GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED BY
THE SECOND REGULAR SESSION OF THE
CENTENNIAL IDAHO LEGISLATURE

Convened January 8, 1990
Adjourned March 30, 1990

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

PUBLISHED BY AUTHORITY OF THE
SECRETARY OF STATE

PETE T. CENARRUSA
Secretary of State
Boise, Idaho

Printed by The Caxton Printers, Ltd.
Caldwell, Idaho

CHAPTER 1
(H.B. No. 423)

AN ACT

RELATING TO THE COMMISSION FOR THE BLIND; AMENDING SECTION 67-5406, IDAHO CODE, TO ALLOW QUARTERLY MEETINGS.

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

SECTION 1. That Section 67-5406, Idaho Code, be, and the same is hereby amended to read as follows:

67-5406. MEETINGS -- QUORUM. The commission shall meet at least once every ~~three--(3)--months~~ quarter regularly and at such times as called by the chairman. A majority of the commission members shall constitute a quorum for all business.

Approved February 5, 1990.

CHAPTER 2
(H.B. No. 428)

AN ACT

RELATING TO THE PROTECTION OF BIRDS; AMENDING SECTION 36-1102, IDAHO CODE, TO PROHIBIT THE TAKE OF GAME, SONG, RODENT KILLING, INSECTIVOROUS OR OTHER INNOCENT BIRDS.

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

SECTION 1. That Section 36-1102, Idaho Code, be, and the same is hereby amended to read as follows:

36-1102. PROTECTION OF BIRDS. (a) Game, Song, Insectivorous, Rodent Killing, and Innocent Birds Protected. Except for English sparrows and starlings, it is a misdemeanor at any time of the year for any person to ~~hunt,-kill-or-capture~~ take any game, song, rodent killing, insectivorous or other innocent bird, except as provided by commission regulations promulgated pursuant hereto, or for any person to intentionally disturb or destroy the eggs or nests of such birds at any time.

(b) Migratory Birds. 1. It is a misdemeanor for any person to hunt, take or have in possession any migratory birds except as provided by federal regulations made pursuant to the Federal Migratory Bird Treaty Act, as amended, and in accordance with related rules and regulations promulgated by the commission.

2. It is a misdemeanor for any person subject to the Federal Migratory Bird Hunting Stamp Act tax to hunt any migratory waterfowl unless at the time of such hunting he carries on his person an unexpired Federal Migratory Bird Hunting Stamp validated by his signature

in ink across the face of the stamp while hunting such birds.

(c) Falconry. The commission is authorized to establish a falconry program and to promulgate rules and regulations governing same.

Approved February 5, 1990.

CHAPTER 3
(H.B. No. 482)

AN ACT

RELATING TO SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2721, IDAHO CODE, BY ELIMINATING THE WORD "SEPARATE" TO ALLOW FOR INCLUSION OF SOIL CONSERVATION DISTRICT SUPERVISOR ELECTION BALLOTS WITH ELECTRONIC ELECTION BALLOTS PROVIDED BY THE COUNTY CLERK; AND TO CORRECT NOMENCLATURE.

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

SECTION 1. That Section 22-2721, Idaho Code, be, and the same is hereby amended to read as follows:

22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS. The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided in this act. If at any time the supervisors of a district deem it necessary, they may request permission from the state soil conservation commission to increase the number of supervisors to seven (7). Upon receipt of such a request in writing, signed by all five (5) supervisors, stating a valid reason for such need, the commission shall grant permission. The additional supervisors shall then be appointed as outlined in subparagraph C of this section until such time as regular district elections for two (2) supervisors in each district. At that time those districts having seven (7) supervisors shall then elect four (4) supervisors for four (4) year terms. The two (2) supervisors appointed by the commission shall be persons who are by training and experience qualified to perform the specialized services which will be required of them in the performance of their duties. All supervisors shall be landowners or farmers of the district where they are elected or appointed.

A. Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the state soil conservation commission to nominate candidates for supervisors of each district. The commission shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the commission unless it shall be subscribed by ten (10) or more persons who are qualified electors owning land or residing within the boundaries of the district. The commission shall give due notice of an election to be held for the election of three (3) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall appear arranged in the alphabetical

order of the surnames, upon ballots, with a square before each name and directions to insert a mark in the square before any three (3) names to indicate the voter's preference. The three (3) candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The commission shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall publish the results thereof.

B. All elections in districts, excluding the first election as provided in subparagraph A hereof, shall be conducted by the district supervisors of the districts involved. Such election shall be held on the first Tuesday succeeding the first Monday of November in each even-numbered year. Such elections shall be held after due notice has been given by the district supervisors and the elections shall be conducted under such rules and regulations as may be prescribed by the state soil conservation commission. The cost of conducting such elections shall be borne by the district involved. The board of supervisors shall certify to the state soil conservation commission the names of the elected supervisors. The state soil conservation commission shall issue certificates of election to each elected supervisor so certified. The state soil conservation commission may authorize each district to contract with the county clerk or county clerks of the county or counties in which the district is located to conduct the election for the soil conservation district. If a district election is conducted by a county clerk, the county clerk must provide a separate ballot for the district election, and must provide a process that allows only qualified electors of the district to vote in that district's election.

C. The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be four (4) years commencing on the second Monday of January next following election, except that the two (2) supervisors who are first appointed shall be designated to serve for terms of two (2) years. A supervisor shall hold office until a qualified successor has been elected or appointed. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term shall be made by a vote of the majority of the supervisors duly qualified and acting at the time the vacancy shall arise and the supervisors shall certify the name of the appointed supervisor to the state soil conservation commission who shall issue a certificate of such appointment.

D. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall be entitled to expenses, including travel expense, necessarily incurred in the discharge of duties. A supervisor shall receive no compensation for services from regular district funds, county funds authorized in section 22-2726, Idaho Code, or state funds authorized in section 22-2727, Idaho Code.

In the event the district has a special project, approved by the state soil conservation commission, making project funds available from federal or other sources, a supervisor may receive compensation

not to exceed thirty-five dollars ($35.00) per day plus actual and necessary expenses from project funds for services directly related to the project.

The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the attorney general of the state for such legal services as they may require, or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one or more supervisors, ~~of~~ or to one or more agents, or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the state soil conservation commission, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; they shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state soil conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The supervisors may invite the legislative body of a municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Approved February 5, 1990.

CHAPTER 4
(H.B. No. 427)

AN ACT

RELATING TO REVOCATION OF HUNTING, FISHING OR TRAPPING LICENSES AND CIVIL PENALTIES; AMENDING SECTION 36-1402, IDAHO CODE, TO DELETE THE WORD "WHISTLING"; AND AMENDING SECTION 36-1404, IDAHO CODE, TO DELETE THE WORD "WHISTLING."

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

SECTION 1. That Section 36-1402, Idaho Code, be, and the same is hereby amended to read as follows:

36-1402. PENALTY -- MISDEMEANOR -- FELONY -- REVOCATION OF LICENSE -- DISPOSITION OF MONEYS. (a) Misdemeanor Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a misdemeanor under the provisions of this title or regulations promulgated

ɔursuant thereto shall, except in cases where a higher penalty is pre-
ɜcribed, be fined in a sum of not less than twenty-five dollars
($25.00) nor more than one thousand dollars ($1,000) and/or by commit-
ment to jail for not more than six (6) months. The minimum and maximum
fine, per animal, fish or bird, for the illegal taking, illegal pos-
ɜession or the illegal waste of the following animals, fish or birds
shall be as indicated below:

Animal, Fish or Bird	Minimum Fine	Maximum Fine
Bighorn sheep, mountain goat and moose	$500	$1,000
Elk	$300	$1,000
Deer and pronghorn antelope	$200	$ 500
Wild turkey, ~~whistling~~ swan and sturgeon	$200	$ 500
Chinook salmon	$100	$ 500

(b) Felony Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a felony under the provisions of this title shall be punished in accordance with section 18-112, Idaho Code.

(c) License Revocation. Any person entering a plea of guilty for, being found guilty of or being convicted of violating any of the provisions of this title may, in addition to any other penalty assessed by the court, have his hunting, fishing, or trapping privileges revoked for such period of time as may be determined by the court not to exceed three (3) years, said period beginning on the date of conviction, finding of guilt or the entry of the plea of guilty. Provided further, that the magistrate hearing the case shall forthwith revoke the hunting, fishing, or trapping privileges for a period of not less than one (1) year from the date of such conviction, finding of guilt or the entry of the plea of guilty, of any person who is convicted of, found guilty of or enters a plea of guilty for any of the following offenses:

1. Taking upland game birds, migratory waterfowl, salmon, steelhead, or any big game animal during closed season.
2. Exceeding the daily bag or possession limit of upland game birds, migratory waterfowl or big game animals.
3. Taking any fish by unlawful methods as set forth in section 36-902(a) or (c), Idaho Code.
4. Unlawfully purchasing, possessing or using any license, tag or permit as set forth in section 36-405(c), Idaho Code.
5. Trespassing in violation of warning signs as set forth in section 36-1603, Idaho Code.
6. The unlawful sale or purchase of wildlife as set forth in section 36-501, Idaho Code.
7. Taking any game animal with a firearm during an archery only season.

The revocation shall consist of cancellation of an existing license for the required length of time and/or denial of the privilege of purchasing an applicable license for the length of time required to meet the revocation period decreed. In the case of persons pleading guilty, convicted or found guilty of committing multiple offenses, the revocation periods may run consecutively. In the case of pleas of guilty, convictions or findings of guilt involving taking big game animals during closed season or exceeding the daily bag or possession limit of big game, the magistrate hearing the case shall revoke the hunting, fishing or trapping privileges of any person convicted or

found guilty of those offenses for a period of not less than one (1) year for each big game animal illegally taken or possessed by the person convicted or found guilty.

It shall be a misdemeanor for any person to hunt, fish, or trap or purchase a license to do so during the period of time for which such privilege is revoked by order of any court of this state. Any person pleading guilty, found guilty or convicted thereof shall be fined in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by commitment to jail for not more than six (6) months or by both such fine and commitment. Provided further, that the period of revocation of such privileges shall be extended an additional amount of time equal to the original revocation.

For the purpose of this title, the term "conviction" shall mean either a withheld judgement or a final conviction.

(d) Disposition of Fines and Forfeitures. Distribution of fines and forfeitures remitted shall be in accordance with section 19-4705, Idaho Code.

SECTION 2. That Section 36-1404, Idaho Code, be, and the same is hereby amended to read as follows:

36-1404. UNLAWFUL KILLING, POSSESSION OR WASTE OF WILD ANIMALS, BIRDS AND FISH -- REIMBURSABLE DAMAGES -- SCHEDULE -- ASSESSMENT BY MAGISTRATES -- INSTALLMENT PAYMENTS -- DEFAULT JUDGMENTS -- DISPOSITION OF MONEYS. (a) In addition to the penalties provided for violating any of the provisions of title 36, Idaho Code, any person who pleads guilty, is found guilty of or is convicted of the illegal killing or the illegal possession or illegal waste of game animals or birds or fish shall reimburse the state for the value of each animal so killed or possessed or wasted as follows:

1. Elk, five hundred dollars ($500) per animal killed, possessed or wasted.
2. Caribou, bighorn sheep, mountain goat and moose, one thousand dollars ($1,000) per animal killed, possessed or wasted.
3. Deer, and pronghorn antelope, two hundred dollars ($200) per animal killed, possessed or wasted.
4. Wild turkey and ~~whistling~~ swan, two hundred dollars ($200) per bird killed, possessed or wasted.
5. Sturgeon, two hundred dollars ($200) per fish killed, possessed or wasted.
6. Chinook salmon, one hundred dollars ($100) per fish killed, possessed or wasted.

(b) In every case of a plea of guilty, a finding of guilt or a conviction, the court before whom such plea of guilty, finding of guilt or conviction is obtained shall enter judgment ordering the defendant to reimburse the state in a sum or sums as hereinbefore set forth including postjudgment interest. If two (2) or more defendants are convicted of the illegal taking, killing or the illegal possession or wasting of the game animal, bird or fish, such judgment shall be declared against them jointly and severally.

