organization, scout organization, or any similar organization not used and operated for profit, or a vessel belonging to a class of vessels which has been exempted from the payment of use permits by the department. All vessels having obtained a current use permit and having paid the fees imposed by subsection (8) of this section shall not be assessed and taxed as personal property in the state of Idaho.

Approved April 7, 1989.

CHAPTER 406
(S.B. No. 1023)

AN ACT

ELATING TO REPORTING OF TAXES ON GASOLINE; AMENDING SECTION 63-2407, IDAHO CODE, TO PROVIDE THAT THE TWO PER CENT DISCOUNT MAY BE ALLOWED DISTRIBUTORS FOR COST OF ADMINISTRATION AND LOSSES.

It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-2407, Idaho Code, be, and the same is eby amended to read as follows:

63-2407. DEDUCTIONS AUTHORIZED. Each licensed distributor shall deduct from his monthly report:

(1) Gasoline and/or aircraft engine fuel exported from this state other than in the supply tanks of motor vehicles, motor boats or aircraft when supported by a shipping document issued by a common carrier, an invoice signed by the purchaser, or other proper documents approved by the commission.

(2) Gasoline and/or aircraft engine fuel returned to a licensed distributor's refinery or pipeline terminal storage when supported by proper documents approved by the commission.

(3) Gasoline and/or aircraft engine fuel lost or destroyed by fire, lightning, flood, tornado, windstorm, explosion, or other accidental casualty, after presenting to the commission satisfactory proof of loss.

(4) The number of gallons which would be equal to one per cent (1%) of the total number of gallons received during the reporting period, less the total number of gallons deducted under subsections (1) through (3) of this section, which credit is granted to the licensed distributor to reimburse him for the expense incurred on behalf of the state of Idaho in collecting and remitting gasoline and/or aircraft engine fuel tax moneys, maintaining necessary records for the state, preparing necessary reports and remittances in compliance with this chapter, and for loss from evaporation, handling, spillage and shrinkage, except losses caused by casualty as provided in subsection (3) of this section. The licensed distributor may, in addition to the above, deduct the number of gallons equal to one per cent (1%) of the total number of gallons received during the preceding calendar month, less the total number of gallons deducted under subsections (1) through (3) of this section, to cover shrinkage, evaporation, spillage and handling losses of a retail dealer. The latter deductions are to be allowed only upon filing with the commission satisfactory evidence as may be prescribed by it indicating the credit allowance has been made in favor of the retail dealer or paid to him. The evidence shall be submitted together with the report wherein this portion of the deduction is claimed. A licensed distributor who sells and delivers gasoline directly to the consumer and not for resale shall, with respect to those sales, be deemed a retail dealer for the purposes of this section. ~~Credit granted by the provisions of this section shall not be allowed unless the tax is duly and punctually paid and reported as provided in this chapter or as determined by the commission.~~

(5) When aircraft engine fuel is sold for use in aircraft and the tax imposed by section 63-2408, Idaho Code, is paid to the commission, the total number of gallons sold shall be deducted from the total gallons of gasoline and/or aircraft engine fuel received.

(6) Gasoline and/or aircraft engine fuel sold to the Idaho national guard for use in aircraft and in vehicles used off public highways provided, however, such deduction is supported by an exemption certificate signed by an authorized officer of the Idaho national guard.

Approved April 7, 1989.

CHAPTER 407
(S.B. No. 1009)

AN ACT

RELATING TO THE REGISTRATION OF FARM AND COMMERCIAL TRUCKS; AMENDING SECTION 49-441, IDAHO CODE, TO ALLOW OWNERS OF FARM, COMMERCIAL AND NONCOMMERCIAL VEHICLES OPERATING INTRASTATE TO REGISTER WITH THE COUNTY ASSESSOR WHEN SUCH REGISTRATION ACTIVITY IS MUTUALLY AGREED TO BETWEEN THE COUNTY ASSESSOR AND THE IDAHO TRANSPORTATION DEPARTMENT.

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

SECTION 1. That Section 49-441, Idaho Code, be, and the same is hereby amended to read as follows:

49-441. OWNER TO SECURE REGISTRATION FROM A COUNTY ASSESSOR OR FROM BOARD. (1) Every owner of a motor vehicle, trailer or semitrailer who intends to operate the vehicle upon any highway in this state shall before the same is so operated, apply to a county assessor and obtain registration thereof, except the owner of any vehicle which is exempted as specified in section 49-426(2), Idaho Code, and excepting, also, when an owner is permitted to operate a vehicle under the special provisions relating to lien holders, dealers, and vehicles registered in a foreign country, state, territory, or federal district, as specified in sections 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 operating fees for them paid to the 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.

(2) The following motor vehicles shall be registered for the appropriate gross weight scale with the assessor of the county in which the owner resides:

(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.

(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.

(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 assessor of the county in which the owner resides.

(4) Commercial, farm and noncommercial vehicles of any weight doing strictly an intrastate business may be registered by the county assessor by mutual agreement between the department and the county.

(5) 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.

(56) A violation of the provisions of this section shall be an infraction.

Approved April 7, 1989.

CHAPTER 408
(S.B. No. 1008)

AN ACT

RELATING TO SIZE OF VEHICLES AND LOADS; AMENDING SECTION 49-103, IDAHO CODE, TO DEFINE "BOAT TRANSPORTER"; AMENDING SECTION 49-121, IDAHO CODE, TO DEFINE "TRIPLE SADDLEMOUNT VEHICLE"; AND AMENDING SECTION 49-1010, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR THE SIZE OF VEHICLES AND LOADS.

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

SECTION 1. That Section 49-103, Idaho Code, be, and the same is hereby amended to read as follows:

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) "Boat transporter" means any vehicle combination designed and used specifically to transport assembled boats and boat hulls.

(4) "Broker" means a person who, for a fee, commission, or other valuable ~~consid~~eration, 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.

(45) "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.

(56) "Business district." (See "District", section 49-105, Idaho Code)

(67) "Buy." (See "Sell", "sold", and "purchase", section 49-120, Idaho Code)

SECTION 2. That Section 49-121, Idaho Code, be, and the same is hereby amended to read as follows:

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 car-

rying 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) "Triple saddlemount vehicle" means a combination of four (4) truck-tractors where the front axle of second truck-tractor is mounted on the fifth wheel of the lead truck-tractor, the front axle of the

third truck-tractor is mounted on the fifth wheel of the second truck-tractor, and the front axle of the fourth truck-tractor is mounted on the fifth wheel of the third truck-tractor; and with the rear wheels of the second, third, and fourth truck-tractors trailing on the ground behind the operating motor unit.

(10) "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~~11) "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance.

SECTION 3. That Section 49-1010, Idaho Code, be, and the same is hereby amended to read as follows:

49-1010. SIZE OF VEHICLES AND LOADS. No vehicle shall exceed the dimensions specified below, except that certain devices determined by the 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 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 49-1004, 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 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 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 or boat transporter, stinger-steered as defined in (e) above, ~~including~~ excluding front and rear overhang of load ..... 75 feet.

~~Semitrailer portion of auto transporter ..... 48 feet.~~

(h) When an auto transporter or boat transporter, not meeting the stinger-steer requirement as defined in (e) above, excluding front and rear overhang of load ..... 65 feet.

(i) 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 or boat transporter, more than ..... 7 feet.

(5) Noncargo-carrying devices necessary for the safe and efficient operation of the vehicle, as determined by the board, shall not be included in measurement for length.

(6) No combination shall include more than three (3) units except when a triple saddlemount vehicle ..... 65 feet.

(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 board with an overall combination length not to exceed one hundred and five (105) feet.

Approved April 7, 1989.

CHAPTER 409
(S.B. No. 1267, AS Amended)

AN ACT

RELATING TO SCRAP DEALERS; AMENDING SECTION 54-2702, IDAHO CODE, TO PROVIDE ADDITIONAL RECORD KEEPING REQUIREMENTS, AND TO REQUIRE RECORD KEEPING REQUIREMENT FOR SCRAP TRANSPORTERS OR PURCHASERS; AMENDING SECTION 54-2703, IDAHO CODE, TO PROVIDE FOR MISDEMEANOR AND FELONY CRIMINAL PENALTIES AND RESTITUTION; AMENDING SECTION 54-2704, IDAHO CODE, TO REQUIRE RETENTION OF RECORDS BY TRANSPORTERS AND PURCHASERS OF SCRAP; AND AMENDING SECTION 54-2705, IDAHO CODE, TO PROVIDE FELONY PENALTIES.

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

SECTION 1. That Section 54-2702, Idaho Code, be, and the same is hereby amended to read as follows:

54-2702. RECORDS OF PURCHASES OF SCRAP REQUIRED -- CONTENTS. Every scrap dealer shall keep a legible record describing scrap purchased by him from individuals together with the date and place of such purchase. In addition, he shall obtain from such individual from whom such purchase is made his name and address and shall make a legible record of the same. The records shall include the number of the driver's license of the individual from whom such scrap is purchased together with the license plate number of the vehicle in which he is transporting his scrap as well as information from any receipts that are applicable. Such record and entries therein shall at all times be open to inspection by and shall be produced upon request of state police, by the sheriff of the county or any of his deputies, by any member of the police force in a city or town and any constable in the county in which the scrap dealer does business. Every person who purchases or transports scrap in an amount over one hundred (100) pounds shall be required to possess a receipt from the person from whom the scrap is obtained or possess a bill of lading for the scrap. A copy of this receipt or bill of lading shall be held by the transporter or purchaser, who shall make it available for inspection by state police, the county sheriff or his deputies, or any member of a city police department that has proper jurisdiction.

SECTION 2. That Section 54-2703, Idaho Code, be, and the same is hereby amended to read as follows:

54-2703. PENALTIES FOR VIOLATIONS OF ACT. (1) Any scrap dealer who shall be found guilty of, enter a plea of guilty for, or be convicted of an intentional violation of any of the provisions of this act shall be guilty of a misdemeanor upon the first violation within a five (5) year period, and shall be fined not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) or imprisoned for a period not in excess of six (6) months, or both, in the discretion of the court~~;-provided,-however,-that-for-the-first offense,-the-fine-shall-be-not-less-than-fifty--dollars--($50.00)--nor more--than--two--hundred-($200.00);-and-further-provided,-that-for-the second-and-for-each-subsequent-conviction-of-any-of-the-provisions--of this--act,--the--fines--shall--be--not--less--than-one-hundred-dollars ($100.00)-nor-more-than-three-hundred-dollars-($300.00)-and-such-individual-may-be-imprisoned-not-less-than-thirty-(30)-days-nor-more--than ninety-(90)-days;~~. Any scrap dealer who shall be found guilty, enter a plea of guilty for, or be convicted of an intentional violation of any of the provisions of this act for the second time within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony. Provided, that this act shall not be construed to in anywise impair the power of counties, cities or incorporated municipalities in this state to license, tax and regulate any scrap dealer.

(2) In addition to the criminal penalties provided in this section, every person convicted of a violation of the provisions of this chapter shall pay restitution in accordance with chapter 53, title 19, Idaho Code.

SECTION 3. That Section 54-2704, Idaho Code, be, and the same is hereby amended to read as follows:

54-2704. RETENTION OF RECORDS. Records required to be kept by the transporters, purchasers and scrap dealers in accordance with this act shall be kept for a period of three (3) years.

SECTION 4. That Section 54-2705, Idaho Code, be, and the same is hereby amended to read as follows:

54-2705. PENALTY FOR GIVING FALSE INFORMATION IN SALE OF SCRAP. Any seller who in furnishing information as contemplated by this act in selling, offering or trying to sell scrap makes a false statement or gives untrue information shall be guilty of a ~~misdemeanor~~ felony ~~and-upon-conviction-thereof-shall-be-punished-by-a-fine--of--not--less than-ten-dollars-($10.00)-and-costs,-nor-more-than-one-hundred-dollars ($100.00)--and--costs,--or--by-imprisonment-in-the-county-jail-for-not less-than-ten-(10)-days-nor-more-than-ninety-(90)--days,--or--by--both fine-and-imprisonment-in-the-discretion-of-the-court.~~

Approved April 7, 1989.

CHAPTER 410
(S.B. No. 1313)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO CENTENNIAL COMMISSION FOR FISCAL YEAR 1990.

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 the designated expense classes from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$70,000
Operating Expenditures	20,000
TOTAL	$90,000
FROM:	
General Account	$90,000

Approved April 7, 1989.

CHAPTER 411
(S.B. No. 1254, As Amended in the House)

AN ACT

RELATING TO CHILD SUPPORT ORDERS; AMENDING SECTION 32-706, IDAHO CODE, TO PROVIDE THAT CONSIDERATION OF THE FINANCIAL RESOURCES, NEEDS AND OBLIGATIONS OF EITHER PARENT ORDINARILY SHALL NOT INCLUDE A PARENT'S COMMUNITY PROPERTY INTEREST IN THE FINANCIAL RESOURCES OR OBLIGATIONS OF A SPOUSE WHO IS NOT A PARENT OF THE CHILD UNLESS COMPELLING REASONS EXIST AND TO PROVIDE THAT THE ACTUAL TAX BENEFIT RECOGNIZED BY THE PARTY CLAIMING THE FEDERAL CHILD DEPENDENCY EXEMPTION IS AN ADDITIONAL FACTOR IN DETERMINING THE AMOUNT OF CHILD SUPPORT TO BE ORDERED BY THE COURT; AND AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-706A, IDAHO CODE, TO AUTHORIZE AND ENCOURAGE THE SUPREME COURT TO ADOPT GUIDELINES FOR CHILD SUPPORT, AND TO MAKE EXISTING SUPREME COURT GUIDELINES PRESUMPTIVE; AND TO PROVIDE A SUNSET CLAUSE.

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

SECTION 1. That Section 32-706, Idaho Code, be, and the same is hereby amended to read as follows:

32-706. CHILD SUPPORT. A. In a proceeding for divorce or child support, the court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his or

her support, without regard to marital misconduct, after considering all relevant factors which may include:

1. The financial resources of the child;

2. The financial resources, needs, and obligations of both the custodial and noncustodial parents which ordinarily shall not include a parent's community property interest in the financial resources or obligations of a spouse who is not a parent of the child, unless compelling reasons exist;

3. The standard of living the child enjoyed during the marriage;

4. The physical and emotional condition and needs of the child and his or her educational needs;

5. The availability of medical coverage for the child at reasonable cost;

6. The actual tax benefit recognized by the party claiming the federal child dependency exemption.

B. 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 2. That Chapter 7, 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 32-706A, Idaho Code, and to read as follows:

32-706A. PURPOSE -- AUTHORIZATION TO ADOPT GUIDELINES -- GUIDELINES TO BE PRESUMPTIVE. A. The purpose of this act is to provide compliance with recent federal action whereby the congress of the United States has enacted 42 USC 667 as amended by public law 100-485, 102 STAT 2343, which measure requires that, effective October 13, 1989, as a condition to having a state plan for the receipt of federal aid for dependent children funds approved, a state must establish child support guidelines, which are to have a rebuttable presumption of being the correct amount for purposes of setting the level of child support, unless in a particular case the court finds, under criteria established by the legislature of the state that application of the guidelines would be unjust or inappropriate. In addition, the purpose of this act is to recognize and give presumptive effect to the child support guidelines which have been adopted by the supreme court of the state of Idaho, to be effective on and after April 1, 1989, which guidelines have been declared by the supreme court to be advisory, as

an aid for the litigants and the courts to evaluate the needs of the children and the resources of the parents in determining the appropriate level of child support.

B. The legislature hereby authorizes and encourages the supreme court of the state of Idaho to adopt and to periodically review for modification, guidelines to promote uniform and adequate child support awards, to supplement the factors set forth in section 32-706, Idaho Code, to be used as an aid and a structure for litigants and courts to evaluate the individual circumstances of the needs of children and the resources of parents, in determining the levels of child support, and in evaluating the evidentiary circumstances of each individual case.

C. In arriving at the amount to be ordered as child support, the court, in addition to considering the factors described in section 32-706, Idaho Code, shall also apply the guidelines adopted by the supreme court of the state of Idaho on January 27, 1989, and as those guidelines are from time to time amended. There shall be a rebuttable presumption that the amount of the award which would result from the application of the guidelines is the amount of child support to be awarded, unless evidence is presented in a particular case which indicates that an application of the guidelines would be unjust or inappropriate. If the court determines that circumstances exist to permit a departure from the guidelines, the judge making the determination shall make a written or specific finding on the record that the application of the guidelines would be unjust or inappropriate in the particular case before the court.

SECTION 3. The provisions of Section 2 of this act shall be null, void and of no force and effect on and after July 1, 1991.

Approved April 7, 1989.

CHAPTER 412
(S.B. No. 1331)

AN ACT
APPROPRIATING MONEYS FOR THE COLLEGE OF AGRICULTURE FOR A VETERINARY AND AGRICULTURE QUALITY ASSURANCE PROGRAM FOR FISCAL YEAR 1990.

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 according to the designated expense classes for the College of Agriculture's Veterinary and Agriculture Quality Assurance Program from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:

Personnel Costs	$ 56,000
Operating Expenditures	20,000
Capital Outlay	100,000
TOTAL	$176,000

FROM:
General Account $176,000

Approved April 7, 1989.

CHAPTER 413
(S.B. No. 1334)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE LAVA HOT SPRINGS FOUNDATION FOR CERTAIN PURPOSES.

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

SECTION 1. There is hereby appropriated from the General Account the sum of $20,000, or so much thereof as may be necessary, to the Lava Hot Springs Foundation for the purpose of engaging consultants and/or specialists to conduct a study on the feasibility of utilizing natural hot water in the Foundation's facilities, and the costs and/or benefits resulting therefrom. The Foundation shall report the results of the study to the Second Regular Session of the Centennial Idaho Legislature.

Approved April 7, 1989.

CHAPTER 414
(S.B. No. 1052)

AN ACT

RELATING TO THE REGULATION OF COMMODITY TRANSACTIONS; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 15, TITLE 30, IDAHO CODE, PROVIDING DEFINITIONS, PROVIDING PROHIBITIONS ON THE SALE AND OFFER OF COMMODITY CONTRACTS OR COMMODITY OPTIONS, PROVIDING EXEMPTIONS FOR CERTAIN PERSONS EFFECTING COMMODITY RELATED TRANSACTIONS, PROVIDING FOR EXEMPT TRANSACTIONS, PROVIDING PROHIBITIONS AGAINST UNLAWFUL COMMODITY ACTIVITIES, PROVIDING FRAUDULENT CONDUCT IS UNLAWFUL AND FOR LIABILITY OF PRINCIPALS, CONTROLLING PERSONS AND OTHERS, PROVIDING THAT AUTHORITY OR POWERS UNDER THE IDAHO SECURITIES ACT IS UNAFFECTED, PROVIDING THE PURPOSE OF THE PROVISIONS OF THE CHAPTER, PROVIDING FOR INVESTIGATIONS, PROVIDING FOR ENFORCEMENT OF THE PROVISIONS OF THE CHAPTER, PROVIDING FOR RELIEF, PROVIDING CRIMINAL PENALTIES, PROVIDING FOR ADMINISTRATION, RULES AND FORMS, PROVIDING FOR COOPERATION WITH OTHER AGENCIES, PROVIDING FOR CONSENT TO SERVICE OF PROCESS, PROVIDING FOR SCOPE OF THE PROVISIONS OF THE CHAPTER, PROVIDING FOR ENTRY OF ADMINISTRATIVE ORDERS, PROVIDING FOR JUDICIAL REVIEW OF ADMINISTRATIVE ORDERS, PROVIDING FOR PLEADING OF EXEMPTIONS, AND PROVIDING A SHORT TITLE.

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

SECTION 1. 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 15, Title 30, Idaho Code, and to read as follows:

CHAPTER 15
IDAHO COMMODITY CODE

30-1501. DEFINITIONS. (1) "Board of trade" means any person or group of persons engaged in buying or selling any commodity or receiving the same for sale on consignment, whether such person or group of persons is characterized as a board of trade, exchange or other form of marketplace.

(2) "CFTC rule" means any rule, regulation or order of the commodity futures trading commission in effect on the effective date of this chapter and all subsequent amendments, additions or other revisions thereto, unless the director, within thirty (30) days following the effective date of any such amendment, addition or revision, disallows the application thereof to any provision of this chapter by rule, regulation or order.

(3) "Commodity" means, except as otherwise specified by the director by rule, regulation or order, any agricultural, grain or livestock product or by-product, any metal or mineral including a precious metal as defined in subsection (13) of this section, any gem or gemstone whether characterized as precious, semiprecious or otherwise, any fuel whether liquid, gaseous or otherwise, any foreign currency, and all other goods, articles, products or items of any kind of any other commodity as defined in the commodity exchange act or commodity futures trading commission rules; provided that the term commodity shall not include:

(a) A numismatic coin whose fair market value is at least fifteen per cent (15%) higher than the value of the metal it contains;

(b) Real property or any timber, agricultural or livestock product grown or raised on real property and offered or sold by the owner or lessee of such real property; or

(c) Any work of art offered or sold by art dealers, at public auction or offered or sold through a private sale by the owner thereof.

(4) "Commodity contract" means:

(a) Any account, agreement or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract or otherwise. Any commodity contract offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation or investment purposes; and

(b) Does not include any contract or agreement which requires, and under which the purchaser receives, within twenty-eight (28) calendar days from the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

(5) "Commodity exchange act" means the act of congress known as the commodity exchange act, as amended, codified at 7 U.S.C. section 1, et seq. and all subsequent amendments, additions or other revisions thereto, unless the director, within thirty (30) days following the effective date of any such amendment, addition or revision, disallows the application thereof to any provision of this chapter by rule, regulation or order.

(6) "Commodity futures trading commission" means the independent regulatory agency established by congress to administer the commodity exchange act.

(7) "Commodity merchant" means any of the following as defined or described in the commodity exchange act or by CFTC rule:

(a) Futures commission merchant,

(b) Commodity pool operator,

(c) Commodity trading adviser,

(d) Introducing broker,

(e) Leverage transaction merchant,

(f) An associated person of any of the foregoing,

(g) Floor broker, and

(h) Any other person, other than a futures association, required to register with the commodity futures trading commission.

(8) "Commodity option" means:

(a) Any account, agreement or contract giving a party thereto the right, but not the obligation, to purchase or sell one or more commodities or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty or otherwise; and

(b) Does not include an option traded on a national securities exchange registered with the United States securities and exchange commission.

(9) "Director" means the director of the Idaho department of finance or an agent or employee authorized to act on the director's behalf.

(10) "Financial institution" means a bank, savings institution or trust company organized under, or supervised pursuant to the laws of the United States or this state.

(11) "Offer" includes every offer to sell, offer to purchase, or offer to enter into a commodity contract or commodity option.

(12) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government, but shall not include a contract market designated by the commodity futures trading commission or any clearinghouse thereof or a national securities exchange registered with the securities and exchange commission, or any employee, officer or director of such contract market, clearinghouse or exchange acting solely in that capacity.

(13) "Precious metal" means the following in either coin, bullion or other form:

(a) Silver,

(b) Gold,

(c) Platinum,

(d) Palladium,

(e) Copper, and

(f) Such other items as the director may specify by rule.

(14) "Sale" or "sell" includes every sale, contract of sale, contract to sell, or disposition, for value.

30-1502. UNLAWFUL COMMODITY TRANSACTIONS. Except as otherwise provided in sections 30-1503 or 30-1504, Idaho Code, no person shall sell or purchase or offer to sell or purchase any commodity under any commodity contract or under any commodity option or offer to enter into or enter into as seller or purchaser any commodity contract or any commodity option.

30-1503. EXEMPT PERSON -- TRANSACTIONS. (1) The prohibitions in section 30-1502, Idaho Code, shall not apply to any transaction offered by and in which any of the following persons or any employee, officer or director thereof, acting solely in that capacity is the purchaser or seller:

(a) A person registered with the commodity futures trading commission as a futures commission merchant or as a leverage transaction merchant whose activities require such registration;

(b) A person registered with the securities and exchange commission or under the laws of this state as a securities broker-dealer whose activities require such registration;

(c) A person affiliated with, and whose obligations and liabilities under the transaction are guaranteed by a person referred to in paragraph (a) or (b) of this subsection;

(d) A person who is a member of a contract market designated by the commodity futures trading commission or any clearinghouse thereof; or

(e) A financial institution.

(2) The exemption provided in this section shall not apply to any transaction or activity which is prohibited by the commodity exchange act or CFTC rule.

30-1504. EXEMPT TRANSACTIONS. (1) The prohibitions in section 30-1502, Idaho Code, shall not apply to the following:

(a) An account, agreement or transaction within the exclusive jurisdiction of the commodity futures trading commission as granted under the commodity exchange act;

(b) A commodity contract for the purchase of one or more precious metals which requires, and under which the purchaser receives, within seven (7) calendar days from the payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased by such payment, provided that, for purposes of this paragraph, physical delivery shall be deemed to have occurred if, within such seven (7) day period, such

quantity of precious metals purchased by such payment is delivered whether in specifically segregated or fungible bulk form into the possession of a depository, other than the seller, which is either:

(i) A financial institution,

(ii) A depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission,

(iii) A storage facility licensed or regulated by the United States or any agency thereof, or

(iv) A depository designated by the director, and such depository or other person which itself qualifies as a depository as aforesaid, issues and the purchaser receives, a certificate, document of title, confirmation or other instrument evidencing that such quantity of precious metals has been delivered to the depository and is being and will continue to be held by the depository on the purchaser's behalf, free and clear of all liens and encumbrances, other than liens of the purchaser, tax liens, liens agreed to by the purchaser, or liens of the depository for fees and expenses, which have previously been disclosed to the purchaser;

(c) A commodity contract solely between persons engaged in producing, processing, using commercially or handling as merchants, each commodity subject thereto, or any by-product; or

(d) A commodity contract under which the offeree or the purchaser is a person referred to in section 30-1503, Idaho Code, an insurance company, or an investment company as defined in the investment company act of 1940.

(2) The director may issue rules, regulations or orders prescribing the terms and conditions of all transactions and contracts covered by the provisions of this chapter which are not within the exclusive jurisdiction of the commodity futures trading commission as granted by the commodity exchange act, exempting any person or transaction from any provision of this chapter conditionally or unconditionally and otherwise implementing the provisions of this chapter for the protection of purchasers and sellers of commodities.

30-1505. UNLAWFUL COMMODITY ACTIVITIES. (1) No person shall engage in a trade or business or otherwise act as a commodity merchant unless such person:

(a) Is registered or temporarily licensed with the commodity futures trading commission for each activity constituting such person as a commodity merchant and such registration or temporary license shall not have expired, nor been suspended nor revoked; or

(b) Is exempt from such registration by virtue of the commodity exchange act or of a CFTC rule.

(2) No board of trade shall trade, or provide a place for the trading of, any commodity contract or commodity option required to be traded on or subject to the rules of a contract market designated by the commodity futures trading commission unless such board of trade has been so designated for such commodity contract or commodity option

and such designation shall not have been vacated, nor suspended nor revoked.

30-1506. FRAUDULENT CONDUCT -- LIABILITY OF PRINCIPALS, CONTROLLING PERSONS AND OTHERS. (1) It is unlawful for any person, directly or indirectly, in connection with a commodity contract or commodity option:

(a) To employ any device, scheme or artifice to defraud;

(b) To make any false report, enter any false record or make any untrue statement of material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(c) To engage in any transaction, act, practice or course of business which operates or would operate as a fraud or deceit upon any person; or

(d) To misappropriate or convert the funds, security or property of any other person.

(2) The act, omission or failure of any person acting for any individual, association, partnership, corporation or trust within the scope of the person's employment or office shall be deemed the act, omission or failure of the individual, association, partnership, corporation or trust, as well as of the person.

(3) Every person who directly or indirectly controls another person liable under any provision of this chapter, every partner, officer, or director of such other person, every person occupying a similar status or performing similar functions, every employee of such other person who materially aids in the violation is also liable jointly and severally with and to the same extent as such other person, unless the person who is also liable by virtue of this provision sustains the burden of proof that he did not know, and in exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

30-1507. SECURITIES STATUTES UNAFFECTED. Nothing in this chapter shall impair, derogate or otherwise affect the authority or powers of the director under the Idaho securities act or the application of any provision thereof to any person or transaction subject thereto.

30-1508. PURPOSE. The provisions of this chapter may be construed and implemented to effectuate the general purpose to protect investors, to prevent and prosecute illegal and fraudulent schemes involving commodity contracts and to maximize coordination with federal law and laws of other states and the administration and enforcement thereof. The provisions of this chapter are not intended to create any rights or remedies upon which actions may be brought by private persons against persons who violate the provisions of this chapter.

30-1509. INVESTIGATIONS. (1) The director may make investigations, within or outside this state, as the director deems necessary or appropriate to:

(a) Determine whether any person has violated, or is about to violate, any provision of this chapter or any rule or order here-

under; or

(b) Aid in enforcement of the provisions of this chapter.

(2) The director may publish information concerning any violation of the provisions of this chapter or any rule or order of the director.

(3) For purposes of any investigation or proceeding under this chapter, the director or any officer or employee 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 to be relevant or material to the inquiry.

(4) (a) If a person does not give testimony or produce the documents required by the director pursuant to an administrative subpoena, the director may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.

(b) The request for order of compliance may be addressed to any court of competent jurisdiction, within or outside the state.

30-1510. ENFORCEMENT. (1) If the director believes, whether or not based upon an investigation conducted under section 30-1509, Idaho Code, that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, the director may:

(a) Issue a cease and desist order;

(b) Issue an order imposing a civil penalty in an amount which may not exceed twenty-five thousand dollars ($25,000) for any single violation or one hundred thousand dollars ($100,000) for multiple violations in a single proceeding or a series of related proceedings; or

(c) Initiate any of the actions specified in subsection (2) of this section.

(2) The director may institute any of the following actions in the appropriate courts of this state, or in the appropriate courts of another state, in addition to any legal or equitable remedies otherwise available:

(a) An action for a declaratory judgment;

(b) An action for a permanent or temporary injunction, restraining order or writ of mandamus to enjoin the violation and to ensure compliance with the provisions of this chapter or any rule or order of the director;

(c) An action for disgorgement and other equitable remedies; and

(d) An action for appointment of a receiver or conservator for the defendant or the defendant's assets.

30-1511. POWER OF COURT TO GRANT RELIEF. (1) (a) Upon a showing by the director that a person has violated, or is about to violate, any provision of this chapter or any rule or order of the director, the court may grant appropriate legal or equitable remedies.

(b) Upon a showing of violation of the provisions of this chapter or a rule or order of the director, the court, in addition to traditional legal and equitable remedies, including temporary restraining

orders, permanent or temporary injunctions, and writs of prohibition or mandamus, may grant the following special remedies:

(i) Imposition of a civil penalty in an amount which may not exceed twenty-five thousand dollars ($25,000) for any single violation or one hundred thousand dollars ($100,000) for multiple violations in a single proceeding or a series of related proceedings;

(ii) Disgorgement;

(iii) Declaratory judgment;

(iv) Restitution to investors wishing restitution; and

(v) Appointment of a receiver or conservator for the defendant or the defendant's assets.

(c) Appropriate remedies when the defendant is shown only about to violate the provisions of this chapter or a rule or order of the director shall be limited to:

(i) A temporary restraining order;

(ii) A temporary or permanent injunction;

(iii) A writ of prohibition or mandamus; or

(iv) An order appointing a receiver or conservator for the defendant or the defendant's assets.

(2) The court shall not require the director to post a bond in any official action under this chapter.

(3) (a) Upon a proper showing by the director or securities or commodity agency of another state that a person, other than a government or governmental agency or instrumentality, has violated, or is about to violate, any provision of the commodity act of that state or any rule or order of the director or securities or commodity agency of that state, the court may grant appropriate legal and equitable remedies.

(b) Upon a showing of a violation of the securities or commodity act of the foreign state or a rule or order of the director or securities or commodity agency of the foreign state, the court, in addition to traditional legal or equitable remedies including temporary restraining orders, permanent or temporary injunctions and writs of prohibition or mandamus, may grant the following special remedies:

(i) Disgorgement; and

(ii) Appointment of a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in the state.

(c) Appropriate remedies when the defendant is shown only about to violate the securities or commodity act of the foreign state or a rule or order of the director or securities or commodity agency of the foreign state shall be limited to:

(i) A temporary restraining order;

(ii) A temporary or permanent injunction;

(iii) A writ of prohibition or mandamus; or

(iv) An order appointing a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this state.

30-1512. CRIMINAL PENALTIES. (1) Any person who willfully vio-

lates:

(a) Any provision of this chapter; or

(b) Any rule or order of the director under this chapter shall, upon conviction, be fined not more than twenty-five thousand dollars ($25,000) or imprisoned for not more than ten (10) years, or both, for each violation.

(2) Any person convicted of violating a rule or order under this chapter may be fined, but may not be imprisoned, if the person proves he had no knowledge of the rule or order.

(3) The director may refer such evidence as is available concerning violations of the provisions of this chapter or any rule or order of the director to the attorney general of this state or the proper prosecuting attorney, who may, with or without such a reference from the director, institute the appropriate criminal proceedings under this chapter.

30-1513. ADMINISTRATION -- RULES AND FORMS. (1) The administration of the provisions of this chapter shall be under the general supervision and control of the director. The director may from time to time make, amend and rescind such rules and forms as are necessary to carry out the provisions of this chapter. No rule or form may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes of this chapter.

(2) Neither the director nor any employees of the director shall use any information which is filed with or obtained by the director which is not public information for personal gain or benefit, nor shall the director nor any employees of the director conduct any securities or commodity dealings whatsoever based upon any such information, even though public, if there has not been a sufficient period of time for the securities or commodity markets to assimilate such information.

(3) (a) Except as provided in paragraph (b) of this subsection, all information collected, assembled or maintained by the director is public information and is available for the examination of the public.

(b) The following items are not public information and are deemed to be confidential:

(i) Information or documents obtained by the director concerning any matter or party under investigation;

(ii) Information designated as confidential by any rule or order of the director;

(iii) Information obtained from federal agencies which may not be disclosed under federal law.

(c) The director in his discretion may disclose any information made confidential under paragraph (b)(i) of this subsection to persons identified in section 30-1514, Idaho Code.

(d) No provision of this chapter either creates or derogates any privilege which exists at common law, by statute or otherwise when any documentary or other evidence is sought under subpoena directed to the director or any employee of the director.

30-1514. COOPERATION WITH OTHER AGENCIES. To encourage uniform application and interpretation of the provisions of this chapter and securities regulation and enforcement in general, the director and the employees of the director may cooperate, including bearing the expense of the cooperation, with the securities agencies or director of another jurisdiction, Canadian province or territory or such other agencies administering the provisions of this chapter, the commodity futures trading commission, the securities and exchange commission, any self-regulatory organization established under the commodity exchange act or the securities exchange act of 1934, any national or international organization of commodities or securities officials or agencies, and any governmental law enforcement agency.

30-1515. CONSENT TO SERVICE OF PROCESS. When a person including a nonresident of this state, engages in conduct prohibited or made actionable by the provisions of this chapter or any rule or order of the director, such conduct shall constitute the appointment of the director and his successors as the person's attorney to receive service of any lawful process in a noncriminal proceeding against the person, a successor, or personal representative, which grows out of that conduct and which is brought under this chapter or any rule or order of the director with the same force and validity as if served personally.

30-1516. SCOPE. (1) Sections 30-1502, 30-1505 and 30-1506, Idaho Code, apply to persons who sell or offer to sell when:

(a) An offer to sell is made in this state, or

(b) An offer to buy is made and accepted in this state.

(2) Sections 30-1502, 30-1505 and 30-1506, Idaho Code, apply to persons who buy or offer to buy when:

(a) An offer to buy is made in this state, or

(b) An offer to sell is made and accepted in this state.

(3) For the purposes of this section, an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer:

(a) Originates from this state, or

(b) Is directed by the offeror to this state and received at the place to which it is directed or at any post office in this state in the case of a mailed offer.

(4) For the purpose of this section, an offer to buy or to sell is accepted in this state when acceptance:

(a) Is communicated to the offeror in this state, and

(b) Has not previously been communicated to the offeror, orally or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state, reasonably believing the offeror to be in this state and it is received at the place to which it is directed or at any post office in this state in the case of a mailed acceptance.