(c) The judgment shall fix the manner and time of payment, and may permit the defendant to pay the judgment in installments at such

times and in such amounts as, in the opinion of the court, the defendant is able to pay. In no event shall any defendant be allowed more than two (2) years from the date judgment is entered to pay the judgment.

(d) A defaulted judgment or any installment payment thereof may be collected by any means authorized for the enforcement of a judgment under the provisions of the Idaho Code.

(e) All courts ordering such judgments of reimbursement shall order such payments to be made to the department which shall deposit them with the state treasurer, and the treasurer shall place them in the state fish and game account.

(f) The court shall retain jurisdiction over the case. If at any time the defendant is in arrears ninety (90) days or more, the court may revoke the defendant's hunting, fishing or trapping privileges until the defendant completes payment of the judgment.

Approved February 5, 1990.

CHAPTER 5
(H.B. No. 429)

AN ACT

RELATING TO PENALTIES FOR FISH AND GAME LAW VIOLATIONS; AMENDING SECTION 36-1402, IDAHO CODE, TO CLARIFY THAT THE COURT SHALL REVOKE THE HUNTING, FISHING OR TRAPPING PRIVILEGES OF ANY PERSON CONVICTED OF, FOUND GUILTY OF, OR ENTERING A PLEA OF GUILTY TO POSSESSING CERTAIN WILDLIFE SPECIES DURING CLOSED SEASON.

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

SECTION 1. That Section 36-1402, Idaho Code, be, and the same is hereby amended to read as follows:

36-1402. PENALTY -- MISDEMEANOR -- FELONY -- REVOCATION OF LICENSE -- DISPOSITION OF MONEYS. (a) Misdemeanor Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a misdemeanor under the provisions of this title or regulations promulgated pursuant thereto shall, except in cases where a higher penalty is prescribed, be fined in a sum of not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000) and/or by commitment to jail for not more than six (6) months. The minimum and maximum fine, per animal, fish or bird, for the illegal taking, illegal possession or the illegal waste of the following animals, fish or birds shall be as indicated below:

Animal, Fish or Bird	Minimum Fine	Maximum Fine
Bighorn sheep, mountain goat and moose	$500	$1,000
Elk	$300	$1,000
Deer and pronghorn antelope	$200	$ 500
Wild turkey, whistling swan and sturgeon	$200	$ 500
Chinook salmon	$100	$ 500

(b) Felony Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a felony under the provisions of this title shall be punished in accordance with section 18-112, Idaho Code.

(c) License Revocation. Any person entering a plea of guilty for, being found guilty of or being convicted of violating any of the provisions of this title may, in addition to any other penalty assessed by the court, have his hunting, fishing, or trapping privileges revoked for such period of time as may be determined by the court not to exceed three (3) years, said period beginning on the date of conviction, finding of guilt or the entry of the plea of guilty. Provided further, that the magistrate hearing the case shall forthwith revoke the hunting, fishing, or trapping privileges for a period of not less than one (1) year from the date of such conviction, finding of guilt or the entry of the plea of guilty, of any person who is convicted of, found guilty of or enters a plea of guilty for any of the following offenses:

1. Taking or possessing upland game birds, migratory waterfowl, salmon, steelhead, or any big game animal during closed season.
2. Exceeding the daily bag or possession limit of upland game birds, migratory waterfowl or big game animals.
3. Taking any fish by unlawful methods as set forth in section 36-902(a) or (c), Idaho Code.
4. Unlawfully purchasing, possessing or using any license, tag or permit as set forth in section 36-405(c), Idaho Code.
5. Trespassing in violation of warning signs as set forth in section 36-1603, Idaho Code.
6. The unlawful sale or purchase of wildlife as set forth in section 36-501, Idaho Code.
7. Taking any game animal with a firearm during an archery only season.

The revocation shall consist of cancellation of an existing license for the required length of time and/or denial of the privilege of purchasing an applicable license for the length of time required to meet the revocation period decreed. In the case of persons pleading guilty, convicted or found guilty of committing multiple offenses, the revocation periods may run consecutively. In the case of pleas of guilty, convictions or findings of guilt involving taking big game animals during closed season or exceeding the daily bag or possession limit of big game, the magistrate hearing the case shall revoke the hunting, fishing or trapping privileges of any person convicted or found guilty of those offenses for a period of not less than one (1) year for each big game animal illegally taken or possessed by the person convicted or found guilty.

It shall be a misdemeanor for any person to hunt, fish, or trap or purchase a license to do so during the period of time for which such privilege is revoked by order of any court of this state. Any person pleading guilty, found guilty or convicted thereof shall be fined in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by commitment to jail for not more than six (6) months or by both such fine and commitment. Provided further, that the period of revocation of such privileges shall be extended an additional amount of time equal to the original revocation.

For the purpose of this title, the term "conviction" shall mean either a withheld judgement or a final conviction.

(d) Disposition of Fines and Forfeitures. Distribution of fines and forfeitures remitted shall be in accordance with section 19-4705, Idaho Code.

Approved February 5, 1990.

CHAPTER 6
(H.B. No. 430)

AN ACT

RELATING TO GAME TAGS; AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE THAT THE FISH AND GAME COMMISSION MAY SET THE FEE FOR DEER, ELK AND ANTELOPE TAGS BELOW THE LISTED AMOUNTS WHERE TAGS ARE ISSUED FOR EMERGENCY DEPREDATION HUNTS AND TO CORRECT A TYPOGRAPHICAL ERROR.

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

SECTION 1. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- ARCHERY PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, or turkey in accordance with the laws of this state and regulations promulgated by the commission; provided further, that the holder of a senior resident permit may be issued a bear, deer or elk tag without charge; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (r) of section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a hunting license, as provided in section 36-407(a), Idaho Code, or has obtained a license to hunt, as provided in section 36-406(e), Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear or turkey in accordance with the laws of this state and regulations promulgated by the commission.

(c) Schedule of Game Tag Fees.

Game	Resident	Nonresident
Moose	$60.00	$500.00
Bighorn Sheep	60.00	500.00
Mountain Goat	60.00	500.00
Elk	13.50	235.00
Deer	7.50	90.00

Antelope	26.50	90.00
Mountain Lion	10.00	100.00
Bear	6.00	90.00
Turkey	6.00	25.00

The commission may set the fee for deer, elk and antelope tags below these amounts where such tags are issued for emergency depredation hunts.

(d) Game Tags Required -- To Be Endorsed on License. The appropriate tag must be had for the hunting or taking of each and every one (1) of the aforementioned wildlife. Provided, however, that the requirements for a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. All of said tags are to bear and have serial numbers to be endorsed on the purchaser's license by the vendor at the time of sale.

(e) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission regulation.

(f) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any persons participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased at a fee of five dollars ($5.00).

(g) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased at a fee of five dollars ($5.00).

(h) Upland Game Permit. The commission may, under rules and regulations as it may prescribe, issue an upland game permit that must be purchased by all persons over sixteen (16) years of age prior to hunting upland game, provided that a permit shall not be required to hunt forest grouse (blue, ruffed or spruce), sharp-tailed grouse, sage grouse, mourning dove, turkey, cottontail rabbit, pygmy rabbit or snowshoe hare. The fee for such a permit shall be be five dollars ($5.00) and the proceeds from the sale of such permits shall be utilized for the acquisition of state and federal lands or interests of less than fee simple in private lands and the development, management, improvement, sale or exchange of upland game habitat. This subsection shall be null and void and of no force and effect on and after July 1, 1995.

(i) Penalty. Failure to comply with any of the provisions of this section shall constitute a misdemeanor.

Approved February 5, 1990.

CHAPTER 7
(H.B. No. 432)

AN ACT

RELATING TO EXPIRATION DATES FOR LICENSES, TAGS AND PERMITS; AMENDING SECTION 36-403, IDAHO CODE, TO PROVIDE THAT BLIND PERSON PERMITS SHALL EXPIRE AND MUST BE RENEWED FIVE YEARS FROM DATE OF ISSUANCE.

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

SECTION 1. That Section 36-403, Idaho Code, be, and the same is hereby amended to read as follows:

36-403. EXPIRATION DATES -- LICENSES, TAGS AND PERMITS. (a) Annual Licenses -- Tags and Permits. All annual hunting and fishing licenses shall expire December 31 of the year for which they are valid. Trapping licenses shall expire on June 30 next following date of issuance. All tags and permits issued pursuant to the provisions of this chapter shall be valid only during the time that the corresponding basic license is valid.

(b) Senior Resident, Blind Person and Disabled Person Permits. Senior resident, blind person and disabled person permits shall expire and must be renewed five (5) years from date of issuance. Said permit shall become null and void if the holder fails to maintain continuous bona fide Idaho residency. All free senior resident permits issued informally prior to January 1, 1972, shall be valid until the expiration date shown on said permits.

Approved February 5, 1990.

CHAPTER 8
(H.B. No. 434)

AN ACT

RELATING TO UNLAWFUL PURCHASE, POSSESSION, AND USE OF LICENSE, TAGS OR PERMITS; AMENDING SECTION 36-405, IDAHO CODE, TO PROVIDE THAT IT IS A MISDEMEANOR FOR ANY PERSON TO ACQUIRE MORE THAN ONE REGULAR CONTROLLED HUNT PERMIT PER SPECIES OR MORE TAGS PER SPECIES THAN THE FISH AND GAME COMMISSION HAS SET A BAG LIMIT FOR THAT SPECIES.

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

SECTION 1. That Section 36-405, Idaho Code, be, and the same is hereby amended to read as follows:

36-405. APPLICATION FOR LICENSE -- DUPLICATE LICENSE -- UNLAWFUL PURCHASE, POSSESSION, AND USE OF LICENSE, TAGS OR PERMITS. (a) Application Required.

1. Any person making application for a senior resident license or

permit, or resident license shall produce his Idaho driver's license as proof of residence, or in the case of nondrivers, other suitable proof of residency, and shall make and sign a written application stating the class of license applied for, the name of the applicant, the age of the applicant, his length of residence, his current address, and such other information as may be required by the director.

2. Any person making application for a duplicate license or tag shall make and sign a written application stating the type and class of license or tag originally purchased and such other information as may be required by the director.

3. It is a misdemeanor for:

(A) Any person to willfully make a false statement as to name, age, length of residence or current address when such statement is made for the purpose of obtaining a license, tag or permit of a type or class he is not entitled to.

(B) Any person to willfully make a false statement as to type and class of original license or tag purchased when applying for a duplicate license or tag.

(b) Loss of License -- New One Required. In case of loss of a license or tag, a new one shall be required to entitle the person who lost the same to hunt, fish or trap. Such person may upon application:

1. Purchase a new license or tag at the regular fee; or

2. Replace a lost license or tag with a duplicate license or tag for which a fee of two dollars ($2.00) shall be charged.

3. When a duplicate tag or license has been issued the original license or tag shall become null and void.

(c) Unlawful Purchase, Possession and Use of License, Tag and Permit.

1. Every person buying a license, tag or permit must buy a license, tag or permit of the proper type or class according to his residence and age. Purchase or possession of a license, tag or permit of the wrong class by any person is a misdemeanor and such license, tag or permit shall be void and of no effect from the date of issuance.

2. It is a misdemeanor for any person to:

(A) Acquire ~~additional licenses or~~ more than one (1) regular controlled hunt permits ~~for the purpose of obtaining more than the legal number of tags provided for by this title and regulations promulgated pursuant thereto~~ per species or more tags per species than the commission has set a bag limit for that species except as provided in subsection (b) of this section or to have said ~~license,~~ permits or tags in his possession.

(B) Transfer any fishing, hunting, or trapping license, permit or tag to any other person or for any person to make use of such license, permit or tag issued to any other person.

Approved February 5, 1990.