(5) An offer to sell or to buy is not made in this state when:

(a) The publisher circulates or there is circulated on his behalf

in this state any bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this state, or which is published in this state, but more than two-thirds of the publication's circulation has been outside this state during the previous twelve (12) months, or

(b) A radio or television program originating outside this state is received in this state.

30-1517. PROCEDURE FOR ENTRY OF AN ORDER. (1) The director shall commence an administrative proceeding under this chapter by entering either a notice of intent to do a contemplated act or a summary order. The notice of intent or summary order may be entered without notice, without opportunity for hearing, and need not be supported by findings of fact or conclusions of law, but must be in writing.

(2) Upon entry of a notice of intent or summary order, the director shall promptly notify all interested parties that the notice or summary order has been entered and the reasons therefor. If the proceeding is pursuant to a notice of intent, the director shall inform all interested parties of the date, time and place set for the hearing on the notice. If the proceeding is pursuant to a summary order, the director shall inform all interested parties that they have thirty (30) business days from the entry of the order to file a written request for a hearing on the matter with the director and that the hearing will be scheduled to commence within thirty (30) business days after the receipt of the written request.

(3) If the proceeding is pursuant to a summary order, the director, whether or not a written request for a hearing is received from any interested party, may set the matter down for hearing on the director's own motion.

(4) If no hearing is requested and none is ordered by the director, the summary order will automatically become a final order after thirty (30) business days.

(5) If a hearing is requested or ordered, the director, after notice of an opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination.

(6) No final order or order after hearing may be returned without:

(a) Appropriate notice to all interested persons;

(b) Opportunity for hearing by all interested persons; and

(c) Entry of written findings of fact and conclusions of law.

Every hearing in an administrative proceeding under the provisions of this chapter shall be public unless the director grants a request joined in by all the respondents that the hearing be conducted privately.

30-1518. JUDICIAL REVIEW OF ORDERS. Any person aggrieved by a final order of the director may obtain judicial review of the order pursuant to the provisions of section 67-5215, Idaho Code.

30-1519. PLEADING EXEMPTIONS. It shall not be necessary to negative any of the exemptions in this chapter in any complaint, information or indictment, or any writ or proceeding brought under this chap-

ter, and the burden of proof of any such exemption shall be upon the party claiming the same.

30-1520. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Commodity Code."

Approved April 7, 1989.

CHAPTER 415
(S.B. No. 1325)

AN ACT
APPROPRIATING MONEYS FOR THE FOREST UTILIZATION RESEARCH PROGRAM FOR THE RESOURCE POLICY ANALYSIS GROUP FOR FISCAL YEAR 1990.

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 for the Resource Policy Analysis Group from the listed account for the period July 1, 1989, through June 30, 1990:

FROM:

General Account $125,000

Approved April 7, 1989.

CHAPTER 416
(S.B. No. 1291, As Amended)

AN ACT
RELATING TO STATE INSTITUTIONS OF HIGHER EDUCATION BOND ACT; AMENDING CHAPTER 38, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3805A, IDAHO CODE, TO REQUIRE APPROVAL OF THE LEGISLATURE PRIOR TO THE BOARD ENTERING INTO LEASE-PURCHASE AGREEMENTS FOR, ACQUIRING OR TAKING POSSESSION OF ANY BUILDING OR FACILITY WHICH REQUIRES STATE GENERAL ACCOUNT APPROPRIATED FUNDS FOR CONSTRUCTION, OPERATION OR MAINTENANCE.

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

SECTION 1. That Chapter 38, 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 33-3805A, Idaho Code, and to read as follows:

33-3805A. PROCEDURE PRIOR TO AUTHORIZATION. Notwithstanding any other provisions of this chapter, the board shall not enter into

lease-purchase agreements for, acquire, build or take possession of any building or facility which requires state general account appropriated funds for construction, operation or maintenance unless prior approval by the legislature has been given by concurrent resolution authorizing the board to proceed with the project or projects.

Approved April 7, 1989.

CHAPTER 417
(H.B. No. 304, As Amended)

AN ACT

RELATING TO FREE-STANDING SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES; AMENDING SECTION 56-108, IDAHO CODE, TO PROVIDE WHEN THE EFFECTIVE AGE OF A FACILITY SHALL BE ADJUSTED, TO PROVIDE THE EXTENT TO WHICH RENT MAY BE INCREASED, TO PROVIDE A BASE RENTAL RATE, TO PROVIDE THAT THE GRANDFATHER RATE MAY BE ADJUSTED FOR CERTAIN REPLACEMENTS AND RENOVATIONS OF FACILITIES, AND TO PROVIDE A FORMULA FOR DETERMINING THE GRANDFATHERED RATE.

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

SECTION 1. That Section 56-108, Idaho Code, be, and the same is hereby amended to read as follows:

56-108. PROPERTY REIMBURSEMENT -- FACILITIES WILL BE PAID A PROPERTY RENTAL RATE, PROPERTY TAXES AND REASONABLE PROPERTY INSURANCE. The provisions of this section shall not apply to hospital-based facilities which are subject to the provisions of section 56-120, Idaho Code. The provisions of this section are applicable to all other facilities. The property rental rate includes compensation for major movable equipment but not for minor movable equipment. However, the property rental rate for intermediate care facilities for the mentally retarded shall not include compensation for major movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. However, reimbursement for the cost of major movable equipment for intermediate care facilities for the mentally retarded shall be excluded from the property rental rate and shall be reimbursed according to other provisions of this chapter and to provisions of health insurance manual 15 as promulgated by the U.S. department of health and human services. Prior to final audit, the director shall determine an interim rate that approximates the property rental rate. The property rental rate shall be determined as follows:

(1) Except as determined pursuant to this section and as modified by section 56-109, Idaho Code:

Property rental rate = ("Property base") x ("Change in building

costs") x (40 - "Age of facility")
40

where:

(a) "Property base" = $9.24 for all facilities except intermediate care facilities for the mentally retarded. Beginning the effective date of this subsection, the property base rate for intermediate care facilities for the mentally retarded shall be $8.94. (Property base = $5.81 for intermediate care facilities for the mentally retarded not designed for the care of nonambulatory patients as determined by the director.)

(b) "Change in building costs" = 1.0 from April 1, 1985, through December 31, 1985. However, for intermediate care facilities for the mentally retarded, "change in building costs" = 1.0 from the effective date of this subsection through December 31, 1986. Thereafter "Change in building costs" will be adjusted for each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year, published by the Marshall Swift Valuation Service.

(c) "Age of facility" = the director shall determine the effective age, in years, of the facility by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof shall be assigned an age of more than thirty (30) years.

(i) If adequate information is not submitted by the facility to document that the facility, or portion thereof, is newer than thirty (30) years, the director shall set the effective age at thirty (30) years. Adequate documentation shall include, but not be limited to, such documents as copies of building permits, tax assessors' records, receipts, invoices, building contracts, and original notes of indebtedness. The director shall compute an appropriate age for facilities when documentation is provided to reflect expenditures for building expansion or remodeling prior to the effective date of this section. The computation shall decrease the age of a facility by an amount consistent with the expenditure and the square footage impacted and shall be calculated as follows:

1. Determine, according to indexes published by the Marshall Swift Valuation Service, the construction cost per square foot of an average class D convalescent hospital in the western region for the year in which the expansion or renovation was completed.

2. Multiply the total square footage of the building following the expansion or renovation by the cost per square foot to establish the estimated replacement cost of the building at that time.

3. The age of the building at the time of construction shall be multiplied by the quotient of total actual renovation or remodeling costs divided by replacement cost. If this number is equal to or greater than 2.0, the age of the building in years will be reduced by this number, rounded to the nearest whole number. In no case

will the age be less than zero.

(ii) The director shall adjust the effective age of a facility ~~as--a--result--of--necessary--major-repairs,-approved-in advance,~~ when major repairs, replacement, remodeling or renovation initiated after April 1, 1985~~, and completed prior to--December--31,-1989~~, would result in a change in age of at least one (1) year. Such changes shall not increase the allowable property rental rate by more than ~~one-half-(1/2)~~ three-fourths (3/4) of the difference between the ~~initial property-rental-rate-for-the-facility-and-the-"property-base" shown--in--paragraph-(a)-of-this-subsection~~ adjusted property base determined in subsections (1)(a) and (1)(b) of this section and the rental rate paid to the facility at the time of completion of such changes but before the change component has been added to said rate. The adjusted effective age of the facility will be used in future age determinations, unless modified by provisions of this chapter.

(iii) The director shall allow for future adjustments to the effective age of a facility or its rate to reimburse an appropriate amount for property expenditures resulting from new requirements imposed by state or federal agencies. The director shall, within twelve (12) months of verification of expenditure, reimburse the medicaid share of the entire cost of such new requirements as a one-time payment if the incurred cost for a facility is less than one hundred dollars ($100) per bed.

(d) At no time shall the property rental rate, established under subsection (1) of this section, be less than that allowed in subsection (1)(c)(ii), with the rate in effect December 31, 1988 being the base. However, subsequent to the application of this paragraph, before any rate increase may be paid, it must first be offset by any rate decrease that would have been realized if the provisions of this paragraph had not been in effect.

(2) A "grandfathered rate" for existing facilities will be determined by dividing the audited allowable annual property costs, exclusive of taxes and insurance, for assets on hand as of January 1, 1985 by the total patient days in the period July 1, 1984 through June 30, 1985. However, a "grandfathered rate" for existing intermediate care facilities for the mentally retarded will be determined by dividing the audited allowable annual property costs, exclusive of taxes, insurance and costs of major movable equipment, for assets on hand as of January 1, 1986 by the total patient days in the period July 1, 1985, through June 30, 1986. The property rental rate will be the greater of the amount determined pursuant to subsection (1) of this section, or the grandfathered rate. The director shall adjust the grandfathered rate of a facility to compensate the owner for the cost of necessary major repairs, replacement, expansion or, remodeling~~,~~ and renovation initiated prior to April 1, 1985, and completed after January 1, 1985, but completed no later than December 31, 1985. ~~Such changes-shall-not-increase-the-allowable-property-rental-rate-by--more than--one-half--(1/2)--of--the-difference-between-the-initial-property rental-rate-and-the-property-base-shown-in-subsection-(1)(a)--of--this~~

~~section~~ The director shall adjust the grandfathered rate of a facility to compensate the owner for the cost of major repairs, replacement, expansion, remodeling and renovation initiated prior to April 1, 1985, and completed after January 1, 1985, but completed no later than December 31, 1985. For facilities receiving a grandfathered rate making major repairs, replacement, expansion, remodeling or renovation, initiated after January 1, 1986, the director shall compare the grandfathered rate of the facility to the actual depreciation, amortization, and interest for the current audit period plus the per diem of the recognized cost of major repairs, replacement, expansion, remodeling or renovation, amortized over the American hospital association guideline component useful life. The greater of the two (2) numbers will be allowed as the grandfathered rate. Such changes shall not increase the allowable grandfathered rate by more than three-fourths (3/4) of the difference between the current grandfathered rate and the adjusted property base determined in subsections (1)(a) and (1)(b) of this section.

(3) The property rental rate per day of care paid to facilities with leases signed prior to March 30, 1981, will be the sum of the annualized allowed lease costs and the other annualized property costs for assets on hand as of January 1, 1985, exclusive of taxes and insurance when paid separately, divided by total patient days in the period June 30, 1983 through July 1, 1984. However, the property rental rate per day of care paid to intermediate care facilities for the mentally retarded with leases signed prior to March 30, 1981, will be the sum of the annualized allowed lease costs and the other annualized property costs for assets on hand as of January 1, 1986, exclusive of costs related to major movable equipment, taxes, and insurance when paid separately, divided by total patient days in the period July 1, 1985, through June 30, 1986. Where such leases contain provisions that bind the lessee to accept an increased rate, reimbursement shall be at a rate per day of care which reflects the increase in the lease rate. Where such leases bind the lessee to the lease and allow the rate to be renegotiated, reimbursement shall be at a rate per day of care which reflects an annual increase in the lease rate not to exceed the increase in the consumer price index for renters costs. After the effective date of this subsection, if such a lease is terminated or if the lease allows the lessee the option to terminate other than by purchase of the facility, the property rental rate shall become the amount determined by the formula in subsection (1) of this section as of the date on which the lease is or could be terminated.

(4) (a) In the event of a sale, except under the conditions of paragraph (b) of this subsection, the buyer shall receive the property rental rate, not modified by section 56-109, Idaho Code, if the seller was receiving a grandfathered rate. If the seller was receiving a rate other than a grandfathered rate, the buyer shall receive the seller's rate.

(b) In the event of a forced sale of a facility where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or

the property rental rate, not modified by section 56-109, Idaho Code, whichever is higher, but not exceeding the rate that would be due the seller.

Approved April 11, 1989.

CHAPTER 418
(H.B. No. 173, As Amended)

AN ACT

RELATING TO PRECINCT REGISTRARS; AMENDING SECTION 34-406, IDAHO CODE, TO PROVIDE THAT THE COUNTY CLERK MAY APPOINT ONE OR MORE REGISTRARS FOR EACH ELECTION PRECINCT FROM LISTS PROVIDED BY THE PRECINCT COMMITTEE PERSON FOR EACH POLITICAL PARTY.

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

SECTION 1. That Section 34-406, Idaho Code, be, and the same is hereby amended to read as follows:

34-406. APPOINTMENT OF REGISTRARS FOR EACH VOTING PRECINCT -- DUTIES. (1) Each county clerk shall appoint ~~a~~ one (1) or more registrars for each voting precinct within the county on or before March 1, preceding each general election. Each registrar shall be a qualified elector of the precinct for which he is appointed and shall serve until his successor is appointed and qualified. Each precinct committee~~man~~ person from each political party may recommend up to three (3) persons for the positions to the county clerk in writing at least ten (10) days prior to the date on which any appointment shall be made ~~and the~~. The county clerk ~~shall~~ may appoint ~~the~~ one (1) registrar from ~~such~~ each precinct committee person's lists if the persons recommended are qualified~~, but i~~. If no recommendations are received from any precinct committee~~man~~ person within a precinct, as herein provided, then the county clerk shall appoint ~~a~~ one (1) or more qualified electors of ~~the~~ that precinct as registrars. In the event the county clerk does not appoint a registrar or registrars for ~~each~~ a precinct, then the board of county commissioners shall, by no later than April 15, appoint such registrars.

(2) In addition to the registrars for each election precinct, each county clerk may appoint one or more registrars at-large for the county.

(3) The county clerk shall furnish each precinct registrar and at-large registrar with the supplies and materials necessary for the performance of his functions and shall supervise and instruct him in such performance.

(4) Each precinct registrar shall establish and maintain a permanent place, and such temporary places he deems necessary for the registration of electors. In so far as practicable, he shall acquaint the public with the location of such place or facility, the facilities available for registration and the ease and convenience with which

registration may be accomplished.

(5) Each precinct registrar and at-large registrar shall receive such compensation as determined by the board of county commissioners which shall not exceed fifty cents (50¢) for each voter personally registered by him.

(6) Each precinct registrar and at-large registrar may administer oaths and affirmations in connection with the performance of his functions.

(7) Each precinct registrar and at-large registrar shall deliver the official registration cards of all electors registered by him in a manner prescribed by the secretary of state.

(8) At the time of registering electors, no registrar shall engage in any political activity including distribution of political materials, circulation of petitions, or promotion of any political candidate or issue.

Approved April 11, 1989.

CHAPTER 419
(H.B. No. 199)

AN ACT

RELATING TO THE DISTRIBUTION OF FEES IMPOSED ON HAZARDOUS WASTE; AMENDING SECTION 39-4432, IDAHO CODE, TO PROVIDE REMITTANCE OF FUNDS TO COUNTIES IN THE SAME PROPORTION IN WHICH THEY WERE COLLECTED AND TO PROVIDE FOR USE OF THE FUNDS.

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

SECTION 1. That Section 39-4432, Idaho Code, be, and the same is hereby amended to read as follows:

39-4432. DISTRIBUTION OF HAZARDOUS WASTE DISPOSAL FEE REVENUES. The revenues received from the fees imposed by this chapter and any penalties, interest, or deficiency additions, shall be paid over to the state treasurer by the department to be distributed as follows:

(1) An amount of money to maintain the hazardous waste disposal fee refund account, which is hereby created, and from which all refunds authorized to be paid by this act shall be paid, at a monthly balance of ten thousand dollars ($10,000) or at such greater sum as in the opinion of the department may be needed to meet reasonable requirements imposed on the hazardous waste disposal fee refund account.

(2) The balance remaining with the state treasurer after deducting the amounts in (1) above, shall be remitted periodically but no less frequently than quarterly~~,~~ as follows: ninety-five percent (95%) shall be remitted to the hazardous waste training, emergency and monitoring account created in section 39-4417B, Idaho Code, and the remaining five percent (5%) shall be remitted to the county treasurer of the county or counties where the activity occurred which caused the

fees to be assessed pursuant to this chapter. Moneys shall be apportioned to the counties in the same proportional manner in which they were collected. Moneys returned to counties shall be utilized by the county to respond to health and environmental problems which may be caused by hazardous waste emergencies or spills, or improperly handled or packaged hazardous waste.

Approved April 10, 1989.

CHAPTER 420
(S.B. No. 1238)

AN ACT

RELATING TO TIMBER SALES ON STATE LANDS; AMENDING TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 10, TITLE 58, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSES, TO DEFINE TERMS, TO PROVIDE FOR SALE OF STATE TIMBER, TO PROVIDE FOR CERTIFICATION AND APPROVAL OF BIDDERS ON STATE TIMBER, TO PROVIDE FOR REMOVAL FROM THE LIST OF CERTIFIED BIDDERS, TO PROVIDE DUTIES OF THE ATTORNEY GENERAL, AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 58, 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 58, Idaho Code, and to read as follows:

CHAPTER 10
TIMBER SUPPLY STABILIZATION

58-1001. SHORT TITLE. This chapter may be known and cited as the "Timber Supply Stabilization Act of 1989."

58-1002. LEGISLATIVE FINDINGS AND PURPOSES. (1) The legislature of the state of Idaho finds:

(a) That state forests are a valuable resource to the people of Idaho, providing employment opportunities and a significant source of income to the state and endowed state institutions;

(b) That section 8, article ix, of the constitution of the state of Idaho provides that the state board of land commissioners manage state forests in such manner as will secure the maximum long-term financial return to the institution to which granted or to the state if not specifically granted;

(c) That maximum long-term financial returns to the institutions to which granted or to the state if not specifically granted with state forests is derived from processing within Idaho timber from state forests because this sustains a healthy forest products industry in Idaho, thereby ensuring a sufficient number of bidders to compete for the timber, generating increased financial returns for it;

(d) That a stable supply of timber for the Idaho forest products industry will induce businesses to invest in processing facilities in Idaho, providing more jobs to Idaho's people; and

(e) That the growth of the forest products industry in Idaho produced by a stable timber supply will contribute to the maximum long-term financial return to the institution or to the state by generating increased corporate and individual income and property taxes.

(2) It is hereby declared that the purposes of this chapter are:

(a) To promote wood processing and manufacturing in Idaho to generate related business and employment opportunities, creating additional corporate and individual income and property taxes for the state and its endowed institutions; and

(b) To act as a market participant in the timber market in a way that helps enhance the long-term maximum value of state forests by ensuring that an adequate proportion of the total sales of timber sold by the state of Idaho is sold to qualified purchasers within Idaho.

58-1003. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho state board of land commissioners.

(2) "Person" means any individual, association, partnership, corporation, trust, or other legal entity.

(3) "Qualified bidder" means a person who has neither processed outside of Idaho, nor sold to another person who has processed outside of Idaho, five per cent (5%) or more of the cumulative total of the timber from state forests he or she has purchased; provided, however, that the purchase and disposition of pulp logs, as such logs are defined by the board, shall not be considered in determining whether a purchaser is qualified.

(4) "State forests" mean all forest lands owned by the state of Idaho, including those lands granted to an institution by the federal government, which are managed or controlled by the board pursuant to section 8, article ix, of the constitution of the state of Idaho.

(5) "Wood processsing or manufacturing" means the conversion of logs into finished wood products generally recognized as consumer goods, including, but not limited to: paper, shakes, lumber, shingles, plywood and panel products, utility and other finished poles, and posts and other fence products. Wood processing or manufacturing shall not include removing bark and the immediate underlying surfaces of logs thereby producing cants for export outside the boundaries of the state.

58-1004. SALE OF STATE TIMBER. (1) Each fiscal year, the board shall offer ninety-five per cent (95%) of the total volume of the year's timber sales from state forests, exclusive of estimated pulp log volumes from state forests, for sale to qualified bidders. The remaining five per cent (5%) of the total volume of the year's timber sales shall be offered for sale to all persons, regardless of whether they are qualified bidders under this chapter.

(2) Notwithstanding the provisions of subsection (1) of this section, the board shall, if it finds after consideration of unantici-

pated dislocations in local timber supplies that timber from state forests in certain regions of the state will not be needed by qualified bidders, offer such timber for sale to all persons without regard to whether they are qualified bidders. In addition, if the board determines that a purchaser who has previously acquired state timber is adversely affected by a market dislocation, such purchaser may dispose of his timber without affecting his qualified bidder status.

(3) In the event qualified bidders do not purchase timber offered for sale exclusively to them, the board, if it finds after consideration of the reasons the timber was not sold, that it is in the best interests of the state and the endowed institutions, may offer the timber for sale to all bidders, without regard to whether they are qualified bidders as defined herein. The purchase and disposition of such timber shall not be considered in determining whether a person is a qualified bidder for subsequent timber sales.

58-1005. CERTIFICATION AND APPROVAL OF BIDDERS PRIOR TO BIDDING. A person must be certified by the board as qualified prior to participating in any bidding for state forest timber offered for sale under the provisions of this chapter as described in subsection (1) of section 58-1004, Idaho Code. In support of such certification, each bidder shall present at the request of the board the timber purchase and disposition records described in this section. Such records shall show the cumulative annual purchases and disposition of timber from state forests for the years preceding the date of the timber sale; provided, however, that in no event shall the disposition of timber from a sale prior to the effective date of this chapter be considered. Any person seeking certification who has not previously purchased timber from state forests shall provide the board with the names and addresses of all persons who have any financial interest in the purchase or disposition of the timber, whether such interest results from open loans, mortgages, conditional sales, contracts, silent partnerships, trusts, or any other basis other than trade accounts incurred in the ordinary course of business, and the amounts of such interests. Persons seeking certification shall further provide any other information the board reasonably requires to determine whether such person is a qualified bidder as defined herein. In determining the status of a person, the board may take into consideration other evidence, such as scaling records, load tickets for vehicles transporting forest products, and other written and oral testimony. The information received pursuant to this section shall be only for the confidential use of the board or the department and shall not be available to the general public unless the person seeking to become a qualified bidder authorizes a release of such information.

58-1006. REMOVAL FROM LIST OF CERTIFIED BIDDERS. The board shall maintain a current list of all certified bidders. The board shall immediately remove from its list of certified bidders any person who ceases to meet the definition of a qualified bidder as defined in section 58-1003, Idaho Code. Any person removed from the list of qualified bidders shall be ineligible for a period of five (5) years to participate in any bidding on timber sales reserved for qualified bid-

ders. The board shall retain the power to make the final determination upon a bidder's status.

58-1007. IMPLEMENTATION OF THIS CHAPTER. (1) Upon passage of this act, the attorney general of the state of Idaho is hereby directed to take any and all such actions as he may deem necessary to determine the federal and state constitutionality of it. Pending the resolution of the attorney general's actions, timber sales shall be made pursuant to the provisions of this chapter. If, however, for any reason the state cannot sell its timber pursuant to the provisions of this chapter, the board shall carry out its timber sale program under other existing statutes, rules and regulations.

(2) Upon passage of this act, pursuant to the procedures established by the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, the board shall adopt such rules and regulations as are necessary to implement and administer the provisions of it.

SECTION 58-1008. 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 10, 1989.

CHAPTER 421
(S.B. No. 1269)

AN ACT

RELATING TO GROUND WATER QUALITY; AMENDING SECTION 39-102, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT REGARDING GROUND WATER QUALITY; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 39-120, 39-121, 39-122, 39-123, 39-124, 39-125, 39-126 AND 39-127, IDAHO CODE, TO DESIGNATE THE DEPARTMENT OF HEALTH AND WELFARE AS THE PRIMARY AGENCY TO COORDINATE AND ADMINISTER GROUND WATER QUALITY PROTECTION PROGRAMS FOR THE STATE, TO PROVIDE THE SCOPE AND DUTIES OF THE GROUND WATER QUALITY COUNCIL AND CERTAIN STATE AGENCIES, TO DEFINE TERMS, TO CREATE THE GROUND WATER QUALITY COUNCIL, TO PROVIDE FOR COMPLETION OF THE GROUND WATER QUALITY PLAN, TO PROVIDE FOR ADOPTION, AMENDMENT OR REJECTION OF THE PLAN BY THE LEGISLATURE, TO PROVIDE FOR A CHAIRMAN AND QUORUM OF THE GROUND WATER QUALITY COUNCIL, TO PROVIDE DUTIES OF STATE AND LOCAL GOVERNMENTS REGARDING THE GROUND WATER QUALITY PLAN, AND TO PROVIDE FOR LIABILITY FOR APPLICATION OF A PESTICIDE OR FERTILIZER PRODUCT; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6537, IDAHO CODE, TO PROVIDE FOR LOCAL GOVERNMENT'S COMPREHENSIVE PLAN TO GROUND WATER QUALITY; AND PROVIDING A SHORT TITLE.

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

SECTION 1. That Section 39-102, Idaho Code, be, and the same is hereby amended to read as follows:

39-102. STATE POLICY ON ENVIRONMENTAL PROTECTION. 1. It is hereby recognized by the legislature that the protection of the environment and the promotion of personal health are vital concerns and are therefore of great importance to the future welfare of this state. It is therefore declared to be the policy of the state to provide for the protection of the environment and the promotion of personal health and to thereby protect and promote the health, safety and general welfare of the people of this state.

2. The goal of the legislature in enacting the ground water quality protection act of 1989 shall be to maintain the existing high quality of the state's ground water and to satisfy existing and projected future beneficial uses including drinking water, agricultural, industrial and aquacultural water supplies. All ground water shall be protected as a valuable public resource against unreasonable contamination or deterioration. The quality of degraded ground water shall be restored where feasible and appropriate to support identified beneficial uses.

3. In enacting this law, the legislature intends to prevent contamination of ground water from point and nonpoint sources of contamination to the maximum extent practical. In attaining the goals enumerated in subsections 1 and 2 of this section, the legislature wishes to enumerate the following ground water quality protection goals:

a. It is the policy of the state to prevent contamination of ground water from any source to the maximum extent practical.

b. The discovery of any contamination that poses a threat to existing or projected future beneficial uses of ground water shall require appropriate actions to prevent further contamination. These actions may consist of investigation and evaluation or enforcement actions if necessary to stop further contamination or clean up existing contamination as required under the environmental protection and health act.

c. All persons in the state should conduct their activities so as to prevent the nonregulated release of contaminants into ground water.

d. Education of the citizens of the state is necessary to preserve and restore ground water quality.

SECTION 2. That Chapter 1, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 39-120, 39-121, 39-122, 39-123, 39-124, 39-125, 39-126 and 39-127, Idaho Code, and to read as follows:

39-120. DEPARTMENT OF HEALTH AND WELFARE PRIMARY ADMINISTRATIVE AGENCY -- AGENCY RESPONSIBILITIES. 1. The department of health and welfare is designated as the primary agency to coordinate and administer ground water quality protection programs for the state.

2. Recognizing that the department of water resources has the responsibility to maintain the natural resource geographic information system for the state and is the collector of baseline data for the

state's water resources, that the department of health and welfare has the responsibility for collecting and monitoring data for water quality management purposes and that the department of agriculture is responsible for regulating the use of pesticides and fertilizers and for licensing applicators, the department of health and welfare, the department of water resources and the department of agriculture in coordination with the ground water quality council shall:

a. Make plans for development and administration of a comprehensive ground water quality monitoring network, including point of use, point of contamination and problem assessment monitoring sites across the state and the assessment of ambient ground water quality utilizing, to the greatest degree possible, collection and coordination of existing data sources.

b. Prepare an annual report during the life of the council detailing the number and concentration of contaminants detected in ground water by location.

c. Establish a system or systems within state departments and political subdivisions of the state for collecting, evaluating and disseminating ground water quality data and information.

d. Develop and maintain a natural resource geographic information system and comprehensive water resource data system. The system shall be accessible to the public.

3. The responsible state departments or boards, after consultation with the ground water quality council, should adopt rules which specify the general standards for determining actions necessary to prevent ground water contamination and cleanup actions necessary to meet the goals of the state.

4. The board of health and welfare may adopt, by rule, after consultation with the ground water quality council, ambient ground water quality standards for contaminants for which the administrator of the United States environmental protection agency has established drinking water maximum contaminant levels. The board, after consultation with the ground water quality council, may adopt by rule such ground water quality standards for contaminants for which the administrator has not established drinking water maximum contaminant levels. However, the existence of such standards, or the lack of them, should not be construed or utilized in derogation of the ground water quality protection goal and protection policies of the state.

5. The departments of health and welfare, water resources and agriculture should take actions necessary to promote and assure public confidence and public awareness of ground water quality protection. In pursuing this goal, the departments and public health districts should make public the results of investigations concerning ground water quality subject to the restrictions contained in section 39-111, Idaho Code.

39-121. DEFINITIONS. As used in section 39-102, Idaho Code, and in sections 39-120 through 39-127, Idaho Code:

1. "Cleanup" means removal, treatment or isolation of a contaminant from ground water through the directed efforts of humans or the removal or treatment of a contaminant in ground water through management practice or the construction of barriers, trenches and other sim-

ilar facilities for prevention of contamination, as well as the use of natural processes such as ground water recharge, natural decay and chemical or biological decomposition.

2. "Contaminant" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration.

3. "Contamination" means the direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities.

4. "Council" or "ground water quality council" means the ground water quality council created in section 39-122, Idaho Code.

5. "Ground water" means any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil.

39-122. GROUND WATER QUALITY COUNCIL CREATED. 1. There is hereby created the ground water quality council. Membership on the council shall consist of the following:

a. The director of the department of health and welfare or his designee.

b. The director of the department of water resources or his designee.

c. The director of the department of agriculture or his designee.

d. A member of a district board of health appointed by the governor.

e. One (1) representative of the mining industry appointed by the governor.

f. One (1) representative of the agricultural industry or the feedlot or dairy industry appointed by the governor.

g. One (1) representative of the soil conservation districts or the soil conservation commission appointed by the governor.

h. One (1) representative of an environmental group or organization appointed by the governor.

i. One (1) member of the general public appointed by the governor.

j. One (1) representative of the petroleum industry appointed by the governor.

k. One (1) representative of the agricultural chemical manufacturing or distribution industry appointed by the governor.

l. One (1) representative of city government appointed by the governor.

m. One (1) representative of the food processing industry appointed by the governor.

n. One (1) representative of the manufacturing industry which generates hazardous waste appointed by the governor.

o. One (1) representative of the hazardous waste treatment, storage or disposal industry appointed by the governor.

p. One (1) representative of county government appointed by the governor.

q. One (1) representative of a conservation organization appointed by the governor.

r. Additionally, the governor shall appoint representatives of the university of Idaho college of mines, the university of Idaho water resources research institute, the United States environmental protection agency, the Idaho national engineering laboratory and the United States geological survey to serve as ex officio nonvoting members of the ground water quality council.

2. Appointees to the ground water quality council shall serve at the pleasure of the governor.

3. Members of the ground water quality council who are not state employees shall be entitled to receive compensation as provided in section 59-509(b), Idaho Code.

4. The council by majority vote shall establish operating procedures. The operating procedures shall be made available for public review.

5. In the conduct of its business, the council shall solicit the advice of, and consult periodically with the cities, counties, private entities and persons within the state for the purpose of receiving information that may be helpful in the preparation of the ground water quality protection plan.

6. Following final approval of the ground water quality protection plan by the legislature, the council shall exist for up to two (2) years to see the progress made in implementing the provisions of the plan. If not reauthorized by the legislature following the two (2) years after the legislature's adoption of the plan, the council shall disband.

39-123. COMPLETION OF GROUND WATER QUALITY PLAN. 1. Not later than June 1, 1990, the ground water quality council shall prepare a ground water quality plan which shall comply with the direction enumerated in sections 39-102 and 39-120, Idaho Code.

2. The plan shall:

a. Describe the state's overall approach to protecting its ground water.

b. Take into account existing beneficial uses and existing ground water quality.

c. Identify existing authorities and programs to protect ground water quality.

d. Propose legislative, administrative and economic mechanisms to protect ground water quality.

e. Review and make recommendations on plans for development and administration of a comprehensive ground water monitoring network, including point of use, point of contamination and problem assessment monitoring sites across the state and the assessment of ambient ground water quality utilizing, to the greatest extent possible, collection and coordination of existing data sources.

f. Include programs to promote and assure public awareness of ground water protection.

Upon completion of the plan, the council shall publish a notice after giving twenty (20) days' notice as provided in section 60-109, Idaho Code, in one (1) or more newspapers and shall issue a statewide news release announcing the availability of the plan for inspection by interested persons. The announcement shall indicate where and how the

plan may be obtained or reviewed and shall indicate that not less than three (3) public hearings shall be conducted at various locations in the state before formal adoption. The first public hearing shall not be held until forty-five (45) days have elapsed from the date of the notice announcing the availability of the plan. After public hearings, the council shall prepare a written summary of the comments received, provide comments on the major concerns raised, make amendments to the plan as necessary and shall formally adopt the plan, and shall submit the plan to the legislature at the first regular session of the legislature following adoption of the plan.

39-124. AMENDMENT OR REJECTION OF PLAN. The legislature shall amend, adopt or reject the plan by passage of a statute at the regular legislative session when it receives the plan. If the plan is amended or rejected, the legislature shall indicate the reasons for amendment or rejection by passage of a statute and return the plan to the ground water quality council. After action by the legislature, the plan shall have the force and effect of law.

39-125. CHAIRMAN -- QUORUM. The chairman of the council shall be the director of the department of health and welfare or his designee. A majority of the members shall constitute a quorum for the transaction of business. In the event a vacancy occurs on the council, a replacement shall be appointed in the same manner as an original member. The department of health and welfare shall pay the expenses and per diem of all members of the ground water quality council who are not state employees.

39-126. DUTIES OF STATE AND LOCAL UNITS OF GOVERNMENT. 1. All state agencies shall incorporate the adopted ground water quality protection plan in the administration of their programs and shall have such additional authority to promulgate rules and regulations to protect ground water quality as necessary to administer such programs which shall be in conformity with the ground water quality protection plan. Cities, counties and other political subdivisions of the state shall incorporate the ground water quality protection plan in their programs and are also authorized and encouraged to implement ground water quality protection policies within their respective jurisdictions, provided that the implementation is consistent with and not preempted by the laws of the state, the ground water quality protection plan and any rules or regulations promulgated thereunder. All state agencies, cities, counties and other political subdivisions shall cooperate with the ground water quality council, the department of health and welfare, the department of agriculture and the department of water resources in disseminating public information and education materials concerning the use and protection of ground water quality, in collecting ground water quality management data, and in conducting research on technologies to prevent or remedy contamination of ground water.

2. Notwithstanding any other provision of law to the contrary, except as provided in subsection 3 of this section, whenever a state agency, city, county or other political subdivision of the state

issues a permit or license which deals with the environment, the entity issuing the permit or license shall take into account the effect the permitted or licensed activity will have on the ground water quality of the state and it may attach conditions to the permit or license in order to mitigate potential or actual adverse effects from the permitted or licensed activity on the ground water quality of the state. Nothing contained in this section shall authorize a state agency, city, county or other political subdivision of the state to issue or require a permit or license which it is not otherwise allowed by law to issue or require.

3. Except as otherwise provided by the ground water quality protection plan, if a permit or license which deals with the environment is required to be obtained from a state agency and that agency considers the effect of the permitted or licensed activity on ground water quality, after notice to other units of government which may otherwise have regulatory authority over the activity which is the subject of the permit or license, a city, county or other political subdivision of the state shall not prohibit, limit or otherwise condition the rights of the permittee or licensee under the permit or license on account of the effect the permitted or licensed activity may have on ground water quality.

Nothing contained in this section shall be deemed to permit cities, counties or other political subdivisions of the state to regulate ground water quality with respect to any activity for which another statute or other statutes may have expressly or impliedly preempted such local ground water quality regulation.

39-127. APPLICATION OF FERTILIZERS AND PESTICIDES. No person shall be liable for ground water contamination resulting from the application of fertilizers or pesticides if the person applies a fertilizer according to generally accepted agronomic practices, or applies a pesticide product registered under the federal insecticide, fungicide, rodenticide act according to label requirements, including precautionary statements, of the U.S. environmental protection agency, and such application of the pesticide or fertilizer is otherwise done with the proper equipment required by law, is without negligence and is in accordance with state laws.

SECTION 3. That Chapter 65, 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 67-6537, Idaho Code, and to read as follows:

67-6537. APPLICATION TO GROUND WATER. When considering amending, repealing or adopting a comprehensive plan, the local governing board shall consider the effect the proposed amendment, repeal or adoption of the comprehensive plan would have on the quality of ground water in the area.

SECTION 4. SHORT TITLE. This act may be known and cited as the "Ground Water Quality Protection Act of 1989."

Approved April 11, 1989.

CHAPTER 422
(S.B. No. 1292)

AN ACT

RELATING TO THE COMMISSION ON HISPANIC AFFAIRS; REPEALING SECTION 67-7206, IDAHO CODE, TO DELETE PROVISIONS FOR TERMINATION OF THE COMMISSION.

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

SECTION 1. That Section 67-7206, Idaho Code, be, and the same is hereby repealed.

Approved April 11, 1989.

CHAPTER 423
(S.B. No. 1118, As Amended)

AN ACT

RELATING TO THE IDAHO HOUSING AGENCY; AMENDING SECTION 67-6203, IDAHO CODE, TO CLARIFY PROVISIONS RELATING TO APPOINTMENT OF AGENCY COMMISSIONERS; AMENDING SECTION 67-6204, IDAHO CODE, TO PROVIDE FOR MEETINGS OF AGENCY COMMISSIONERS; AMENDING SECTION 67-6206, IDAHO CODE, TO CLARIFY THE POWERS OF THE AGENCY; AMENDING SECTION 67-6207, IDAHO CODE, TO PROVIDE FOR DISTRIBUTIONS OF A LIMITED PROFIT HOUSING SPONSOR; AMENDING SECTION 67-6207B, IDAHO CODE, TO PROVIDE CONDITIONS FOR MORTGAGE LOANS; AMENDING SECTION 67-6207C, IDAHO CODE, TO PROVIDE FOR SUPERVISION OF HOUSING SPONSORS; AMENDING SECTION 67-6207D, IDAHO CODE, TO PROVIDE FOR EXAMINATION OF INCOME OF PERSONS RESIDING IN A HOUSING PROJECT; AMENDING SECTION 67-6211, IDAHO CODE, TO PROVIDE DEFINITIONS FOR CAPITAL RESERVE FUND REQUIREMENTS, AND TO PROVIDE PROPER REFERENCES; AMENDING SECTION 67-6220, IDAHO CODE, TO PROVIDE FOR A FINANCIAL REPORT; AND AMENDING SECTION 67-6223, IDAHO CODE, TO PROVIDE AUTHORITY TO THE AGENCY TO ADMINISTER TAX CREDIT PROGRAMS.

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

SECTION 1. That Section 67-6203, Idaho Code, be, and the same is hereby amended to read as follows:

67-6203. COMMISSIONERS -- CHAIRMAN -- APPOINTMENTS. The governor shall appoint seven (7) persons to be commissioners of the Idaho housing agency. Preference shall be given to persons representing persons of low income and to persons with experience in the fields of mortgage lending, finance, banking, real estate, or home building. The governor shall appoint a chairman from among the seven (7) commissioners. The commissioners shall be appointed for terms of four (4) years, except that all vacancies shall be filled for the unexpired term, and pro-

vided that the terms of the first seven (7) commissioners appointed shall end on July 1, 1976, and that the terms of three (3) commissioners next appointed shall end on July 1, 1978, and that the terms of the remaining four (4) commissioners so next appointed shall end on July 1, 1980. A commissioner shall hold office until his successor has been appointed and qualifies. A certificate of the appointment or reappointment of any commissioner shall be filed in the office of the secretary of state and in the office of the agency, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. The governor, the state treasurer, the state auditor and the administrator of the division of ~~budget, policy planning and coordination~~ financial management shall serve as advisors to the commissioners of the agency.

In addition, two (2) members of the Idaho senate, one (1) from the majority party and one (1) from the minority party, and two (2) members of the Idaho house of representatives, one (1) from the majority party and one (1) from the minority party, shall be appointed by the legislative council to serve as advisors to the commissioners of the agency. Such appointments shall be for a term of two (2) years beginning on January 1 of each odd-numbered year, and no appointee shall serve more than two (2) terms. Actual and necessary expenses and per diem shall be allowed as provided for members of the legislative council, and shall be paid from legislative funds. The legislative council shall appoint advisory members as provided herein for terms beginning on July 1, 1980, and expiring January 1, 1981, which terms shall not be included in the prohibition against more than two (2) terms.

SECTION 2. That Section 67-6204, Idaho Code, be, and the same is hereby amended to read as follows:

67-6204. VICE-CHAIRMAN, EXECUTIVE DIRECTOR AND OTHER PERSONNEL -- APPOINTMENTS -- QUORUM. As soon as possible after their appointment, the commissioners shall organize for the transaction of business by choosing a vice-chairman and by adopting by-laws and rules and regulations suitable to the purpose of organizing the agency and conducting the business thereof. The powers of the agency shall be vested in the commissioners thereof. A majority of the commissioners of the agency then in office shall constitute a quorum for the transaction of any business or the exercise of any power or function of the agency, and the affirmative vote of a majority of the commissioners present at any meeting, at which there is a quorum ~~is~~ present, shall be necessary for any action taken by the agency. The commissioners may hold any of their meetings by telephone or video facilities. No vacancy in the membership of the agency shall impair the right of a quorum to exercise all the rights and perform all the duties of the agency. The commissioners shall appoint an executive director, who shall serve at the pleasure of the agency, and such other officers and employees as they may require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee.

SECTION 3. That Section 67-6206, Idaho Code, be, and the same is hereby amended to read as follows:

67-6206. POWERS OF AGENCY. The housing agency is an independent public body corporate and politic, exercising public and essential governmental functions, and having all the powers which are hereby declared to be public purposes necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the agency; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this act, to carry into effect the powers and purposes of the agency.

(b) To conduct its operations within any or all of the counties of the state~~,--including--the--construction-and-operation-of-housing projects.--If-an-existing-housing-authority-is-operating-in--a--county where-the-Idaho-housing-agency-determines-that-a-need-exists-for-additional-housing-for-persons-of-low-income,-the-agency-shall-advise-that housing--authority--of--its-findings-of-need-for-that-county-and-shall urge-that-housing-authority-to-make-appropriate--plans--to--meet--that need.--Provided--that--the-Idaho-housing-agency-shall-have-no-power-or authority-in-any-city-or-county-having-its-own--active--local--housing authority--prior--or--subsequent--to--passage-and-approval-of-this-act unless-such-power-or-authority-is-specifically-granted--to--the--Idaho housing--agency--by--such--local--housing--authority,-except-that-this requirement-shall-not-apply-to-the--agency's--authority--to--make,--to enter--into--commitments--to--make,-or-to-participate-in-the-making-of interim-or-long-term-mortgage-loans,-to-the-agency's-authority-to-purchase,-to-enter-into-commitments-to-purchase--or--participate--in--the purchase--of--interim--or-long-term-mortgage-loans,-or-to-the-agency's authority-to-make-loans-to-mortgage-lenders-under-the--terms--of--this act.~~

(c) To cooperate with housing authorities throughout Idaho in the development of housing projects.

(d) To assign priorities for action and revise or modify said priorities from time to time.

(e) To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the agency under this act, including contracts with any housing sponsor, mortgage lender, person, firm, corporation, governmental agency, or other entity; and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project and to designate mortgage lenders to act for and in behalf of the agency, with respect to originating or servicing and processing mortgage loans of the agency, and to pay the reasonable value of service rendered to the agency by such mortgage lenders pursuant to contracts with mortgage lenders.

(f) To lease, sell, construct, finance, reconstruct, restore, rehabilitate, operate or rent any housing projects or any dwellings,

houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and, subject to the limitations contained in this act, to establish and revise the rents or charges therefor.

(g) To own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein.

(h) To acquire any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein.

(i) To insure or provide for the insurance of any real or personal property or operation of the agency against any risks or hazards, and to procure or agree to the procurement of insurance or guarantees from the federal government ~~of~~ or other source for the payment or purchase of any bonds or parts thereof issued by the agency, including the power to pay ~~premiums~~ on for any such insurance or guarantees.

(j) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which a bank, as defined in the "bank act," ~~section 26-102~~ title 26, Idaho Code, may legally invest funds including without limitation, to agree to purchase the obligations of any federal, state or local government upon such conditions as the agency may determine to be prudent and in its best interest.

(k) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of adequate, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(l) To participate in cooperative ventures with agencies, organizations and individuals eligible to undertake the construction of housing for persons of low income.

(m) To provide research and technical assistance to eligible agencies, organizations and individuals eligible to develop low cost housing and to research new low cost housing development and construction methods.

(n) To make and undertake commitments to make or participate in the making of mortgage loans to persons of low income and to housing sponsors, including without limitation federally insured mortgage loans, and to make temporary loans and advances in anticipation of permanent loans to housing sponsors; said mortgage loans to housing sponsors shall be made to finance the construction, improvement, or rehabilitation of housing projects for persons of low income, and/or mixed income housing projects upon the terms and conditions set forth in this act; provided, however, that such loans shall be made only

upon the determination by the agency that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(o) To purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders which loans have been made for the construction, improvement, or rehabilitation of housing projects for persons of low income and/or mixed income housing projects or loans which have been made to persons of low income for residential housing, upon terms set forth in this act; provided, however, that any such purchase shall be made only upon the determination by the agency that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions. Also, to purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders whether or not said loans were made to persons of low income, upon terms set forth in this act; provided, however, that the proceeds from such purchase or the equivalent thereof shall be reinvested in obligations of the agency, in mortgage loans to persons of low income or in mortgage loans for housing projects for persons of low income and/or mixed income housing projects, and provided that any such purchase shall be made only upon the determination by the agency that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions.

(p) To provide interim financing for housing projects including mixed income housing projects approved by the agency, provided that the agency has determined that such financing is not otherwise available from mortgage lenders upon reasonably equivalent terms and conditions.

(q) To prescribe rules, regulations and policies in connection with the performance of its functions and duties.

(r) To do all other things deemed necessary and desirable to accomplish the objectives of this act.

(s) To borrow money and issue bonds and notes or other obligations, to invest the proceeds thereof in any lawful manner and to fund or refund the same, and to provide for the rights of the holders of its obligations as provided in this act and in connection therewith, to waive, by resolution or other document of the agency, the exemption from federal income taxation of interest on any of the agency's obligations under existing or future federal law.

(t) To receive and accept aid or contributions from any source.

(u) To employ architects, engineers, attorneys, accountants, housing construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation.

(v) To insure mortgage payments of any mortgage loan made for the purpose of constructing, rehabilitating, purchasing, leasing, or refinancing housing projects upon such terms and conditions as the agency may prescribe.

(w) To fix and revise from time to time and charge and collect fees and charges in connection with loans made or other services provided by the agency pursuant to this act, and to make and publish rules and regulations respecting the making and purchase of mortgage

loans.

(x) To organize a nonprofit corporation to assist the agency in providing for housing projects.

(y) To enter upon and inspect any housing project, including housing projects undertaken by housing sponsors, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto.

(z) To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project or the health, safety, and welfare of the occupants thereof.

SECTION 4. That Section 67-6207, Idaho Code, be, and the same is hereby amended to read as follows:

67-6207. MANAGEMENT AND OPERATION OF HOUSING PROJECTS -- PRIORITY OF APPLICATIONS -- LIMITED PROFIT SPONSORS. (a) It is hereby declared to be the policy of the state that the Idaho housing agency shall manage and operate housing projects or cause its housing projects to be managed and operated in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with providing adequate, safe and sanitary accommodations, and shall not construct or operate any such project for profit or as a source of revenue. The agency shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenue which, together with all other available moneys, revenues, income and receipts of the agency from whatever sources derived, will be sufficient~~:~~:

(~~i~~1) ~~t~~To pay, as the same become due, the principal and interest on the bonds of the agency; and

(~~ii~~2) ~~t~~To pay its cost of operation.

(b) In considering any application for a mortgage loan, the agency shall give first priority to applications for housing projects which will be well planned and well designed; and shall also give consideration to:

(1) The comparative need for housing for persons of low income in the area to be served by the proposed project;

(2) The ability of the applicant to carry out, operate, manage and maintain the proposed housing project; and

(3) The existence of zoning or other regulations to protect adequately the proposed housing project against detrimental future uses which could cause undue depreciation in the value of the project.

(c) The agency shall have authority to set from time to time the interest rates at which it shall make loans and commitments therefor. Such interest rates shall be established by the agency in its sole discretion at the lowest level consistent with the agency's cost of operation and its responsibilities to the holders of its bonds, notes or other obligations.

(d) A limited profit housing sponsor shall not make distributions in any one (1) year with respect to a housing project financed by the

agency in excess of ~~eight-per-cent-(8%)-(or such lesser-per-cent~~ percentage of a housing sponsor's equity in such housing project as shall be prescribed by rules and regulations of the agency~~)-of-a-housing sponsor's-equity-in-such-project~~, nor shall any of the principals or stockholders of such a housing sponsor at any time earn, accept, or receive a return greater than ~~eight-per-cent-(8%)-per-annum--(or~~ such ~~lesser--per--cent~~ percentage of its investment in such housing project as shall be prescribed by rules and regulations of the agency~~)-of--its investment--in--such--housing--project--financed--by-the-Idaho-housing agency~~. A housing sponsor's equity in a housing project shall consist of the difference between the mortgage loan and the total housing project cost.

SECTION 5. That Section 67-6207B, Idaho Code, be, and the same is hereby amended to read as follows:

67-6207B. MORTGAGE LOANS -- RULES AND REGULATIONS -- PURCHASE. The agency shall promulgate rules and regulations governing the various programs which it has authorized to be undertaken. In promulgating such regulations it shall consider the following:

(a) The agency shall from time to time, adopt, modify or repeal rules and regulations governing the making of loans to housing sponsors and the purchase and sale of mortgage loans from mortgage lenders and the application of the proceeds thereof, including rules and regulations as to any or all of the following:

(1) Restrictions as to the interest rates on mortgage loans or the return realized therefrom by mortgage lenders;

(2) Requirements as to disbursements and commitments by mortgage lenders with respect to mortgage loans;

(3) Rules and regulations relative to the purchase and sale of mortgage loans shall be designed to effectuate the general purposes of this act and the following specific objectives:

(i) the expansion of the supply of funds in this state available for mortgage loans for persons of low income;

(ii) the provision of the additional housing for persons of low income needed to remedy the shortage of adequate housing in this state and eliminate the existence of a large number of substandard dwellings;

(iii) the restriction of the financial return and benefit to that necessary to protect against the realization by mortgage lenders of an excessive financial return or benefit as determined by prevailing market conditions; and

(iv) standards as to the number of dwelling units and housing projects and other characteristics of dwelling units for persons of low income and housing projects to be financed by mortgage loans.

(b) The ratio of loan to total housing project cost and the amortization period of loans made under this act which are insured by the federal housing administration (FHA) shall be governed by the FHA mortgage insurance commitment for each housing project; but in no event shall such amortization period exceed fifty (50) years. In the case of a mortgage loan not insured by FHA the amount of the loan to

(1) limited profit housing sponsors shall not exceed ninety-five per cent (95%) of the total housing project cost as determined by the agency, and

(2) nonprofit housing sponsors shall not exceed one hundred per cent (100%) of the total housing project cost as determined by the agency.

The amortization period of such loan shall be determined in accordance with regulations formulated and published by the agency, but in no event shall such amortization period exceed fifty (50) years.

(c) A mortgage loan made hereunder may be prepaid to maturity after such period of years and under such terms and conditions as shall be determined by the agency.

(d) No mortgage loan purchased from a mortgage lender shall be eligible for purchase or commitment to purchase by the agency hereunder unless at or before the time of transfer thereof to the agency such mortgage lender certifies:

(1) That in its judgment the mortgage loan would in all respects be a prudent investment; and

(2) That, except for mortgage loans purchased under a preexisting commitment with the agency for the origination and purchase of such loans, the proceeds of sale or its equivalent shall be reinvested in obligations of the agency or in mortgage loans to provide housing for persons of low income within this state, or, if required by the agency, invested in short term obligations pending the purchase of such agency obligations or the making of such mortgage loans.

(e) The agency shall purchase mortgage loans at a purchase price equal to the outstanding principal balance; provided, however, that discount from the principal balance or the payment of a premium may be employed to effect a fair rate of return, as determined by the agency, in its discretion, based upon the rate of interest payable by the agency on its obligations issued to purchase such mortgages, its administrative expenses, and market conditions and any other relevant factors existing at the time of purchase.

(f) Each mortgage loan to a housing sponsor for a newly constructed rental housing project shall be evidenced by a mortgage or deed of trust, note or bond and by a mortgage or deed of trust which shall be a first lien on the housing project and on all of the real property constituting the site of or relating to such housing project and which shall contain such terms and provisions and be in a form approved by the agency.

(g) Each mortgage loan shall be subject to an agreement between the agency and the housing sponsor which will subject said sponsor and its principals or stockholders to limitations established by the agency as to rentals and other charges, builders' and developers' profits and fees, and the disposition of its property and on all of the real property constituting the site of or relating to such housing project.

(h) ~~Each--mortgage--loan-shall-be-subject-to-an-agreement-between the-agency-and-any-housing-sponsor-prohibiting-the-transfer-of--ownership--or--management--responsibilities--by-such-housing-sponsor-at-any time-prior-to-repayment-of-at-least-five-per-cent-(5%)-of-the-original~~

~~mortgage loan, unless the transfer of ownership or management responsibilities has been ordered by a court of competent jurisdiction to a different housing sponsor.~~

~~(i)~~ The agency shall require as a condition of each loan to a mortgage lender, and (except for mortgage loans to persons of low income or for housing projects for persons of low income and/or for mixed income housing projects which were made by a mortgage lender pursuant to a preexisting commitment with the agency to purchase such mortgage loans) as a condition of the purchase or the making of a commitment to purchase mortgage loans from a mortgage lender, that such mortgage lender shall following the receipt of the loan proceeds or sale proceeds have entered into written commitments with the agency to make, and shall thereafter proceed as promptly as practicable to make and disburse from such loan proceeds, mortgage loans to persons of low income or mortgage loans for housing projects or to purchase obligations of the agency in an aggregate principal amount equal to the amount of such prior loan; and the agency shall not purchase nor make commitment to purchase such mortgage loans or obligations from a mortgage lender from which it has previously purchased such mortgage loans nor make a loan to a mortgage lender to which it has previously made a loan unless said mortgage lender has either restored or made commitments to restore to its portfolio of mortgage loans in this state, mortgage loans to provide residential housing for persons of low income from the date thereof or has added to or made commitments to add to its portfolio of agency obligations in an aggregate principal amount equal to the proceeds of prior sale to said mortgage lender.

(~~j~~i) To assure repayment loans from the agency to mortgage lenders, the agency shall require that loans made to mortgage lenders shall be secured as to payment of both principal and interest by a pledge of and lien upon collateral security, including without limitation direct obligations of, or obligations (including, without limitation, mortgages) guaranteed or insured as to payment of principal and interest by, the federal government or this state.

SECTION 6. That Section 67-6207C, Idaho Code, be, and the same is hereby amended to read as follows:

67-6207C. HOUSING SPONSORSHIP. The agency shall have the power to supervise housing sponsors, including limited profit housing sponsors, and their real and personal property in the following respects:

(a) The reorganization of any housing sponsor shall be subject to the supervision and control of the agency, and no such reorganization shall be had without the consent of the agency.

(b) In the event of violation by a housing sponsor of any provisions of a loan, the terms of any agreement between the agency and the housing sponsor, the provisions of this act, or of any rules or regulations duly promulgated pursuant to this act, the agency may remove any or all of the existing directors or officers of such housing sponsor and may appoint such person or persons whom the agency in its sole discretion deems advisable as new directors or officers to serve in the places of those removed, notwithstanding the provisions of any other law; provided, however, that any such directors or officers so

appointed by the agency shall serve only for a period coexistent with the duration of such violation or until the agency is assured in a manner satisfactory to it against violations of a similar nature. Officers or directors so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate or articles of incorporation, or by-laws, or by other instruments or laws governing such housing sponsor.

(c) The agency shall require the housing sponsor receiving a loan or its contractor to post labor and materials, construction performance, surety bonds or make other assurances of completion in amounts related to the housing project cost as established by the agency's regulations, and to execute such other assurances and guarantees as the agency may deem necessary.

(d) The agency shall

(1) prescribe uniform systems of accounts and records for housing sponsors,

(2) require such housing sponsors to make reports,

(3) make certifications as to expenditures made by such housing sponsors, and

(4) examine all books and records with reference to capital structure, income, expenditures and other payments of a housing sponsor.

(e) The agency shall supervise the operation and maintenance of any housing project.

(f) The agency shall fix and may alter from time to time a schedule of rents and charges for any housing project.

(g) The agency shall determine standards for, and shall control tenant selection by a housing sponsor.

(h) The agency may require the housing project sponsor ~~shall have demonstrated~~ to demonstrate to the agency ~~and the agency shall have determined~~ that the housing project will be occupied to the maximum extent feasible by persons whose incomes fall in the lowest twenty-five per cent (25%) of all persons who are eligible to occupy the housing project under the income guidelines established by the agency for admission to such housing projects.

(i) The agency shall prescribe regulations specifying the categories of cost which shall be allowable in the construction, reconstruction, remodeling, improvement or rehabilitation of a housing project. The agency shall require any housing sponsor to certify the actual housing project costs upon completion of the housing project, subject to audit and determination by the agency. Notwithstanding the provisions of this subsection, the agency may accept, in lieu of any certification of housing project costs as provided herein, such other assurances of the said housing project costs, in any form or manner whatsoever, as will enable the agency to determine with reasonable accuracy the amount of said housing project costs.

(j) The agency shall regulate the retirement of any capital investment or the redemption of stock of a limited profit housing sponsor where any such retirement or redemption when added to any dividend or other distribution will exceed in any one (1) fiscal year eight per cent (8%) (or such lesser per cent as shall be prescribed by rules and regulations of the agency) of the original face amount of

such sponsor's investment or equity in any housing project.

(k) Notwithstanding any other provision of this chapter, the agency is not empowered to finance any housing project undertaken by a housing sponsor unless, prior to the financing of any housing project hereunder, the agency finds:

(i) That there exists a shortage of decent, safe, and sanitary housing at rentals or prices which persons of low income can afford within the general housing market area to be served by the proposed housing project.

(ii) That private enterprise and investment have been unable, without assistance, to provide the needed decent, safe, and sanitary housing at rentals or prices which persons of low income can afford or to provide sufficient mortgage financing for residential housing for occupancy by such persons.

SECTION 7. That Section 67-6207D, Idaho Code, be, and the same is hereby amended to read as follows:

67-6207D. PERIODIC EXAMINATION OF INCOME OF PERSONS RESIDING IN HOUSING PROJECTS. (a) The agency shall, by rules and regulations, provide for the periodic examination of the income of any person or family residing in and renting a dwelling unit in any rental housing project, assisted by virtue of the powers granted the agency under this act. In the event that the gross aggregate income of such persons or families residing in any such housing project increases and the ratio to the current rental or carrying charges of the dwelling unit becomes greater than the ratio prescribed for admission by the agency~~, but is not more than twenty-five per cent (25%) above the income level prescribed~~ for admission to the project, the owner or managing agent of such housing project shall permit such persons to continue to occupy the unit.

(b) The agency or the housing sponsor (with the approval of the agency) of any such rental housing project, may terminate the tenancy or interest of any such person or family residing in such housing project whose gross aggregate income exceeds ~~twenty-five per cent (25%) of that prescribed herein~~ amounts prescribed by regulation of the agency and which continues to exceed the same for a period of six (6) months or more; provided, that no tenancy or interest of any such person in any such housing project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the agency; provided further, that any such person, with the approval of the agency, shall be permitted to continue to occupy the unit, subject to payment of rent or carrying charges or a surcharge to the housing sponsor in accordance with a schedule of surcharges fixed by the agency.

(c) Any person residing in a housing project who has acquired equity in such housing project, including equity in a housing project which is a cooperative, and is required to be removed from the housing project because of excessive income as herein provided, shall be discharged from liability on any note, bond, or other evidence of indebtedness relating thereto and shall be reimbursed, in accordance with the rules of the agency, for all sums paid by such person to the hous-

ing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for such purpose.

SECTION 8. That Section 67-6211, Idaho Code, be, and the same is hereby amended to read as follows:

67-6211. ADDITIONAL DEFINITIONS AND CAPITAL RESERVE FUND PROCEDURES. As used in this section, the following words and phrases shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Maximum capital reserve fund requirement" shall mean the amount set forth in the agency's resolution or indenture authorizing the bonds or other obligations secured by a capital reserve fund, or, if no amount is stated in such resolution or indenture, then, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future fiscal year of the agency, of annual debt service of the agency, such annual debt service for any fiscal year being the amount of money equal to the aggregate of:

(1) All interest payable during such fiscal year on all bonds secured by such capital reserve fund of the agency outstanding on said date of computation, plus

(2) The principal amount of all bonds of the agency secured by such capital reserve fund, outstanding on said date of computation which matures during such fiscal year, plus

(3) The amount of all annual sinking fund payments payable during such fiscal year with respect to any bonds of the agency secured by such capital reserve fund, outstanding on said date of computation.

(b) "Annual sinking fund payment" shall mean the amount of money specified in the resolution authorizing term bonds as payable into a sinking fund during a particular fiscal year for the retirement of term bonds which mature after such fiscal year, but shall not include any amount payable by reason only of the maturity of a bond.

(c) "Available operating revenues" shall mean all amounts received on account of rentals and fees and other charges imposed by the agency, if any, and income or interest earned or added to funds of the agency due to the investment thereof and not required under the terms or provisions of any covenant or agreement with holders of any bonds or notes of the agency to be applied to any purposes other than payment of expenses of the agency.

(d) "Amortized value," when used with respect to securities purchased at a premium above or a discount below par, shall mean the value as of any given date obtained by dividing the total premiums or discount at which such securities were purchased by the number of interest payments remaining to maturity on such securities after such purchase, and by multiplying the amount so calculated by the number of interest payment dates having passed since the date of such purchase; and

(1) In the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and

(2) In the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

(e) The agency shall create and establish one or more special funds (herein referred to as "capital reserve funds"), and shall ~~pay into~~ credit each such capital reserve fund:

(1) Any proceeds of sale of notes or bonds, to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof,

(2) Any funds directed to be transferred by the agency to such fund, and

(3) Any other moneys which may be made available to the agency for the purpose of such fund from any other source or sources.

(f) All moneys held in or credited to each such capital reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds or of the sinking fund payments hereinafter mentioned with respect to such bonds, the purchase or redemption of bonds, the payment of interest on bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however:

(1) That moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum capital reserve fund requirement, except for the purposes of making payment, when due, with respect to such bonds, of principal or redemption price of, interest and the sinking fund payments, as the same become due, and for the payment of which other moneys of the agency are not available.

(2) Any income or interest earned by, or increment to, any capital reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such capital reserve fund below the maximum capital reserve fund requirement.

(g) Within sixty (60) days after the close of the agency's fiscal year, the chairman of the agency shall certify to the state tax commission the amount, if any, required to maintain the capital reserve funds established pursuant to this section at the maximum capital reserve fund requirement, but only for any capital reserve fund of the agency which is required by a resolution of the agency to be maintained by a continuing appropriation from the sales tax account. The chairman of the agency shall not be entitled to so certify to the state tax commission at any time that the total principal amount of the agency's outstanding bonds exceeds the sum of ~~six~~ nine hundred ninety million dollars ($~~60~~990,000,000).

(h) The agency shall not issue bonds at any time if upon issuance there will be created a capital reserve fund and the amount in the capital reserve fund securing such bonds will be less than the maximum capital reserve fund requirement, unless the agency, at the time of issuance of such bonds, shall deposit in such fund, from the proceeds of the bonds so to be issued, or sources other than the state sales tax fund, an amount which, together with the amount then in such fund, will not be less than the maximum capital reserve fund requirement.

(i) Moneys in a capital reserve fund not required for immediate use or disbursement may be invested in obligations of the state or the

United States of America or obligations the principal of and interest on which are guaranteed by the state or the United States of America or obligations of agencies of the United States of America or any obligations which may from time to time be legally purchased by ~~savings~~ banks ~~of the state~~ under title 26, Idaho Code, as investment of funds belonging to them or in their control. In computing the amount of a capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par if purchased at par or, if purchased at other than par, at amortized value.

(j) The agency shall create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

(k) In the event of the dissolution of the agency, any funds or assets of the agency remaining after paying its bonds, notes or other obligations shall revert to the state.

(l) The total principal amount of the agency's outstanding bonds secured by a capital reserve fund entitled to appropriation from the state sales tax account pursuant to section 67-6211(g), Idaho Code, and section 63-3638(~~e~~d)(1), Idaho Code, shall not exceed the sum of four hundred million dollars ($400,000,000).

SECTION 9. That Section 67-6220, Idaho Code, be, and the same is hereby amended to read as follows:

67-6220. AUDITS -- ANNUAL REPORTS. (1) The legislative auditor is authorized to conduct a post audit of the books and records of the Idaho housing agency on the same basis as audits are conducted of state agencies.

(2) The agency shall file ~~an annual report~~ its financial report for the year then ended with the secretary of state within ~~sixty (60)~~ one hundred twenty (120) days after the close of its fiscal year describing its activities during the preceding year. In such report it may make recommendations regarding additional legislation or other action it deems necessary to permit it to carry out the purposes of this act.

SECTION 10. That Section 67-6223, Idaho Code, be, and the same is hereby amended to read as follows:

67-6223. BORROWING POWER -- FINANCIAL ASSISTANCE -- COOPERATION WITH FEDERAL GOVERNMENT. In addition to the powers conferred upon the agency by other provisions of this act, the agency is empowered to administer any other state or federal assistance program including without limitation all tax credit programs and to borrow money or accept contributions, grants or other financial assistance from the federal government for or in aid of any housing project within its area of operation, to take over or lease or manage any housing project or undertaking constructed or owned by the federal government, and to these ends, to comply with such conditions and to make such trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this act to authorize the agency to do any and all things necessary or desirable to secure the

financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any housing project by the agency.

Approved April 11, 1989.

CHAPTER 424
(S.B. No. 1272, As Amended)

AN ACT

RELATING TO CHEMIGATION; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 22, IDAHO CODE, TO DEFINE TERMS, TO REQUIRE COMPLIANCE WITH STANDARDS AND REQUIREMENTS WHEN USING AN IRRIGATION SYSTEM FOR CHEMIGATION, TO PROVIDE FOR PROMULGATION OF RULES AND REGULATIONS REGARDING STANDARDS AND REQUIREMENTS, TO PROVIDE DUTIES OF THE DEPARTMENT TO DETERMINE COMPLIANCE, TO REQUIRE THE COMPILATION OF A LIST, TO PROVIDE DUTIES OF SUPPLIERS OF PESTICIDES, FERTILIZERS, OR HERBICIDES, TO PROVIDE LICENSURE REQUIREMENTS, TO PROVIDE CIVIL PENALTIES FOR ENGAGING IN, CONDUCTING OR CARRYING ON CHEMIGATION WITHOUT A VALID LICENSE, TO PROVIDE A STOP WORK ORDER, TO PROVIDE FOR DISPOSITION OF LICENSE FEES AND TO PROVIDE PENALTIES.

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 14, Title 22, Idaho Code, and to read as follows:

CHAPTER 14
CHEMIGATION

22-1401. DEFINITIONS. As used in this chapter:

(1) "Antipollution devices" mean any mechanical equipment used to reduce hazard to the environment in cases of malfunction or shutdown of chemigation equipment during chemigation and may include, but not be limited to, interlock, water line check valve, chemical line closure device, vacuum relief device and automatic low pressure drain.

(2) "Chemical" means any fertilizer or pesticide.

(3) "Chemigation" means any process whereby chemicals are added to irrigation water applied to land or crop or both through an irrigation system.

(4) "Director" means the director of the department of agriculture.

(5) "Fertilizer" means any formulation or product used as a plant nutrient which is intended to promote plant growth and contains one or more plant nutrients.

(6) "Herbicide" means any substance or mixture of substances used to inhibit or destroy plant or weed growth.

(7) "Irrigation system" means any device or combination of

devices having a hose, pipe or other conduit which connects directly to any source of ground or surface water, through which water or a mixture of water and chemicals is drawn and applied to land or crop or both. The term does not include any hand held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

(8) "Person" means an individual, firm, partnership, corporation, or other recognized legal entity.

(9) "Pest" means (a) any insect, rodent, nematode, fungus, weed, or (b) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except virus, bacteria, or other microorganism on or in living man or other living animals, which the director declares to be a pest.

(10) "Pesticide" means but is not limited to (a) any substance or mixture of substances intended to prevent, destroy, control, repel or mitigate any insect, rodent, nematode, snail, slug, fungus, weed and any other form of plant or animal life or virus, except virus or fungus on or in living man or other animal, which is normally considered to be a pest or which the director may declare to be a pest, and (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant, and (c) any spray adjuvant.

22-1402. USE OF IRRIGATION SYSTEM FOR CHEMIGATION -- COMPLIANCE WITH STANDARDS AND REQUIREMENTS. Any person who utilizes an irrigation system for chemigation shall comply with any standards and requirements which are established pursuant to section 22-1403, Idaho Code; and shall be certified and licensed as provided in this chapter.

22-1403. PROMULGATION OF RULES REGARDING STANDARDS AND REQUIREMENTS. The director shall promulgate rules and regulations in compliance with chapter 52, title 67, Idaho Code, to provide chemigation equipment standards, performance standards and installation requirements, to provide requirements regarding the use and location of antipollution devices, and to provide that special rules and equipment requirements shall apply if a direct pipe connection exists between an irrigation system used for chemigation and a domestic water supply system. The requirements and standards established pursuant to the provisions of this section may provide for additional protection if chemigation involves the application of a pesticide rather than a fertilizer. The department shall also promulgate rules and regulations regarding the list of equipment under section 22-1405, Idaho Code. The department may further provide training programs and seminars for chemigation equipment owners, operators and suppliers on an annual basis. Further, the department shall provide information to the interested public regarding its rules and regulations promulgated pursuant to this chapter.

22-1404. ENTRY BY DIRECTOR TO DETERMINE COMPLIANCE. The director or his authorized designee may enter upon the land owned or rented by a person for the purpose of determining whether such person is in compliance with the provisions of this chapter and any rule and regulation promulgated pursuant thereto. The director may enter into an

agreement with the director of the department of water resources to allow the director of that department or any employee designated by him to determine whether persons are in compliance with the provisions of this chapter and any rule and regulation promulgated pursuant thereto. Any person refusing entrance to the director or his designee, pursuant to the provisions of this chapter shall be guilty of a misdemeanor. Inspections shall occur at reasonable times. As part of its duties pursuant to this chapter, the department shall conduct, or make provision for the conducting, at least two hundred fifty (250) annual audits of chemigation installations to assure the effectiveness of the installations from keeping chemicals out of the ground water.

22-1405. DEPARTMENT TO COMPILE LIST. The department shall compile a list of the types of irrigation systems or portions thereof which may be used by persons to apply pesticides, herbicides or fertilizers through his irrigation system in accordance with the rules and regulations under section 22-1403, Idaho Code. This list shall be made public and constitutes state recognition of a chemigation system.

22-1406. DUTIES OF SUPPLIERS OF PESTICIDE, FERTILIZER OR HERBICIDE. Any person who directly supplies or sells at retail a pesticide, fertilizer or herbicide and who knows or has reason to know that the pesticide, fertilizer or herbicide will be applied through chemigation, shall not sell to any person who does not have a valid chemigation license as provided in this chapter. Any person who directly supplies or sells at retail a pesticide, fertilizer or herbicide and who violates the provisions of this section shall be subject to the penalties contained in section 22-1411, Idaho Code.