CHAPTER 9
(H.B. No. 435)

AN ACT

RELATING TO THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME; AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OR HIS DESIGNEE MAY BE DELEGATED THE AUTHORITY TO DECLARE AN EMERGENCY DEPREDATION HUNT AND TO ISSUE A WRITTEN ORDER DECLARING SAME AND TO CORRECT A GRAMMATICAL ERROR.

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

SECTION 1. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director Created. The commission shall appoint a director of the department of fish and game, hereinafter referred to as the director, who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation, restoration, and management of the wildlife resources of the state. The director shall not hold any other public office, nor any office in any political party organization, and shall devote his entire time to the service of the state in the discharge of his official duties, under the direction of the commission.

(b) Secretary to Commission. The director shall serve as secretary to the commission.

(c) Compensation and Expenses. The director shall receive such compensation as the commission, with the concurrence and approval of the governor, may determine and shall be reimbursed at the rate provided by law for state employees for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties.

(d) Oath and Bond. Before entering upon the duties of his office, the director shall take and subscribe to the official oath of office, as provided by section 59-401, Idaho Code, and shall, in addition thereto, swear and affirm that he holds no other public office, nor any position under any political committee or party. Such oath, or affirmation, shall be signed in the office of the secretary of state.

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

(e) Duties and Powers of Director.

1. The director shall have general supervision and control of all activities, functions, and employees of the department of fish and game, under the supervision and direction of the commission, and shall enforce all the provisions of the laws of the state, and rules and regulations of the commission relating to wild animals, birds, and fish and, further, shall perform all the duties prescribed by section 67-2405, Idaho Code, and other laws of the state not inconsistent with this act, and shall exercise all necessary powers incident thereto not specifically conferred on the commission.

2. The director is hereby authorized to appoint as many classified employees as the commission may deem necessary to perform administrative duties, to enforce the laws and to properly implement management, propagation, and protection programs established for carrying out the purposes of the Idaho fish and game code.
3. The appointment of such employees shall be made by the director in accordance with the Idaho personnel commission act and rules promulgated pursuant to chapter 53, title 67, Idaho Code, and they shall be compensated as provided therein. Said employees shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.
4. The director is hereby authorized to establish and maintain fish hatcheries for the purpose of hatching, propagating, and distributing all kinds of fish.
5. (A) The director, or any person appointed by him in writing to do so, may take wildlife of any kind, dead or alive, or import the same, subject to such conditions, restrictions and regulations as he may provide, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes deemed by him to be of interest to the fish and game resource of the state.
(B) The director shall have supervision over all of the matters pertaining to the inspection, cultivation, propagation and distribution of the wildlife propagated under the provisions of title 36, Idaho Code. He shall also have the power and authority to obtain, by purchase or otherwise, wildlife of any kind or variety which he may deem most suitable for distribution in the state and may have the same properly cared for and distributed throughout the state of Idaho as he may deem necessary.
6. (A) The director shall have the power, at any time when it is desired to introduce any new species, or if at any time any species of wildlife of the state of Idaho shall be threatened with excessive shooting, trapping, or angling or otherwise, to close any open season for such time as he may designate; in the event an emergency is declared to exist such closure shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.
(B) In order to protect property from damage by wildlife, the fish and game commission may delegate to the director or his designee the authority to declare an open season upon that particular species of wildlife to reduce its population. The director or his designee 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 or his designee; 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 diseases 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 all deer, elk, antelope, moose, bighorn sheep, or bison imported into, transported, 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 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 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 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 February 5, 1990.

CHAPTER 10
(H.B. No. 436)

AN ACT

RELATING TO THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME; AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OR HIS DESIGNEE SHALL SERVE AS SECRETARY TO THE COMMISSION AND TO CORRECT A GRAMMATICAL ERROR.

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

SECTION 1. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director Created. The commission shall appoint a director of the department of fish and game, hereinafter referred to as the director, who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation, restoration, and management of the wildlife resources of the state. The director shall not hold any other public office, nor any office in any political party organization, and shall devote his entire time to the service of the state in the discharge of his official duties, under the direction of the commission.

(b) Secretary to Commission. The director <u>or his designee</u> 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 classi-

fied 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 diseases 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 all deer, elk, antelope, moose, bighorn sheep, or bison imported into, transported, 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 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 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 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 February 5, 1990.

CHAPTER 11
(S.B. No. 1342)

AN ACT

RELATING TO THE REFUNDING OF BONDS OF IRRIGATION DISTRICTS ISSUED TO FINANCE THE RECONSTRUCTION, REHABILITATION, REPLACEMENT AND IMPROVEMENT OF DAMS OR OTHER RELATED STRUCTURES, WORKS OR APPURTENANCES; AMENDING SECTION 43-2204, IDAHO CODE, TO REPEAL THE REQUIREMENT FOR A CONFIRMATION PROCEEDING PRIOR TO THE SALE AND ISSUANCE OF ANY BONDS SOLD AND ISSUED TO REFUND OTHER BONDS FOR WHICH A CONFIRMATION PROCEEDING HAS ALREADY BEEN HELD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 43-2204, Idaho Code, be, and the same is hereby amended to read as follows:

43-2204. JUDICIAL EXAMINATION. ~~Prior to the sale and issuance of any bonds~~ Except in the instance of bonds issued and sold to refund other bonds for which a confirmation proceeding pursuant to this section has already been held, the board shall file a petition in the district court of the county in which the office of the board is located, pursuant to the provisions of sections 43-406 ~~to~~ through 43-408, ~~inclusive,~~ Idaho Code, prior to the sale and issuance of any bonds under this chapter. Whenever any district which is required to file a petition hereunder has or proposes to enter into a contract or contracts with one or more irrigation districts pursuant to section 43-2201(D)(2), Idaho Code, and such other irrigation district or districts is authorized or required to bring a confirmation proceeding or proceedings pursuant to the provisions of section 43-406 or of section 43-1808, Idaho Code, with respect to such contracts or the levy of assessments or the apportionment of costs, the boards of each of such other irrigation districts shall join in the filing of such petition, and the district court in which such petition is filed shall have jurisdiction to hear the petition and to grant the relief prayed for therein. Each such petition shall pray for a judicial examination and determination of any power conferred hereby or by any amendment hereto or of any assessment levied or of any apportionment of costs or of any act, proceeding or contract of the district or districts, whether or not said contracts shall have been executed, including proposed contracts for the reconstruction, rehabilitation, replacement and improvement of any such dam and other related structures and works and appurtenances, falling water contracts pursuant to section 43-2201(D)(4), Idaho Code, contracts with other irrigation districts pursuant to section 43-2201(D)(2), Idaho Code, and contracts with other public and private persons, firms, corporations and associations pursuant to section 43-2201(D)(3), Idaho Code. Such petition shall set forth the facts whereon the validity of such powers, assessments, apportionments, acts, proceedings or contracts is founded. Notice of the filing of said petition shall be given by the clerk of the court by mailing, and by publication in at least one (1) newspaper published

and of general circulation within the boundaries of each irrigation district joining in the petition, or if no newspaper is so published within any district, then in a newspaper published in the same county in which any part of such irrigation district is located which is of general circulation in such irrigation district, pursuant to and in accordance with the requirements of section 43-407, Idaho Code, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract or contracts, therein mentioned, may be examined.

Any owner of property in any district joining in the petition or any other person interested in the contracts or proposed contracts may appear and answer said petition at any time prior to the date fixed for said hearing or within such further time as may be allowed by the court; and the petition shall be taken as confessed by all persons who fail so to appear. The said petition and notice shall be sufficient to give the court jurisdiction and, upon hearing, the court shall examine into and determine all matters and things affecting the question submitted, shall examine all of the proceedings of all of the irrigation districts as set forth in the petition, shall hear all objections either filed in said proceeding or brought up from the hearings before any of the boards, shall correct all errors in the assessments and apportionments of costs, shall ratify, approve and confirm all apportionments of costs and assessments levied, shall make such findings with reference thereto and render a judgment and decree thereon approving and confirming all of the powers, assessments, apportionments, acts, proceedings and contracts of each of the irrigation districts as set forth in the petition as the case warrants. Costs may be divided or apportioned among the contesting parties in the discretion of the trial court. Review of the judgment of the court may be had as in other similar cases, except that such review must be applied for within thirty (30) days after the time of the rendition of such judgment, or within such additional time as may be allowed by the court within thirty (30) days. The Idaho Rules of Civil Procedure shall govern in matters of pleading and practice where not otherwise specified herein. The court shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties. Except as provided herein, the provisions of sections 43-406 ~~to~~ through 43-408, ~~inclusive,~~ Idaho Code, shall apply to the proceeding herein authorized.

Except as expressly provided in this section, the provisions of sections 43-406 through 43-408, Idaho Code, shall be inapplicable to refunding bonds issued under 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.

Approved February 12, 1990.

CHAPTER 12
(H.B. No. 447)

AN ACT

RELATING TO AGREEMENTS FOR REGISTRATION OF INTERSTATE MOTOR CARRIERS; AMENDING CHAPTER 8, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-815A, IDAHO CODE, TO AUTHORIZE THE IDAHO PUBLIC UTILITIES COMMISSION TO PARTICIPATE IN AND ADMINISTER BASE STATE AGREEMENTS.

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

SECTION 1. That Chapter 8, Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 61-815A, Idaho Code, and to read as follows:

61-815A. BASE STATE AGREEMENTS. Pursuant to public law 89-170, as amended, the Idaho public utilities commission is hereby authorized to enter into reciprocal agreements with the regulatory agencies of other states having jurisdiction and authority over motor carriers to provide for base state agreements in which the registration of interstate carriers operating in participating states may be accomplished by registration in one (1) base state. Carriers electing to register under base state agreements shall be subject to the jurisdiction and authority of the Idaho public utilities commission to the same extent as they would if they did not participate in the base state agreement, except, in lieu of the filing fees or regulatory fees that would otherwise be collected pursuant to this chapter, the fees authorized by public law 89-170, or subsequent act of congress, or such lesser fees as the participating states agree to, may be collected, and the base state may require further filings of certificates of insurance, surety bonds, et cetera, to show the carrier's qualifications to operate. Participating carriers must register their authority directly with the public utilities commission and not with other state or local agencies.

Approved February 13, 1990.

CHAPTER 13
(H.B. No. 473)

AN ACT

RELATING TO COLLECTION OF REGISTRATION FEES FOR MOTOR CARRIERS; AMENDING SECTION 49-442, IDAHO CODE, TO CORRECT A CODE CITATION.

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

SECTION 1. That Section 49-442, Idaho Code, be, and the same is hereby amended to read as follows:

49-442. APPLICATION FOR REGISTRATION -- RECEIPT FOR FEE -- RECORD OF APPLICANTS. (1) Application for the registration of a vehicle required to be registered under the provisions of section 49-441, Idaho Code, shall be made to the assessor or the department as specified in that section, by the owner upon the appropriate form. Every application shall be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, the engine or identification number, whether new or used, and the last license number if known and the state in which issued. Upon the registration of a new vehicle, the application shall also show the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain any other information as may be required by the department. The assessor shall issue to the applicant a receipt for any fee paid, and shall forward to the department a duplicate copy of that receipt, together with the application.

(2) The assessor shall record on a form prescribed and furnished by the department, the names of all owners of vehicles residing in the county who make application for licenses, together with the amounts of the fees paid by such owners. He shall, on or before the tenth of each month, forward to the department a duplicate copy of such record for the preceding month.