22-1407. LICENSE REQUIRED. (1) It shall be unlawful for any person to engage in, conduct or carry on chemigation without first obtaining a license to do so from the Idaho department of agriculture. A person may obtain a chemigation license from the department of agriculture by making application and paying a license fee of twenty-five dollars ($25.00) to the department. On the application for a license, the applicant must certify that the equipment and system they plan to use for chemigation meets department standards and that the owner and person(s) operating the equipment have read the rules and regulations for chemigation in the state of Idaho and that the owner intends to operate and maintain the chemigation system according to the rules and regulations. The equipment certification may be provided to the person proposing to chemigate by the equipment supplier in the case of a new installation. The department shall assist persons in completing their license applications upon request. On the application for licensure, the department may require such other information as it deems necessary. Upon receipt of a properly signed and completed application and the required information and fee, the department shall issue a license to the applicant so that the person can engage in, conduct or carry on chemigation. The department may impose as a condition of licensure that an applicant attend a seminar conducted, sponsored or accredited by the department regarding chemigation through irrigation systems and ways to avert contaminating the ground water of the state while

engaged in chemigation.

(2) The fee for the renewal of the license required by this section shall be five dollars ($5.00) and shall be paid with the application for license renewal on February 1 of each year. Failure to pay the fees when due forfeits the right to engage in, conduct or carry on chemigation.

(3) Any person who has been previously licensed to engage in, conduct or carry on chemigation and whose license has been forfeited shall not be issued a renewal license except upon written application to the department accompanied by a sum of money equal to the initial application fee charged in subsection (1) of this section.

(4) The department may suspend, revoke, or refuse to issue or renew the license of any person when it is satisfied that:

(a) The applicant or licensee has been guilty of fraud, deception, or misrepresentation in the procurement of a license;

(b) The licensee was guilty of willfully violating any of the provisions of this chapter; and

(c) The chemigation equipment is insufficient to protect against accident.

22-1408. CONDUCTING CHEMIGATION WITHOUT A LICENSE. Any person who engages in, conducts or carries on chemigation without having a valid license in full force and effect pursuant to this chapter shall be liable for a civil fine of not less than one thousand dollars ($1,000) and not more than twenty-five thousand dollars ($25,000). All civil fines collected pursuant to this section shall be remitted to the water pollution control account. The burden of proof for such liability shall be met by showing a preponderance of the evidence. The civil liability contained in this section shall be in addition to, and not in lieu of, any liability contained in chapter 1, title 39, Idaho Code.

22-1409. STOP WORK ORDER. (1) The department may issue and enforce a written or printed "stop work" order to any person engaged in, conducting or carrying on chemigation when the department finds the chemigation is in violation of the provisions of this chapter or any rules and regulations promulgated pursuant thereto.

(2) The "stop work" order shall be in effect until the provisions of this chapter, or rules and regulations promulgated pursuant thereto have been complied with.

22-1410. DISPOSITION AND USE OF MONEY RECEIVED. License fees collected pursuant to this chapter shall be paid into the state treasury and credited to the pesticide account created in section 22-3415, Idaho Code, and such fees shall be used only to carry out the provisions of this chapter.

22-1411. PENALTIES. Any person who violates the provisions of this chapter or any rule or regulation promulgated hereunder, other than conducting chemigation without a license, shall be subject to the following penalties.

(1) Upon a first violation within a five (5) year period, the

violator shall receive a letter of warning from the director.

(2) Upon a second violation within a five (5) year period, the violator shall be guilty of a misdemeanor.

(3) Upon a third or subsequent violation within a five (5) year period, the violator shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) for each separate violation or one thousand dollars ($1,000) per day for continuing violations, whichever is greater.

The penalties provided in this section shall be in addition to other penalties provided by law for contamination or pollution of the waters or environment of this state.

Approved April 11, 1989.

CHAPTER 425
(S.B. No. 1211)

AN ACT

RELATING TO SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES; AMENDING SECTION 56-110, IDAHO CODE, TO PROVIDE WHEN A REPORT MUST BE SUBMITTED, TO REQUIRE ANNUALIZATION OF COST REPORTS, AND TO PROVIDE A REFERENCE.

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

SECTION 1. That Section 56-110, Idaho Code, be, and the same is hereby amended to read as follows:

56-110. EXISTING FREE-STANDING SKILLED CARE FACILITIES. (a) Not later than January 1, 1982, and prior to the beginning of each fiscal year thereafter, the director shall determine the maximum base rate for all free-standing skilled care facilities that were under medicaid contract with the director on or before January 1, 1982, as a class, using the following method:

(1) First, from the most recent cost report~~, or the most recent audited cost report, if available,~~ submitted by each free-standing skilled care facility, the director shall prior to ninety (90) days before the beginning of the period for which the percentile cap is being determined, add together all nonproperty, nonutility costs (administration, food, nursing services, and operations) incurred by each facility; provided, that, where such facility provides care to the mentally-retarded, costs peculiar to such care shall first be exempted from consideration herein and shall be paid in accordance with the provider reimbursement manual, as defined in this subsection. A cost report covering less than a twelve (12) month period shall be annualized for purposes of determining current interim rate entitlement and percentile cap cost data as further provided;

(2) Next, the director shall divide the sum obtained from paragraph (1) of this section by the total number of patient-days of

care, taken from each cost report;

(3) Next, the director shall multiply the cost of care per patient-day obtained from paragraph (2) of this section by the percentage representing the annual combined inflator index, for the period in which the base rate is to be effective, as determined and agreed upon pursuant to section 56-130, Idaho Code;

(4) Next, the director shall combine the results from each such facility obtained from paragraph (3) to establish the range of costs of care per patient-day for all such facilities; and

(5) Next, the director shall calculate the mean cost of care per patient-day and the standard deviation from such mean, which shall be used to determine the base rate as specified in section 56-103(a), Idaho Code.

(6) Any cost increases resulting from federal or state law or rule changes shall be passed through automatically and will be treated as costs separate from the cap cost center until such time as these costs have become part of the data base for calculating the percentile cap. The providers efficiency incentive shall not be affected by these increases.

The result obtained from paragraph (5) or (6) of this subsection shall constitute the basic payment for the cost of care per patient-day in each free-standing skilled facility in the class, and the director shall notify each such facility of such payment not later than sixty (60) days prior to the fiscal year in which it is to become effective. A rebuttable presumption exists with respect to costs above the basic payment that a facility incurring such costs is not economically and efficiently operated, taking into account economic conditions and trends during the period covered by such costs, and that such costs are not reasonable. Such rebuttable presumption shall not be employed to justify costs below the basic payment. For purposes of this subsection, "audited cost report" means a cost report prepared and submitted to the director by a free-standing skilled care facility and audited by the director in accordance with the provider reimbursement manual, as promulgated by the director for the Idaho medicaid program, and the health insurance manual 15, as promulgated by the United States department of health and human services or its predecessor agency; provided, that the provider reimbursement manual shall take precedence over the health insurance manual 15 in case of conflict, ambiguity or disagreement.

(b) In addition to the basic payment per patient-day of care, as calculated in subsection (a) of this section, each free-standing skilled nursing facility shall be paid as a part of the monthly prospective payment:

(1) Its property rental rate plus projected property taxes, reasonable property insurance, and utility costs, to be determined by dividing its total projected property taxes, reasonable property insurance, and utility costs for its upcoming fiscal year, by the projected number of patient-days; and

(2) A monthly incentive payment equal to the computed difference between the facility's actual payment per patient-day and the base rate established for the class pursuant to section 56-103(a), Idaho Code, and this part. This computed difference shall be:

1. One-half (1/2) of the difference, where the one hundredth percentile applies to such facility's class;
2. One-third (1/3) of the difference, where the ninetieth percentile applies to such facility's class;
3. One-fourth (1/4) of the difference, where the eightieth percentile applies to such facility's class; or
4. One-sixth (1/6) of the difference, where the seventy-fifth percentile applies to such facility's class;

provided, that in no event shall the computed difference exceed one dollar and fifty cents ($1.50) per patient-day.

(c) Actual payments made by the director to each free-standing skilled care facility pursuant to sections 56-103 and 56-105, Idaho Code, and this section, shall be subject to audit and settlement under section 56-107, Idaho Code. In no event shall reimbursement to any facility exceed the usual and customary charges made to private pay patients.

Approved April 11, 1989.

CHAPTER 426
(S.B. No. 1128, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE OPERATORS' LICENSES; AMENDING SECTION 49-303, IDAHO CODE, TO PROVIDE FOR A SPECIAL OPERATOR'S LICENSE; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF RESTRICTED TEMPORARY INSTRUCTION PERMITS AT THE AGE OF FIFTEEN YEARS, TO PROVIDE FOR THE ISSUANCE OF A SPECIAL OPERATOR'S LICENSE, TO PROVIDE FOR CANCELLATION OF A SPECIAL OPERATOR'S LICENSE, AND TO PROVIDE THAT NO PERSON UNDER THE AGE OF SIXTEEN YEARS AND SIX MONTHS SHALL BE ISSUED ANY LICENSE UNLESS THAT PERSON HAS COMPLETED AN APPROVED DRIVER'S TRAINING COURSE; PROVIDING AN EFFECTIVE DATE AND PROVIDING THAT LICENSES IN EFFECT ON THE EFFECTIVE DATE OF THIS ACT SHALL REMAIN IN EFFECT UNTIL THE NORMAL EXPIRATION DATE OR UNLESS SOONER REVOKED FOR CAUSE.

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

SECTION 1. That Section 49-303, Idaho Code, be, and the same is hereby amended to read as follows:

49-303. WHAT PERSONS SHALL NOT BE LICENSED. The department shall not issue any license; and if issued, may revoke or cancel the license of a person who:

(1) As an operator, who is under the age of sixteen (16) years, except that the department may issue a special or restricted license to any person who is at least fourteen (14) years of age upon meeting the requirements of section 49-305, Idaho Code.

(2) As a chauffeur is under the age of eighteen (18) years.

(3) As an operator or chauffeur has had his license suspended for

the duration of the suspension, nor to any person whose license has been revoked, until the expiration of one (1) year after the license was revoked.

(4) Is an habitual drunkard, or is addicted to the use of narcotic drugs.

(5) 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) Is required by the provisions of this chapter to take an examination, unless that person shall have successfully passed such examination.

(7) May be required under any law of this state to deposit proof of financial responsibility and who has not deposited that proof.

(8) The department has good cause to believe that the operation of a motor vehicle on the highways by that person would be harmful to public safety or welfare.

SECTION 2. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS AND TEMPORARY LICENSES. (1) Any person who has reached the age of fifteen (15) years, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain an operator's license, may apply for a temporary instruction permit. The department ~~shall~~ may issue a permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of one hundred ~~twenty~~ eighty (1~~2~~80) days but, except when operating a motorcycle, that person must be accompanied by an adult licensed operator or chauffeur who is actually occupying a seat beside the driver.

(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. The permit must be in 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.

(3) The department may, in its discretion, issue a special operator's license to any person over fourteen (14) years of age but under sixteen (16) years of age whose parent(s) or guardian(s) and employer has certified on a form furnished by the department that a special operator's license is necessary for that person in order for that person to participate in work-related activities, or is issued to provide transportation to school, where public transportation is not provided. Notwithstanding the provisions of section 49-319, Idaho Code, a special operator's license shall expire when the holder of that license reaches sixteen (16) years of age. Such a special license shall be used only for the purpose issued, and for no other purpose; if used for any other purpose, the license shall be subject to immediate cancellation.

(4) No person under the age of sixteen (16) years and six (6) months shall be issued any license unless that person has successfully completed an approved driver training course.

SECTION 3. This act shall be in full force and effect on and after September 15, 1989. Licenses in effect on the effective date of this act which were issued under the provisions of section 49-305, Idaho Code, or its predecessor code section shall remain in effect until the normal expiration date, unless revoked by the department for other reasons under which revocation of a license is normally required.

Approved April 11, 1989.

SENATE JOINT RESOLUTIONS

(S.J.R. No. 101)

A JOINT RESOLUTION
RATIFYING THE PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATIVE TO COMPENSATION FOR UNITED STATES SENATORS AND UNITED STATES REPRESENTATIVES.

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

WHEREAS, in the First 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 a proposition to amend the Constitution of the United States, relative to the compensation for the services of the Senators and Representatives of the United States; and

WHEREAS, pursuant to the provisions of Section 34-2217, Idaho Code, the question of ratifying this proposition was submitted to the electorate of the State of Idaho; and

WHEREAS, at the general election of November 8, 1988, the electorate of the State of Idaho did agree that the proposition should be ratified by the Legislature of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the CENTENNIAL IDAHO LEGISLATURE, that the following proposed amendment to the Constitution of the United States, 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."

be, and the same is hereby ratified by the Legislature of the State of Idaho.

Passed by the Senate February 15, 1989.
Passed by the House March 23, 1989.

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 101)

A CONCURRENT RESOLUTION
DECLARING THAT THE FIFTIETH IDAHO LEGISLATURE SHALL BE KNOWN AS THE CENTENNIAL LEGISLATURE.

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

WHEREAS, in 1990 the citizens of this State will celebrate the Centennial of the adoption of our State Constitution.

NOW THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fiftieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that to the extent practical and permissible the Fiftieth Idaho Legislature shall be known and cited as the CENTENNIAL LEGISLATURE.

Adopted by the Senate January 9, 1989.
Adopted by the House January 10, 1989.

(S.C.R. No. 103)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 36-8337 on December 23, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the

appropriation of a variable minimum streamflow in Box Canyon Creek of 75 to 162 cfs from the beginning to the end of the reach, during the period beginning January 1 through December 31. The minimum streamflow begins at a point 300 feet downstream from where Box Canyon Creek enters Lot 1 (NE1/4NW1/4), Section 28, T8S, R14E, B.M., and extends downstream to the confluence of Box Canyon Creek and the Snake River, located in Lot 2 (SE1/4NE1/4), Section 28, T8S, R14E, B.M., Gooding County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated November 28, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the Senate February 10, 1989.
Adopted by the House March 16, 1989.

(S.C.R. No. 104)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 21-7355 on December 23, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Warm River of 141 cfs during the period beginning January 1 through December 31. The minimum streamflow begins at the intersection of State Highway 47 and Warm River, located in the SW1/4SE1/4, Sec. 12, T9N, R43E, B.M., Fremont County, and extends upstream approximately eight (8) miles to a point where the flows from Warm River Springs discharge into Warm River, located within the NW1/4SW1/4, Sec. 10, T10N, R44E, B.M., Fremont County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the

Proposed Memorandum Decision and Order, dated November 28, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the Senate February 10, 1989.
Adopted by the House March 16, 1989.

(S.C.R. No. 105)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 21-7283 on December 23, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Warm River of 141 cfs during the period beginning January 1 through December 31. The minimum streamflow begins in the NW1/4NW1/4, Sec. 13, T9N, R43E, B.M., Fremont County, at the confluence of Warm River and Henrys Fork, and extends upstream approximately one-half mile to the intersection of State Highway 47 with Warm River, located in the SW1/4SE1/4, Sec. 12, T9N, R43E, B.M., Fremont County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated November 28, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the Senate February 10, 1989.
Adopted by the House March 16, 1989.

(S.C.R. No. 106)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 37-7920 on April 29, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in the Malad River of 39 cfs during the period beginning January 1 through December 31. The minimum streamflow begins at the confluence of the Malad River and the Snake River, located in Lot 1 (NE1/4NW1/4), Section 34, T6S, R13E, and extends upstream approximately one mile to the Idaho Power Company diversion in the NW1/4NE1/4, Section 35, T6S, R13E, B.M., Gooding County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated February 16, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the Senate February 10, 1989.
Adopted by the House March 16, 1989.

(S.C.R. No. 107)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 22-7370 on December 23, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Bitch Creek of 28 cfs during

the period beginning January 1 through December 31. The minimum streamflow begins at the confluence of Bitch Creek and Teton River located within the NW1/4NE1/4, Section 20, T7N, R44E, B.M., Teton County, and extending approximately 6 miles upstream to the bridge where State Highway 32 crosses Bitch Creek, located in the NW1/4NW1/4, Section 17, T7N, R45E, B.M., Teton County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated November 28, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the Senate February 10, 1989.
Adopted by the House March 16, 1989.

(S.C.R. No. 108)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 36-8330 on December 23, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Crystal Springs of 50 cfs during the period beginning January 1 through December 31. The minimum streamflow reach encompasses that portion of Crystal Springs which flows toward Crystal Springs Lake and the Snake River located within Lot 11 (SW1/4NW1/4) and Lot 12 (SE1/4NW1/4), Section 12, T9S, R15E, B.M., Gooding County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated December 2, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the Senate February 10, 1989.
Adopted by the House March 16, 1989.

(S.C.R. No. 109)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 36-8374 on December 23, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Crystal Springs of 25 cfs during the period beginning January 1 through December 31. The minimum streamflow reach encompasses that portion of Crystal Springs which flows toward Crystal Springs Lake and the Snake River located in Lot 11 (SW1/4NW1/4) and Lot 12 (SE1/4NW1/4), Section 12, T9S, R15E, B.M., Gooding County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated December 2, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the Senate February 10, 1989.
Adopted by the House March 16, 1989.

(S.C.R. No. 110)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND DIRECTING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO REVIEW INDIAN AFFAIRS ISSUES.

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

WHEREAS, there are Indian tribes in the State of Idaho with unique rights which are inherent or acknowledged by treaties, statutes or case law and these tribes are recognized by the United States as sovereign dependent nations; and

WHEREAS, due to the unique character of tribal governments, there are many complex issues relating to law enforcement, water rights, zoning and land use, natural resources, wildlife management, health

and welfare services, education, and taxation which should continue to be addressed in a coordinated manner by legislative bodies of federal, state and tribal governments; and

WHEREAS, the United States Congress, as the ultimate authority on Indian tribes, has not acted in a decisive manner to resolve many of these legal, social and economic issues relating to Indian tribes in Idaho; and

WHEREAS, The Legislature of the State of Idaho and tribal councils of the five Idaho Indian tribes have started a successful effort toward resolving these complex issues through cooperation, negotiation, and mutual agreement; and

WHEREAS, failure to address Indian affairs issues will result in expensive court litigation which has strained tribal-state relations in the past and has not satisfactorily resolved any of these important issues; and

WHEREAS, it is the goal of the Legislature of the State of Idaho to address current Indian affairs issues through coordinated legislative action based upon improved communications and better understanding between the federal, state and tribal governments; and

WHEREAS, the Legislative Council Committee on Indian Affairs in meeting in 1983 and 1984, studied Indian affairs issues and determined that it would be beneficial for a special joint committee of the Legislature to continue to meet with tribal and federal government representatives in order to address important issues of mutual concern.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council shall appoint a committee comprised of eight members to review Indian affairs issues. This committee shall consist of four members of the Senate and four members of the House of Representatives, with consideration given in appointing members to the Committee to achieve a geographical balance and with consideration given to individuals who have served on the previous Indian Affairs Committees.

BE IT FURTHER RESOLVED that the Committee may seek opinions of and information from the various Indian tribes, both jointly and individually, state agencies, local government, citizens living on or near Indian reservations and other interested persons and entities, to assist the Committee in its deliberations as the members deem appropriate for studying Indian-related issues of the various tribes in Idaho.

BE IT FURTHER RESOLVED that the Committee shall initially give priority to Indian affairs issues and may recommend legislation and suggest solutions to resolve those issues.

BE IT FURTHER RESOLVED that the Legislative Council shall report the Committee's findings, recommendations and, if appropriate, legislation to the First Regular Session of the Fifty-first Idaho Legislature and that the Legislative Council shall submit a progress report of the Committee to the Second Regular Session of the Centennial Idaho Legislature.

Adopted by the Senate February 9, 1989.
Adopted by the House March 7, 1989.

(S.C.R. No. 112)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF BUILDING CONSERVATION STANDARDS AND INDOOR AIR QUALITY.

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

WHEREAS, a significant number of studies and extensive hearings completed by the Northwest Power Planning Council, the Idaho Public Utilities Commission, the utilities serving the state of Idaho and other governmental and private organizations in the Pacific Northwest conclusively demonstrate that conservation measures associated with the construction of new buildings are among the most efficient methods of providing for the future energy needs of Idaho and the region; and

WHEREAS, the same studies demonstrate that the construction of commercial and residential buildings to certain standards of energy efficiency provides the least costly housing investment for building occupants and owners, and represents the cheapest method of achieving long-term energy conservation; and

WHEREAS, the efficiency levels of such standards, the type of standards and the procedural mechanisms for imposing such standards for application within the state of Idaho have yet to be finally determined; and

WHEREAS, the above-mentioned studies and those conducted by the Environmental Protection Agency and others have revealed health hazards and related economic implications in buildings even if constructed to these or any other standards without source control measures to mitigate natural indoor air pollutants such as radon and other chemicals; and

WHEREAS, the effects of indoor air pollutants and the resultant economic and legal implications thereof have yet to be fully analyzed and assessed in the state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and House of Representatives concurring therein, that the Legislative Council is authorized and directed to appoint a committee to undertake and complete a study of all relevant issues associated with energy efficient building standards and the health effects associated with increased indoor air pollutant levels. The Committee in conducting its study is directed to consult with, among others, the following energy and health related agencies, energy suppliers, and building interests:

Association of Idaho Cities
Idaho Association of Commerce and Industry
Idaho Association of Counties
Idaho Building Contractors Association
Idaho Cooperative Utilities Association
Idaho Departments of Health and Welfare, Labor and Industrial Services and Water Resources
Idaho Power Company

Idaho Public Utilities Commission
Idaho Realtors Association
Intermountain Chapter of the International Conference of Building Officials
Intermountain Gas Company
Northwest Power Planning Council
Pacific Power and Light Company
Utah Power and Light Company
Washington Water Power Company.

BE IT FURTHER RESOLVED that the Committee shall report its findings, with recommended legislation, to the Second Regular Session of the Idaho Centennial Legislature.

Adopted by the Senate February 27, 1989.
Adopted by the House March 29, 1989.

(S.C.R. No. 114)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE LEGISLATIVE COUNCIL TO ESTABLISH A LEGISLATIVE INTERNSHIP PROGRAM AND PROVIDE TUITION REIMBURSEMENT AND EXPENSES FOR INTERNS.

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

WHEREAS, the legislative interns attached to the Senate and the House of Representatives traditionally provide an invaluable service to the body through their diligent efforts, careful research and enthusiastic cooperation; and

WHEREAS, interns benefit through the experience in the legislative process, while the Legislature also receives significant advantage from the work performed by interns; and

WHEREAS, interns contribute to the efficient operation of the Legislature.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that it is the finding of the Legislature that the Legislative Council should establish a Legislative Internship Program. The Legislature reaffirms the program which has placed interns in the Legislature in recent years, and intends that this program should continue essentially as now provided. However, within the program, provision should be made to reimburse students for the costs of institutional fees incurred during the semester spent at the Legislature as well as other expenses in a manner to be determined by policy of the Legislative Council.

Adopted by the Senate February 27, 1989.
Adopted by the House March 23, 1989.

(S.C.R. No. 117)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING IDAHO-WASHINGTON-BRITISH COLUMBIA DAYS OF PEACE AND FRIENDSHIP.

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

WHEREAS, it is desirable to encourage Americans and Canadians and their federal, state, provincial, and municipal governments and their economic, educational, and cultural leaders and organizations to expand on and initiate helpful United States-Canadian relationships; and

WHEREAS, the peoples and governments of the states of Idaho and Washington and the province of British Columbia share the same ideals of freedom, democracy, human rights, justice under law, an ardent desire for a peaceful world, and a special commitment to western ideals; and

WHEREAS, the citizens of Idaho, Washington State, and British Columbia share a bond of friendship and a history of dealing with boundary and other international problems in a spirit of compromise and cooperation; and

WHEREAS, Idaho, Washington State, and British Columbia stand at the center of an active international, economic, educational, political, and cultural relationship that is outstanding in the West and through the entire North American Continent; and

WHEREAS, towns and cities, universities and schools, and civic and cultural organizations throughout these areas are planning annual international sports and cultural festivals to advance culture and athletics in their cities, to demonstrate the spirit of the West, and to attract tourists from both countries to share in their celebrations.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that we take this opportunity to recognize our close relationship with the people of Washington State and British Columbia and urge our leaders and constituents to join forces on July 2 and 3 of this and each succeeding year for the celebration of Idaho-Washington-British Columbia Days of Peace and Friendship. These days shall be celebrated as symbols for year-round improvement of international relationships, for initiating new programs and exchanges among political leaders, economic and environmental and professional organizations, universities and school systems, cities and towns, and cultural groups of all kinds; for helping to make our state-provincial region a focal point for friendship and achievement across the international northwest; and in this way to contribute to the most promising international image of cooperative democracy in the world.

Adopted by the Senate February 27, 1989.
Adopted by the House March 23, 1989.

(S.C.R. No. 118)

A CONCURRENT RESOLUTION

AUTHORIZING THE DIVISION OF PUBLIC WORKS AND THE IDAHO COMMISSION ON THE ARTS TO UTILIZE SPACE IN THE CAPITOL BUILDING FOR HISTORIC MURALS.

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

WHEREAS, several public spirited and distinguished citizens of our state have formed the Idaho Community Foundation; and

WHEREAS, one of the goals of the Idaho Community Foundation is to arrange for the painting of historical murals to be hung in the Capitol Building; and

WHEREAS, the Centennial Legislature wholeheartedly supports and encourages this magnificent effort.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Division of Public Works and the Idaho Commission on the Arts are authorized and encouraged to work with the Idaho Community Foundation in order that the Foundation's plan to commission historic murals portraying Idaho's rich history and culture to be hung in the Capitol Building can be achieved.

BE IT FURTHER RESOLVED that this resolution shall constitute the prior approval necessary under the terms of Section 67-5707, Idaho Code.

Adopted by the Senate February 27, 1989.
Adopted by the House March 23, 1989.

(S.C.R. No. 119)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND URGING THAT INSTITUTIONS OF HIGHER EDUCATION AND THE STATE BOARD OF EDUCATION ENTER INTO ARTICULATION AGREEMENTS TO FACILITATE TRANSFERS BETWEEN INSTITUTIONS.

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

WHEREAS, it is the best interest of the state of Idaho to have an integrated educational system providing an orderly transfer of students from one institution to another; and

WHEREAS, progress has been made through development of general education curricula at the institutions, and the State Board of Education's articulation policy has eased the problems encountered by students transferring between institutions; and

WHEREAS, waste of student resources of time and money nonetheless continue to occur when students are forced to repeat lower division courses in order to satisfy requirements in professional schools, and to meet prerequisites for upper division courses.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the State Board of Education and the institutions of higher education in the state of Idaho and the professional departments and schools of business, nursing, engineering, education and vocational education, as well as others, to enter into articulation agreements providing that courses offered in one institution shall satisfy the requirements for admission, prerequisite courses, and matriculation in the respective various professional departments of the institutions.

BE IT FURTHER RESOLVED that the State Board of Education shall report its progress to the Second Regular Session of the Centennial Legislature when it convenes in January, 1990.

Adopted by the Senate February 28, 1989.
Adopted by the House March 23, 1989.

(S.C.R. No. 120)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE CONCERNING CONSTRUCTION OF A GOVERNOR'S RESIDENCE AS A SUITABLE TRIBUTE TO THE IDAHO CENTENNIAL.

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

WHEREAS, the Legislature has long recognized the need for an executive residence suitable to the needs of the chief executive officer of this state and truly indicative of the pride of Idaho citizens; and

WHEREAS, the current executive residence, now closed to the public, was constructed in 1914 and is generally considered inadequate for utilization as the governor's residence; and

WHEREAS, the Lasting Legacy Committee of the Idaho Centennial Commission has specifically endorsed the construction of a governor's residence and has listed the project in the Idaho Centennial Wish Book; and

WHEREAS, construction of a new executive residence, coinciding with the Idaho Centennial Celebration, is appropriate fulfillment of a genuine need while launching the state into the next one hundred years; and

WHEREAS, it is the desire of the Legislature, acting on behalf of the citizens of the state of Idaho, to endorse construction of a governor's residence as a lasting legacy of the Idaho Centennial Celebration.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House

of Representatives concurring therein, that we commend the selection of construction of a governor's residence as a Lasting Legacy Project, and we join the Idaho Centennial Commission in endorsing the concept of construction of the governor's residence as a suitable tribute to the Idaho Centennial.

Adopted by the Senate March 2, 1989.
Adopted by the House March 27, 1989.

(S.C.R. No. 122)

A CONCURRENT RESOLUTION
DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY OF ACCESS TO AND RETENTION OF PUBLIC RECORDS.

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

WHEREAS, statutes of the state of Idaho governing public access to records and requirements for retention of records establish a multiplicity of requirements; and

WHEREAS, rules and regulations, adopted pursuant to law, also govern retention of and public access to records; and

WHEREAS, judicial action has created additional and conflicting standards governing the applicability of public access requirements; and

WHEREAS, assuring appropriate access to and retention of public records is in the public interest, while certain records are deserving of the strictest confidentiality; and

WHEREAS, it is incumbent upon the Legislature to establish a uniform and easily applied standard to guarantee public access where appropriate and assure confidentiality where required.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized and directed to undertake and complete a study of state laws, rules and regulations governing access to and retention of public records. The study should review current laws and develop a uniform standard to govern retention and access to public records.

BE IT FURTHER RESOLVED that findings and recommended legislation, if any, shall be reported to the Second Regular Session of the Centennial Idaho Legislature.

Adopted by the Senate March 6, 1989.
Adopted by the House March 29, 1989.

(S.C.R. No. 125)

A CONCURRENT RESOLUTION

AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO DEVELOP AN EFFECTIVE, STATEWIDE, LOCALLY-BASED PERSONAL CARE SERVICE PROGRAM.

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

WHEREAS, personal care services allow Idaho citizens who are elderly or developmentally disabled to receive medical and personal care in their own home, retain their self dignity, live in neighborhoods with family and friends, and retain control and independence in their individual life; and

WHEREAS, studies have shown that home based intervention into many medical conditions occurring in the elderly and disabled population is cost-effective, and more often than not, precludes additional and often more costly procedures later which usually must be paid for with taxpayer dollars; and

WHEREAS, a number of health related, home based programs are in existence for senior and disabled citizens which are not well coordinated systems; and

WHEREAS, personal care services are limited, restrictive waivered Medicaid services rather than an optional residential care program within Idaho; and

WHEREAS, preauthorization and eligibility determination is performed for personal care services only in Boise for all areas of Idaho rather than on a localized basis causing delay in enrollments up to three to six months; and this delay jeopardizes the health and safety of some of Idaho's most vulnerable elderly and disabled citizens; and

WHEREAS, there is no consistent or timely personal care service system for provider recruitment, training, reimbursement or background checks to maintain a quality, safe, dependable service; and

WHEREAS, nearly 700 Idahoans have struggled to become enrolled in the personal care service program and approximately this many more could benefit from personal care services, avoid expensive facility-based long-term care and save Idaho taxpayers thousands of dollars; and

WHEREAS, no in-depth legislative review of the personal care service program has occurred to identify its true cost effectiveness, dignity, and independence orientation compared to other forms of long-term care for elderly and disabled Idahoans.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized and directed to appoint a committee to review past studies, obtain public input as necessary, and develop a statewide, comprehensive, locally based personal care services system and identify the means and methods necessary to implement and finance all recommendations.

BE IT FURTHER RESOLVED that the Committee shall consist of at

least two representatives each from the Senate and House of Representatives Health and Welfare Committees, and one member each from the Senate Finance Committee and House of Representatives Appropriations Committee.

BE IT FURTHER RESOLVED that the Committee shall meet as necessary to complete the tasks assigned herein and shall regularly consult with representatives from the Idaho State Council on Developmental Disabilities, Idaho Office on Aging, Idaho Citizens Network, Department of Health and Welfare, Division of Vocational Rehabilitation, Idaho Health Care Facilities Association and other interested health care oriented organizations.

BE IT FURTHER RESOLVED that the Committee shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Centennial Idaho Legislature.

Adopted by the Senate March 13, 1989.
Adopted by the House March 29, 1989.

(S.C.R. No. 128)

A CONCURRENT RESOLUTION

DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF REQUIREMENTS FOR AWARDING PUBLIC WORKS PROJECTS CONTRACTS.

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

WHEREAS, the state and many of the political subdivisions of the state have construction and repair needs on the public's many buildings, facilities, bridges, roads, streets and highways; and

WHEREAS, the state and its political subdivisions do some construction and repair work using public employees and public equipment, and contract with private industry for some of this construction and repair work; and

WHEREAS, there is some concern about the economy and efficiency of using "in-house" employees and equipment for these construction and repair needs versus using private industry.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial 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 processes, procedures, statutory requirements and limitations including penalties for nonperformance, for awarding public works projects contracts to be performed by private industry.

BE IT FURTHER RESOLVED that the Committee shall report findings and recommended legislation, if any, to the Second Regular Session of the Centennial Idaho Legislature.

Adopted by the Senate March 15, 1989.
Adopted by the House March 29, 1989.

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 1)

A CONCURRENT RESOLUTION
PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTIETH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fiftieth Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 9, 1989.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fiftieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Monday, January 9, 1989, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 9, 1989.
Adopted by the Senate January 9, 1989.

(H.C.R. No. 2)

A CONCURRENT RESOLUTION
PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTIETH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fiftieth Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 11, 1989.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular

Session of the Fiftieth 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 11, 1989, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 11, 1989.
Adopted by the Senate January 11, 1989.

(H.C.R. No. 3)

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 First Regular Session of the Centennial 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 John Catlin, 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 AGREEMENT

THIS AGREEMENT, made and entered into this 9th day of January, 1989, by and between the HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fiftieth Idaho Legislature, hereinafter mentioned as party of the first part, and John Catlin, Owner, CATLIN PRINTING, 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 Catlin Printing, as follows:

HOUSE AND SENATE DAILY JOURNAL
FIRST REGULAR SESSION

375 copies of House Journal
375 copies of Senate Journal
750 total copies ..... $15.00 per page

100 additional copies ..... $ 2.00 per page

PERMANENT JOURNAL
FIRST 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 ..... $17.50 per page

HOUSE AND SENATE DAILY JOURNAL
SECOND REGULAR SESSION

375 copies of House Journal
375 copies of Senate Journal
750 total copies ..... $15.00 per page
100 additional copies ..... $ 2.00 per page

PERMANENT JOURNAL
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 ..... $17.50 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 FURTHER AGREED, that the permanent printed Journal shall be delivered to the Chief Clerk of the House not later than twenty (20) days from date of receipt of final House copy, and to the Secretary of the Senate not later than twenty (20) days from date of receipt of final Senate 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

By/s/ Don C. Loveland
Don C. Loveland, Chairman

By/s/ Tom Boyd
Tom Boyd, Speaker of the House

SENATE JUDICIARY AND RULES COMMITTEE

By/s/ Denton Darrington
Denton Darrington, Chairman

By/s/ Mike Crapo
Mike Crapo, President Pro Tempore

Party of the Second Part

CATLIN PRINTING

By/s/ John Catlin
John Catlin, Owner

Adopted by the House January 17, 1989.
Adopted by the Senate January 25, 1989.

(H.C.R. No. 4)

A CONCURRENT RESOLUTION

PROVIDING FOR OFFSET PRINTING OF HOUSE AND SENATE BILLS, RESOLUTIONS, MEMORIALS AND AMENDMENTS, AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee have, according to law, made provisions for the offset printing of the House and Senate bills,

resolutions, memorials and amendments;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the offset printing of the House and Senate bills, resolutions, memorials and amendments, in accordance with the provisions of law and in accordance with the written contract between the Joint Committee as party of the first part, and BEST IMPRESSION PRINTING, Boise, Idaho, as party of the second part, be, and the same is hereby ratified and concurred in, and is incorporated herein, and made a part of this resolution in words and figures following, to-wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 9th day of January, 1989, by and between the HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fiftieth Idaho Legislature, hereinafter referred to as the Joint Committee, and BEST IMPRESSION PRINTING, hereinafter referred to as Best Impression.

WITNESSETH:

That pursuant to written bids submitted to and considered by the Joint Committee, a contract for legislative printing is hereby awarded to Best Impression per your letter response of November 30, 1988, included as Attachment A, for the First and Second Regular Sessions and any Extraordinary Sessions of the Fiftieth Idaho Legislature upon the following additional terms and conditions:

1. That Best Impression will utilize an offset process from "Camera Ready" copies, as these terms are used and recognized in the trade, to print Senate and House bills, resolutions, and memorials.

2. That Best Impression concurrently with the execution of this contract, deliver to the Joint Committee good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to the Joint Committee, in the sum of five thousand dollars ($5,000), guaranteeing the satisfactory and faithful performance by Best Impression of all the terms and conditions of this contract.

3. That Best Impression will maintain at all times a high standard of workmanship to the end that all printing will be neat, clean, legible and with adequate contrast between print and paper to be easily read.

4. That Best Impression will insure that all bills, resolutions and memorials will have neat and proper underlining, strikeovers and deletions and that the paper used will be properly punched and sized.

5. That for the purposes of this contract, all printing will be received from and delivered to the presiding officer of each house or his designee.

6. That Best Impression will deliver all standard lot printed material conforming to the above requirements by 9:00 a.m. the next morning after receipt of copy, unless prior arrangements have been made.

7. Upon failure to deliver such bills in the manner and within the time herein specified, this contract may be deemed terminated forthwith at the option of the Joint Committee and recourse had against Best Impression bond.

8. That a standard lot of printed material will be eight hundred (800) copies or less of individual bills, resolutions or memorials at a cost of seventeen dollars and fifty cents ($17.50) per printed page. Additional copies may be obtained by the Joint Committee at the rate of two dollars and twenty-five cents ($2.25) per printed page in units of one hundred (100).

9. That Best Impression will pick up "Camera Ready" copy at least twice daily of each day that the Legislature is in session.

10. That Best Impression will make available to and sell to the general public any bill, resolution or memorial in lots of one hundred (100) copies at a cost of two dollars and twenty-five cents ($2.25) per printed page, provided the order for such is received prior to the time the bill is printed.

11. That the Joint Committee reserves to itself the sole and exclusive decision as to the proper fulfillment of the terms and conditions of this agreement by Best Impression, and that the Joint Committee may terminate this agreement upon twenty-four hours' notice to Best Impression, with no liability accruing to the Joint Committee or the State except for printing already completed and delivered. The Joint Committee reserves the right to review and revise this contract prior to the Second Regular Session of the Fiftieth Idaho Legislature of the State of Idaho.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands as of the day and year first above written.

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

By /s/ Don C. Loveland
DON C. LOVELAND, Chairman

By /s/ Tom Boyd
TOM BOYD, Speaker of the House

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

By /s/ Mike Crapo
MIKE CRAPO, President Pro Tempore

BEST IMPRESSION PRINTING

By /s/ Richard W. Flintzer
RICHARD W. FLINTZER, Owner

Adopted by the House January 17, 1989.
Adopted by the Senate January 25, 1989.

(H.C.R. No. 5)

A CONCURRENT RESOLUTION
ADOPTING FINDINGS OF A JOINT COMMITTEE ON REVENUE PROJECTIONS.

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

WHEREAS, the Legislature appointed a joint committee of the House of Representatives and the Senate to study the revenue available to the state for the 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 total revenue available.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial 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 1988-1989 fiscal year.

Revenue Projections for 1988-1989 fiscal year:

Court System	$ 3,200,000
Secretary of State	1,100,000
State Treasurer	14,300,000
Department of Insurance	28,200,000
Department of Lands	130,000
Department of Law Enforcement	1,050,000
Department of Revenue and Taxation:	
Individual Income Tax	305,000,000
Corporate Income Tax	66,000,000
Kilowatt Hour Tax	1,500,000
Beer Tax	1,500,000
Mine License Tax	600,000
Wine Tax	870,000
Cigarette Tax	6,600,000
Unclaimed Property	500,000
Miscellaneous Agencies and Transfers	3,000,000*
Liquor	4,945,000
Sales Tax	285,000,000
TOTAL	$723,495,000

* This amount includes a transfer of $2,000,000 from the Water Pollution Control Fund as presently required by law. The transfer had not been completed at conclusion of committee deliberations.

Adopted by the House January 24, 1989.
Adopted by the Senate January 31, 1989.

(H.C.R. No. 6)

A CONCURRENT RESOLUTION
ADOPTING FINDINGS OF A JOINT COMMITTEE ON REVENUE PROJECTIONS.

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

WHEREAS, the Legislature appointed a joint committee of the House of Representatives and the Senate to study the revenue available to the state for the 1990 fiscal year, and to consult with experts in all fields in order to present the most complete information available; and

WHEREAS, it is the desire of the Legislature to adopt the findings of this committee as to the revenue projections in order to facilitate the appropriations process.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial 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 1989-1990 fiscal year.

Revenue Projections for 1989-1990 fiscal year:

Court System	$ 3,250,000
Secretary of State	1,100,000
State Treasurer	15,600,000
Department of Insurance	29,900,000
Department of Lands	225,000
Department of Law Enforcement	1,060,000
Department of Revenue and Taxation:	
Individual Income Tax	321,000,000
Corporate Income Tax	57,000,000
Kilowatt Hour Tax	2,000,000
Beer Tax	1,600,000
Mine License Tax	800,000
Wine Tax	900,000
Cigarette Tax	6,800,000
Unclaimed Property	600,000
Miscellaneous Agencies and Transfers	1,000,000
Liquor	4,945,000
Sales Tax	301,000,000
TOTAL	$748,780,000

Adopted by the House January 24, 1989.
Adopted by the Senate January 31, 1989.

(H.C.R. No. 7)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING THE IDAHO WINTER

GAMES ORGANIZING COMMITTEE AS IDAHO'S OFFICIAL REPRESENTATIVE FOR WINTER GAMES IN THE NATIONAL CONGRESS OF STATE GAMES AND TO THE UNITED STATES OLYMPIC COMMITTEE.

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

WHEREAS, the Idaho Centennial Commission has selected the Idaho Winter Games Organizing Committee to sponsor the Idaho Winter Games of the Centennial, and has selected the city of McCall to serve as Idaho's host city during the winter of 1990; and

WHEREAS, the Idaho Winter Games of the Centennial 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 Winter Games Organizing Committee by the National Congress of State Games depends on the official recognition and endorsement of the Idaho Legislature; and

WHEREAS, recognition by the National Congress of State Games of the Idaho Winter Games Organizing Committee will qualify the Idaho Winter Games of the Centennial for official consideration by the United States Olympic Committee; and

WHEREAS, if the Idaho Winter Games of the Centennial are recognized by the United States Olympic Committee, this recognition will allow Idaho athletes of national and international ability an opportunity to reach their potential as world-class and Olympic athletes.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Winter Games Organizing Committee be recognized and endorsed as the official representative of the State of Idaho for Winter Games in 1990 and 1991 in the National Congress of State Games and to the United States Olympic Committee.

Adopted by the House February 3, 1989.
Adopted by the Senate February 27, 1989.

(H.C.R. No. 8)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE SESSION LAWS, FIXING THE PRICE FOR PRINTING THE SAME, AND THE PRICE WHICH THE PUBLIC SHALL BE CHARGED FOR COPIES OF THE SESSION LAWS.

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

WHEREAS, Section 67-904, Idaho Code, has made provisions for the printing of the Session Laws;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the House Judiciary, Rules

and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho hereinafter referred to as the Joint Committee;

BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the printing of the Session Laws of the First and Second Regular Sessions, Centennial Idaho Legislature, and the Session Laws of any Extraordinary Session, Centennial Idaho Legislature, in accordance with the provisions of law and in accordance with the written contract between the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Committee as party of the first part, and CAXTON PRINTERS, LTD., of Caldwell, Idaho, as party of the second part, be, and the same is hereby ratified, confirmed and concurred in, and is incorporated herein and made a part of this resolution, in words and figures following, to-wit:

PRINTING CONTRACT

THIS AGREEMENT, made and entered into this 23rd day of January, 1989, by and between the Speaker of the House of Representatives, Tom Boyd, and the President Pro Tempore of the Senate, Michael D. Crapo, the Joint Committee of the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho, hereinafter mentioned as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written bid submitted to the said party of the first part by the party of the second part, contract for legislative printing is hereby awarded to said CAXTON PRINTERS, LTD., as follows:

SESSION LAWS

For printing and binding 1200 copies of the Session Laws of the First Regular Session of the Centennial Legislature and for printing and binding 1200 copies of the Session Laws of the Second Regular Session of the Centennial Legislature and the Session Laws of any Extraordinary Session of the Centennial Legislature: $23.40 per page, f.o.b. Boise, Idaho, if produced by offset lithography with camera-ready copy being furnished party of the second part, plus $5.80 per volume for binding. For pages requiring reduction shots, an additional $7.00 per page charge. Each volume to be Smythe sewed, rounded and backed with suitable headbands and Roxite Library Buckram over a 15 point Red Label Davey Board. The party of the second part shall provide an additional quantity to be made available to the general public at $31.00 per single volume, and $36.80 per set of two volumes, if a second volume is required. The Session Laws of any Extraordinary Session adjourned prior to June 1, 1989, shall be included in the Session Laws of the First Regular Session, or if adjourned prior to June 1, 1990, shall be included in the Session Laws of the Second Regular Session. No charge shall be made by the party of the second part for proofreading or blank pages.

IT IS AGREED between the parties hereto that all of said printing shall be done in the form and manner as submitted in written bid dated January 23, 1989, by party of the second part, and in compliance with the statutes of the State of Idaho where not otherwise provided, such statutes shall be controlling.

IT IS FURTHER AGREED that said Session Laws shall be printed, delivered to and be ready for distribution by the Secretary of State in conformity with the provisions of Section 67-904, Idaho Code, which section is hereby referred to and by such reference made a part of this contract as though set forth at length herein, and particularly as follows:

The Session Laws shall be printed and made available for distribution within 60 days after the last day on which the Governor may sign or approve bills following adjournment of the session of the legislature which enacted or passed the measures included in the Session Laws, or within 30 days after the delivery to the party of the second part of the proper title pages, certificate pages, tables of laws and statutes amended and repealed and a proper index of the contents of the Session Laws, whichever date is first in time.

Such printing and delivery of said Session Laws to the Secretary of State are to be made as provided by law; that for each day's failure to so deliver volumes of such Session Laws as herein provided, there shall be deducted from the contract price for printing said Session Laws the sum of $50.00 per day for each day's delay; provided, however, that the party of the second part shall not be held responsible for delay occasioned by failure to furnish copy for such printing to the party of the second part and such delay shall, to the same extent, extend the time for the performance of this agreement.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper officials, and the party of the first part, by concurrent resolution has caused these presents to be executed by its proper officials.

SPEAKER OF THE HOUSE OF REPRESENTATIVES
By /s/Tom Boyd
Tom Boyd

HOUSE JUDICIARY, RULES AND
ADMINISTRATION COMMITTEE
By /s/Don C. Loveland
Don C. Loveland, Chairman

PRESIDENT PRO TEMPORE OF THE SENATE
By /s/Michael D. Crapo
Michael D. Crapo

SENATE JUDICIARY AND RULES COMMITTEE
By /s/Denton Darrington
Denton Darrington, Chairman

Party of the First Part

THE CAXTON PRINTERS, LTD.
By /s/Jim Gipson, Jr.
Jim Gipson, Jr.
President

Party of the Second Part.

Adopted by the House February 2, 1989.
Adopted by the Senate Febraury 13, 1989.

(H.C.R. No. 10)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 97-7275 on April 29, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Lion Creek of 22 cfs during the period beginning January 1 through December 31. The minimum streamflow begins at the confluence of Lion Creek and Priest Lake in Lot 6 (NE1/4SE1/4), Section 10, T62N, R4W, B.M., and extends upstream approximately two miles to the confluence of Lion Creek and the South Fork of Lion Creek, located in the NE1/4NW1/4, Section 12, T62N, R4W, B.M., Bonner County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated February 16, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the House March 2, 1989.
Adopted by the Senate March 22, 1989.

(H.C.R. No. 11)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 47-8073, on January 10, 1989, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Shoshone Creek of 5 cfs during the period beginning January 1 through March 31, 7cfs beginning April 1 through July 31, and 5 cfs beginning August 1 through December 31. The reach begins at the confluence of Shoshone Creek and Hot Creek, located in the SW1/4SE1/4, Section 22, T16S, R17E, B.M., Twin Falls County, and extends approximately eight (8) miles downstream to the Idaho-Nevada state line, located in Lot 1 (NE1/4NE1/4), Section 35, T16S, R16E, B.M., Twin Falls County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated November 27, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the House March 2, 1989.
Adopted by the Senate March 22, 1989.

(H.C.R. No. 12)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted

upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 97-7274 on April 29, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Indian Creek of 26 cfs during the period beginning January 1 through December 31. The minimum streamflow begins at the confluence of Indian Creek and Priest Lake in Lot 2 (SW1/4NE1/4), Section 27, T61N, R4W, and extends upstream approximately three miles to the confluence of Indian Creek and the South Fork of Indian Creek in the S1/2SE1/4, Section 13, T61N, R4W, B.M., Bonner County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated February 16, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the House March 2, 1989.
Adopted by the Senate March 22, 1989.

(H.C.R. No. 13)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 36-7820 on December 23, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow of eight (8) cfs in Blind Canyon Springs, during the period beginning January 1 through December 31. The minimum streamflow reach begins at the point where effluent from the Blind Canyon Hatchery discharges to Blind Canyon, located within the SW1/4NE1/4, Sec. 28, T8S, R14E, B.M., and extends downstream to the confluence of Blind Canyon and the Snake River located within Lot 2 (SE1/4NW1/4), Sec. 28, T8S, R14E, B.M., Gooding County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular

Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the proposed Memorandum Decision and Order, dated November 28, 1988, adopted by the Director of the Department of Water Resources.

Adopted by the House March 2, 1989.
Adopted by the Senate March 22, 1989.

(H.C.R. No. 14)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND RECOMMENDING THAT A SHELTER CARE TASK FORCE BE CREATED.

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

WHEREAS, since 1980 the number of shelter care facilities in Idaho has more than doubled and there has almost been a 100% increase in shelter care facility utilization by geriatric residents; and

WHEREAS, Idaho will experience a 77% increase by the year 2000 in persons 75 years and older with limitation of activity due to chronic conditions, many of whom may well seek shelter care; and

WHEREAS, the current shelter care law lacks enforceable sanctions, does not have adequate requirements for education and training of shelter care administrators and staff, lacks intermediate sanctions for deficiencies, and lacks requirements for periodic assessments of all residents; and

WHEREAS, there is a strong need to redefine the mission and philosophy of shelter level care in the continuum of long-term care services for geriatric, developmentally disabled and mentally ill residents.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recommend to the Idaho Department of Health and Welfare, in coordination with the Idaho Office on Aging and the Idaho Council on Developmental Disabilities, the creation of a Shelter Care Task Force. The Task Force should be directed to review the current shelter care law and to develop recommendations and draft language for restructuring the statutes.

BE IT FURTHER RESOLVED that the Shelter Care Task Force shall report its findings and recommendations to the Health and Welfare Committee of the Senate and the House of Representatives prior to December 30, 1989.

Adopted by the House March 6, 1989.
Adopted by the Senate March 17, 1989.

(H.C.R. No. 18)

A CONCURRENT RESOLUTION
DESIGNATING THE SQUARE DANCE AS THE AMERICAN FOLK DANCE OF IDAHO.

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

WHEREAS, love of state and professions is enhanced by traditions that have become a part of our way of life and the customs of the American people; and

WHEREAS, we have distinctive and meaningful symbols of our ideals in our state's flag and in many cultural endeavors, but no official designation of a state folk dance; and

WHEREAS, the Square Dance, which was first associated with the American people and recorded in history since 1651, has consistently been the one dance traditionally recognized by the American people as a dignified and enjoyable expression of American folk dancing; and

WHEREAS, Square Dancing is the American folk dance which is called, cued, or prompted to the dancers, and includes squares, rounds, clogging, contra, line and heritage dances; and

WHEREAS, official recognition of the Square Dance will enhance the cultural stature of Idaho both nationally and internationally; and

WHEREAS, it is fitting that the Square Dance be added to the array of symbols of our state character and pride.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the dance known as the SQUARE DANCE is hereby designated as the American folk dance of Idaho.

Adopted by the House February 22, 1989.
Adopted by the Senate March 13, 1989.

(H.C.R. No. 19)

A CONCURRENT RESOLUTION
AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY OF UNDERGROUND STORAGE TANKS IN THE STATE OF IDAHO.

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

WHEREAS, Congress passed the Resources and Conservation Act of 1984 which, among other provisions, required the Environmental Protection Agency (EPA) to develop regulations to protect human health and the environment from leaking underground storage tanks (USTs) which regulations concerning USTs became effective in the fall of 1988; and

WHEREAS, the regulations require the owner of an UST to obtain tank leak insurance on the UST for financial protection in case of

tank leaks despite the fact that only two insurance carriers offer such insurance, one of which has raised its premiums to a rate that is virtually unaffordable and the other carrier is financially shaky, thus making the acquisition of the required insurance coverage virtually impossible; and

WHEREAS, according to the Petroleum Marketers Association of America (PMAA) which represents a majority of the independent petroleum marketers in the United States, tank owners over the past three years, in anticipation of the new regulations, have replaced or upgraded one-third of the total number of tanks owned, spending an average of $37,000 per tank and an estimated total of over $800 million over the past four years; and

WHEREAS, despite these massive expenditures, the stringent new regulations will probably cause up to 26,500 service stations to close permanently primarily due to the insurance requirements the regulations impose because currently nearly half of the PMAA's members do not carry pollution insurance because it's either unavailable or prohibitively expensive; and

WHEREAS, according to PMAA, rural areas such as Idaho will suffer a disproportionate number of closures, to wit: 86 per cent of the stations in danger of closing are in areas with populations of less than 50,000 people and 61 per cent are in areas with less than 10,000 people.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial 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 extent of the problem of leaking underground storage tanks in the state of Idaho and what impact the new federal regulations will have on petroleum marketers located in Idaho, and what role the state has in resolving this problem and protecting the state's vital ground water.

BE IT FURTHER RESOLVED that the Committee shall report findings and recommended legislation, if any, to the Second Regular Session of the Centennial Idaho Legislature.

Adopted by the House March 13, 1989.
Adopted by the Senate March 24, 1989.

(H.C.R. No. 20)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS REGARDING WATER QUALITY PROGRAMS IN IDAHO.

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

WHEREAS, an agreement was entered into in the summer of 1988 between representatives of forest products, mining, agriculture, conservation, sportsmen and tribal interest groups which recognized that

water quality is an issue of great importance to the people of the state of Idaho; and

WHEREAS, this agreement recognizes that maintaining high quality water is fundamental to the vitality of Idaho's economy and to the citizens' way of life; and

WHEREAS, the implementation plan in the agreement contains the following key points:

There exists a number of regulatory programs, both state and federal, whose purpose is to protect water quality in Idaho.

There is a number of existing practices by the forest products, agriculture and mining industries whose purposes are to protect water quality in Idaho.

The public must be kept informed and allowed to participate in water quality planning in Idaho.

Sound scientific water quality monitoring information collected over a long period of time is essential to understanding water quality trends.

A number of state, federal, tribal and private entities are monitoring various aspects of water quality in Idaho.

There is the need for long term coordination and cooperation among state, federal, tribal and industrial water quality monitoring programs in Idaho.

Additional water quality monitoring information is needed in Idaho to render sound management and planning decision-making.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support establishment of the following:

A cooperative state, federal and private water quality monitoring program for Idaho.

Biennial basin water quality information meetings for each of Idaho's six major hydrological basins.

Enhancement of water quality monitoring programs by state and federal agencies and private interests.

A permanent water quality advisory working committee comprised of state and federal agencies and private interests including, but not limited to: The Department of Health and Welfare, the Department of Lands, the Department of Fish and Game, the Department of Water Resources, the United States Forest Service, the Bureau of Land Management, the forest industry, the minerals industry, the agriculture industry, federally recognized Indian tribes, and conservation and sport fishing interests.

Adopted by the House March 13, 1989.
Adopted by the Senate March 21, 1989.

(H.C.R. No. 21)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE INTENT 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 pay policies, together with estimated costs thereof; and

WHEREAS, the Legislature has received and reviewed the report of the Governor dated January 10, 1989, and the report of the Idaho Personnel Commission dated October 1, 1988; 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; and

WHEREAS, the Legislature intends that state employee salaries shall be based on market costs of labor and salary increases based on job performance as measured by factors such as productivity, reliability, effectiveness and the ability to achieve the goals and objectives of the particular position; and

WHEREAS, the Legislature intends that the average step placement of state employees move toward the midpoint of the compensation schedule.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial 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. Recommendation No. 2 of the Chief Executive to provide a 4.5% payline adjustment for state employees is rejected.

4. A 5% payline adjustment is granted.

   (a) The mathematical expression for the 5% payline adjustment is:
   Positions with 0 to 320 job evaluation points:
   Hourly rate = $0.030044 per point plus $2.4359
   Positions with 321 points or more:

Hourly rate = $0.014258 per point plus $7.5132.

(b) The Joint Finance-Appropriation Committee is directed to appropriate an amount not to exceed $165,400 from the General Account for Recommendation No. 1, and for the payline move, an amount not to exceed $10,743,000 of the General Account moneys.

(c) The Idaho Personnel Commission is directed to change IDAPA 28.07 to the extent that employee salary increases resulting from payline adjustments shall be related to a job performance evaluation which includes factors such as productivity, reliability, effectiveness and the ability to achieve the goals and objectives of the particular position.

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 in the same manner as for general account funded agencies.

6. The effective date of implementation of these salary adjustments shall be June 11, 1989.

BE IT FURTHER RESOLVED that appropriation measures to fund nonclassified employees be prepared as nearly as possible in the same manner as for classified employees; and

BE IT FURTHER RESOLVED that the Joint Finance-Appropriations Committee is directed to specify appropriations within the lump sum budgets of the universities dedicated to classified employee salaries as nearly as possible in the same manner as for general account funded agencies.

Adopted by the House February 28, 1989.
Adopted by the Senate March 7, 1989.

(H.C.R. No. 23)

A CONCURRENT RESOLUTION

AUTHORIZING THE SECRETARY OF STATE TO ASSIST IN PREPARING PLANS TO IMPLEMENT A PROPOSAL TO LIMIT THE NUMBER OF ELECTIONS DURING A YEAR.

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

WHEREAS, the 1989 First Regular Session of the Centennial Legislature has had under consideration a proposal in the form of H.B. 120 to limit the number of elections that could be held in any one year; and

WHEREAS, enactment of this legislation without additional

clarifying amendments and adjustments could have caused problems in the administration of the election laws; and

WHEREAS, it is the sincere position of the Idaho Legislature that the process of exercising the elective franchise should be made as easy as possible for as many citizens as possible; and

WHEREAS, one way to accomplish this desirable goal is to eliminate the need for frequent, oddly-timed, and sparsely attended elections.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Secretary of State is authorized to conduct such studies and take such actions as are necessary to produce a plan for the consolidation of most elections in a manner consistent with the scheme contained in H.B. 120, and to report such plan to the Second Regular Session of the Centennial Idaho Legislature.

Adopted by the House March 21, 1989.
Adopted by the Senate March 29, 1989.

(H.C.R. No. 25)

A CONCURRENT RESOLUTION
DESIGNATING THE PORTER PARK CAROUSEL IN REXBURG, IDAHO AS THE OFFICIAL IDAHO CENTENNIAL CAROUSEL.

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

WHEREAS, the carousel in Porter Park, owned by the City of Rexburg for thirty-six years, is the only antique wooden horse carousel in the state of Idaho; and

WHEREAS, the carousel is now undergoing a complete restoration, renovation, and mechanical reconstruction; and

WHEREAS, the finished Merry-Go-Round will feature painted panels with scenes from throughout Idaho, including the Idaho state bird, tree, flower and flag; and

WHEREAS, the completed carousel will be rededicated during the Idaho centennial festivities to be held July 3, 1990.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Porter Park carousel in Rexburg, Idaho is hereby designated as the official Idaho centennial carousel.

Adopted by the House March 13, 1989.
Adopted by the Senate March 17, 1989.

(H.C.R. No. 26)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND DESIGNATING JOE R. WILLIAMS STATE AUDITOR EMERITUS OF THE STATE OF IDAHO.

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

WHEREAS, Joe R. Williams is a native Idahoan, born and raised in Oneida County and educated in Pocatello, Boise and at the University of Idaho; and

WHEREAS, Williams served Idaho as State Auditor for more than thirty years, being elected to that position first in 1958, and consecutively thereafter for the next seven elections; and

WHEREAS, Williams held numerous positions in national organizations and received national recognition while serving as State Auditor, including service as President of the National Association of State Auditors, Comptrollers and Treasurers, Honorary President of the National Conference of State Social Security Administrators, and recipient of awards for patriotic and distinguished service from the U.S. Treasury Department; and

WHEREAS, Williams has been recognized for his interest in and service to youth, including presentation of the YMCA "Service to Youth" award, election as a P.T.A. president, and has had a lifetime of involvement in Boy Scouting in which he personally holds the rank of Eagle Scout; and

WHEREAS, Williams was always in the forefront of modernizing the accounting and financial reporting function, and introduced computerized data processing to Idaho state government almost thirty years ago; and

WHEREAS, Joe R. Williams has retired from the office of State Auditor and it is the desire of the Legislature to recognize this lifetime of service and commitment to the interests of the citizens of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that Joe R. Williams be designated as State Auditor Emeritus of the state of Idaho. On behalf of the citizens of the state of Idaho, the Legislature extends appreciation to Joe R. Williams for his service to Idaho and wishes him continued success and good fortune in his future endeavors.

Adopted by the House March 14, 1989.
Adopted by the Senate March 17, 1989.

(H.C.R. No. 27)

A CONCURRENT RESOLUTION
AUTHORIZING THE CONTINUATION OF IDAHO'S PARTICIPATION IN THE WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE.

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

WHEREAS, the state of Idaho has participated in the formation and work of the Western States Legislative Forestry Task Force; and

WHEREAS, the Western States Legislative Forestry Task Force is now a working entity, and is diligently pursuing the several subjects important to forest management of the member states; and

WHEREAS, it is to the benefit of the state of Idaho that we continue to participate in the Task Force so that the involved member states have every opportunity to foster sound forest management.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the state of Idaho continue to participate in and be a member of the Western States Legislative Forestry Task Force through the medium of a legislative delegation, which is authorized to serve for the duration of the Centennial Idaho Legislature.

BE IT FURTHER RESOLVED that the President Pro Tempore of the Senate is authorized to appoint two members of the Senate to serve as members of the Task Force, one each from the majority and minority parties, and that the Speaker of the House of Representatives is authorized to appoint two members of the House of Representatives, one each from the majority and minority parties, to serve as members of the Task Force. The appointing officers may also designate alternates. The members or alternates of the Task Force shall be entitled to compensation and allowances as provided by law for members of other legislative interim committees, to be paid from the Legislative Account.

Adopted by the House March 21, 1989.
Adopted by the Senate March 27, 1989.

(H.C.R. No. 29)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND REJECTING CERTAIN RULES OF THE BOARD OF HEALTH AND WELFARE RELATING TO INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL SYSTEMS.

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

WHEREAS, the Legislature is vested with authority to modify, reject or amend executive agency rules and regulations under the pro-

visions of Section 67-5218, Idaho Code; and

WHEREAS, it is the finding of the Legislature that certain rules of the Board of Health and Welfare, effective October 15, 1985, relating to Individual/Subsurface Sewage Disposal Systems, should be rejected; and

WHEREAS, in promulgating the rules relating to Individual/Subsurface Sewage Disposal Systems, the Board of Health and Welfare did not sufficiently identify risks related to the subject and did not receive sufficient public input regarding the content of the rules; and

WHEREAS, it appears the rules and regulations relating to Individual/Subsurface Sewage Disposal Systems are designed for areas with milder climates than certain parts of Idaho; and

WHEREAS, certain district health departments improperly interpreted the rules relating to Individual/Subsurface Sewage Disposal Systems giving the public a false sense of security that they were complying with the rules; and

WHEREAS, the Board of Health and Welfare appeared to not consider such site specific factors as climate, depth of the water table or monetary hardship when promulgating the rules for Individual/Subsurface Sewage Disposal Systems effective October 15, 1985.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that Idaho Department of Health and Welfare Rules and Regulations Chapter 3, Title 1, Rules and Regulations for Individual/Subsurface Sewage Disposal Systems (IDAPA 16.01.3001 through 16.01.3999) be and the same are hereby rejected, declared null and void and of no force and effect.

BE IT FURTHER RESOLVED that the Board of Health and Welfare is instructed to promulgate the rules and regulations relating to Individual/Subsurface Sewage Disposal Systems that were in effect prior to October 15, 1985, and those rules shall be deemed to be in full force and effect.

BE IT FURTHER RESOLVED that the Board of Health and Welfare is hereby instructed to begin procedures under the Administrative Procedures Act to promulgate rules and regulations relating to Individual/Subsurface Sewage Disposal Systems taking into account site specific factors such as climate, depth of the water table, where the systems will be installed, monetary hardships and other relevant factors.

Adopted by the House March 24, 1989.
Adopted by the Senate March 28, 1989.

(H.C.R. No. 31)

A CONCURRENT RESOLUTION

CALLING FOR A COMMITTEE TO REVIEW AND DEVELOP A COMPREHENSIVE PROGRAM TO COMPENSATE LANDOWNERS FOR DEPREDATION LOSSES CAUSED BY WILD-

LIFE.

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

WHEREAS, big game herds, particularly deer, elk, and antelope, have increased in recent years; and

WHEREAS, drought conditions throughout the state have resulted in reduced native forage productions; and

WHEREAS, the large herds, in conjunction with the drought conditions, have resulted in the herds migrating into and consuming crops in the fields and after harvest resulting in depredation losses to landowners and lessees; and

WHEREAS, the Idaho Department of Fish and Game is charged by law with the management of wildlife; and

WHEREAS, the existing mechanisms for evaluation and validation of claims of losses are inadequate and funding for compensation therefor does not exist; and

WHEREAS, the Idaho Department of Fish and Game and concerned legislators have met and agreed that a long-term approach is wise and necessary to solve these problems; and

WHEREAS, determination of a long-term solution can best be determined by negotiations and study involving knowledgeable, interested and affected persons or entities.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that a negotiation committee consisting of appointees of the Director of the Department of Agriculture and appointees of the Director of the Department of Fish and Game is authorized to meet and confer regarding the subject of wildlife depredation. The negotiation committee shall conduct public meetings, confer with knowledgeable persons in appropriate disciplines and prepare a final report to the legislative management oversight committee setting forth recommendations, solutions and a mechanism for evaluation and validation of property damage and losses caused by wildlife including, but not limited to, any necessary legislation and funding sources.

BE IT FURTHER RESOLVED that the negotiations committee is authorized to retain the Northwest Renewable Resources Center of Seattle, Washington, or other mediation team to be paid by Department of Fish and Game funds for the purpose of recommending long-term mutually agreeable solutions.

BE IT FURTHER RESOLVED that a legislative management oversight committee is hereby created to oversee the negotiation process. The legislative management oversight committee shall consist of twelve members, with six from the Senate and six from the House of Representatives. Of the six Senate members, three shall be from the majority party and three shall be from the minority party. Of the six House members, four shall be from the majority party and two shall be from the the minority party. Members of the Senate Resources and Environment and Agricultural Affairs Committees and the House of Representatives Resources and Conservation and Agricultural Affairs Committees shall be eligible for appointment to the legislative management over-

sight committee. The twelve members of the legislative management oversight committee shall be appointed by the Legislative Council.

BE IT FURTHER RESOLVED that if satisfactory conclusions are not reached and accepted by the Legislature, it is the intention of the Legislature that additional funds be appropriated to compensate parties for damages caused by wildlife from July 1, 1989, to June 30, 1990.

BE IT FURTHER RESOLVED that the legislative members of the legislative management oversight committee shall be compensated from the legislative account for salary, travel and per diem expenses.

BE IT FURTHER RESOLVED that the final report to the legislative management oversight committee shall be submitted to the Legislature not later than December 1, 1989.

BE IT FURTHER RESOLVED that the legislative management oversight committee shall submit its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Centennial Idaho Legislature.

Adopted by the House March 29. 1989.
Adopted by the Senate March 29, 1989.

SENATE JOINT MEMORIALS

(S.J.M. No. 101)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Part 2, Subtitle C of Title IV, of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) adds a new Section 1919 to the Social Security Act which substantially revises statutory provisions governing certification standards and enforcement procedures applicable to Medicaid-funded nursing homes; and

WHEREAS, when Congress passed P.L. 100-203, it apparently perceived a problem in some states where persons who were mentally ill or mentally retarded were inappropriately placed in nursing homes for reasons relating to funding; and

WHEREAS, there is absolutely no indication, finding or legislative history that this has ever been a problem in Idaho; and

WHEREAS, the new law, 42 U.S.C. 1396r, prohibits a Medicaid-certified nursing facility from admitting, after January 1, 1989, any new resident who is mentally retarded or mentally ill, or has a related condition, unless the state mental retardation/developmental disability authority has determined, prior to admission, that the individual requires the level of services provided by a nursing facility; and

WHEREAS, the Health Care Financing Administration interprets the act to require the prescreening for mental illness and mental retardation to be done on all patients, regardless of whether public moneys are supporting the patient; and

WHEREAS, the implementing guidelines established by the state of Idaho create a screening process for all patients being admitted to nursing facilities which will delay admission to the nursing facility, which could cause extra expenses to be incurred by facilities transferring patients to these facilities, and, more importantly, would cause an extreme hardship on the patient who may not receive treatment

on a timely basis; and

WHEREAS, there are very limited facilities in Idaho to provide services to the patients who are screened out of the nursing facilities as evidenced by the state institutions having few, if any, beds available and the fact that free standing, private psychiatric hospitals are not reimbursed for rendering care to state patients under the Medicaid program; and

WHEREAS, the state of Idaho is attempting to implement a program of vast proportions at the behest of Congress, without the benefit of final federal regulations and without any clear idea of how the program will be implemented, the timetable for implementation and the cost to the state, providers and the patients; and

WHEREAS, patients will continue to become ill, be admitted to hospitals, need to be discharged from hospitals in a timely manner, and many may require care rendered by a nursing facility.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that we petition Congress to repeal that section of Public Law 100-203 (42 U.S.C. 1396r) which requires prescreening for nursing home patients.

BE IT FURTHER RESOLVED that we petition Congress and the United States Department of Health and Human Services not to pass public laws nor promulgate federal regulations without first determining the fiscal impact on the states, the individual citizens of the states and the businesses and organizations for which the law or regulation is intended.

BE IT FURTHER RESOLVED that we petition Congress to determine prior to passing public laws which impact all states that the problem the public law is intended to solve is indeed existent in all states.

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, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, the Secretary of the United States Department of Health and Human Services, and the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the Senate February 9, 1989.
Adopted by the House March 27, 1989.

(S.J.M. No. 102)

A JOINT MEMORIAL

TO THE HONORABLE GEORGE BUSH, 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 First Regular Session of the Centennial Legislature, do hereby respectfully represent that:

WHEREAS, the Sixteenth Amendment to the Constitution of the United States, as evidenced by the history of its adoption, was not intended by its framers, proponents, or the ratifying states, to permit taxation by the federal government of interest income on the obligations of the state or their political subdivisions; and

WHEREAS, the court decision of South Carolina v. Baker has created pressures on tax-exempt debt issues by eroding the principle of intergovernmental tax immunity; and

WHEREAS, the Congress of the United States has of late enacted and proposed legislation which operates to tax or restrict such obligations and the income thereon and proceeds thereof; has enacted and proposed retroactive tax legislation; and has enacted or proposed legislation which limits the deductibility for federal income tax purposes of taxes paid under state laws and interest on amounts borrowed by financial institutions to purchase or carry such obligations, all to the manifest detriment of the states and their economies.

NOW, THEREFORE BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Congress of the United States should take action to propose a constitutional amendment to clarify the Sixteenth Amendment to the Constitution of the United States to provide that interest income derived from debt instruments of the several states, their political subdivisions, and instrumentalities shall not be subject to tax by the United States when issued for water, sewer, electric, streets, highways, public improvements, health care, waste disposal, schools, or other educational purposes, or for such other purposes as the legislatures of a majority of the states may find from time to time to be public purposes.