(3) When application for registration is made by any motor carrier as defined in section 61-801, Idaho Code, or by any interstate carrier as defined in section 61-801A, Idaho Code, the assessor or the department shall require each such applicant to exhibit a receipt for the payment of the regulatory fee required of any motor carrier by section 61-811, Idaho Code, or evidence of the payment of the registration fee of any interstate carrier required by section 61-802A<u>B</u> and section 61-812, Idaho Code. The number and the amount paid shall be noted on the application. No receipt, registration or plate shall in such cases be given or issued by the assessor or the department until the fees have been paid and evidence of payment presented as required. Pursuant to the authority and duty provided in section 61-811A, Idaho Code, each assessor and the department, shall when the regulatory fees of motor carriers and the registration fees of interstate carriers have not been paid prior to registration, collect such regulatory fees for the public utilities commission, and issue the permit required by section 61-802A, Idaho Code, and collect the permit fees for the public utilities commission. Each assessor and the department shall monthly submit a list of all carriers paying fees and remit monthly all fees to the Idaho public utilities commission no later than the tenth day of each month following collection.

Approved February 13, 1990.

CHAPTER 14
(H.B. No. 474)

AN ACT

RELATING TO PRORATING OF MOTOR CARRIER REGULATORY FEES; AMENDING SECTION 61-812A, IDAHO CODE, TO PROVIDE THAT REGULATORY FEES FOR INTERSTATE COMMON, CONTRACT OR PRIVATE MOTOR CARRIERS SHALL NOT BE PRORATED BELOW THE MINIMUM REGULATORY FEE FOR REGISTRATION OF A SINGLE POWER UNIT.

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

SECTION 1. That Section 61-812A, Idaho Code, be, and the same is hereby amended to read as follows:

61-812A. PRORATING. The annual regulatory fee to be collected per power unit of each common or contract or private motor carrier prescribed by section 61-812, Idaho Code, shall be prorated as other registration fees according to valid interstate agreements for the proration of registration fees of fleets of vehicles used in interstate commerce; provided, however, that the minimum annual regulatory fee for a common, contract or private motor carrier shall not be less than the annual regulatory fee for one (1) power unit for that class of motor carrier.

Approved February 13, 1990.

CHAPTER 15
(H.B. No. 445)

AN ACT

RELATING TO CRIME VICTIMS COMPENSATION; AMENDING SECTION 72-1016, IDAHO CODE, TO DELETE THE EXCLUSION OF AWARDS FOR VICTIMS LIVING IN THE SAME HOUSEHOLD AS THE OFFENDER.

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

SECTION 1. That Section 72-1016, Idaho Code, be, and the same is hereby amended to read as follows:

72-1016. LIMITATIONS ON AWARDS. (1) Compensation may not be awarded unless the claim is filed with the commission within one (1) year after the day the criminally injurious conduct occurred causing the injury or death upon which the claim is based. The time for filing a claim may be extended by the commission for good cause shown.

(2) Compensation may not be awarded to a claimant who is the offender or an accomplice of the offender or to any claimant if the award would unjustly benefit the offender or accomplice.

(3) ~~Compensation--may-not-be-awarded-to-the-spouse-of-or-a-person~~

~~living-in-the-same-household-with-the-offender-or-his--accomplice,--or to--the-parent,-child,-brother-or-sister-of-the-offender-or-his-accomplice;-but-this-prohibition-shall-not-apply-in-situations-where-domestic-violence-or-elderly-abuse-or-abandonment-is-present,-and-the--victim--is-physically-or-legally-separated-from-the-offender-when-a-claim is-filed.~~

~~(4)~~ Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within seventy-two (72) hours after its occurrence ~~of~~ or the commission finds there was good cause for the failure to report within that time.

(~~5~~4) In order to be entitled to benefits under this chapter, a claimant must fully cooperate with all law enforcement agencies and prosecuting attorneys in the apprehension and prosecution of the offender causing the criminally injurious conduct. The commission, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies or prosecuting attorneys, may deny or reconsider and reduce an award of compensation.

(~~6~~5) Compensation otherwise payable to a claimant shall be reduced or denied to the extent the compensation benefits payable are or can be recouped from collateral sources.

(~~7~~6) Persons serving a sentence of imprisonment or residing in any other public institution which provides for the maintenance of such person are not entitled to the benefits of this chapter.

(~~8~~7) Compensation may be denied or reduced if the victim contributed to the infliction of death or injury with respect to which the claim is made. Any reduction in benefits under this subsection shall be in proportion to what the commission finds to be the victim's contribution to the infliction of death or injury.

Approved February 15, 1990.

CHAPTER 16
(H.B. No. 454)

AN ACT

RELATING TO CRIME VICTIMS COMPENSATION; AMENDING SECTION 72-1003, IDAHO CODE, TO EXTEND BENEFITS TO RESIDENTS WHO ARE VICTIMS OF CRIME OUTSIDE IDAHO.

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 <u>or occurs outside the state of Idaho against a resident of the state of Idaho and which occurred in a state which does not have a crime victims compensation program for which the victim is eligible as eligibility is set forth in this statute;</u>

(b) Results in injury or death; 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, 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 February 15, 1990.

CHAPTER 17
(H.B. No. 486)

AN ACT

RELATING TO CIGARETTE AND TOBACCO TAXES; AMENDING SECTION 63-2512, IDAHO CODE, TO CLARIFY THE PENALTY FOR POSSESSION OF CONTRABAND CIGARETTES AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 63-2514, IDAHO CODE, TO CLARIFY THE PROVISION RELATING TO ARREST OF PERSONS IN CONTROL OF CONTRABAND CIGARETTES; AND AMENDING SECTION 63-2560, IDAHO CODE, TO CHANGE THE DUE DATE OF TOBACCO TAX RETURNS FROM THE FIFTEENTH TO THE TWENTIETH DAY OF THE MONTH IN WHICH THE RETURN IS DUE.

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

SECTION 1. That Section 63-2512, Idaho Code, be, and the same is hereby amended to read as follows:

63-2512. PENALTIES. The penalties herein prescribed are not intended as exclusive, but are in addition and supplemental to any and all other existing remedies and procedures prescribed by law for the enforcement of the revenue laws of this state.

(a) Any person who shall forge or counterfeit an Idaho cigarette stamp shall be guilty of a felony and upon conviction thereof shall be punished in accordance with the provisions of the criminal code, and additionally shall be ineligible to have issued him or to hold any state license or permit to sell or vend goods or merchandise of any kind or type, or to be employed by or work in any manner for any person who sells cigarettes for a period of five (5) years thereafter.

(b) The possession by any person of more than ten (10) packages of cigarettes without Idaho cigarette stamps is a misdemeanor. Any person upon conviction shall be subject to a fine of five dollars ($5.00) for each full or partial package of unstamped cigarettes in his possession in excess of ten (10), but the maximum punishment for each offense shall not exceed a fine of three hundred dollars ($300) or imprisonment in the county jail <u>not to exceed ninety (90) days</u> or both.

(c) Failure to possess a valid permit, as required by section 63-2503, Idaho Code, shall be punishable by the imposition of civil penalties at the rate of twenty-five dollars ($25.00) per day, per violation, and such penalty shall be assessed and collected, as provided in section 63-2516, Idaho Code.

(d) All violations of the provisions of this chapter for which criminal penalties are not otherwise imposed shall be misdemeanors and punishable in accordance with the provisions of the criminal code.

(e) The provisions of this ~~act this~~ section shall be applicable to all proceedings pending before the state tax commission, the board of tax appeals, or the courts of this state on the effective date of this act.

SECTION 2. That Section 63-2514, Idaho Code, be, and the same is hereby amended to read as follows:

63-2514. SEARCH AND SEIZURE. When the state tax commission has reason to believe that any cigarettes are being kept, sold, offered for sale or given away in violation of this act, an employee, delegate or deputy of the state tax commission, or any peace officer, may make affidavit of such fact, describing the place or thing to be searched, before a magistrate, or such official shall issue a search warrant directed to the sheriff, constable, police officer, or employee delegate or deputy of the state tax commission commanding him to search any place or vehicle that may be designated in the affidavit and search warrant, and to seize any cigarettes so possessed as well as any article, machine or vehicle wherein the same are found, kept or stored as contraband and to arrest the person in control or possession thereof for violation of the provisions of section 63-2512, Idaho Code.

SECTION 3. That Section 63-2560, Idaho Code, be, and the same is hereby amended to read as follows:

63-2560. TAX PAYABLE MONTHLY -- RETURNS -- MONTHLY ESTIMATE AND QUARTERLY RETURNS, PROCEDURE. The taxes imposed hereunder shall be due and payable in monthly instalments and remittance therefor shall be made on or before the ~~fifteenth~~ twentieth day of the month next succeeding the end of the monthly period in which tax accrued. The taxpayer, on or before said ~~fifteenth~~ twentieth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding monthly period, and shall sign and transmit the same to the commission, together with a remittance for such amount in the form required. Provided, that any such taxpayer may elect to remit each month, on such forms as the tax commission shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the ~~fifteenth~~ twentieth day of the month next succeeding the end of the monthly period in which the tax accrued, and a quarterly return to the commission on or before the ~~fifteenth~~ twentieth day of the month next succeeding the end of each quarter of every year, and shall remit therewith the balance of the actual tax due for the period of the report. Provided further, that

every person who shall elect to remit a monthly "estimate of the tax to be due" as hereinabove described shall remit each month at least one-third (1/3) of the tax paid during the previous quarter, or ninety per cent (90%) of the tax actually collected or owing during the month, whichever is greater.

The tax commission may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one (1) year.

The tax commission may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such taxpayers or class of taxpayers in lieu of quarterly returns.

The tax commission may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

Approved February 15, 1990.

CHAPTER 18
(H.B. No. 490)

AN ACT

RELATING TO TAX ON WINE; AMENDING SECTION 23-1319, IDAHO CODE, TO PROVIDE THAT PERSONS WHO ARE NOT LICENSED AS A DISTRIBUTOR OR A WINERY BUT WHO MAKE SALES OF WINE, WHETHER AS A PRINCIPAL, AGENT OR BROKER, WHEN SUCH WINE IS NOT OTHERWISE TAXED AND NOT EXEMPT, ARE LIABLE FOR WINE TAX, AND TO PROVIDE AN EXCEPTION.

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

SECTION 1. That Section 23-1319, Idaho Code, be, and the same is hereby amended to read as follows:

23-1319. EXCISE TAX -- SALES INCLUDED -- REFUND FOR EXPORT SALES -- REFUND FOR BREAKAGE OR SPOILAGE -- DISTRIBUTION OF REVENUE. Upon all wines sold by a distributor or winery to a retailer or consumer for use within the state of Idaho pursuant to this act there is hereby imposed an excise tax of forty-five cents (45¢) per gallon. Sales of wine by a distributor or winery for the purpose of and resulting in export of wine from this state for resale outside this state shall be exempt from the taxes on wine imposed by this chapter.

(a) Every sale of wine by a distributor to a retailer shall constitute a sale of wine for resale or consumption in this state, whether the sale is made within or without this state, and the distributor shall be liable for the payment of taxes. In every transfer of wine by a licensed winery to its licensed retail outlet, the winery shall be liable for payment of taxes.

(b) When wine has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes prior to payment of taxes on it, the distributor, upon satisfactory proof of destruction or

spoilage, shall be entitled to deduct from existing inventories, subject to tax, the amount of wine so destroyed or spoiled.

(c) If the tax commission determines that any amount due under this chapter has been paid more than once or has been erroneously or illegally collected or computed, the commission shall set forth that fact in its records and the excess amount paid or collected may be credited on any amount then due and payable to the commission from that person and any balance refunded to the person by whom it was paid or to his successors, administrators or executors. The commission is authorized and the state board of tax appeals is authorized to order the commission in proper cases to credit or refund such amounts whether or not the payments have been made under protest and certify the refund to the state board of examiners.

(d) No credit or refund shall be allowed or made after three (3) years from the time the payment was made, unless before the expiration of that period a claim is filed by the taxpayer. The three (3) year period allowed by this subsection for making refunds or credit claims shall not apply in cases where the tax commission asserts a deficiency of tax imposed by law, and taxpayers desiring to appeal or otherwise seek a refund of amounts paid in obedience to deficiencies must do so within the time limits elsewhere prescribed by law.