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 George Bush, president of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 6, 1989.
Adopted by the House March 23, 1989.

(S.J.M. No. 106)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, GEORGE BUSH, TO THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, WILLIAM REILLY, 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 First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Congress passed the Resources and Conservation Act of 1984 which, among other provisions, required the Environmental Protection Agency (EPA) to develop regulations to protect human health and the environment from leaking underground storage tanks (USTs) which regulations concerning USTs became effective in the fall of 1988; and

WHEREAS, the regulations require the owner of an UST to obtain tank leak insurance on the UST for financial protection in case of tank leaks; and

WHEREAS, only two insurance carriers offer such insurance, one of which has raised its premiums to a rate that is virtually unaffordable and the other carrier is financially shaky, thus making the acquisition of the required insurance coverage virtually impossible; and

WHEREAS, the regulations also require extensive testing which testing is also extremely expensive and burdensome to the independent service station owner; and

WHEREAS, a recent survey conducted by the Petroleum Marketers Association of America indicated that 15 to 20 per cent of service stations in the United States, some 26,000 service stations, which are owned by independent petroleum marketers, may be forced to close because of the extra expenses and burdens imposed by the new regulations; and

WHEREAS, according to the survey, rural areas such as Idaho will suffer a disproportionate number of closures, to wit: 86 per cent of the stations in danger of closing are in areas with populations of less than 50,000 people and 61 per cent are in areas with less than 10,000 people.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that we do hereby petition the Congress of the United States and the EPA to suspend the recently promulgated EPA regulations and that more reasonable, less burdensome rules be promulgated to ease the financial impact on the small independent service station owner and that the federal Leaking Underground Storage Tank Trust be expanded in order to assume an increased role in remedial activities.

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, George Bush, to the Administrator of the Environmental Protection Agency, William Reilly, 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 2, 1989.
Adopted by the House March 27, 1989.

(S.J.M. No. 108)

A JOINT MEMORIAL

STATING THE SENSE OF THE LEGISLATURE CONCERNING PROTECTION OF ANADROMOUS FISH IN THE COLUMBIA RIVER BASIN.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the anadromous salmon and steelhead originating in the Columbia River Basin must pass the federal Columbia River hydroelectric projects on the Columbia and Snake Rivers on their migration to and from the Pacific Ocean; and

WHEREAS, three of the dams do not have bypass facilities to steer juvenile anadromous fish away from turbine intakes, and a fourth dam has inadequate bypass facilities; and

WHEREAS, the Army Corps of Engineers, which operates the dams, has failed to provide sufficient spill to enable juvenile anadromous fish to bypass turbines on their downward migration; and

WHEREAS, the lack of bypass facilities and insufficient spill has resulted in significant mortality to salmon and steelhead in the Columbia River Basin; and

WHEREAS, the following parties recently negotiated an agreement providing for spills to reduce turbine mortality of anadromous fish at the federal Columbia River hydroelectric projects: the United States Department of Energy, acting by and through the Bonneville Power Administration; the Pacific Northwest Utilities Conference Committee, on behalf of its member utilities and industries; the United States Department of Interior; the National Marine Fisheries Service, in its own capacity and as delegate for the United States Department of Commerce; the Washington Department of Fisheries and the Washington Department of Wildlife; the Oregon Department of Fish and Wildlife; the Idaho Department of Fish and Game; the Columbia River Inter-tribal Fish Commission; the Confederated Tribes of the Warm Springs Reservation of Oregon; the Confederated Tribes of the Umatilla Indian Reservation; the Confederated Tribes and Bands of the Yakima Indian Nation; the Confederated Tribes of the Colville Reservation; and the Nez Perce Tribe of Idaho; and

WHEREAS, the agreement will substantially benefit efforts to increase the populations of the salmon and steelhead originating in the Columbia River Basin; and

WHEREAS, the Northwest Power Planning Council has initiated a process to amend the Columbia River Basin Fish and Wildlife Program to incorporate the provisions of the spill agreement, and has further endorsed the installation of mechanical bypass facilities as superior to the present method of barging migrating fish around dams.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that we endorse that action taken by the Northwest Power Planning Council to amend the Columbia

River Basin Fish and Wildlife Program to include the spill agreement and we hereby request the Northwest Power Planning Council to expedite the amendment process.

BE IT FURTHER RESOLVED that the United States Congress is hereby encouraged and urged to direct the Army Corps of Engineers, as the operator of the federal Columbia River hydroelectric projects, to implement the spill agreement and to install appropriate bypass facilities as soon as reasonably possible.

BE IT FURTHER RESOLVED that the United States Congress is hereby encouraged and urged to appropriate the funds necessary to finance expeditious construction of the bypass facilities.

Adopted by the Senate February 15, 1989.
Adopted by the House March 27, 1989.

(S.J.M. No. 109)

A JOINT MEMORIAL

TO WILLIAM REILLY, ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND TO THE SENATORS AND REPRESENTATIVES REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, an anonymous release of an unverified internal memo has led to publication in national media of accusations that aldicarb levels in potatoes may pose health threats to humans; and

WHEREAS, these news reports are based upon an untested method of risk assessment and a hypothesized computer simulation, and actually appear to be without scientific merit; and

WHEREAS, there is a history over a decade of use of aldicarb and the Food and Drug Administration's sampling of Idaho potato products has shown no detectable levels of aldicarb and absolutely no hazard to public health; and

WHEREAS, the annual value of the potato crop in Idaho is between 230 and 450 million dollars with a value in the economy, from the planting through the processing, of more than 1.5 billion dollars; and

WHEREAS, the potato is justifiably the pride of Idaho, and has been developed to meet the most discriminating tastes of the American consumer as well as assure delivery of a safe and nutritious product; and

WHEREAS, the sensationalization of a report leaked by an Environmental Protection Agency employee threatens the good reputation of this valuable product as well as the economic well being of this segment of the agricultural community.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House

of Representatives concurring therein, that we express our concern that such irresponsibility on the part of a public employee can pose the threat of irreparable damage to the economic future of the Idaho potato crop. Appropriate immediate action should be taken to review procedures followed in this case. Furthermore, the Environmental Protection Agency should undertake a comprehensive review of the testing procedures followed in this case and should assess the validity of the initial unverified results. Every effort must be made to assure the health of the consumer, the safety of the product, and the integrity of the system of product testing.

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 William Reilly, Administrator of the Environmental Protection Agency, and the Senators and Representatives representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 27, 1989.
Adopted by the House March 28, 1989.

HOUSE JOINT MEMORIALS

(H.J.M. No. 1)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE COCHAIRMEN OF THE NATIONAL ECONOMIC COMMISSION AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States Congress is seeking some effective means of reducing the federal budget deficit in the immediate future; and

WHEREAS, several proposals being considered for budget reduction purposes would increase the existing federal gasoline tax by various sizable increments; and

WHEREAS, the U.S. Department of Energy has stated that "a motor fuel tax will create an economic loss which is of far greater magnitude than the possible benefits..."; and

WHEREAS, a gasoline tax for deficit reduction would be a regressive tax affecting the poor to a greater extent than other income levels; and

WHEREAS, states would receive no direct revenue benefits, while incurring substantial increases in their public assistance costs; and

WHEREAS, residents of the south, midwest and west pay more fuel taxes because they must travel greater distances by personal vehicles than residents of other regions and therefore would bear a disproportionate burden of deficit reduction; and

WHEREAS, since there continues to exist a great need to rehabilitate and reconstruct the nation's transportation infrastructure, motor fuel taxes should continue to be dedicated to transportation purposes; and

WHEREAS, the tourism industry, one of the top three employers in eighty per cent of the states, would be adversely affected; and

WHEREAS, the gross national product, consumer price index, and employment all would be severely and negatively affected; and

WHEREAS, raising the gasoline excise tax for deficit reduction

purposes would not only undermine the highway trust fund, but would also fail to get to the root of the problem of federal spending exceeding federal income.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we petition the United States Congress to oppose the use of the federal gasoline tax to reduce the federal deficit.

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, the Secretary of the United States Department of Transportation, The President of the Senate and the Speaker of the House of Representatives of the United States Congress, the cochairmen of the National Economic Commission, and the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the House January 23, 1989.
Adopted by the Senate February 2, 1989.

(H.J.M. No. 2)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE COCHAIRMEN OF THE NATIONAL ECONOMIC COMMISSION AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, large scale rehabilitation, repair and capacity improvements are ongoing necessities of the national highway transportation system; and

WHEREAS, the highway transportation system is the most critical component of the physical infrastructure of the United States of America; and

WHEREAS, there is a growing and concentrated national consensus for a program to serve the country's highway transportation needs through the year 2020; and

WHEREAS, high quality highways are critical to the ability of manufacturers to build and deliver products, and to the ability of states and communities to attract new industry and to sustain economic growth; and

WHEREAS, the international-trade competitive positions of the nation and of the states are directly related to the quality of access

to the Interstate Highway System and related also to the physical condition of interstate and primary highways; and

WHEREAS, current national policy makes no provision for continuing the Federal-Aid Highway Program into the future; and

WHEREAS, in all recent federal-aid highway acts, Congress has had to include provisions for extending the Highway Trust Fund and the taxes which fund it.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we petition the United States Congress to make permanent the Highway Trust Fund and the user fees accruing to it, so that a reliable funding source is available for constructing, rehabilitating, and otherwise improving the highways and bridges which are so essential to the economic vigor of Idaho, and of the nation.

BE IT FURTHER RESOLVED that we petition the United States Congress to protect the Highway Trust Fund from predatory proposals to divert highway user revenues to programs entirely unrelated to the transportation purposes for which the Fund was established.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the Secretary of the United States Department of Transportation, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, the cochairmen of the National Economic Commission, and the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the House January 23, 1989.
Adopted by the Senate February 2, 1989.

(H.J.M. No. 3)

A JOINT MEMORIAL

TO THE HONORABLE PRESIDENT OF THE UNITED STATES, GEORGE BUSH, 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 First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Congress adopted and the President signed the Medicare Catastrophic Coverage Act of 1988; and

WHEREAS, the burden of financing the Act falls primarily upon the elderly citizens who are living on fixed, limited incomes; and

WHEREAS, the Act constitutes the greatest expansion of Medicare benefits in the twenty-three year history of the program, and the

costs of the expansion have yet to be fully determined; and

WHEREAS, the Act imposed increased taxes upon recipients which were described by its sponsors as a premium for insurance, but the Act in reality subverts free choice and is not an optional insurance program; and

WHEREAS, the Act greatly expands coverage with untold fiscal consequences, but fails to address the costs of long term care in nursing homes which may actually be the most catastrophic cost to the elderly; and

WHEREAS, vastly expanded services are designed to be available to only a limited number of beneficiaries, and as a consequence the Act will inevitably pressure the system to expand eligibility and coverage levels, with the result that the program will be overtaxed and significantly underfunded; and

WHEREAS, senior citizens in Idaho and the nation do not deserve to be saddled with the costs of a health care program which most of them will never qualify to use and which many have already contracted with private insurers to provide.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Congress of the United States to immediately address the issues raised by implementation of the Medicare Catastrophic Coverage Act of 1988, and substantially revise the Act to modify the impact upon individual senior citizens. If a need exists for a program of this scope, the method of funding must be reversed in order to protect the limited resources of the elderly from an unwarranted assault by the federal government. The Act was adopted amid confusion and uncertainty and the issues which have been raised since the enactment warrant thorough study and comprehensive amendment.

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, George Bush, 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 13, 1989.
Adopted by the Senate February 27, 1989.

(H.J.M. No. 4)

A JOINT MEMORIAL
TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES AND THE DIRECTOR OF THE NATIONAL PARK SERVICE.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the

Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, a battle between a band of the Northwestern Shoshone Indians and members of the California Volunteers under the command of Colonel Patrick Edward Connor, U.S. Army, Military District of Utah took place on January 29, 1863, on the Bear River about four miles northwest of the present-day Preston, Idaho; and

WHEREAS, between 250 and 300 Shoshone Indians, including men, women and children were killed or wounded at Bear River, making it one of the first, and one of the largest, Indian battles in the Trans-Mississippi West; and

WHEREAS, because the Battle of Bear River occurred during the Civil War it has been largely ignored by historians; and

WHEREAS, the Bear River-Battle Creek Monument Committee has been formed for the purpose of obtaining national recognition for the battle in the form of a national monument commemorating this historic event and the site where it took place; and

WHEREAS, during November and December, 1986, the board of county commissioners of Franklin, Caribou, Oneida, Bear Lake, and Bannock Counties of Idaho and Cache, Box Elder, and Rich Counties of Utah passed a resolution endorsing and supporting the Committee in its efforts to commemorate the Battle of Bear River and urging the state and federal governments to study the establishment of a national monument at Bear River.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that it is hereby requested that the National Park Service and all other appropriate state and national agencies study and take under advisement the establishment of a national monument at the site of the Battle of Bear River.

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 congressional delegation representing the State of Idaho in the Congress of the United States and the Director of the National Park Service.

Adopted by the House January 26, 1989.
Adopted by the Senate February 8, 1989.

(H.J.M. No. 5)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate

of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, there is need for a special category of north-south primary highways with improved alignments and additional lanes to achieve better interstate system integration, and to provide for faster, safer movement of mixed tourist and commercial truck traffic; and

WHEREAS, development of the Interstate Highway System focused primarily on east-west travel corridors and much of the north-south travel in the west still relies on key primary highways; and

WHEREAS, north-south interstate highways in the western interior states are approximately 500 miles apart; and

WHEREAS, transportation is one of the major determining factors in the location of manufacturing facilities; and the ability to ship to western states, the Pacific Rim countries and Canada is one of the keys for business and manufacturing site location in the western United States; and

WHEREAS, the Pacific Rim countries constitute a $3 trillion market that is growing at the rate of $3 billion per week, and that in the past decade, the preponderance of our nation's international trade has shifted dramatically from the Atlantic to the Pacific coast; and

WHEREAS, this shift coupled with the United States-Canada free trade agreement has resulted in a dramatic increase in the flow of commerce, migration, goods and services in the western United States; and

WHEREAS, if the State of Idaho is to position itself to move into the twenty-first century as a key player in the distribution needs of a growing economy as well as in the attraction of new business and industry to our state; a viable north-south transportation link is critical; and

WHEREAS, approved special north-south primary routes should have designated funding for construction improvement, thus enhancing the realization of state and local economic objectives as well as benefiting the national economic base; and

WHEREAS, U.S. primary highway 95 which extends from Mexico to Canada via the length of Idaho is an example of such a special primary highway category with connections to east-west interstate routes.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support federal designation and funding for improvement of key north-south highways to facilitate better connections with east-west interstate highways.

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, the Secretary of the United States Department of Transportation, 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 16, 1989.
Adopted by the Senate February 23, 1989.

(H.J.M. No. 6)

A JOINT MEMORIAL

TO THE HONORABLE PRESIDENT OF THE UNITED STATES, GEORGE BUSH, 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 First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, a well educated citizenry is crucial to a self-governing nation; and

WHEREAS, the Constitution of the United States is the fundamental document of the constitutional system of government under which we prosper; and

WHEREAS, as a society we hold the Constitution of the United States, and the governmental system established pursuant to the Constitution, in high esteem; and

WHEREAS, a thoughtful study of the Constitution is appropriate to each individual citizen and will serve as an opportunity to commit, along with our President, to "...preserve, protect and defend the Constitution of the United States"; and

WHEREAS, it is desirable that a national day of recognition be designated for the purpose of honoring the work of our nation's founders and studying the concepts embodied in their great work, the Constitution of the United States; and

WHEREAS, September 17, 1787, is the date on which the Constitution was approved by all twelve state delegations at the Constitutional Convention, and signed by 39 of the 42 delegates present.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Congress of the United States to take steps necessary to designate September 17 as a National Constitutional Commemorative Day. National activities should be established and state and local jurisdictions should be encouraged to establish activities which would serve to enhance the level of knowledge about the Constitution of the United States and appropriately honor the work of the Constitutional Convention.

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, George Bush, 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 22, 1989.
Adopted by the Senate March 8, 1989.

(H.J.M. No. 7)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE SENATORS AND REPRESENTATIVES REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Legislature of the state of Idaho finds and declares that there is a need for additional reservoir storage in the upper Snake River Basin to meet existing and future water needs during periods of drought; and

WHEREAS, the resolution of federal reserved water rights in the Snake River Basin whether through a negotiated process or through litigation will involve the acquisition of additional storage to meet existing water uses; and

WHEREAS, the Teton Dam and Reservoir Project authorized by Congress in 1964 for irrigation, flood control, power, recreation and fish and wildlife remains as a moral if not legal obligation of the federal government to the state of Idaho; and

WHEREAS, the economic feasibility of rebuilding the Teton Dam and Reservoir Project should be based on the planning criteria including the interest rate in effect at the time the project was authorized in 1964; and

WHEREAS, some of the project facilities which remain after the tragic loss of Teton Dam in June, 1976, are usable and will contribute toward the economical rebuilding of the project; and

WHEREAS, the local people strongly support the need for the Teton Dam and Reservoir Project and request that it be rebuilt at the earliest opportunity.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial 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 authorize and appropriate funds to the U.S. Bureau of Reclamation for an evaluation of the feasibility of reconstruction of the Teton Dam and Reservoir Project.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of the United States Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 2, 1989.
Adopted by the Senate March 22, 1989.

(H.J.M. No. 8)

A JOINT MEMORIAL

TO THE INTERSTATE COMMERCE COMMISSION, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Union Pacific Railroad Company has initiated proceedings with the Interstate Commerce Commission to abandon 30.8 miles of branch line known as the Teton Valley Branch in Fremont and Teton Counties, Idaho; and

WHEREAS, the abandonment of rail lines and the discontinuance of rail services is governed by federal law; and

WHEREAS, the Interstate Commerce Commission is the federal agency vested with the authority to authorize the abandonment or discontinuance of rail service; and

WHEREAS, Section 62-424, Idaho Code, vests the Idaho Public Utilities Commission with the authority to represent the people of the State of Idaho before the Interstate Commerce Commission; and

WHEREAS, the Union Pacific Railroad Company had embargoed and discontinued service on the Teton Valley Branch during 1988; and

WHEREAS, the Union Pacific Railroad Company had not participated in a state proceeding to determine whether the abandonment of this branch line would have an adverse impact upon Idaho communities and their access to vital goods and services; and

WHEREAS, the Idaho Public Utilities Commission will protest the abandonment of the Teton Valley Branch on the basis of the record developed before it at hearing in the affected area that realistic potential exists for rail shipments if the line can be preserved; and

WHEREAS, the Idaho Public Utilities Commission will therefore request that the Interstate Commerce Commission institute an investigation into the proposed abandonment.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we petition the Interstate Commerce Commission to investigate the abandonment of the Teton Valley Branch through oral hearing conducted at a location in close proximity to the affected rail line.

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 Interstate Commerce Commission, 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 21, 1989.
Adopted by the Senate February 27, 1989.

(H.J.M. No. 9)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Congress enacted the Commercial Motor Vehicle Safety Act of 1986 to establish minimum standards for state testing and licensing of commercial motor vehicle drivers and to require certain information to be shown on commercial drivers' licenses; and

WHEREAS, the vehicles affected are defined by the act as those vehicles certified by the manufacturer to be over 26,000 pounds gross vehicle weight; and

WHEREAS, approximately 40,000 highway maintenance trucks operated by local government entities come under the provisions of the Commercial Motor Vehicle Safety Act of 1986; and

WHEREAS, drivers of local highway, road and street maintenance trucks are trained employees and are committed to the integrity of organizational discipline; and

WHEREAS, local-entity highway maintenance vehicle drivers operate only within city and county boundaries and normally during periods of lowest daily traffic volumes, thus presenting limited exposure in predominantly low-speed areas; and

WHEREAS, the described maintenance vehicles are in the lower range of gross weights in excess of 26,000 pounds, have a satisfactory safety record, and are not involved in hauling for commerce.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we petition the United States Congress to exempt local-entity highway maintenance vehicle drivers from the requirements of the Commercial Motor Vehicle Safety Act of 1986.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of the United States Department of Transportation, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the House March 14, 1989.
Adopted by the Senate March 23, 1989.

(H.J.M. No. 11)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the American citizens, in the western United States as well as the eastern United States, are equal partners in the democratic process; and

WHEREAS, with the advent of the eastern-based news media's early evening election projections, voters in the western United States have been taken for granted in presidential elections; and

WHEREAS, early projections, made when polls in the western states are still open, create the impression that western voters have no role to play in the selection of our president; and

WHEREAS, it is therefore time to restore the electorate of the western states to its rightful place in the political process.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature does petition the 101st Congress to reconsider legislation, introduced in its last session, to mandate that all polls in the continental United States close at the same time, 9:00 p.m. Eastern Standard Time, according to the following schedule: 9:00 p.m. Eastern Standard Time, 8:00 p.m. Central Standard Time, 7:00 p.m. Mountain Standard Time and 7:00 p.m. in the Pacific Time Zone, according to Daylight Saving Time.

BE IT FURTHER RESOLVED, in order to accomplish this closing time schedule, that Daylight Saving Time would be extended for two weeks in the Pacific time zone in presidential election years.

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 20, 1989.
Adopted by the Senate March 24, 1989.

(H.J.M. No. 13)

A JOINT MEMORIAL

TO THE HONORABLE PRESIDENT OF THE UNITED STATES, GEORGE BUSH; THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CON-

GRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES AND TO THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, WILLIAM REILLY.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the state of Idaho is large and diverse in area and generally not densely populated; and

WHEREAS, the problems regarding solid waste facing Idaho and other intermountain western states are much different than the problems regarding solid waste facing more highly urbanized states; and

WHEREAS, regulations dictated for solid waste management practices by the final adoption of 40 CFR Parts 257 and 258 Solid Waste Disposal Facility Criteria referred to as Subtitle D regulations will severely impact our state; and

WHEREAS, Idaho has not experienced major problems because of past solid waste management practices; and

WHEREAS, the costs of implementing the final adoption of Subtitle D regulations will severely impact our limited population by placing substantial financial burden on our citizens.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commend the Environmental Protection Agency for this significant step in providing a solution to the potential pollution problems that can occur with landfills and that we request the Environmental Protection Agency to develop Subtitle D regulations that provide for consideration of site-specific conditions that warrant exemptions.

BE IT FURTHER RESOLVED that we request the Congress of the United States to support the efforts of the Environmental Protection Agency by appropriating the funds necessary to implement the final adoption of Subtitle D.

BE IT FURTHER RESOLVED that the Legislature of the State of Idaho requests that the Environmental Protection Agency consider and incorporate recommendations, that will be forthcoming from Idaho, into the Subtitle D 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 honorable President of the United States, George Bush, 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 and to the Administrator of the Environmental Protection Agency, William Reilly.

Adopted by the House March 22, 1989.
Adopted by the Senate March 28, 1989.

(H.J.M. No. 14)

A JOINT MEMORIAL

TO THE HONORABLE PRESIDENT OF THE UNITED STATES, GEORGE BUSH, THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND THE SENATORS AND REPRESENTATIVES REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Idaho National Engineering Laboratory (INEL), a Department of Energy facility, is sited over the Snake River aquifer which is the sole source of domestic and irrigation water for thousands of Idaho's residents and a major tributary to the Snake River; and

WHEREAS, over 4.3 million cubic feet of transuranic waste is currently held in above ground storage or buried in shallow trenches; and

WHEREAS, some of these wastes were not stored or buried in a manner meeting current requirements; and

WHEREAS, officials of the Department of Energy have agreed to commit substantial resources to accelerate the cleanup process.

NOW, THEREFORE, BE IT RESOLVED by the First Regular Session of the Centennial Legislature, the House of Representatives and the Senate concurring therein, that we commend the Department of Energy for this significant step in providing a solution to the waste storage problem.

BE IT FURTHER RESOLVED that we request the Congress of the United States to support the efforts of the Department of Energy by appropriating the funds necessary for the cleanup of the nuclear and toxic waste improperly stored or buried at the INEL site, for the safe transportation of these materials from the state of Idaho and/or for the storage of these materials in a facility designed for that purpose.

BE IT FURTHER RESOLVED that there should be a continuation of full, open debate about the political, economic, and environmental questions of future projects, of waste disposal, and the possible impact of these projects upon the irreplaceable natural resource of the Snake River aquifer.

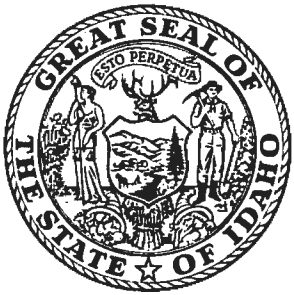
BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the honorable President of the United States, George Bush, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 27, 1989.
Adopted by the Senate March 28, 1989.

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 Centennial Legislature of the State of Idaho, First Regular Session thereof, which convened January 9, 1989, and which adjourned March 29, 1989, 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 28th day of April, 1989.

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. 88-2

RETAINING THE FUNCTIONS OF THE ENERGY RESOURCES BUREAU WITHIN THE DEPARTMENT OF WATER RESOURCES, REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-29

WHEREAS, energy and the availability of long-range supplies are critical to the well-being of our state; and

WHEREAS, energy is as vital a natural resource as our water and land and is inextricably linked to our vital water resources; and

WHEREAS, it is further the responsibility of state government to employ measures to reduce wasteful, uneconomical, and unnecessary uses of energy which will diminish Idaho's precious natural resources; and

WHEREAS, we must plan realistically, conserve our current energy resources, and develop new energy sources to assure a strong, healthy, and growing economy; and

WHEREAS, Executive Order No. 81-12 transferred the functions of the Idaho Office of Energy to the Idaho Department of Water Resources and subsequent Executive Orders have retained that function in the Department, the most current being Executive Order No. 85-29; and

WHEREAS, the consolidation of governmental activities relating to water resources and energy has provided for more efficient state services;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by Article IV, Section 5, of the Idaho Constitution and Section 42-1706, Idaho Code, (1977); and Section 67-802, Idaho Code, (1980); do hereby renew Executive Order No. 85-29 and retain the energy planning, policy, and coordination functions within the Idaho Department of Water Resources (hereinafter referred to as the Department).

SECTION 1. TRANSFER AND RETENTION OF FUNCTIONS.

The Department, being authorized to accept and retain pursuant to Section 42-1706, Idaho Code, (1977); Section 42-1734A (1), Idaho Code, (Suppl 1983); Section 42-1805, Idaho Code, (1977); H.C. Res 48, Policy No. 13, 44 Leg. 2nd Sess. (1978), 1978 Idaho Session Laws 1003, and as otherwise provided by law, is vested with the following energy planning, policy, and coordination functions:

(a) Provide advice to the Governor, the Legislature, and other public officials relating to the state's energy requirements, supply, resources, management, and production.

(b) Prepare and, as necessary, implement contingency plans for the conservation and allocation of non-state-regulated energy supplies during periods of shortages and supply interruptions.

(c) Promote energy conservation through research, public information, and other activities.

(d) Promote the increased utilization of renewable energy resources through research, technical assistance, and public information.

(e) Assist local governments, school districts, and public institutions in obtaining funds and carrying out programs of improved energy management.

(f) Assist citizens in developing energy-efficient technologies.

(g) Provide public information and data on energy supplies, demands, resources, technologies, and conservation.

(h) Pursue and accept federal delegation of responsibility and authority for matters that affect the energy supply and consumption of the citizens of Idaho.

(i) Make contracts and enter into agreements and do all other things necessary to carry out the provisions of this Executive Order and in the performance of other duties as may be directed by the Governor.

(j) Serve as the lead state agency to solicit, receive, and disburse any funds which promote the conservation of energy and the development of energy resources from all available sources.

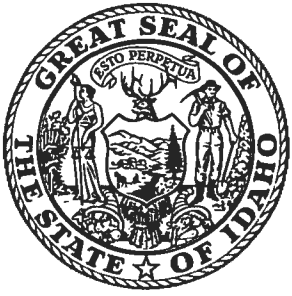
(k) Coordinate and develop state plans and activities affecting energy resources by state agencies. The Department may require reports of other executive agencies of energy plans and consumption.

SECTION 2. SAVINGS PROVISION.

(1) All orders, regulations, contracts, and licenses which have been issued in the performance of functions which are retained under this Executive Order, and which are in effect at the time this Executive Order takes effect, shall continue in effect according to their terms until modified or terminated.

(2) Whenever the Idaho Office of Energy or the Director thereof is referred to in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, the same shall be considered to mean the Department or the Director of the Department of Water Resources.

This Executive Order repeals and replaces Executive Order No. 85-29.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-seventh day of May, in the year of our Lord nineteen hundred eighty-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

EXECUTIVE ORDER NO. 88-3

CONTINUATION OF AN IDAHO IMAGE ANALYSIS FACILITY AT THE DEPARTMENT OF WATER RESOURCES, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-9

WHEREAS, as the result of past activity by the Department of Water Resources, the image analysis capability to effectively utilize remote sensing and geographically referenced data has been established in Idaho; and

WHEREAS, it is in the interest of the State of Idaho that this capability be shared and further developed in cooperation with federal resource management agencies, local government, and private organizations for conducting needed resource inventory and mapping; and

WHEREAS, it is essential that a lead state agency be designated to insure the proper coordination, maintenance, and support of the image analysis and geographic information system capability and to provide for its effective use by various users;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by Section 5, Article 4, of the Idaho Constitution and Section 67-802 of the Idaho Code, do hereby designate the Idaho Department of Water Resources to continue to be the state agency responsible for the Idaho Image Analysis Facility. The Department will:

1. Provide the necessary coordination and technical support;
2. Generally promote the operational applications of digital image analysis and geographic information systems;
3. Provide system management support to insure the proper operation and availability of digital image analysis for applications by various users;
4. Provide technical assistance, in the form of consultation and training, to allow and encourage application of digital image analysis techniques and equipment by employees of other agencies and organizations;
5. Cooperate with, receive, and expend funds from other sources for the continued development and utilization of image analysis geographic information techniques; and
6. Maintain an assessment of the Image Analysis Facility capabilities needed within Idaho by existing and potential users, to cooperate with the Idaho universities and other research institutions for the development and implementation of improved capabilities resulting from research activities.

This Executive Order repeals and replaces Executive Order No. 86-9.

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 twenty-seventh day of May, 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

EXECUTIVE ORDER NO. 88-4

CONTINUING PROVISIONS FOR THE NECESSARY AND APPROPRIATE STATE COORDINATION AND PARTICIPATION WITH THE FEDERAL INSURANCE ADMINISTRATION UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968, AS AMENDED, AND RULES AND REGULATIONS PROMULGATED THEREUNDER, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-10

WHEREAS, uneconomic uses of the state's floodplains are occurring and potential flood losses are increasing despite substantial efforts to control floods; and

WHEREAS, national, state, and local studies of areas and property subject to flooding indicate a further increase in flood damage potential and flood losses, even with continuing investment in flood protection structures; and

WHEREAS, the State of Idaho has continuing programs for the construction of buildings, roads, and other facilities and annually acquires and disposes of lands in flood hazard areas--all of which activities significantly influence patterns of commercial, residential, and industrial development; and

WHEREAS, the availability of flood insurance under the National Flood Insurance Program, as provided by the National Flood Insurance Act of 1968, as amended, is dependent upon state coordination of federal, state, and local aspects of floodplain, mudslide (i.e., mudflow) area, and flood-related erosion area management activities in the state; and

WHEREAS, the Department of Water Resources is the state agency responsible for assisting with local regulations necessary for flood insurance provided by the National Flood Insurance Act of 1968 under the Idaho Code, Title 67, Sec. 1911 through 1917; and

WHEREAS, the Federal Insurance Administration has promulgated and adopted rules and regulations governing eligibility of state and local communities to participate in the National Flood Insurance Program, which participation depends on state coordination and the designation of an agency in the State of Idaho to be responsible for coordinating federal, state, and local aspects of floodplain, mudslide (i.e., mudflow) area, and flood-related erosion area management activities in the State of Idaho;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the authority vested in me, do hereby order as

follows:

SECTION 1. The Department of Water Resources is hereby designated as the agency to assist in the implementation of Section 1910.12, Rules and Regulations of the Federal Insurance Administration, and will encourage a broad and unified effort to prevent uneconomic uses and development of the state's floodplains and, in particular, to lessen the risk of flood losses in connection with state lands and installation and state-financed or supported improvement; specifically,

(1) Under the leadership and direction of the Department of Administration, all state agencies directly responsible for the construction of buildings, structures, roads, or other facilities shall preclude the uneconomic, hazardous, or unnecessary use of floodplains in connection with such facilities. In the event of construction in the floodplain, management criteria set forth in Sections 1910.3, 1910.4, and 1910.5 of the National Flood Insurance Regulations shall apply as applicable. Flood-proofing measures shall be applied to existing facilities in order to reduce flood damage potential.

(2) All state agencies responsible for the administration of grant or loan programs, involving the construction of buildings, structures, roads, or other facilities shall evaluate flood hazards in connection with such facilities and, in order to minimize the exposure of facilities to potential flood damage and the need for future state expenditures for flood protection and flood disaster relief, shall preclude the uneconomic, hazardous, or unnecessary use of floodplains in such connection.

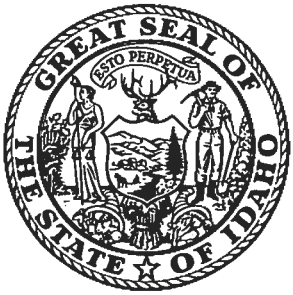
(3) All state agencies responsible for the disposal of lands or properties shall evaluate flood hazards in connection with lands or properties proposed for disposal to other public instrumentalities or private interests and, in order to minimize future state expenditures for flood protection and flood disaster relief, shall notify those instrumentalities and private interests that such hazards exist.

(4) All state agencies responsible for programs which affect land use planning, including state permit programs, shall take flood hazards into account when evaluating plans and shall encourage land use appropriate to the degree of hazard involved.

(5) In evaluating flood hazard potential, all state agencies shall coordinate their work with the Department of Water Resources to assure that the most up-to-date data and/or methods of analysis are utilized.

SECTION 2. As may be permitted by law, the head of each state agency shall issue appropriate rules and regulations to govern the carrying out of the provisions of Section 1 of this order by his agency to be coordinated with the Department of Administration.

SECTION 3. This Executive Order repeals and replaces Executive Order No. 86-10.



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 twenty-seventh day of May, 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

EXECUTIVE ORDER NO. 88-5

CONTINUATION OF THE RISK MANAGEMENT ADVISORY COMMITTEE REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-30

WHEREAS, the State of Idaho has found it necessary to purchase casualty and property insurance to properly protect state-owned property and to cover exposures of the state where potential risk of loss exists; and

WHEREAS, the cost of said insurance has increased substantially during the past several years; and

WHEREAS, Chapter 57, Title 67, of the Idaho Code has designated the Division of Insurance Management, Department of Administration, as the state agency responsible for the administration of state insurance programs of all kinds; and

WHEREAS, it is desirable that the state receive professional advice on the management of risks and the administration and procurement of insurance;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by Section 5, Article 4, of the Idaho Constitution and Section 67-802 of the Idaho Code, do hereby continue the "Risk Management Advisory Committee" to act in an advisory capacity to the Department of Administration in the areas of risk and insurance management for the State of Idaho.

SECTION 1. COMPOSITION OF THE COMMITTEE.

The Risk Management Advisory Committee shall consist of three (3) members appointed by the Governor. Members shall serve for a term of 2 years. Committee members shall serve without remuneration but shall receive their actual expenses of travel and lodging to meetings and be reimbursed for meals as allowed by Idaho laws and regulations.

Committee members will be selected from private industry or the general public and must have insurance experience that will be valuable to the Committee. To maintain the integrity of the Committee, Committee members may not be associated with or employed by any insur-

ance company, insurance agency, or consulting firms providing insurance or risk management consulting services to the State of Idaho.

The Director of the Department of Administration, or his designee, shall serve as chairman of the Risk Management Advisory Committee. The Department of Administration shall provide a secretary to record all actions taken by the Committee. The chairman will not have a vote in the decisions of the Committee except in the event of a tie vote.

The Committee may not meet and transact business without a quorum present. A quorum shall be two members and the chairman.

SECTION 2. COMMITTEE SUBJECT TO STATE RULES.

The Risk Management Advisory Committee shall be subject to all laws, rules, and regulations of the State of Idaho. Minutes shall be kept of all Committee meetings and will be available for public inspection after approval by the Committee.

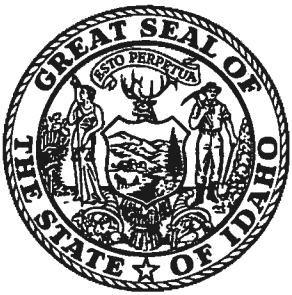
SECTION 3. COMMITTEE RESPONSIBILITIES.

The Risk Management Advisory Committee shall be responsible for advising the state on risk management and insurance matters. Duties of the Committee shall include but are not limited to:

A. Review and advise on safety and loss prevention programs;
B. Review and advise on risk exposures;
C. Review and advise on risk handling programs;
D. Review and advise on insurance specifications, insurance proposals from companies and/or agents, and the procurement of insurance;
E. Review and advise on self-insurance programs; and
F. Review and advise on dealings with insurance companies and insurance agents.

The Risk Management Advisory Committee shall be advisory in nature only, and the advice of the Committee shall be given all due accord. The ultimate responsibility for risk management shall remain with the Administrator of the Division of Insurance Management and with the Department of Administration as provided by law.

This Executive Order repeals and replaces Executive Order No. 85-30.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-seventh day of May, 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

EXECUTIVE ORDER NO. 88-6

DESIGNATING THE IDAHO TRANSPORTATION DEPARTMENT AND ITS DIRECTOR AS THE RECIPIENT OF FEDERAL GRANTS FOR LOCAL RAIL SERVICE ASSISTANCE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-6

WHEREAS, the United States Department of Transportation, through the Federal Railroad Administrator, under (1) sections 5(f) through 5(o) of the Department of Transportation Act, as amended, [49 U.S.C. 1654 (f) through (o)]; (2) sections 106 (b) and 110 of the Local Rail Service Assistance Act of 1978 (Pub. L. 95-607); and (3) 49 CFR Parts 265 and 266, is authorized to provide rail service assistance funds to states in order to develop, promote, supervise, and support safe, adequate, and efficient rail transportation services; and

WHEREAS, such aid has been offered to Idaho; and

WHEREAS, section 5 (j) (2) of the Act [49 U.S.C. 1654 (j) (2)] requires that an agency of the State of Idaho be designated the authority and administrative jurisdiction to receive and expend such financial assistance;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by Section 5, Article 4, of the Idaho Constitution and Section 67-802 of the Idaho Code, do hereby designate the Idaho Transportation Department and its Director to receive and expend monies from the Federal Railroad Administrator for Local Rail Service Assistance for planning and projects, as provided under the applicable Federal Statutes.

This Executive Order repeals and replaces Executive Order No. 86-6.

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 twenty-seventh day of May, 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

EXECUTIVE ORDER NO. 88-7

CONTINUATION OF KEEP IDAHO GREEN EXECUTIVE COMMITTEE REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-12

WHEREAS, the Governor's KEEP IDAHO GREEN Executive Committee was established in the Executive Office of the Governor in 1946 at the request of the Idaho Jaycees; and

WHEREAS, there continues to be a vital need to protect Idaho's vast renewable natural resources from wildfire; and

WHEREAS, it is in the best interest of all Idaho citizens to protect our state's scenic splendor and economic base from man-caused wildfire; and

WHEREAS, concerned volunteers have worked over the years to combine the resources of state, federal, and private interests to keep wildfire prevention in the minds of all who experience Idaho's out-of-doors;

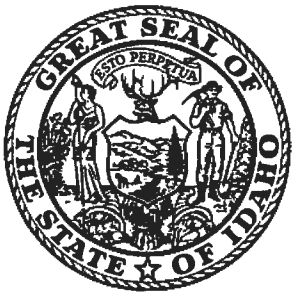
NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me, do hereby order the continuation of the Governor's KEEP IDAHO GREEN Executive Committee.

The Committee shall consist of members appointed by the Governor who represent state, federal, and private interests as well as volunteer groups.

The Committee shall direct and approve an annual wildfire prevention campaign to be carried out by the KEEP IDAHO GREEN Director and employees of the Idaho Department of Lands.

The Committee shall meet at least once a year with additional meetings at the discretion of the Director.

This Executive Order repeals and replaces Executive Order No. 86-12.



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 twenty-seventh day of May, 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

EXECUTIVE ORDER NO. 88-8

CONTINUING THE CORRECTIONAL INDUSTRIES ADVISORY BOARD REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-31

WHEREAS, there exists a Board of Correction responsible for the

operation of correctional industries shops within the prison facility; and

WHEREAS, the Correctional Industries, under the Board of Correction above, is required by Idaho Code 20-408 to exercise the duties enumerated therein; and

WHEREAS, the exercise of such duties often requires technical expertise in such areas as marketing, equipment acquisition, production methods, profit margins, and the like; and

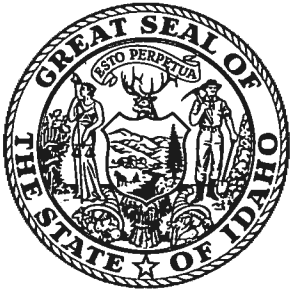
WHEREAS, the members of the Board of Correction are not necessarily familiar with the operation of industrial enterprises nor do they necessarily have the required technical expertise in such areas as marketing, equipment acquisition, production methods, profit margins, and the like; and

WHEREAS, The creation of an advisory board composed of volunteers from the private sector of our economy has helped provide the required technical expertise and improve the profitability of the state's prison industries program;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law, do hereby continue the Correctional Industries Advisory Board for the purpose of providing technical expertise to the Board of Correction or any successor organizations charged with the responsibilities contained in Idaho Code 20-408 in such areas as marketing, business operation, finance, production, and livestock operation or in other such areas as might be helpful in the area of correctional industries.

The Board shall consist of five (5) members appointed by the Governor from the private sector of the Idaho economy. The term shall be two years. The Governor shall further designate the Chairman of the Advisory Board.

This Executive Order repeals and replaces Executive Order No. 85-31.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-seventh day of May, in the year of our Lord nineteen hundred eighty-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

EXECUTIVE ORDER NO. 88-9

CONTINUATION OF THE DESIGNATION OF THE IDAHO TRANSPORTATION DEPARTMENT AND ITS DIRECTOR AS THE RECIPIENT OF FEDERAL FUNDS FOR PUBLIC TRANSPORTATION, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-13

WHEREAS, the federal government, under authority granted by the Urban Mass Transportation Act, as amended, is authorized to provide financial assistance to states to improve public transportation; and

WHEREAS, such aid has been offered to Idaho; and

WHEREAS, it is necessary that an agency of the State of Idaho be designated and authorized to receive and expend such financial assistance;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by Section 5, Article 4, of the Idaho Constitution and Section 67-802 of the Idaho Code, do hereby continue the designation of the Idaho Transportation Department and its Director to receive and expend monies from the federal government for public transportation assistance as provided under the applicable federal statutes.

This Executive Order repeals and replaces Executive Order No. 86-13.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-seventh day of May, in the year of our Lord nineteen hundred eighty-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

EXECUTIVE ORDER NO. 88-10

CONTINUING THE GOVERNOR'S EDUCATION CONSOLIDATION AND IMPROVEMENT ACT ADVISORY COUNCIL, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-4

WHEREAS, the Education Consolidation and Improvement Act of 1981 required that an advisory council be established by the Governor to advise the Idaho Department of Education; and

WHEREAS, the apportionment of reduced federal funding is particu-

larly crucial to Idaho's school districts; and

WHEREAS, the choices among program opportunities for retained state level funds are many--within the context of federal funding reductions; and

WHEREAS, excellence in our public school system can be enhanced by the fair allocation of funds and program selection targeted to the most critical need of our students; and

WHEREAS, it is in the best interests of all Idaho residents that this Council be broadly representative of concerned educators and citizens statewide;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law do hereby continue the Governor's Education Consolidation and Improvement Act Advisory Council.

The duties of the Council shall include:

1. Active and continuing consultation with the Superintendent of Public Instruction and the Department of Education regarding the planning, development, support, implementation, and evaluation of state programs assisted under Chapter 2 of the Federal Consolidation and Improvement Act of 1981;
2. Advising the Superintendent of Public Instruction on the allocation of funds reserved for state use from Idaho's Chapter 2 allotment (not to exceed 20 percent of the state allotment);
3. Advising the Superintendent of Public Instruction on the formula for allocation to local education agencies of Idaho's Chapter 2 allotment;
4. Ensuring that there is timely public availability of the Council's comments on allocation proposals before the state application and subsequent annual amendments are submitted to the Secretary of Education;
5. Providing comments to be included in the annual evaluation of the effectiveness of programs assisted by these funds, beginning with federal fiscal year 1984; and
6. Reporting to the Governor on the implementation of this program.

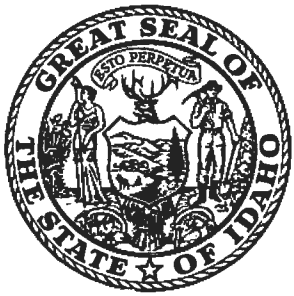
The Council shall be limited to no more than 15 members appointed by the Governor who will serve three-year terms. A chairman shall be appointed annually by the Governor.

The Council members will include persons representative of:

1. public and private elementary and secondary schoolchildren,
2. classroom teachers,
3. parents of elementary and secondary schoolchildren,
4. local boards of education,
5. local school administrators,
6. institutes of higher education, and
7. the Idaho Legislature.

Council members will be compensated for travel and expenses. The Council will hold meetings as needed to accomplish its duties.

This Executive Order repeals and Replaces Executive Order No. 86-4.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-seventh day of May, in the year of our Lord nineteen hundred eighty-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

EXECUTIVE ORDER NO. 88-11

CONTINUATION OF THE IDAHO COMMISSION FOR CHILDREN AND YOUTH AND THE OFFICE FOR CHILDREN AND YOUTH, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-14

WHEREAS, parent training and support services to families promotes infant and toddler development, reduces child abuse and neglect, and provides assistance to parents in choosing quality day care; and

WHEREAS, quality preschool programs reduce the number of juveniles who need special education, drop out of school, or come into conflict with the law; and

WHEREAS, children and youth have the right to an environment that promotes positive mental health and protects them from physical and sexual abuse or neglect; and

WHEREAS, over 20,000 children and youth in the State of Idaho are having problems with substance abuse, and 60 percent of child abuse can be attributed to alcohol; and

WHEREAS, prevention and early rehabilitation and diversion programs can have a major impact on reducing the numbers of children and youth coming into conflict with the law; and

WHEREAS, the State of Idaho must continue to offer our children and youth who come into conflict with the law opportunities to reevaluate their conduct and its impact on their future; and

WHEREAS, services for children and youth in Idaho are fragmented and unevenly distributed; and

WHEREAS, the continuation and enhancement of children and youth service programs requires community involvement and a focus reflecting the experience and values of Idaho; and

WHEREAS, the continuation and enhancement of children and youth service programs is in the best interest of all Idahoans;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law do hereby continue the

Idaho Commission for Children and Youth and the Office for Children and Youth within the Office of the Governor.

The Commission's responsibilities will be:

1. To be informed about children and youth programs throughout the state and advise the Governor regarding their operation;
2. To advise the Governor on problems, policies, and programs relating to children and youth who are now or may in the future come into conflict with the law.
3. To provide an advocacy function in promoting legislation pertaining to services and laws affecting children and youth;
4. To mediate among service providers as a third party in areas of disagreement;
5. To encourage inter-agency cooperation and coordination on the state and local levels and help to eliminate duplication of services where appropriate;
6. To provide guidance in the development and implementation of improved policies for children and youth in the state; e.g., judicial, health, education, employment, rehabilitation, recreation, and social services;
7. To carry out all responsibilities required by the Juvenile Justice and Delinquency Prevention Act (P.L. 93-415), as amended, including distribution, monitoring, and evaluation of federal grant funds made available to the State of Idaho under this Act, and including the preparation and administration of the state plan submitted under Section 223 or P.L. 93-415, as amended;
8. To oversee and evaluate such activities and events as may be deemed necessary by the Governor;
9. To represent the Governor at national and state functions regarding children and youth; and
10. To present to the Governor on June 30 of each year a report on the Commission's achievements and impact on youth service programs and policies.

The Commission will be composed of not less than 15 or more than 33 members appointed by the Governor according to the following guidelines.

The membership shall include:

1. Locally-elected officials;
2. One-third who are under age 24 when appointed, including three who are or have been under jurisdiction of the juvenile justice system; and
3. No more than ten members who are full-time employees of federal, state, or local government.

The Commission membership may be drawn from representatives of:

-- local law enforcement, probation, and corrections agencies
-- juvenile or family court judges
-- delinquency prevention or treatment agencies--public, private, and community based
-- groups serving neglected or dependent children
-- organizations concerned with the quality of juvenile justice, education, and social services
-- business groups and businesses employing youth

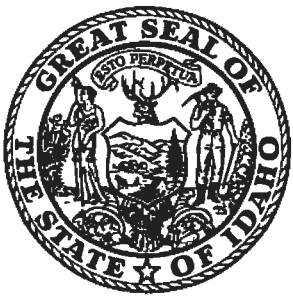
-- youth involved in any youth programs
-- persons with special experience in the area of learning disabilities
-- organizations representing the law enforcement, social work, education, and other related professions
-- early childhood development groups

Commission members will serve a term of three years or at the pleasure of the Governor. The Governor will appoint a chairman and vice-chairman, whose terms will be one year. The Commission may establish an executive committee and subcommittees at its discretion.

The Office for Children and Youth will be headed by an administrator appointed by the Governor. The position of the administrator will be exempt from the provisions of Chapter 53, Title 67, Idaho Code, and the administrator will be responsible fore hiring and supervising the support staff who shall be classified as "limited service employees."

The office for Children and Youth shall assist the Idaho Commission for Children and Youth in carrying out its responsibilities. The Office shall report to the Governor or such persons as he might designate any and all information he might request.

This Executive Order repeals and replaces Executive Order No. 86-14.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-seventh day of May, 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

EXECUTIVE ORDER NO. 88-12

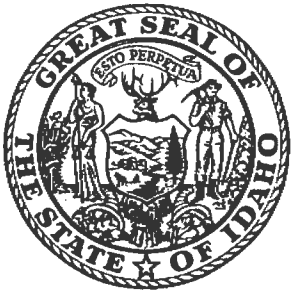
CONTINUATION OF THE PROHIBITION OF THE USE OF STATE FUNDS TO PAY FOR PROFESSIONAL DUES, FEES AND MEMBERSHIPS IN PROFESSIONAL ASSOCIATIONS REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-25

WHEREAS, recognizing that there is need for a uniform state policy in regard to the payment of professional dues, fees, and memberships for state employees, I find it is essential to continue the policy for all state employees in the Executive Department which was initiated through Executive Order No. 81-11.

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby declare the following policy to be continued:

No state money shall be used to pay for any kind of professional, occupational, or trade license, certificate, permit, or occupational registration for any state employee or officer; nor shall any state monies be used to pay for any kind of dues to any professional, occupational, or trade association in which membership is restricted to persons who are licensed, certified, or registered under Idaho law. This policy does not preclude the state or state departments from paying dues to organizations relating to their responsibilities in state government.

This Executive Order repeals and replaces Executive Order No. 85-25.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-fourth day of June, 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

EXECUTIVE ORDER NO. 88-13

CONTINUATION OF THE IDAHO COUNCIL FOR PURCHASES FROM SEVERELY DISABLED PEOPLE REPEALING AND REPLACING EXECUTIVE ORDER NO. 85-24

WHEREAS, it is in the public interest to promote employment opportunities for severely disabled people; and

WHEREAS, the rehabilitation facilities of Idaho strive to provide employment opportunities for severely disabled people; and

WHEREAS, the Idaho Code provides for the purchase of goods and services by the agencies of the State of Idaho which are produced by severely disabled people employed by rehabilitation facilities;

NOW, THEREFORE, I, 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 order the continuation of the Idaho Council for Purchases from Severely Disabled People.

The Council's responsibilities will continue to be:

1. To promote the purchase by state agencies of goods and ser-

vices produced by severely disabled people in rehabilitation facilities under the auspices of Section 67-2319, Idaho Code;

2. To conduct monitoring and study of the implementation of the purchasing program authorized by said Section 67-2319;
3. To designate a central nonprofit organization to coordinate the participation of rehabilitation facilities in the Idaho purchasing program and develop procedures for such participation:
4. To advise the Division of Purchasing on the development and operation of a program to purchase products and services from severely disabled people in rehabilitation facilities; and
5. To provide an annual report of activities, products, services, employment opportunities, and other benefits derived from this program.

The Governor shall appoint the Council Chairperson and members of the Council who shall serve at the pleasure of the Governor. Council members shall be selected from rehabilitation facilities, the Division of Purchasing, the private sector, a labor organization, the Division of Vocational Rehabilitation, and the Division of Community Rehabilitation.

The Council shall be administratively supported by the Division of Vocational Rehabilitation.

This Executive Order repeals and replaces Executive Order No. 85-24.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-fourth day of June, 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

EXECUTIVE ORDER NO. 88-14

RENEWING THE GOVERNOR'S COMMISSION ON ALCOHOL-DRUG ABUSE, TRANSFERRING THE COMMISSION TO THE DEPARTMENT OF HEALTH AND WELFARE AND REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-21

WHEREAS, the Governor's Commission on Alcohol Awareness and Training was created in December 1983 to review existing education, train-

ing, and rehabilitation programs in the alcohol abuse field, to assist in the coordination of these programs, and to make recommendations for the implementation of programs where needed; and

WHEREAS, the abuse of all drugs, including alcohol, has been on the rise and has become a problem of concern to all citizens throughout the state and nation; and

WHEREAS, alcohol and drug abuse rank first among major health problems in the United States and impact one of two Idaho citizens in a life-altering manner; and

WHEREAS, the State of Idaho recognizes the need for a concerted and sustained effort to develop and support comprehensive and coordinated programs for all citizens in the prevention, recognition, and treatment of alcohol-drug abuse and dependency and to provide professionals and concerned citizens from all disciplines with educational and training opportunities on alcohol-drug abuse and dependence; and

WHEREAS, prevention, early intervention, and diversion efforts have a major impact on reducing the number of children and youth with alcohol-drug problems; and intervention, treatment, and diversion programs have a major impact on reducing the numbers of alcohol-drug related traffic accidents, domestic violence, and criminal offenses; and

WHEREAS, the continuation and enhancement of alcohol-drug prevention, intervention, and treatment requires wise usage of limited resources and community involvement if we are to insure statewide access to alcohol-drug services; and

WHEREAS, the Alcoholism and Intoxication Treatment Act requires the establishment of statewide and regional interdepartmental coordinating committees;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by Article IV of the Idaho Constitution and Section 67-802 Idaho Code, do hereby renew the Governor's Commission on Alcohol-Drug Abuse and transfer the administrative direction of the commission from the Department of Law Enforcement to the Department of Health and Welfare.

The Commission shall be organized in such a way as to meet the membership and functional requirements for the statewide interdepartmental coordinating committee as defined in the Alcoholism and Intoxication Treatment Act.

The Commission shall consist of a chairman and such members as may be appointed by the Governor. The Commission members shall serve at the pleasure of the Governor for terms of three years. Commission members shall serve without compensation but may be reimbursed for related travel and expenses. The Commission shall have an Advisory Board comprised of such members as appointed by the Governor and who shall serve at the pleasure of the Governor for three years.

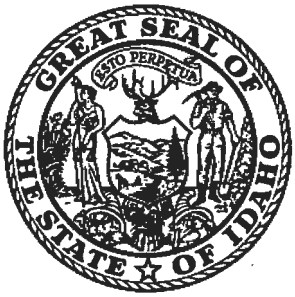
The commission's advisory responsibilities shall be:

1. Through education and public awareness, impact conditions leading to the abuse of alcohol and drugs;
2. To be informed about alcohol-drug programs and services throughout the state and advise the Governor regarding alternatives and solutions;
3. To provide advocacy functions in cooperation with public and

private providers in the promotion of legislation pertaining to programs and services related to alcohol-drug issues;

4. To encourage inter-agency cooperation and coordination in the effort to eliminate fragmentation and duplication of services;
5. To provide recommendations in the development and implementation of new or improved services or programs related to alcohol-drug issues or problems;
6. Under the administrative direction of the Department of Health and Welfare, apply for, accept, receive, disburse, expend, and carry out all responsibilities required -- including monitoring and evaluation -- of federal, state, or private moneys made available to the Commission, to accomplish -- in whole or in part -- any of the purposes of the Commission;
7. To provide advice and consultation in the development and implementation of improved policies for alcohol-drug programs or services in the state, including judicial, education, employment, rehabilitiation, social services, medical, treatment, familial, and economic matters;
8. To perform and evaluate such activities and events as may be deemed necessary by the Governor;
9. To represent the Governor at national, state, and private functions regarding alcohol-drug related issues; and
10. To present to the Governor on July 15 of each year a report on the Commissions's achievements and impact on alcohol-drug services, programs, and policies.

This Executive Order repeals and replaces Executive Order No. 86-21.



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 twenty-fourth day of June, 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

EXECUTIVE ORDER NO. 88-15

REVISING THE GOVERNOR'S MOTOR CARRIER ADVISORY COMMITTEE REPEALING AND REPLACING EXECUTIVE ORDER NO. 87-7

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 revise and continue 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

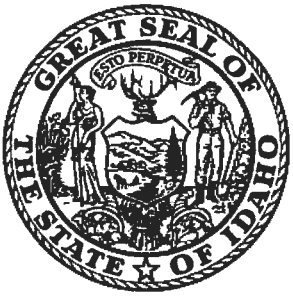
The committee shall consist of members from the following areas of interest: long haul, heavy haul, short haul, wood products, logging, contracting, agriculture, truck and trailer manufacturing, tankers, concrete and aggregates, private carriers, transcontinental interstate common carriers, and others 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: four (4) members to serve one-year terms, four (4) members to serve two-year terms, and four (4) 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.

This Executive Order repeals and replaces Executive Order No. 87-7.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-fourth day of June, 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

EXECUTIVE ORDER NO. 88-16

RENAMING THE IDAHO MAPPING ADVISORY COMMITTEE TO THE IDAHO GEOGRAPHIC INFORMATION ADVISORY COMMITTEE REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-7

WHEREAS, it is in the interest of the State of Idaho, federal resource management agencies, local government, and private organizations to professionally respond to the growing resources management problems in the state; and

WHEREAS, various geographic information activities -- such as remote sensing, digital cartography, and geographic information systems -- are basic to sound resource management; therefore, it is necessary to minimize duplication and maximize utilization of state and federal funds expended on these activities; and

WHEREAS, it is important to officially, efficiently, and accurately communicate to the federal government Idaho's geographic information priorities; and

WHEREAS, the state's geographic information community has an increasing need to keep abreast of the rapidly changing technology in mapping and related disciplines; and

WHEREAS, it is important to provide for channels of communication and cooperation among agencies of the State of Idaho, federal resource management agencies, local government, and private organizations;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby officially charter the Idaho Geographic Information Advisory Committee, formerly the Idaho Mapping Advisory Committee, to carry out the following duties and responsibilities:

1. Review new geographic information mapping and remote sensing technology applications which can be directed to the state's

interest;

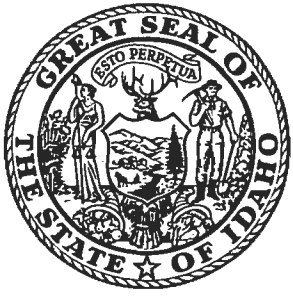
2. Make recommendations to state and federal agencies regarding geographic information systems, mapping programs, and remote sensing specifications;
3. Assist in the preparation of requests to pertinent federal agencies as a part of the diversified national mapping program;
4. Meet on at least an annual basis to review geographic information programs carried on by federal and state agencies and private industry, develop a list of priorities with regard thereto, and make recommendations with regard to possibilities for cooperation and resource sharing; and
5. Submit an annual report to the Governor of the Committee's activities subsequent to the annual meeting.

Membership of the Idaho Geographic Information Advisory Committee will be made up of Department Directors or their designees. Voting representatives will be from Idaho's natural resource and planning agencies having geographic information interests. Ex-officio members will include the pertinent federal agencies operating in Idaho, Idaho industry associations, and key academic institutions in the state with geographic information expertise.

Voting membership in the Idaho Geographic Information Advisory Committee will consist of the Department of Lands, the Idaho Transportation Department, the Department of Water Resources, the Division of Financial Management, the Department of Fish and Game, and the Department of Parks and Recreation. The Idaho Geographic Information Advisory Committee may vote to add to the state voting membership if other state agencies have a need and interest in participating in the Committee. Such additions shall be approved by the Governor. The Idaho Geographic Information Advisory Committee will appoint standing committees to address current geographic information issues.

The Governor shall annually appoint the Chairman of the Idaho Geographic Information Advisory Committee.

This Executive Order repeals and replaces Executive Order No. 86-7.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-second day of June, 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

EXECUTIVE ORDER NO. 88-17

CONTINUATION AND RENAMING THE GOVERNOR'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED TO THE GOVERNOR'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-20

WHEREAS, it is in the public interest to promote employment opportunities for all citizens; and

WHEREAS, the skills and abilities of individuals with disabilities are a valuable human resource; and

WHEREAS, individuals with disabilities have a strong desire to secure employment; and

WHEREAS, it has been shown that individuals with disabilities -- given an opportunity -- are valuable, productive, dedicated, and skilled employees; and

WHEREAS, individuals with disabilities experience significant difficulties in securing employment;

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 order that the Governor's Committee on Employment of the Handicapped be continued and be renamed to be the Governor's Committee on Employment of People with Disabilities.

The Committee's responsibilities will be:

1. To promote increased employment opportunities for individuals with disabilities,
2. To publicize the economic and social benefits of hiring and retaining people with disabilities,
3. To organize and support local community "Employment of People with Disabilities" committees in their efforts to encourage employment of the disabled.
4. To formally recognize outstanding contributions which increase employment opportunities, and
5. To coordinate special programs to eliminate barriers which preclude equal consideration for employment.

The Governor shall appoint the Committee Chairperson and members of the Committee to serve for rotating terms of two years. Committee members shall be selected from representatives of labor, business, disabled individuals or groups that represent the disabled, veterans' organizations, and state and local agencies providing services for people with disabilities.

The Civil Rights/Affirmative Action Officer from the Idaho Department of Employment shall serve as Executive Director of the Committee.

This Executive Order repeals and replaces Executive Order No. 86-20.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-seventh day of June, 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

EXECUTIVE ORDER NO. 88-18

REMOVAL OF JUVENILES FROM ADULT JAILS IN IDAHO

WHEREAS, the detention of juveniles in adult jails is contrary to the best interests of the citizens of Idaho; and

WHEREAS, Idaho confines approximately 2,000 juveniles in adult jails each year; and

WHEREAS, juveniles in adult jails may be exposed to and influenced by adult offenders incarcerated in the same facility; and

WHEREAS, juveniles held in adult jails have a suicide rate significantly higher than those held in juvenile detention facilities; and

WHEREAS, the nature of offenses committed by juveniles may not warrant their incarceration with adults; and

WHEREAS, most jails in Idaho are overcrowded and should be reserved for adult offenders; and

WHEREAS, many youth who are jailed can be better served by programs and facilities designed for their protection and treatment; and

WHEREAS, Idaho participates in The Juvenile Justice and Delinquency Prevention Act of 1974, as amended, under which the removal of juveniles from adult jails is required by December 8, 1988;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order the following.

1. All officials of departments and agencies of the Executive Branch of state government are directed to take the necessary measures within their authority to work toward achieving the removal of juveniles from adult jails by December 8, 1988.
2. All members of the Judicial Branch and local units of government are strongly encouraged to adopt the policy of removing juveniles from adult facilities.
3. The Commission for Children and Youth shall be responsible for coordinating the directives and implementation of this Executive Order.

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 July, in the year of our Lord nineteen hundred eighty-eight, and of the Independence of the United States of America the two hundred thirteenth, and of the Statehood of Idaho the ninety-ninth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 88-19

ENERGY CONSERVATION CONSIDERATIONS INCLUDED IN STATE BUILDINGS REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-5

WHEREAS, the efficient use of energy is of prime importance to the economic and energy well-being of the State of Idaho; and

WHEREAS, the State of Idaho uses, in its owned and leased buildings, a considerable portion of the state's energy demand; and

WHEREAS, the state government's ability to control energy use in leased facilities has been minimal, particularly after signing a lease; and

WHEREAS, it is imperative that the state government of Idaho set an example of energy efficiency for owners and operators of public and private buildings;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby continue the order that all state building designs and lease agreements will include energy conservation considerations including:

- those outlined in the publication entitled Energy Conscious Design for New Idaho State Buildings;
- Chapter 53 of the Uniform Building Code, 1985 Edition;
- use of alternative energy sources such as solar, geothermal, and cogeneration;
- energy management systems and controls to include effective means to monitor and maintain systems at optimal operations; and
- current "state-of-the-art" systems and equipment to economically conserve energy.

FURTHER, I order that all lease agreements be reviewed in draft form for compliance with these objectives. All parties are to be notified in any such negotiations that failure to comply with these objectives may be sufficient grounds for voiding the lease agreement. I further order that the signing of such agreements include a statement of accountability to the intent of this order so that compliance will be a part of the lease-drafting procedure rather than a source of conflict after a contract has been signed. I further direct the attention

of all persons and agencies in all branches of state and local government to the spirit of this order. Consideration of long-term energy costs, including seasonal and peaking demands upon the suppliers of energy, should become a major consideration in construction of all state buildings and lease agreements.

This Executive Order repeals and replaces Executive Order No. 86-5.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-fifth day of July, in the year of our Lord nineteen hundred eighty-eight, and of the Independence of the United States of America the two hundred thirteenth, and of the Statehood of Idaho the ninety-ninth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 88-20

ESTABLISHING THE GOVERNOR'S TASK FORCE FOR CHILDREN AT RISK

WHEREAS, Idaho's children are her most valuable and most vulnerable resource; and

WHEREAS, the crimes of abuse and neglect can psychologically and physically cripple and maim innocent children for life, depriving them of their right to live happy and productive lives; and

WHEREAS, several thousand reports of child abuse and neglect are filed each year in Idaho, with these numbers increasing annually; and

WHEREAS, the system which responds to reports of child abuse and neglect requires more effective statewide coordination, continual improvement, and consistent monitoring in order to better protect children; and

WHEREAS, in order to protect all children, those who commit crimes against children need to be held more appropriately and consistently accountable for their actions; and

WHEREAS, the child victims of abuse and neglect must receive immediate and adequate protection from continued maltreatment; and

WHEREAS, all child victims of abuse and neglect deserve psychological treatment and necessary medical attention; and

WHEREAS, it is the responsibility of all Idahoans to provide a system of support and protection for these children and to ensure that crimes against them are dealt with appropriately; and

WHEREAS, the protection of children from abuse and neglect is in the best interests of all Idahoans;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law do hereby establish the Governor's Task Force for Children at Risk.

The Task Force's responsibilities will be:

1. To work in cooperation with appropriate state and local entities to establish the statewide coordination of an effective, multiagency system of investigation of all reports of child abuse and neglect, including the creation of a written system of protocol for all such investigations conducted in the state;
2. To work toward the goal of criminal prosecution of all substantiated cases of criminal abuse and/or neglect;
3. To monitor the disposition of all criminal cases of child abuse and neglect filed throughout the State of Idaho;
4. To work toward the goal of ensuring necessary and effective psychological treatment for all abused and neglected children;
5. To be informed about effective programs and systems in place throughout the country in order that Idaho may be among the nation's leaders in the field of child protection;
6. To provide an advocacy function in promoting legislation pertaining to services and laws affecting abused and neglected children; and
7. To report to the Governor on June 30 of each year, or at any other time deemed necessary by either the Governor or the Task Force, and to provide to the Governor a written report on June 30 of each year on the Task Force's work and its impact on children.

The Task Force will be composed of not less than 12 nor more than 15 members appointed by the Governor according to the following guidelines.

The membership shall include:

1. A District Court Judge
2. A Magistrate Judge
3. A Prosecuting Attorney
4. At least one representative of the Division of Family and Children's Services in the Department of Health and Welfare
5. A law enforcement investigator specializing in child abuse cases
6. A representative of the Department of Corrections' Probation and Parole Division
7. A public defender
8. A pediatrician
9. A representative of a children's advocacy group
10. A mental health counselor specializing in therapy for abused children
11. A parent or parent group representative
12. Individuals experienced in working with children with handicaps

Members shall serve at the pleasure of the Governor. The Governor

will appoint a chairperson.

The Department of Health and Welfare shall be the lead agency and shall maintain office staff to carry out the activities directed by the Task Force as funding is available.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the thirteenth day of September, in the year of our Lord nineteen hundred eighty-eight, and of the Independence of the United States of America the two hundred thirteenth, and of the Statehood of Idaho the ninety-ninth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 88-21

ESTABLISHING THE FEDERAL DEFENSE TASK FORCE OF IDAHO

WHEREAS, the military and defense installations in Idaho have become critical to the security of our nation and to the economic health of our state; and

WHEREAS, the State of Idaho, the directors of the installations, and civic leaders in the affected communities can be of assistance in the development and enhancement of these facilities; and

WHEREAS, an official task force can bring these officials and leaders together and provide prompt and needed assistance to Mountain Home Air Force Base, the Idaho National Guard, the Idaho National Engineering Laboratory, and the research and development arms of our institutions of higher learning;

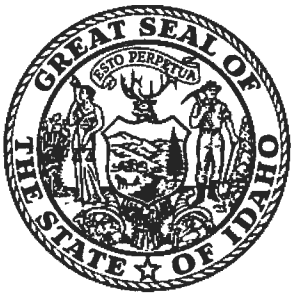
NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, pursuant to the authority vested in me as Governor under the Constitution and laws of the State of Idaho, do hereby order as follows:

1. There is hereby created The Federal Defense Task Force of Idaho within the Office of the Governor. The Task Force shall consist of the following persons:
   The Adjutant General of the Idaho National Guard or his designee; the General Manager of the INEL or his designee; a person intimately familiar with Mountain Home Air Force Base; a member of the Idaho Legislature from a district containing one of the federal installations; and the chairman of the Committee of Fifty of the Military Affairs Committee of the

Mountain Home Chamber of Commerce. In addition to these five members, the Governor shall appoint five other members representing various business, military, and educational segments of the state as the Governor deems appropriate.

2. The Task Force shall:
Serve for indeterminate terms at the pleasure of the Governor.
Meet periodically at times set by the members to determine ways in which the Task Force can enhance the posture, reputation, and readiness of all military components within the State of Idaho, which include Mountain Home Air Force Base, the Idaho National Guard, the Idaho National Engineering Laboratory, and the research and development capabilities of our institutions of higher learning.
Agree severally on the actions to be taken by the Task Force.
Report to the Governor or to his appointed staff member at appropriate intervals on the activities of the Task Force.

3. All state agencies and institutions are hereby directed to cooperate with and assist the Task Force as it carries out its duties under this Order.