(e) All revenue received pursuant to this chapter shall be distributed as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims as authorized in subsection (c) of this section and those moneys are continuously appropriated.

(2) The balance remaining after distributing the amount in paragraph (1) of this subsection shall be distributed as follows:

(a) Twelve percent (12%) shall be distributed to the alcoholism treatment account; and

(b) The remainder shall be distributed to the general account.

(f) Any person who is not a distributor or winery but who makes, whether as principal, agent or broker, any sales of wine not otherwise taxed under this section and not exempt from such tax, shall be liable for payment of taxes imposed by this section. This subsection shall not impose tax on wine sold pursuant to section 23-1336, Idaho Code.

Approved February 15, 1990.

CHAPTER 19
(H.B. No. 496)

AN ACT

RELATING TO ADJUSTMENT OF PENALTY OR INTEREST ON AD VALOREM TAXES; AMENDING CHAPTER 22, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2203A, IDAHO CODE, TO AUTHORIZE ADJUSTMENTS OF PENALTY, INTEREST AND FEES WITHIN LIMITS SET BY THE BOARD OF COUNTY COMMISSIONERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 22, 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 63-2203A, Idaho Code, and to read as follows:

63-2203A. ADJUSTMENT OF PENALTY OR INTEREST. The board of county commissioners of any county within the state of Idaho may authorize the county tax collector to make adjustments of penalty, interest and fees, not to exceed the designated limit as set by the board of county commissioners, in order to facilitate the collection of ad valorem taxes.

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 15, 1990.

CHAPTER 20
(H.B. No. 487)

AN ACT

RELATING TO THE IDAHO ESTATE TAX; AMENDING SECTION 14-408, IDAHO CODE, TO PROVIDE THAT THE INTEREST RATE APPLICABLE TO AN INCOME TAX DEFICIENCY APPLIES TO REFUNDS OF ESTATE TAXES, AND TO PROVIDE NO INTEREST ON VOLUNTARY UNREQUESTED PAYMENTS.

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

SECTION 1. That Section 14-408, Idaho Code, be, and the same is hereby amended to read as follows:

14-408. REFUND FOR OVERPAYMENTS -- LIMITATION. If the commission determines that a personal representative has overpaid the tax due under this chapter, the commission is authorized to refund the amount of the over payment, together with interest at the ~~then-existing-statutory-rate-of-interest~~ rate provided for in section 63-3045, Idaho Code, provided, however, that in case of a voluntary and unrequested payment in excess of actual tax liability, no interest shall be allowed when such excess is refunded.

No claim for refund may be initiated more than three (3) years after the date of a federal estate tax closing letter or an amended federal estate tax closing letter.

Approved February 15, 1990.

CHAPTER 21
(H.B. No. 573)

AN ACT

RELATING TO RECEIPT OF MONEY INTO THE STATE TREASURY; REPEALING SECTION 67-1203, IDAHO CODE, TO PERMIT DIRECT RECEIPT OF MONEY INTO THE STATE TREASURY.

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

SECTION 1. That Section 67-1203, Idaho Code, be, and the same is hereby repealed.

Approved February 21, 1990.

CHAPTER 22
(H.B. No. 529)

AN ACT

RELATING TO THE ADMINISTRATIVE PROCEDURES ACT; AMENDING SECTION 67-5218, IDAHO CODE, TO PROVIDE LIMITATIONS ON THE EFFECT OF ADMINISTRATIVE RULES; AND AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5219, IDAHO CODE, TO PROVIDE FOR THE AUTOMATIC EXPIRATION OF ADMINISTRATIVE RULES.

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

SECTION 1. That Section 67-5218, Idaho Code, be, and the same is hereby amended to read as follows:

67-5218. COMMITTEE ACTION. ~~By--the--forty-fifth--day--following transmission-by-the-law-librarian,-t~~The standing committee to which rules have been referred shall report to the membership of the body its findings and recommendations concerning its review of the rules. The report of the committee shall be printed in the journal. ~~If-the committee-does-not-report-by-the-forty-fifth-day--following--transmission--or--prior--to--adjournment--sine-die-if-adjournment-is-more-than twenty-one-(21)-but-less-than-forty-five-(45)-days-following-transmission,-such-failure-to-report-shall-constitute-legislative-approval--of the--rules--as-submitted,-except-that-no-legislative-approval-shall-be presumed-if-the-legislature-adjourns-within-twenty-(20)--days--of--the transmission,--and-the-rules-shall-be-transmitted-by-the-law-librarian to-the-next-succeeding-regular-session,-before-the-first-day.~~ If the committee to which any rule shall have been referred, or any member of the legislature, shall be of the opinion that such rule is violative of the legislative intent of the statute under which such rule was made, or, if any rule previously promulgated and reviewed by the legislature shall be deemed violative of the legislative intent of the statute under which such rule was made, a concurrent resolution may be

adopted rejecting, amending or modifying the same. Where an agency submits a rule or part of a rule which has been adopted or which has repealed or amended an already existing rule, the rejection or modification of the new rule by the legislature via concurrent resolution shall prevent the agency's intended action from remaining in effect beyond the date of the legislative action. It shall be the responsibility of the secretary of state to immediately notify the affected agency of the filing and effective date of any concurrent resolution enacted to amend, modify, or reject an agency rule and to transmit a copy of such concurrent resolution to the director of the agency for promulgation. The agency shall be responsible for implementing legislative intent as expressed in the concurrent resolution, including, as appropriate, the reinstatement of the prior rule, if any, in the case of legislative rejection of the new rule, or the incorporation of any legislative amendments to the new rule. The agency shall republish the rule in accordance with section 67-5205, Idaho Code, reflecting the action taken by the legislature and the effective date thereof. Every rule promulgated within the authority conferred by law, and in accordance with the provisions of chapter 52, title 67, Idaho Code, shall be in full force and effect until the same is rejected, amended or modified by the legislature, or until it expires as provided in section 67-5219, Idaho Code.

SECTION 2. That Chapter 52, 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 67-5219, Idaho Code, and to read as follows:

67-5219. EXPIRATION OF ADMINISTRATIVE RULES. (1) Notwithstanding any other provision of this chapter to the contrary, every rule adopted after June 30, 1990, shall automatically expire on July 1 of the following year unless such rule is extended by statute. Extended rules shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each such succeeding year.

(2) All rules adopted prior to June 30, 1990, shall expire on July 1, 1991, unless extended by statute. Thereafter, any such rules which are extended shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each succeeding year.

(3) Rules adopted pursuant to this chapter may be extended in whole or in part. When any part of an existing rule is amended, then that entire rule shall be subject to the provisions of this section.

(4) This section is a critical and integral part of this chapter. If any portion of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall be deemed to affect all rules adopted subsequent to the effective date of this act and such rules shall be deemed null, void and of no further force and effect.

Law without signature.

CHAPTER 23
(S.B. No. 1373)

AN ACT

RELATING TO COLLECTION OF REAL PROPERTY TAXES; AMENDING SECTION 63-1102A, IDAHO CODE, TO PROVIDE FOR THE COUNTY TREASURER TO REFUND ANY MONEYS, DEPOSITED IN EXCESS OF THE AMOUNT NEEDED TO SATISFY A TAX LIEN, TO THE DEPOSITOR; AMENDING CHAPTER 11, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-1103A, IDAHO CODE, TO PROVIDE FOR THE COUNTY TREASURER TO KEEP RECORDS IN THE ORIGINAL FORM OR A FACSIMILE; AND AMENDING SECTION 63-1126, IDAHO CODE, TO DEFINE FACSIMILE AND TO DELETE A DEFINITION FOR "THIS ACT."

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

SECTION 1. That Section 63-1102A, Idaho Code, be, and the same is hereby amended 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) <u>The tax collector may return to the depositor any moneys deposited in excess of the amount necessary to satisfy the tax lien.</u>

<u>(g)</u> 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 depos-

its.

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 63-1103A, Idaho Code, and to read as follows:

63-1103A. RECORDS TO BE KEPT. All records required to be kept by the county treasurer under this chapter may be in original form or a facsimile thereof and are to be made available when necessary for reviewing.

SECTION 3. That Section 63-1126, Idaho Code, be, and the same is hereby amended to read as follows:

63-1126. DEFINITIONS. Words and terms used in this ~~act~~ chapter, unless the context otherwise requires, are defined as follows:

(1) "Board" means the board of county commissioners.

(2) "County treasurer" means that duly elected officer and his or her deputies or employees. Such county treasurer acts as ex officio tax collector for the purposes of this ~~act~~ chapter.

(3) The term "delinquent taxes" as herein used shall be deemed and construed to include all general taxes and special assessments and charges entered in county tax rolls and collectible in the same manner as general property taxes, levied, assessed or charged against real property, including taxes on personal property secured by lien on real property.

(4) "Facsimile" means the reproduction or supplying of an exact copy from an original document.

(5) "Party in interest" means a person or persons, partnership, corporation, business venture, or other entity which holds a valid and legally binding mortgage or security interest, properly recorded, in and for the property for which a delinquency entry has been made.

(~~5~~6) "Record owner or owners" means the person or entity in whose name or names the property stands upon the records in the county recorder's office. Where the record owners are husband and wife at the time the notice described in section 63-1126B, Idaho Code, shall issue, notice to one (1) spouse shall be deemed and imputed as notice to the other spouse.

~~(6)--"This--act"--means--sections-63-1126-and-63-1126A-through-and including-63-1126B,-Idaho-Code.~~

Approved February 23, 1990.

CHAPTER 24
(S.B. No. 1375)

AN ACT

RELATING TO THE COUNTY BUDGET PROCESS; AMENDING SECTION 31-1605, IDAHO CODE, TO PERMIT THE RECEIPT OF GRANTS OR DONATIONS FROM FEDERAL, STATE OR LOCAL GOVERNMENTS, OR FROM PRIVATE SOURCES INTO THE BUD-

GET.

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

SECTION 1. That Section 31-1605, Idaho Code, be, and the same is hereby amended to read as follows:

31-1605. HEARING UPON BUDGET APPROPRIATIONS -- ADOPTION OF FINAL BUDGET -- FIXING OF LEVIES -- GENERAL RESERVE APPROPRIATION. On the Tuesday following the first Monday in September of each year the board of county commissioners shall meet at the office of said commissioners at the time designated in said notice whereat any taxpayer may appear and be heard upon any part or parts of said tentative budget. Such hearing may be continued from day to day until concluded, but not to exceed a total of five (5) days. Any officer or employee in charge of any office, department, service, agency or institution of the county may be called before said board at the time the estimates for his office, department, service, agency or institution are under consideration and be examined by said board or any taxpayer concerning the expenditures made by him and the estimated expenditures for the ensuing fiscal year.

Upon the conclusion of such hearing, the county commissioners shall fix and determine the amount of the budget for each office, department, service, agency or institution of the county, separately, which in no event shall be greater than the amount of the tentative budget, and which in no event shall include an amount to be raised from property taxes greater than the amount advertised, and by resolution adopt the budget as so finally determined and enter said resolution on the official minutes of the board. Said budget shall be filed in the office of the clerk of said board of county commissioners and a copy thereof, certified by said clerk, shall be filed with the county auditor as county budget officer.

Said budget as finally adopted for the ensuing fiscal year shall specify the fund or funds against which warrants shall be issued for the expenditures so authorized, respectively, and the aggregate of expenditures authorized against any fund shall not exceed the estimated revenues to accrue to such fund during the ensuing fiscal year from sources other than taxation together with any balances and plus revenues to be derived from taxation for such ensuing fiscal year, within the limitations imposed by chapter 9 of title 63, Idaho Code, or by any statutes of the state of Idaho in force and effect.

Thereafter, at the time provided by law, the board of county commissioners shall fix the levies for the ensuing fiscal year necessary to raise the amount of expenditures as determined by the adopted budget, less the total estimated revenues from sources other than taxation, including available surplus, not subject to the provisions of section 31-1605A, Idaho Code, as determined by the board, and such expenditures as are to be made with the proceeds of authorized bond issues.