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-eight, and of the Independence of the United States of America the two hundred thirteenth, and of the Statehood of Idaho the ninety-ninth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 88-22

DISPOSAL IN IDAHO OF WASTES DESIGNATED AS HAZARDOUS IN THE STATE WHERE GENERATED

WHEREAS, the State of Idaho is committed to proper management of hazardous and solid wastes and interstate cooperation; and

WHEREAS, a waste not regulated as a hazardous waste in Idaho may be regulated as a hazardous waste by another generating state; and

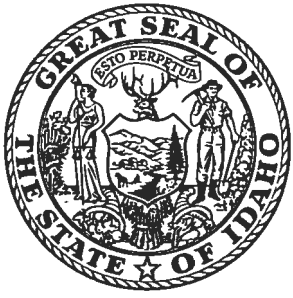
WHEREAS, existing solid waste landfills in Idaho have not been designed to safely handle large quantities of wastes regulated by other states as hazardous wastes; and

WHEREAS, a waste regulated as a hazardous waste by a generating state may pose a substantial threat to human health or to the environment if disposed in Idaho solid waste landfills; and

WHEREAS, disposal of such wastes in Idaho's solid waste landfills could cause immense cleanup liabilities;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the authority vested in me by law, prescribe the following policy:

> Any waste entering Idaho shall be subject to hazardous waste management requirements if such waste is regulated as a hazardous waste by the Environmental Protection Agency, the State of Idaho, or the state where the waste was generated.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-third day of September, in the year of our Lord nineteen hundred eighty-eight, and of the Independence of the United States of America the two hundred thirteenth, and of the Statehood of Idaho the ninety-ninth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 88-23

ANTIDEGRADATION POLICY-IMPLEMENTATION, WATER QUALITY ADVISORY WORKING COMMITTEE, AND ASSIGNMENT OF FUNCTIONS TO STATE AGENCIES

WHEREAS, water quality is of paramount importance to the environment, economy, and unique quality of life in Idaho; and

WHEREAS, the degradation, maintenance, or improvement of water quality is an issue of vital public concern; and

WHEREAS, the coordination and enhancement of existing water quality monitoring activities by federal, industrial, state, and Indian tribal entities is desirable and necessary to understand the impact of land management practices and water quality trends and to render valid water quality planning, regulation, and management; and

WHEREAS, the open participation and input of the public--including but not limited to conservation, industry, recreational, and Indian tribal interests--in the process of water quality planning is desirable and necessary to fairly address and resolve competing water quality interests; and

WHEREAS, representatives of agriculture, conservation, forest

products, mining, and Indian tribal interests have negotiated an "AGREEMENT TO IMPLEMENT AN ANTIDEGRADATION POLICY FOR THE STATE OF IDAHO" (attached hereto), henceforth referred to as the "Agreement," which sets out an approach and framework to achieve coordination and enhancement of water quality monitoring and full intergovernmental coordination and public participation in the process of water quality planning, regulation, and management;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this state, order the antidegradation policy of this state and implement said policy by creation of a Water Quality Advisory Working Committee and assignment of responsibilities to state agencies as follows:

I. ANTIDEGRADATION POLICY

The antidegradation policy of the State of Idaho shall be as follows:

A. Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

B. Where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish, wildlife, and recreation in and on the water, that quality shall be maintained and protected unless the state finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the state's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the state shall assure water quality adequate to protect existing uses fully. Further, the state shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

C. Where high quality waters constitute an outstanding national resource, such as waters of national and state parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

II. IMPLEMENTATION OF THE ANTIDEGRADATION POLICY

The Agreement as negotiated by representatives of agriculture, conservation, forest products, mining, and Indian tribal interests sets out an approach and framework for a cooperative state, federal, Indian tribal, industry, and public participation process to implement the antidegradation policy. Implementation is to occur by appropriate statutes, regulations, interagency agreements, and agency policies. The Agreement shall provide guidance in carrying out the following:

A. Establishment of a Water Quality Advisory Working

Committee

A Water Quality Advisory Working Committee is hereby established to review, coordinate, and facilitate the implementation of the antidegradation policy. The Working Committee shall consist of a chairperson as may be designated by the Governor, representatives from each of the following groups including but not limited to the Idaho Department of Health and Welfare, the Idaho Department of Lands, the Idaho Department of Fish and Game, the Idaho Department of Water Resources, the State Soil Conservation Commission, the United States Forest Service, the United States Bureau of Land Management, the Environmental Protection Agency, the United States Geological Survey, and representatives of agriculture, conservation, forest products, sportsmen, and mining interests as may be appointed by the Governor and who shall serve at his pleasure. Indian tribes shall nominate a representative for the Working Committee to the Governor for appointment to the Committee. Members shall serve without state compensation except such normal compensation received by members who are state employees serving in the normal course and scope of their employment. The Water Quality Advisory Working Committee shall be provided necessary staffing by the Idaho Department of Health and Welfare.

1. The Working Committee shall:
   a. Provide guidance to the various agencies charged with implementation of the antidegradation policy consistent with the Agreement;
   b. Review and approve draft Basin Area Reports and designate, by consensus, stream segments of concern;
   c. Provide guidance and assistance to the Idaho Department of Health and Welfare in the development and coordination of a statewide water quality monitoring program; and
   d. Examine and evaluate the Agreement and the implementation of the antidegradation policy and report findings to the Governor three years from the effective date of this Order.

B. Assignment of Agency Functions

1. The Idaho Department of Health and Welfare shall:
   a. Formulate and recommend, through the director in accordance with Idaho Code, Section 39-105(1), to the Board of Health and Welfare such rules and regulations as may be necessary to:
      i. Establish a process for holding six geographical Basin Area Meetings to be held biennially to facilitate public discussion of nonpoint sources of water

pollution, implementation of the antidegradation policy and water quality issues;

ii. Establish procedures by which the Board of Health and Welfare may consider outstanding resource waters such as waters of national and state parks, wildlife refuges and waters of exceptional recreational or ecological significance for recommendation to the Legislature.

iii. Fully maintain and protect the water quality of waters designated by the Legislature as outstanding resource waters.

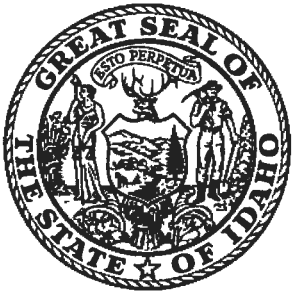
b. Be the lead state agency in developing a water quality monitoring program by coordinating existing state, federal, tribal, and private monitoring and creating a complete statewide water quality data system.

2. The Idaho Department of Lands shall:

a. Be the lead state agency in implementing the antidegradation policy for surface mining and dredge and placer mining; and

b. Be the lead state agency in implementing the antidegradation policy for forestry practices.

3. The State Soil Conservation Commission shall be the lead state agency for coordinating the implementation of the antidegradation policy for agricultural practices through the soil conservation districts.



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 fourteenth day of November, in the year of our Lord nineteen hundred eighty-eight, and of the Independence of the United States of America the two hundred thirteenth, and of the Statehood of Idaho the ninety-ninth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

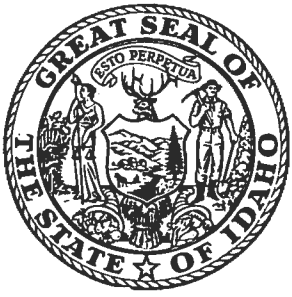
EXECUTIVE ORDER NO. 88-24

DESIGNATING THE DEPARTMENT OF AGRICULTURE AND ITS DIRECTOR AS HEAD AGENCY TO PROVIDE FOR CONSULTATION, COOPERATION, AND COORDINATION WITH THE PARTIES INVOLVED IN MATTERS RELATING TO ALLOTMENT MANAGEMENT ON PUBLIC LANDS

WHEREAS, Section 8 of the Public Rangelands Improvement Act of 1978 (P.L. 95-514; 92 Stat. 1803) provides, among other things, for consultation, cooperation, and coordination with any state having lands within areas to be covered by allotment management plans; and

WHEREAS, at present there is no statewide structure that exists to coordinate and implement the congressional intent of the aforesaid Act;

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 designate the Idaho Department of Agriculture and its Director as the lead agency to provide for consultation, cooperation, and coordination with the parties involved in matters relating to the development, implementation, and revision of allotment management plans; and to receive and expend such monies as are available for that purpose. Further, I do hereby direct all state agencies to cooperate fully with and provide assistance to the Department of Agriculture and its Director in carrying out the responsibilities under this Order.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the sixteenth day of November, in the year of our Lord nineteen hundred eighty-eight, and of the Independence of the United States of America the two hundred thirteenth, and of the Statehood of Idaho the ninety-ninth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 88-25

ASSIGNING TO THE DEPARTMENT OF EMPLOYMENT THE GENERAL RESPONSIBILITY FOR IMPLEMENTATION AND ADMINISTRATION OF THE JOB TRAINING PARTNERSHIP ACT, THE ECONOMIC DISLOCATION AND WORKER ADJUSTMENT ASSISTANCE ACT, AND THE WORKER READJUSTMENT AND RETRAINING NOTIFICATION ACT; RENAMING

THE STATE JOB TRAINING COORDINATING COUNCIL; AND
REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-29

WHEREAS, the Congress of the United States passed the Job Training Partnership Act of 1982 for the purpose of establishing programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment who are in special need of such training in order to obtain productive employment; and

WHEREAS, Congress passed the Economic Dislocation and Worker Adjustment Assistance Act of 1988 to amend Title III of the Job Training Partnership Act for the purpose of establishing programs to retrain dislocated workers; and

WHEREAS, Congress passed the Worker Readjustment and Retraining Notification Act of 1988 for the purpose of requiring employers to give sixty-days notice before a plant closing or mass layoff; and

WHEREAS, these three Acts charge the Governor with substantial responsibilities for implementing their provisions;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this state, do hereby order the following:

1. Except for specific responsibilities that have been assigned to other state agencies, the Department of Employment shall continue to have general responsibility for statewide implementation and administration of the employment and training system under the Job Training Partnership Act of 1982, as amended by the Economic Dislocation and Worker Adjustment Assistance Act of 1988 and the Worker Readjustment and Retraining Notification Act.
2. The State Job Training Coordinating Council will be reconstituted in accordance with the amendments to section 122 (a) (3) of the Job Training Partnership Act and will be renamed the Idaho Job Training Council.
3. And, further, as prescribed by the amendments, the members of the Council shall be appointed by the Governor as follows:
   a. Thirty (30) percent of the membership of the Council shall be representatives of business and industry, including representatives of business and industry from private industry councils in the state and from agriculture.
   b. Thirty (30) percent of the membership of the Council shall be representatives of the State Legislature and of public agencies and organizations which the Governor determines to have a direct interest in employment and training and human resource utilization within the state.
   c. Thirty (30) percent of the membership of the Council shall be representatives of organized labor and representatives of community-based organizations.
   d. Ten (10) percent of the membership of the Council shall be representatives of the eligible population and of the

general public.

4. The Director of the Department of Employment shall have the responsibility to provide professional, technical, administrative, and other staff to support the activities of the Council.
5. In accordance with section 311 (b) (2) of the Economic Dislocation and Worker Adjustment Assistance Act, the Department of Employment will include a dislocated worker unit with the capacity to respond rapidly to business closures and substantial layoffs.
6. In accordance with section 3 (a) (2) of the Worker Readjustment and Retraining Notification Act, the Department of Employment's Dislocated Worker unit will be the state entity designated to receive written notice of plant closings or mass layoffs as directed by the Act.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-fifth day of November, in the year of our Lord nineteen hundred eighty-eight, and of the Independence of the United States of America the two hundred thirteenth, and of the Statehood of Idaho the ninety-ninth.

/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
Com = Commission
Bd = Board
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7 U.S.C. 1, et seq.	Referred to	Ch.414 - 1008
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APPENDIX

IDAHO STATE OFFICIAL DIRECTORY

ELECTED OFFICIALS

CONGRESSIONAL

UNITED STATES SENATORS
Senator James A. McClure (R)
Senator Steven D. Symms (R)

REPRESENTATIVES IN CONGRESS
Larry E. Craig (R), First District
Richard Stallings (D), Second District

Mailing Address: 304 N. 8th
Boise, ID 83702

STATE 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), Retired 2-28-89
J. D. Williams (D), Appointed 3-1-89

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

Karen Cooke (D), Senate 1st Term
P.O. Box 358, Priest River 83856
Home 437-4980 Bus. 448-2709/448-1221
Legal Assist/Office Manager Husband-Thomas
Health/Welfare, Local Government/Taxation
Resources/Environment

Tim Tucker (D), House Seat A 4th Term
K.V. Ranch, HCR 60, Box 227, Porthill 83853
Home 267-2977 Bus. 267-5198
Farmer Wife-Ellen
Agricultural Affairs, Appropriations (JFAC)

Jim Stoicheff (D), House Seat B 9th Term
615 Lakeview, Sandpoint 83864
Home 263-2375 Bus. 263-3020
Retired Teacher Wife-Jerry
MINORITY LEADER
Local Government, Resources/Conservation
State Affairs, Ways/Means

2-KOOTENAI COUNTY

Mary Lou Reed (D), Senate Seat A 3rd Term
10 Giesa Road, Coeur d'Alene 83814
Phones 664-3564 & 664-1813
Husband-Scott
Education, Resources/Environment
State Affairs

John C. Stocks (D), Senate Seat B 1st Term
P.O. Box 192, Coeur d'Alene 83814
Home 765-3116 Bus. 664-8718
Consultant Wife-Connie Hutchison
Health/Welfare, Human Resources
Judiciary/Rules

Freeman B. Duncan (R), House Seat A 1st Term
P.O. Box 2124, Coeur d'Alene 83814
Home 773-7279 Bus. 667-5461
Attorney Wife-Diane
Education, Local Government

D. Deen Haegenson (R), House Seat B 4th Term
P.O. Box 340, Coeur d'Alene 83814
Home 664-6873 Bus. 667-2456
General Contractor
CHAIRMAN-Resources/Conservation
State Affairs, Transportation/Defense

Hilda Kellogg (R), House Seat C 4th Term
P.O. Box 1479, Post Falls 83854
Business Woman Home 773-5412
CHAIRMAN - Local Government
Business, State Affairs

Ron Viaselmeyer (R), House Seat D 1st Term
4050 Sky Harbor Drive, Coeur d'Alene 83814
Marriage/Family Crisis Counselor Wife-Kate
Home 667-8910 Bus. 765-2407
Agricultural Affairs
Commerce, Industry/Tourism

3-BENEWAH & SHOSHONE COUNTIES

Marti Calabretta (D), Senate 3rd Term
Nuchols Gulch Box 784, Osburn 83849
Home 752-6371 Husband-Bennie
Sports Facility Manager/Artisan
Health/Welfare, Resources/Environment
State Affairs

Louis J. Horvath, Jr. (D), House Seat A 7th Term
Box 888, Pinehurst 83850
Home 682-2587
Educator, Kellogg HS Wife-Joyce
Health/Welfare, Revenue/Taxation
Commerce, Industry/Tourism

Dorothy McCann (D), House Seat B 7th Term
(Served 3 terms House/Senate, 1973-78)
HC 1, Box 260, Wallace 83873
Retired Home 682-3080
Judiciary, Rules/Administration
State Affairs, Transportation/Defense

4-BENEWAH, BONNER, BOUNDARY, KOOTENAI & SHOSHONE COUNTIES

Mike Blackbird (D), Senate 2nd Term
1606 Fairmont Loop, Coeur d'Alene 83814
Home 765-9198 Bus. (509) 456-7771
Salesman Wife-Florence
Health/Welfare, Transportation

Marvin G. Vandenberg (D), House Seat A 1st Term
(Served 4 Terms House 1951-59)
6090 Sunrise Terrace Coeur d'Alene 83814
Retired Home 772-2184 Wife-Irene
Business, Environmental Affairs, State Affairs

Eugene "Gino" L. White, (D), House Seat B 2nd Term
P.O. Box 37, Cataldo 83810 682-2531
Farm Hand Wife-Sandra "Sem"
Business, Education, Local Government

5-LATAH COUNTY

Don Mackin (D), Senate 2nd Term
P.O. Box 9762, Moscow 83843 Home 882-5280
Property Management/CPA Bus 882-6280
Commerce/Labor, Human Resources
Local Government

James R. "Doc" Lucas DVM (R), House Seat A 5th Term
4231 Highway 95 South, Moscow 83843 882-7374
Veterinarian - Retired Wife-Vi
Appropriations (JFAC), Resources/Conservation

Tom Boyd (R), House Seat B 7th 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. Sweeney (D), Senate 4th Term
(Served 2 terms House, 1970-74)
Box 604, Lewiston 83501
Home 743-9148 Bus. 743-2534
Land Development/Construction Wife-Merilyn
MINORITY LEADER
Education, State Affairs, Transportation

Larry R. Vincent (D), House Seat A 2nd Term
Route 1, Box 72D, Culdesac 83524 843-7212
Farmer Wife-Betty
Agricultural Affairs
Commerce, Industry/Tourism, Education

Deanna Vickers (D), House Seat B 2nd 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 4th Term
(Served 2 terms House, 1979-82)
704 Floyd Ave., Orofino 83544 476-4136
Husband-G. Bruce
Commerce/Labor, Finance (JFAC)
Human Resources

Carl P. Braun (D), House Seat A 8th Term
400 Braun Road, Orofino 83544 476-5655
Rural Carrier (Retired) - Farmer Wife-Gladys
Business, State Affairs
Transportation/Defense

Harold W Reid (D), House Seat B 15th Term
Route 2, Box 31, Craigmont 83523 837-2514
Agriculture Wife-Louise
Agricultural Affairs, Revenue/Taxation

8-CLEARWATER, IDAHO, LATAH, LEWIS & NEZ PERCE COUNTIES

Ron Beitelspacher (D), Senate 6th Term
P.O. Box 415, Grangeville 83530 983-2535
Lineman - Outfitter
Finance (JFAC), Transportation
Resources/Environment

Richard L. Adams (D), House Seat A 5th Term
H.C. 67, Box 28, Grangeville 83530
Home 983-0185 Bus. 926-4511
Teacher Wife-Karen
MINORITY CAUCUS CHAIRMAN
Appropriations (JFAC), Transportation/Defense
Ways/Means

Claud Judd (D), House Seat B 5 1/2th Term
(Served 2 terms Senate, 1975-78)
4265 Hwy 11, Orofino 83544 435-4360
Retired Wife-Elvita
Agricultural Affairs,
Commerce, Industry/Tourism, Revenue/Taxation

9-ADAMS, BOISE, GEM & VALLEY COUNTIES

Norris J. Hyde (R), Senate 2nd Term
P.O. Box 730, Emmett 83617 Home 365-5521
Veterinarian Bus. 365-3206
VICE-CHAIRMAN - Commerce/Labor
Agricultural Affairs, Resources/Environment

Gayle Ann Wilde (R), House Seat A 2nd Term
P.O. Box 984, McCall 83636 634-5676
Petroleum Marketer/Teacher
Husband-Ralph
Education, Environmental Affairs

Judi Danielson (R), House Seat B 1st Term
P.O. Box 724, Council 83612 253-4650
Nurse/Former County Commissioner Husband - John
Local Government
Judiciary, Rules/Administration

10-PAYETTE & WASHINGTON COUNTIES

Roger Fairchild (R), Senate 5th Term
Box 528, Fruitland 83619
Home 452-4749 Bus. 452-4701
President, Golden Valley Foods, Inc. Wife-Mary
MAJORITY LEADER
VICE-CHAIRMAN-State Affairs
Transportation

Wayne Sutton (R), House Seat A 4th Term
Route 1, Box 42, Midvale 83645 355-2442
Rancher Wife-Gertrude
CHAIRMAN-Agricultural Affairs
Resources/Conservation, State Affairs

Mary Hartung (R), House Seat B 2nd Term
Box 147, Payette 83661
Home 642-3270 Bus. 642-4131
Retailer Husband-Morris
VICE-CHAIRMAN Judiciary/Rules Administration
Revenue/Taxation, Transportation/Defense

11-CANYON COUNTY

Skip Smyser (R), Senate Seat A 4th Term
(Served 1 term House, 1981-82)
26298 Lea Lane, Parma 83660
Home 722-6656 Bus. 722-6721, 342-0777
Attorney Wife-Melinda
CHAIRMAN-Transportation
Agricultural Affairs, State Affairs

J. L. "Jerry" Thorne (R), Senate Seat B 3rd Term
331 Winther Blvd., Nampa 83651
Home 467-2892 Bus. 466-3682
Printing Wife-Lois
CHAIRMAN-Education
Local Government/Taxation, Transportation

Atwell J. "At" Parry (R), Senate Seat C 5th Term
Route 1, Box 2, Melba 83641 495-2226
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 3rd 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 7th Term
(Served 3 terms House, 1974-80)
1920 Howard, Caldwell 83605 459-2553
Farm Owner/Educator
CHAIRMAN-Commerce, Industry/Tourism
Education, Health/Welfare

Janet S. Hay (R), House Seat C 3rd Term
328 Winther Blvd., Nampa 83651
Home 466-7621 Bus. 467-2745
Homemaker/Civic Worker Husband-Robert E.
CHAIRMAN – Education
Health/Welfare, Judiciary Rules/Administration

Elizabeth "Liz" Allen-Hodge (R), House Seat D 3rd Term
15385 Rosewood St. Caldwell 83605
Husband-Alan
Self-employed Consultant
VICE CHAIRMAN-Commerce, Industry/Tourism
State Affairs

Dolores J. Crow (R), House Seat E 4th Term
203 11th Ave. S. Extension, Nampa 83651
Home 467-1302 Husband-Wayne
Appropriations (JFAC), Environmental Affairs

Ron Crane (R), House Seat F 4th Term
Route 3, Box 496, Caldwell 83605 459-4990
Businessman Wife-Cheryl
CHAIRMAN-Business
State Affairs

12-ELMORE & OWYHEE COUNTIES

R. Claire Wetherell (D), Senate 3rd 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 3rd Term
HC-85, Box 221, Grandview 83624
Home 834-2488 Husband-Oscar
Homemaker/School Dist. Bus. Mgr., Retired
Agricultural Affairs
Education, Resources/Conservation

Leanna Lasuen (D), House Seat B 2nd Term
103 Mountain View Dr., Mountain Home 83647
Home 587-4644
City Treasurer
Commerce, Industry/Tourism
Transportation/Defense

13-ADAMS, BOISE, CANYON, ELMORE, GEM, OWYHEE, PAYETTE, VALLEY & WASHINGTON COUNTIES

George Vance (R), Senate 1st Term
Route 1, 25913 Jacks Rd, Parma 83660
Farmer Home 482-6422 Wife-Caroline
Education, Local Government/Taxation
Resources/Environment

Donna Jones (R), House Seat A 2nd Term
1911 1st Ave S. Payette 83661
Realtor Bus: 642-9669
Home phone: 642-9679 Husband-Donald
Business, Local Government, State Affairs

W. O. "Bill" Taylor (R), House Seat B 2nd Term
1914 Primrose Dr., Nampa 83651 466-0970
Contractor/Real Estate Investments Wife-Shirley
Education, Local Government

14-ADA COUNTY

Herb Carlson (R), Senate 4th Term
1812 Hill Road, Eagle 83616 939-6979
Farmer – Rancher Wife-Lorrain
CHAIRMAN-Agricultural Affairs
Finance (JFAC), Resources/Environment

Gary L. Montgomery (R), House Seat A 5th Term
737 N. 7th St., Boise 83702
Home 376-7380 Bus 342-3563
Attorney Wife-Marilyn
MAJORITY LEADER
Judiciary, Rules/Administration
Ways/Means

Jerry Deckard (R), House Seat B 3rd Term
P.O. Box 441, Eagle 83616 Bus. 375-6565
General Contractor Wife-Carol
CHAIRMAN-Ways/Means
Judiciary, Rules/Administration
Revenue/Taxation

15-ADA COUNTY

Rod Beck (R), Senate 3rd Term
4257 Tattenham Way, Boise 83704
Home 376-9797 Bus. 377-8808
Real Estate Broker Wife-Rhonda
CHAIRMAN – Human Resources
Finance (JFAC), Local Government/Taxation

Don C. Loveland (R), House Seat A 4th Term
(Served 3 terms Senate, 1963-67)
4624 Berkshire Drive, Boise 83704 375-8893
Retired Wife-Dorothy
CHAIRMAN-Judiciary, Rules/Administration
Local Government, Revenue/Taxation

Phil Childers (R), House Seat B 3rd Term
3440 Quail Place, Boise 83704 375-8904
Sales/Marketing Wife-Margaret
VICE CHAIRMAN-Revenue/Taxation
Business
Environmental Affairs

LEGISLATORS BY DISTRICT (continued)

16-ADA COUNTY

Brian N. Donesley (D), Senate 1st Term
2120 W. Jefferson, Boise 83702
Home 336-1753 Bus. 343-3851
Attorney Wife-Sera
Commerce/Labor, Judiciary/Rules

Emerson Smock (R), House Seat A 3rd Term
3917 Mountain View Dr., Boise 83704
Retired 375-0588 Wife-Patricia
CHAIRMAN-Environmental Affairs
Business, State Affairs

Horace B. "Hod" Pomeroy (R), House Seat B 1st Term
6822 Kingsdale Dr., Boise 83704
Home 377-1293 Wife-Margarita
Business Consultant
Commerce, Industry/Tourism
Education, Local Government

17-ADA COUNTY

Rachel S. Gilbert (R), Senate 3rd Term
(Served 2 Terms House, 1981-85)
1111 Marshall, Boise 83706
Home 343-3123 Bus. 376-6441
Real Estate Broker
CHAIRMAN-Local Government/Taxation
Human Resources, Transportation

F. Edward Osborne (R), House Seat A 1st Term
4515 Hillcrest Drive, Boise 83705
Home 365-9633 Wife-Jeanne
Retired
Education, Health/Welfare

Ruby R. Stone (R), House Seat B 3rd Term
6604 Holiday Drive, Boise 83709
Property Management 375-7975
VICE-CHAIRMAN-Local Government,
Commerce, Industry/Tourism, State Affairs

18-ADA COUNTY

Roger B. Madsen (R), Senate 1st Term
7842 Desert Ave, Boise 83709
Home 362-0373 Bus 342-0313
Attorney Wife-Leslie
Commerce/Labor, Education
Human Resources, Judiciary/Rules

Herm Steger (R), House Seat A 2nd Term
11513 W. Amity Rd., Boise 83709
Home 362-1363 Wife-Doris
Retired Elem. School Principal
Education, Environmental Affairs

Brent Brocksome (R), House Seat B 3rd Term
277 N 6th St. Suite 200, Boise 83702
Home 362-9093 Bus. 345-6431 Wife-Patricia
Nursing Home Administrator/Owner
VICE-CHAIRMAN-Health/Welfare
Appropriations (JFAC)

19-ADA COUNTY

Gail Etheridge Bray (D), Senate 4th Term
P.O. Box 1825, Boise 63701
Home 344-1390 Bus. 334-2088
Husband-Chris
ASSISTANT MINORITY LEADER
Education, Judiciary/Rules
State Affairs

Kathleen W. (Kitty) Gurnsey (R), House Seat A 8th Term
1111 W. Highland View Dr., Boise 83702
Home 343-1780 Husband-Vern L.
CHAIRMAN-Appropriations, CO-CHAIRMAN-JFAC,
Environmental Affairs

Kannath L. Robison (D), House Seat B 2nd 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 2nd Term
157 E. Williams St., Boise 83706
Home 363-0356 Bus. 364-7713
Attorney Wife-Kathy
Human Resources, Judiciary/Rules
Local Government/Taxation

Pamela I. Bengson (R), House Seat A 5th Term
1925 Teal, Boise 83706
Home 345-6168 Bus. 377-2211
Director Political Activities/IHA
CHAIRMAN-State Affairs, Agricultural Affairs
Judiciary, Rules/Administration

Jim Hansen (D), House Seat B 1st Term
2010 Coloma Way, Boise 83712
Home: 385-9413 Bus: 342-6571
Attorney
Education, Health/Welfare, Judiciary/Rules

21-ADA COUNTY

F. Michael Burkett, Jr. (D), Senate 1st Term
1938 N. 17th, Boise 83702
Home 384-9287 Bus. 343-6485
Attorney Wife-Sharon
Education, Local Government/Taxation

Boyd Hill (R), House Seat A 3rd Term
1035 East McMillan Rd, Meridian 83642
Home 888-5515 Bus. 327-0010
Owner, Western Wholesale Wife-Mardi
VICE-CHAIRMAN - Business
Revenue/Taxation, Transportation/Defense

Sheila Sorensen (R), House Seat B 2nd Term
P.O. Box 873, Boise 83701
Home 345-8688 Husband-Dean
Judiciary, Rules/Administration
State Affairs

LEGISLATORS BY DISTRICT (continued)

22-BLAINE, CAMAS, GOODING & LINCOLN COUNTIES

John T. Peavey (D), Senate 8th Term
P.O. Box 88, Carey 83320
Home 788-2850/summer 726-7568/winter
Rancher Wife-Diane Josephy
MINORITY CAUCUS CHAIRMAN
Agricultural Affairs
Resources/Environment, State Affairs

Thomas L. "Tom" Morrison (R), House Seat A 1st Term
340 14th Ave W, Box 504, Gooding 83330
Home 934-4024 Bus 934-4067
Retired Wife-Lorraine
Commerce, Industry/Tourism
Transportation/Defense

Mack Wm. Neibeur (R), House Seat B 7th 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 5th Term
Route 1, Box 3442, Kimberly 83341
Sheep Producer 733-3617 Wife-Kathleen
CHAIRMAN-Resources/Environment
VICE CHAIRMAN-Education
Agriculture Affairs

B. Joyce McRoberts (R), Senate Seat B 1st Term
342 Monroe Place, Twin Falls 83301
Home 734-3329
Business Women Husband-Darrel
Commerce/Labor, Health/Welfare
Judiciary/Rules

Ronald L. Black (R), House Seat A 2nd Term
240 N. Locust, Twin Falls 83301 734-9035
Horticulturalist Wife-Geel
Education, Health/Welfare

Celia R. Gould (R), House Seat B 2nd Term
Route 4, Box 113, Buhl 83316
Home 543-8725 Bus. 543-4131
Rancher
Agricultural Affairs, Judiciary/Rules
Revenue/Taxation

Lee Barnes (R), House Seat C 1st Term
Rt #4 Box 234, Buhl 83316
Home 543-4632 Bus. 733-1987
Denturist Wife-Barbara
Commerce, Industry/Tourism
Health/Welfare

Douglas R. Jones (R), House Seat D 3rd 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 4th Term
Route 1, Declo 83323
Home 654-2712 Bus. 678-6813
Farmer/Teacher Wife-Virgene
CHAIRMAN-Judiciary/Rules
VICE-CHAIRMAN-Health/Welfare

Lynn S. Tominaga (R), Senate Seat B 3rd Term
Route 5, Box 184, Rupert 83350
Farmer 532-4352 Wife-Brenda
MAJORITY CAUCUS CHAIRMAN
VICE-CHAIRMAN-Resources/Environment
Commerce and Labor

Ernest A. Hale (R), House Seat A 10th Term
725 E. 16th, Burley 83318 678-7394
Quarry Operator Wife-Elizabeth
VICE-CHAIRMAN-Education
Transportation/Defense

Bruce Newcomb (R), House Seat B 2nd Term
1626 Monroe, Burley 83318
Farmer/Rancher Home 678-3758
MAJORITY CAUCUS CHAIRMAN
Agricultural Affairs, Ways/Means
Resources/Conservation, State Affairs

Steve Antone (R), House Seat C 11th Term
1141 Link St., Rupert 83350 436-3927
Farmer Wife-Diane
CHAIRMAN-Revenue/Taxation, Business

Maxine T. Bell (R), House Seat D 1st Term
194 S. 300 E., Jerome 83338 324-4296
Farmer/Homemaker Husband - H. Jack
Agricultural Affairs
Resources/Conservation

25-BLAINE, CAMAS, CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA & TWIN FALLS COUNTIES

Larrey Anderson (R), Senate 3rd Term
Route #1, Eden 83325
Home 825-5763 Bus. 733-6756
Building Contractor/Writer
CHAIRMAN-Health/Welfare
VICE CHAIRMAN-Transportation
Local Government/Taxation

Gary Robbins (R), House Seat A 3rd Term
Summer:750 E 568 S, Dietrich 83324 544-2771
Winter:784 Filer Ave, Twin Falls 83301 733-9593
CPA/Farmer Wife-Jeri
Agricultural Affairs,
Commerce, Industry/Tourism, Revenue/Taxation

Ralph B. Peters (R), House Seat B 2nd Term
601 E. Avenue A, Jerome 83338
Home 324-4683 Bus. 324-8169
Retired Farmer/Businessman Wife-Blanche
Local Government, State Affairs
Commerce, Industry/Tourism

LEGISLATORS BY DISTRICT (continued)

26-BINGHAM COUNTY

Jerry T. Twiggs (R), Senate 3rd Term
955 West 100 South, Blackfoot 83221
Farmer 684-4090 Wife-Sandra
ASSISTANT MAJORITY LEADER
Agricultural Affairs, Finance (JFAC)
State Affairs

Raymond G. Parks (R), House Seat A 6th Term
1054 West Tabor Road, Blackfoot 83221
Farmer 884-4818 Wife-Paula
VICE CHAIRMAN-Transportation/Defense
Appropriations (JFAC)

Michael K. Simpson (R), House Seat B 3rd Term
788 Hoff Drive, Blackfoot 83221
Home 785-5043 Bus. 785-0310
Dentist Wife-Kathy
ASSISTANT MAJORITY LEADER
Judiciary, Rules/Administration
Revenue/Taxation, Ways and Means

27-BANNOCK & POWER COUNTIES

Bert W. Marley (D), Senate Seat A 6th Term
P.O. Box 35, McCammon 83250
Home 254-3291 Bus. 236-2575
Teacher/Farmer Wife-Betty Jane
Agricultural Affairs, Finance (JFAC)

Ralph E. Lacy (D), Senate Seat B 4th Term
(Served 3 years House, 1981-83)
126 S. 15th, Pocatello 83201 232-4951
Retired Wife-Mery
Commerce/Labor, Finance (JFAC)
Local Government/Texation

C. E. "Chick" Bilyeu (D), Senate Seat C 10th Term
11076 N. Philbin Rd., Pocatello 83202 237-3158
Educator/Retired Wife-Diane
Finance (JFAC), Transportation

Patricia L. McDermott (D), House Seat A 11th Term
P.O. Box 3, Pocatello 83204
Home 232-6978 Bus. 232-3162
Attorney
Judiciary, Rules/Administration
State Affairs

Wayne Hall (D), House Seat B 2nd Term
10256 South Hall Road, McCammon 83250
Dairy Farmer Wife-Vera 254-3431
Local Government, Resources/Conservation

Albert M. (Al) Johnson (D), House Seat C 4th Term
12350 N. Philbin Rd., Pocatello 83202
Farmer/Rancher 237-2828 Wife-Betty
Environmental Affairs
Resources/Conservation, Revenue/Taxation

Pete Black (D), House Seat D 4th Term
530 Cochise, Pocatello 83204
Home 232-5553 Bus. 237-2271
Educator Wife-Ronda
ASSISTANT MINORITY LEADER
Appropriations (JFAC), Business, Ways/Means

DISTRICT 27-Continued

Mary Ellen Lloyd (D), House Seat E 2nd Term
P.O. Box 2557, Pocatello 83201
Home 233-8717 Bus. 234-0102
Restaurant Owner Husband-Bill
Environmental Affairs
Judiciary, Rules/Administration, Education

L. Ed Brown (R), House Seat F 3rd Term
288 Thurston, Pocatello 83201
Home 232-8633 Bus. 232-8024
Teacher Wife-Carol
VICE-CHAIRMAN - State Affairs, Local
Government, Judiciary Rules/Administration

28-BEAR LAKE, CARIBOU, FRANKLIN & ONEIDA COUNTIES

Dennis S. Hansen (R), Senate 2nd Term
2612 Second Bridge Rd, Soda Springs 83276
Home 547-4410 Bus. 547-3391
Accountant Wife-Marianne
VICE-CHAIRMAN-Agricultural Affairs
Education, Transportation

Robert C. Geddes (R), House Seat A 7th Term
7235 N. 2600 West, Preston 83263
Farmer 852-1376 Wife-Carma
Agricultural Affairs, Appropriations (JFAC)

John H. Tippets (R), House Seat B 1st Term
65 E Center Bennington, Montpelier, 83254
Home 847-2876 Wife-Nancy
Instrumentation Technician
Business, Health and Welfare

29-BANNOCK, BINGHAM, BEAR LAKE, CARIBOU, FRANKLIN, ONEIDA & POWER COUNTIES

Jim Christiansen (D), Senate 2nd Term
Box 458, Aberdeen 83210
Home 397-4644 Bus. 226-5001
Farmer/Implement Dealer Wife-Lou Etta
Agricultural Affairs, Resources/Environment
Transportation

Myron Jones (R), House Seat A 5th Term
(Served 4 terms, House 1977-82)
Malad Summit, Malad 83252
Home 766-4325
Farmer/Construction Wife-Nola
Agricultural Affairs
Resources/Conservation

Mark Duffin (R), House Seat B 3rd Term
P.O. Box 126, American Falls 83211
Home 226-5427 Bus. 548-2498
Farmer
Resources/Conservation, State Affairs
Transportation/Defense

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