During the year the county commissioners may proceed to adjust the budget as adopted on the Tuesday following the first Monday in September to reflect the receipt of unscheduled revenue, grants, or donations from the federal, ~~and the~~ state or local governments or private

sources, provided that previously budgeted funds are not increased and that there shall be no increase in anticipated property taxes. The annual budget procedure shall be complied with before the budget may be adjusted.

The board shall also have the right to make a "general reserve appropriation," said appropriation not to exceed five per cent (5%) of the current expense budget as finally adopted, the total levy however, for current expense, including the "general reserve appropriation," to be within the limitations imposed by chapter 9 of title 63, Idaho Code, or by any statutes of the state of Idaho in force and effect. In the event of any unforeseen contingency arising, which could not reasonably have been foreseen at the time of making the budget, and which shall require the expenditure of money not provided for in the budget, the board of county commissioners, by unanimous vote thereof, shall have the right to make an appropriation from the "general reserve appropriation" to the office, department, service, agency or institution in which said contingency arises, in such amount as shall be determined by resolution of said board. Provided, however, that no such appropriation shall be made for any purpose, otherwise provided for in the budget, to any office, department, service, agency or institution; provided, further, no appropriation may be made from the "general reserve appropriation" to any county fund which is authorized under the law to make a special levy.

Approved February 23, 1990.

CHAPTER 25
(S.B. No. 1384)

AN ACT

RELATING TO THE CONSENT TO TERMINATION OF PARENTAL RIGHTS; AMENDING SECTION 16-2005, IDAHO CODE, TO PROVIDE FOR CONSENTS SIGNED OUT OF THE STATE OF IDAHO.

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

SECTION 1. That Section 16-2005, Idaho Code, be, and the same is hereby amended to read as follows:

16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. The court may grant an order terminating the relationship where it finds one or more of the following conditions exist:

a. The parent has abandoned the child by having failed to maintain a normal parental relationship, including but not limited to reasonable support or regular personal contact; failure of the parent to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment under this section.

b. The parent has neglected or abused the child. Neglect as used herein shall mean a situation in which the child lacks parental care necessary for his health, morals and well-being.

c. The presumptive parent is not the natural parent of the child.

d. The parent is unable to discharge parental responsibilities because of mental illness or mental deficiency, and there are reasonable grounds to believe the condition will continue for a prolonged indeterminate period and will be injurious to the health, morals or well-being of the child.

e. If termination is found to be in the best interest of the parent and child, where the petition has been filed by a parent or through an authorized agency, or interested party.

f. Where a consent to termination in the manner and form prescribed by this act has been filed by the parent(s) of the child in conjunction with a petition for adoption initiated by the person or persons proposing to adopt the child, or where the consent to termination has been filed by a licensed adoption agency, no subsequent hearing on the merits of the petition shall be held. Consents required by this act must be witnessed by a district judge or magistrate of a district court, or equivalent judicial officer of the state, where a person consenting resides or is present, whether within or without the county, and shall be substantially in the following form:

IN THE DISTRICT COURT OF THE .... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ....

In the Matter of the termination)
of the parental rights of)
.....)
.....)

I (we), the undersigned, being the .... of ...., do hereby give my (our) full and free consent to the complete and absolute termination of my (our) parental right(s), to the said ...., who was born ...., 19.., unto ...., hereby relinquishing completely and forever, all legal rights, privileges, duties and obligations, including all rights of inheritance to and from the said ...., and I (we) do hereby expressly waive my (our) right(s) to hearing on the petition to terminate my (our) parental relationship with the said ...., and respectfully request the petition be granted.

DATED: ...., 19...

.....

STATE OF IDAHO)
) ss.
COUNTY OF ....)

On this .... day of ...., 19.., before me, the undersigned ...., ... (Judge or magistrate) of the District court of the .... Judicial District of the state of Idaho, in and for the county of ...., personally appeared ...., known to me (or proved to me on the oath of ....) to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he (she, they) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

..... (District Judge or Magistrate)

(g) Unless a consent to termination signed by the parent(s) of the child has been filed by an adoption agency licensed in the state of Idaho, or unless the consent to termination was filed in conjunc-

tion with a petition for adoption of the child, the court shall hold a hearing.

Approved February 23, 1990.

CHAPTER 26
(S.B. No. 1385)

AN ACT

RELATING TO THE DEFINITION OF PARENT FOR PURPOSES OF TERMINATION OF PARENTAL RIGHTS, AND ADOPTION; AMENDING SECTION 16-2002, IDAHO CODE, TO DELETE REFERENCE TO ILLEGITIMATE CHILDREN.

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

SECTION 1. That Section 16-2002, Idaho Code, be, and the same is hereby amended to read as follows:

16-2002. DEFINITIONS. When used in this act, unless the text otherwise requires:

a. "Court" means the district court.

b. "Child" or "minor" means a person less than eighteen (18) years of age.

c. The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of the act.

d. "Neglected" used with respect to a child refers to those situations in which the child lacks proper support or parental care necessary for his health, morals, and well-being.

e. "Abuse" used with respect to a child refers to those situations in which physical cruelty in excess of that required for reasonable disciplinary purposes has been inflicted by a parent or other person in whom legal custody of the child has been vested.

f. "Legal custody" means status created by court order embodying the following rights and responsibilities:

(1) the right to physical possession of the child,

(2) the right and duty to protect, train and discipline the child, and

(3) the responsibility to provide the child with food, shelter, education and medical care,

provided that such rights and responsibilities shall be exercised subject to the powers, rights, duties and responsibilities of the guardian of the person.

g. "Guardianship of the person" means those rights and duties imposed upon a person appointed as guardian of a minor under the laws of Idaho. It includes but is not necessarily limited either in number or kind to:

(1) the authority to consent to marriage, to enlistment in the armed forces of the United States, and to major medical, psychiatric and surgical treatment; to represent the minor in legal actions; and to make other decisions concerning the child of sub-

stantial legal significance;

(2) the authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order;

(3) the rights and responsibilities of legal custody except where legal custody has been vested in another individual or in an authorized child placement agency;

(4) when the parent and child relationship has been terminated by judicial decree with respect to the parents, or only living parent, or when there is no living parent, the authority to consent to the adoption of the child and to make any other decision concerning the child which the child's parents could make.

h. "Guardian ad litem" means a person appointed as such pursuant to law, by the court to protect the interest of a minor or an incompetent in a case before the court.

i. "Authorized agency" means the state department of health and welfare or a voluntary child placement agency licensed to care for and place children by the state department of health and welfare.

j. "Parent" means ~~(1) the mother; (2) a father as to whom a child is legitimate; (3) a person as to whom a child is presumed to be a legitimate child; or (4) an adoptive parent; but such term does not include a parent as to whom the parent and child relationship has been terminated by judicial decree~~ the birth or adoptive mother or the birth, adoptive, or legal father, whose parental rights have not been terminated.

k. "Parent and child relationship" includes all rights, privileges, ~~duties~~ and obligations existing between parent and child, including inheritance rights, and shall be construed to include adoptive parents.

l. "Protective supervision" means a legal status created by court order in proceedings not involving violations of the law but where the legal custody of the child is subject to change, whereby the child is permitted to remain in his home under the supervision of an authorized agency designated by the court and is subject to return to the court during the period of protective supervision.

m. "Parties" includes the child and the petitioners.

Approved February 23, 1990.

CHAPTER 27
(S.B. No. 1399)

AN ACT

RELATING TO CONSENTS TO TERMINATION OF PARENTAL RIGHTS; AMENDING SECTION 16-1504, IDAHO CODE, TO DELETE REFERENCE TO ILLEGITIMATE CHILD.

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

SECTION 1. That Section 16-1504, Idaho Code, be, and the same is

hereby amended to read as follows:

16-1504. CONSENT OF PARENTS, GUARDIAN, NEAREST RELATIVE, OR NEXT FRIEND OF CHILD -- EXCEPTIONS. A ~~legitimate~~ child cannot be adopted without the consent of its parents, if living, ~~nor an illegitimate child without the consent of its mother, if living,~~ nor without the consent of its guardian if one has been legally appointed or, if no living parents or guardian, then of its nearest relative; if no relative, then by the consent of some person appointed by the judge to act in the proceedings as the next friend to such child. The consent of a parent who is a minor shall not be voidable because of that minority. No consent shall be required of, nor notice given to, any person whose parental relationship to such child shall have been terminated in accordance with the provisions of either chapters 16 or 20, title 16, Idaho Code, or by a court of competent jurisdiction of a sister state under like proceedings; or in any other manner authorized by the laws of a sister state. Where a voluntary child placement agency licensed by the state in which it does business is authorized to place a child for adoption and to consent to such child's adoption under the laws of such state, the consent of such agency to the adoption of such child in a proceeding within the state of Idaho shall be valid and no further consents or notices shall be required.

Approved February 23, 1990.

CHAPTER 28
(H.B. No. 502)

AN ACT

RELATING TO THE LOAN FORGIVENESS PROGRAM FOR POTENTIAL TEACHERS AND POTENTIAL NURSES; AMENDING SECTION 33-3722, IDAHO CODE, TO PROVIDE SEPARATE CONDITIONS FOR THE LOAN FORGIVENESS PROGRAM FOR STUDENTS PURSUING A NURSING CAREER.

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~~ individuals 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 pursuing a teaching career may sign a loan forgiveness contract and promissory note for payment of all full-time undergraduate 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 percent (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 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 ~~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) Any Idaho student pursuing a licensed nursing career may sign a loan forgiveness contract and promissory note for payment of all undergraduate matriculation, facility and activity fees at any Idaho institution of higher learning who:

(a) 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 for the remaining semesters; and

(b) Will pursue a program of study which will qualify the student to write the licensure examination approved by the board of nursing for registered nurse upon completion of his studies; and

(c) Will pursue a licensed professional nursing career within the state of Idaho for a minimum of two (2) years, which time requirement will commence within one (1) year after professional nursing license is obtained.

(~~3~~4) 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.~~

~~(c)~~ 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~~5) 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~~6~~) 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~~7~~) 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 1, 1990.

CHAPTER 29
(H.B. No. 465)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2713, IDAHO CODE, TO CHANGE THE PROPYLHEXEDRINE LISTING TO CONFORM WITH FEDERAL REGULATIONS.

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

SECTION 1. 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 (except as Benzedrex [TM] inhaler);

(2) Pyrovalerone.

Approved March 1, 1990.

CHAPTER 30
(H.B. No. 512)

AN ACT

RELATING TO THE STATE AGING ADVISORY COUNCIL; AMENDING SECTION 67-5004, IDAHO CODE, TO PROVIDE THAT NO FEWER THAN FOURTEEN MEMBERS OF THE STATE AGING ADVISORY COUNCIL SHALL BE AT LEAST SIXTY YEARS OF AGE.

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

SECTION 1. That Section 67-5004, Idaho Code, be, and the same is hereby amended to read as follows:

67-5004. STATE ADVISORY COUNCIL CREATED -- MEMBERSHIP. There is hereby created a state aging advisory council in the Idaho office on aging to advise in the preparation and execution of plans, projects, and programs in furtherance of the power and duties conferred on the office by this act. The council shall consist of seventeen (17) members, ~~each~~ no fewer than fourteen (14) of whom ~~is~~ are at least sixty (60) years of age. A minimum of twelve (12) members shall be representatives elected from the local advisory councils in a manner to assure representation from all geographic areas of the state. The additional members shall be appointed by the administrator of the Idaho office on aging, as representatives of public and community interest groups. Membership of the council shall be for two (2) year terms. Members shall be compensated as provided by section 59-509(b), Idaho Code.

Approved March 1, 1990.

CHAPTER 31
(H.B. No. 560)

AN ACT

RELATING TO SCHOOL DISTRICT TRUSTEE ZONES; AMENDING SECTION 33-313, IDAHO CODE, TO PROVIDE THAT A BOARD OF TRUSTEES SHALL PREPARE A PROPOSAL FOR SUBMISSION TO THE STATE BOARD OF EDUCATION WITHIN ONE HUNDRED TWENTY DAYS OF RECEIPT OF A PETITION TO REZONE THE DISTRICT.

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, ~~or~~ <u>of</u> the number of trustee zones in such district, and the date of <u>expiration of</u> 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.

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~~ <u>one hundred twenty (6120)</u> 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 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 2, 1990.

CHAPTER 32
(S.B. No. 1460)

AN ACT

RELATING TO GENERAL STATE AID TO HEALTH DISTRICTS; AMENDING SECTION 39-425, IDAHO CODE, TO PROVIDE FOR A MINIMUM AMOUNT OF STATE MATCHING AID FOR HEALTH DISTRICTS, AND TO PROVIDE FOR LIMITS ON STATE LIABILITY TO HEALTH DISTRICTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-425, Idaho Code, be, and the same is hereby amended to read as follows:

39-425. GENERAL STATE AID TO DISTRICTS -- PROCEDURES. (1) Every year, the districts shall submit a request to the legislature for money to be used to match funds contributed by the counties pursuant to section 31-862, Idaho Code, for the maintenance and operation of district health departments. The matching amount to be included in the request shall be <u>a minimum of</u> sixty-seven per cent (67%) of the amounts pledged by each county, as adopted as part of the budget for the health districts during the budget formulations, as provided for in section 39-423, Idaho Code. If the determined amount of participation by a county would exceed the amount which could be raised applying the maximum levy prescribed in section 31-862, Idaho Code, that county's participation shall be reduced to the maximum amount which

can be raised thereby.

(2) The foregoing provision shall not limit the legislature from authorizing or granting additional funds for selected projects in excess of the percentage of participation of general aid granted all health districts.

(3) General state aid to the various health districts shall be made available from state appropriations, and shall be distributed in the following manner:

a. One-half (1/2) of the amount appropriated shall be remitted to the public health trust account on or before July 15; and

b. The remaining one-half (1/2) of the amount appropriated shall be remitted to the public health trust account on or before January 15.

(4) The liability of the state of Idaho to the public health districts and the public health district fund and its divisions is limited to:

a. ~~Sixty-seven--per-cent-(67%)-of-the-contribution-by-each-county as-specified~~ The funds actually authorized and granted to the various public health districts as provided in subsection (1) of this section; and

b. The funds actually authorized or granted to the various public health districts as provided for in subsection (2) of this section; and

c. The funds due the various health districts in payment of legally authorized contracts and agreements entered into between the departments of the state of Idaho and the various public health districts.

(5) If revenues to the state treasury are insufficient to fully meet appropriations, and reductions in spending authority have been ordered pursuant to law, the amount of moneys to match revenues contributed by the counties, pursuant to section 39-423, Idaho Code, which has been appropriated pursuant to this section, shall be reduced by the same percentage rate as other general account appropriations.

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 7, 1990.

CHAPTER 33
(S.B. No. 1380)

AN ACT

RELATING TO THE COMMISSION FOR THE BLIND; AMENDING SECTION 67-5404, IDAHO CODE, TO INCREASE THE COMPENSATION OF MEMBERS OF THE COMMISSION FOR THE BLIND.

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

SECTION 1. That Section 67-5404, Idaho Code, be, and the same is hereby amended to read as follows:

67-5404. COMPENSATION. Members of the commission shall be compensated as provided by section 59-509(~~f~~h), Idaho Code.

Approved March 7, 1990.

CHAPTER 34
(H.B. No. 569)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO INCORPORATE AMENDMENTS MADE TO THE INTERNAL REVENUE CODE BY CONGRESS IN 1989; AMENDING SECTION 63-3035, IDAHO CODE, TO EXEMPT FARMER EMPLOYERS FROM THE REQUIREMENT TO WITHHOLD INCOME TAX FROM EMPLOYEES, EXCEPT THE ONE PERCENT WITHHOLDING REQUIREMENT OF SECTION 63-3036, IDAHO CODE; AMENDING SECTION 63-3036, IDAHO CODE, TO STRIKE LANGUAGE THAT INDICATES THAT FARMERS ARE NOT REQUIRED TO WITHHOLD TAX UNDER THE INTERNAL REVENUE CODE AND TO CORRECT A REFERENCE; 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, 19~~89~~90.

(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.

SECTION 2. 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 (other than employees specified in Internal Revenue Code section 3401(a)(2)) 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 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.

SECTION 3. That Section 63-3036, Idaho Code, be, and the same is hereby amended to read as follows:

63-3036. STATE WITHHOLDING TAX ON PERCENTAGE BASIS FOR FARMERS AND OTHERS EXEMPT FROM FEDERAL WITHHOLDING. Every farmer who is an employer and ~~all other~~ employers exempt from withholding by the Internal Revenue Code shall at the time of the payment of wages, salaries, bonus or ~~ther~~ other emoluments to an employee, deduct and retain therefrom an amount equal to one per cent (1%) of such wage, salary, bonus or emolument or the value of such emolument, and the amount so withheld and deducted shall be held by said farmer-employer and other employers in trust for the state of Idaho and for the payment thereof to the state tax commission. The farmer-employer and other ~~employees~~ employers shall deliver to the state tax commission a return upon such form as shall be prescribed by said state tax commission showing the amounts of wages, salary, bonus or other emoluments paid to his employee, the amount deducted therefrom in accordance with this section, and such other pertinent and necessary information as the state tax commission may require on or before January 31 of the year following the year in which such deduction was made. The farmer-employer or other employers making such a deduction as provided for in this section shall furnish to the employee annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of the tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and at the same time every employer shall file a copy thereof with the state tax commission. The provisions of ~~the preceding~~ subsections (d), (e) and (f) of section 63-3035, Idaho Code, shall be applicable to the tax withheld by the farmer-employer or other employers under this section. The tax so withheld by the farmer-employer or other employers shall be paid annually to the state tax commission on or before January 31 of the year following the year in which such deduction was made. Provided, that no tax need be withheld from an employee whose wages, salaries, bonuses and other emoluments total less than one hundred and fifty dollars ($150) for the tax year.

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, and retroactively to January 1, 1990.

Approved March 7, 1990.

CHAPTER 35
(H.B. No. 565)

AN ACT

RELATING TO SCHOOL TEACHER LIABILITY INSURANCE COVERAGE; AMENDING SECTION 33-1201, IDAHO CODE, TO PROVIDE THAT A STUDENT SERVING IN A PRACTICUM, INTERNSHIP OR TEACHING CAPACITY SHALL BE ACCORDED THE SAME LIABILITY INSURANCE COVERAGE AS A CERTIFICATED PERSON.

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

SECTION 1. That Section 33-1201, Idaho Code, be, and the same is hereby amended to read as follows:

33-1201. CERTIFICATE REQUIRED. Every person who is employed to serve in any elementary or secondary school in the capacity of teacher, supervisor, administrator, education specialist, school nurse or school librarian shall be required to have and to hold a certificate issued under authority of the state board of education, valid for the service being rendered; except that the state board of education may authorize endorsement for use in Idaho, for not more than five (5) years, certificates valid in other states when the qualifications therefor are not lower than those required for an Idaho certificate.

No certificate shall be required of a student attending any teacher-training institution, who shall serve as a practice teacher in a classroom under the supervision of a certificated teacher, and who is jointly assigned by such teacher-training institution and the governing board of a district or a public institution to perform practice teaching in a non-salaried status. Those students attending a teacher-training institution of another state and who serve as a non-salaried practice teacher in an Idaho school district shall be registered by that school district.

A student, while serving ~~as a practice teacher~~ in a practicum, internship or student teaching position under the supervision of a person certificated ~~teacher~~ pursuant to this section, shall be accorded the same liability insurance coverage by the school district being served as that accorded ~~a~~ such certificated ~~teacher~~ person in the same district, and shall comply with all rules and regulations of the school district or public institution while ~~acting as such practice teacher~~ serving in such a capacity.

Approved March 7, 1990.

CHAPTER 36
(H.B. No. 455)

AN ACT

RELATING TO THE STATE BOARD OF PODIATRY; AMENDING SECTION 54-604, IDAHO CODE, TO PROVIDE THE BOARD SHALL MEET ANNUALLY; AMENDING SECTION 54-606, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN THE

APPLICATION FEE, TO PROVIDE FOR AN INCREASE IN REEXAMINATION FEE, TO PROVIDE PROPER TERMINOLOGY; AND AMENDING SECTION 54-613, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN THE ENDORSEMENT FEE.

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

SECTION 1. That Section 54-604, Idaho Code, be, and the same is hereby amended to read as follows:

54-604. ESTABLISHMENT OF STATE BOARD OF PODIATRY. There is hereby established in the department of self-governing agencies a state board of podiatry to be composed of five (5) members to be appointed by the governor in the manner hereinafter set forth. Four (4) of said members shall be podiatrists, duly licensed under the laws of the state of Idaho, and who shall have been continuously engaged in the practice of podiatry for a period of not less than five (5) years prior to his appointment. The fifth member of the board shall be a layman, a resident of the state of Idaho for a period of not less than five (5) years prior to his appointment. With reference to the first board, the four (4) podiatrists shall be appointed for terms of one (1), two (2), three (3) and four (4) years, respectively. The lay board member shall be appointed for a term of three (3) years. Thereafter, all appointments to the board shall be made for terms of four (4) years. Vacancies upon the board, occurring for any reason, shall be filled by the governor. The governor in making appointments shall give consideration to but shall not be bound by the recommendations received from the Idaho Podiatry Association.

Within thirty (30) days from the appointment of the board by the governor, the board shall organize itself, select a chairman, a vice chairman and secretary. The chairman and the secretary shall be podiatrists. The board shall meet ~~regularly on the second Tuesday of July of each year~~ annually for the purpose of conducting examinations and transacting any other business which may lawfully come before it. The board may meet in special session at the call of the chairman, or at the call of not less than two-thirds (2/3) of the membership of the board. The members of the board shall each be compensated as provided by section 59-509(g), Idaho Code.

Examinations of applicants may be conducted by an examining board, to be comprised of a quorum of the board.

A majority of the board shall constitute a quorum.

SECTION 2. That Section 54-606, Idaho Code, be, and the same is hereby amended to read as follows:

54-606. STATE BOARD OF PODIATRY -- EXAMINATION FOR LICENSES. Every person, except as hereinafter provided, desiring to commence the practice of podiatry within this state, shall make written application to the state board of podiatry, upon forms to be prescribed and furnished by the board, for a license so to do. Such applications shall be accompanied by a fee as established by board ~~regulation~~ rule not to exceed ~~two~~ four hundred dollars ($~~2~~400). Each applicant shall be at least twenty-one (21) years of age, of good moral character, have completed one (1) year of podiatric residency, and a graduate of some

reputable school of podiatry accredited by the board. A reputable school of podiatry for the purposes herein shall mean a school of podiatry requiring for graduation the graduation from an accredited high school, credits granted for at least two (2) full years of general college study in a college or university of recognized standing, and four (4) full years of study in such school of podiatry or its equivalent.

Except as herein otherwise provided, each applicant shall be examined by the board to determine his knowledge of the subjects taught in reputable schools of podiatry, and which examinations shall include the following subjects: Anatomy, histology, pathology, bacteriology, physiology, surgery, roentgenology, podiatric medicine, chemistry, dermatology, materia medica, diagnosis, therapeutics, clinical and orthopedic podiatry, limited in scope to podiatry. Additional subjects may be prescribed from time to time by the board. Examinations may be written, oral and practical in nature. No applicant shall be granted a license who shall fail to obtain a ~~general average of seventy-five percent (75%)~~ satisfactory score as established by the board on all the subjects examined upon. Should any applicant fail on such examination ~~to make the required grade, as herein provided,~~ and by reason thereof be refused a license, he shall be entitled within six (6) months of such refusal to a re-examination upon payment of an additional fee as established by board ~~regulation~~ rule not to exceed ~~two~~ four hundred dollars ($~~2~~4~~00~~) to the board; provided, however, that two (2) such re-examinations shall exhaust his privilege under his original application.

SECTION 3. That Section 54-613, Idaho Code, be, and the same is hereby amended to read as follows:

54-613. LICENSE WITHOUT WRITTEN EXAMINATION. The board may issue a license to an applicant by indorsement where the applicant has passed an examination for and has been licensed to practice podiatry in another state, or who has successfully passed the written examination of a recognized national certifying agency in podiatry; provided the written examination of such other state or national certifying agency was, in the opinion of the board, equivalent to its own examination; provided, further, that the applicant satisfies in all other respects the requirements for a license in this act set forth. Such application to the board shall be accompanied by an application fee as established by board ~~regulation~~ rule not to exceed ~~one~~ four hundred dollars ($~~1~~4~~00~~).

Approved March 7, 1990.

CHAPTER 37
(H.B. No. 441)

AN ACT

RELATING TO WEIGHTS AND MEASURES; AMENDING SECTIONS 71-108, 71-111, 71-229 AND 71-231, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE TO

CONFORM WITH THE OMNIBUS TRADE AND COMPETITIVENESS ACT.

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

SECTION 1. That Section 71-108, Idaho Code, be, and the same is hereby amended to read as follows:

71-108. DEFINITIONS. When used in this act:

(1) The word "person" shall be construed to mean both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies, and associations.

(2) The words "weight(s) and (or) measure(s)" shall be construed to mean all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices, except that the term shall not be construed to include meters for the measurement of electricity, gas (natural or manufactured), or water when the same are operated in a public utility system. Such electricity, gas, and water meters are hereby specifically excluded from the purview of this act, and none of the provisions of this act shall be construed to apply to such meters or to any appliances or accessories associated therewith.

(3) The word "net" shall be construed to mean clear of, or excluding all tare, wrappers and other material packed with a commodity or in which a commodity is contained.

(4) The word "weight" as used in this act in connection with any commodity shall mean net weight. Whenever any commodity is sold on the basis of weight, the net weight of the commodity shall be employed, and all contracts concerning commodities shall be so construed.

(5) The words "sell" and "sale" shall be construed to mean barter and exchange.

(6) The term "director" shall be construed to mean, respectively, (the state) the director of the department of agriculture or his duly authorized employees.

(7) The term "inspector" shall be construed to mean a state inspector of weights and measures.

(8) The term "intrastate commerce" shall be construed to mean any and all commerce or trade within the limits of the state of Idaho, and the phrase "introduced into intrastate commerce" shall be construed to define the time and place at which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(9) The term "commodity in package form" shall be construed to mean commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of any auxiliary shipping container inclosing packages that individually conform to the requirements of this act. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be commodity in package form.

(10) A "consumer package" or "package of consumer commodity"

shall be construed to mean a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals for the purpose of personal care or use by individuals or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.

(11) A "nonconsumer package" or "package of nonconsumer commodity" shall be construed to mean any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

(12) For the purposes of this act, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated by the national bureau of standards <u>or its successor organization, the national institute of standards and technology,</u> or by regulation passed by the director. Other apparatus shall be deemed to be "incorrect."

SECTION 2. That Section 71-111, Idaho Code, be, and the same is hereby amended to read as follows:

71-111. REGULATIONS FOR ENFORCEMENT. The director shall issue regulations for the enforcement of this act, which regulations shall have the force and effect of law. The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, together with amendments thereto of the national conference on weights and measures recommended and published by national bureau of standards <u>or its successor organization, the national institute of standards and technology,</u> from time to time, shall be considered by the director in establishing such regulations and said regulations shall conform as nearly as possible to those recommended by the national bureau of standards <u>or its successor organization, the national institute of standards and technology.</u> The director may by regulations exempt apparatus from any or all of the requirements of this act.

SECTION 3. That Section 71-229, Idaho Code, be, and the same is hereby amended to read as follows:

71-229. UNITED STATES AND METRIC SYSTEMS JOINTLY RECOGNIZED. The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one (1) or both of these systems shall be used for all commercial purposes in the state of Idaho. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the national bureau of standards <u>or its successor organization, the national institute of standards and technology,</u> are recognized and shall govern weighing and measuring equipment and transactions in the state.

SECTION 4. That Section 71-231, Idaho Code, be, and the same is hereby amended to read as follows:

71-231. CERTIFICATION OF STATE STANDARDS -- DECENNIAL RECERTIFICATION -- FIELD STANDARDS. The weights and measures of the state used as state standards shall, when they have been certified as being satisfactory for use by the national bureau of standards or its successor organization, the national institute of standards and technology, be the state standards of weight and measure and they shall be recertified at least every ten (10) years. There shall also be "field standards" and such equipment as may be found necessary to carry out the provisions of this act. Said field standards shall be tested by the bureau each year.

Approved March 7, 1990.

CHAPTER 38
(H.B. No. 528)

AN ACT

RELATING TO ANIMALS; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7037, IDAHO CODE, TO PROVIDE CIVIL AND CRIMINAL PENALTIES FOR UNAUTHORIZED RELEASE OF CERTAIN ANIMALS, BIRDS OR AQUATIC SPECIES.

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

SECTION 1. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7037, Idaho Code, and to read as follows:

18-7037. UNAUTHORIZED RELEASE OF CERTAIN ANIMALS, BIRDS OR AQUATIC SPECIES -- PENALTIES. (1) Any person who without expressed permission from the owner or agent releases an animal, a bird, or an aquatic species which has been lawfully confined for agriculture, science, research, commerce, public propagation, protective custody, or education is liable: (a) to the owner or agent exercising possession of the animal, bird or aquatic species for damages and replacement costs, including the costs of restoring the animal, bird, or aquatic species to confinement and to its health condition prior to release; and (b) for damage to personal and real property caused by the release of the animal, bird or aquatic species. If the release causes the failure of an experiment, the person is liable for all costs of repeating the experiment, including replacement of the animal, bird or aquatic species.

(2) Any person who intentionally and without permission releases an animal, a bird, or an aquatic species which has been lawfully confined for agriculture, science, research, commerce, public propagation, protective custody, or education is guilty of a misdemeanor.

Approved March 7, 1990.

CHAPTER 39
(H.B. No. 521)

AN ACT

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

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

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

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

(1) The annual salary of each magistrate who is an attorney shall be: for an attorney magistrate whose combined years of admission to practice as an attorney and years of service as a magistrate are less than ten (10) years, the annual salary shall be eighty percent (80%) of the annual salary of a district judge; for an attorney magistrate whose combined years of admission to practice as an attorney and years of service as a magistrate are more than ten (10) years but less than fifteen (15) years, the annual salary shall be eighty-five percent (85%) of the annual salary of a district judge; for an attorney magistrate whose combined years of admission to practice as an attorney and years of service as a magistrate are more than fifteen (15) years, the annual salary shall be ninety percent (90%) of the annual salary of a district judge.

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

STATE OF IDAHO
BASE ANNUAL SALARY SCHEDULE FOR NONATTORNEY MAGISTRATES

Pay Class	Annual Case Dispositions	Annual Salary
Nonattorney Magistrate Judge I	more than 4,500 cases	$ 28,000
Nonattorney Magistrate Judge II	3,000 to 4,500 cases	25,000
Nonattorney Magistrate Judge III	1,750 to 3,000 cases	22,000
Nonattorney Magistrate Judge IV	under 1,750 cases	18,000

Commencing on July 1, 1988, the amount of the base annual salary for all nonattorney magistrates shall be increased by five percent (5%), and again commencing on July 1, 1989, the amount of the base annual salary for all nonattorney magistrates shall be increased by five percent (5%), and again commencing on July 1, 1990, the amount of the base annual salary for all nonattorney magistrates shall be increased by eight percent (8%), and again commencing on July 1, 1991, the amount of the base annual salary for all nonattorney magistrates shall be increased by five percent (5%).

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

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

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

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

(7) Regardless of any other provision of this section, until June 30, 1988, no nonattorney magistrate shall receive an annual salary of more than thirty-five thousand five hundred dollars ($35,500); provided, however, that commencing on July 1, 1988, the amount of the maximum salary limitation in this section shall be increased by five percent (5%), and again commencing on July 1, 1989, the amount of the maximum salary limitation in this section shall be increased by five percent (5%), and again commencing on July 1, 1990, the amount of the maximum salary limitation in this section shall be increased by eight percent (8%), and again commencing on July 1, 1991, the amount of the salary limitation in this section shall be increased by five percent (5%).

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

SECTION 2. That Section 59-502, Idaho Code, be, and the same is hereby amended to read as follows:

59-502. SALARIES OF JUDGES. Commencing on July 1, 1985, and until June 30, 1986, the salary of the justices of the supreme court shall be fifty-four thousand seven hundred and seventy dollars ($54,770) per annum, and the salary of the judges of the district courts shall be fifty-one thousand seven hundred and twenty dollars ($51,720) per annum. Commencing on July 1, 1986, the salary of justices of the supreme court shall be fifty-nine thousand seven hundred fifty dollars ($59,750) per annum, and the salary of judges of the district court shall be fifty-six thousand dollars ($56,000) per annum; provided, however, that commencing on July 1, 1988, the salary of justices of the supreme court and the salary of judges of the district courts shall be increased by five percent (5%), and again commencing on July 1, 1989, the salary of justices of the supreme court and the salary of judges of the district courts shall be increased by five percent (5%), and again commencing on July 1, 1990, the salary of justices of the supreme court and the salary of judges of the district courts shall be increased by eight percent (8%), and again commencing on July 1, 1991, the salary of justices of the supreme court and the salary of judges of the district courts shall be increased by five percent (5%). Salaries of magistrates shall be as prescribed by chapter 22, title 1, Idaho Code. Salaries shall be paid on regular pay periods not less frequently than monthly as determined by order of the supreme court as due out of the state treasury, but no justice of the supreme court or judge of the district court or magistrate shall be paid his salary, or any part thereof, unless he shall first take and subscribe an oath that there is not in his hands any matter in controversy not decided by him, which has been finally submitted for his consideration and determination thirty (30) days prior to his taking and subscribing said oath.

Approved March 7, 1990.

CHAPTER 40
(H.B. No. 526)

AN ACT

RELATING TO LIMITATION OF LIABILITY REGARDING EQUINE ACTIVITIES; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 18, TITLE 6, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE A LIMITATION OF LIABILITY ON EQUINE ACTIVITIES WITH EXCEPTIONS; AND TO PROVIDE APPLICATION OF THE ACT.

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 18, Title 6, Idaho Code, and to read as follows:

CHAPTER 18
EQUINE ACTIVITIES IMMUNITY ACT

6-1801. DEFINITIONS. As used in this chapter:

(1) "Engages in an equine activity" means a person who rides, trains, drives or is a passenger upon an equine, whether mounted or unmounted, and does not mean a spectator at an equine activity or a person who participates in the equine activity but does not ride, train, drive or ride as a passenger upon an equine.

(2) "Equine" means a horse, pony, mule, donkey or hinny.

(3) "Equine activity" means:

(a) Equine shows, fairs, competitions, performances or parades that involve any or all breeds of equines and any of the equine disciplines including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three (3) day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, endurance trail riding and western games, and hunting;

(b) Equine training and/or teaching activities;

(c) Boarding equines;

(d) Riding, inspecting or evaluating an equine belonging to another whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect or evaluate the equine; and

(e) Rides, trips, hunts or other equine activities of any type however informal or impromptu that are sponsored by an equine activity sponsor.

(4) "Equine activity sponsor" means an individual, group or club, partnership or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes or provides the facilities for an equine activity including, but not limited to, pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college sponsored classes and programs, therapeutic riding programs, and operators, instructors and promoters of equine facilities including, but not limited to, stables, clubhouses, ponyride strings, fairs and arenas at which the activity is held.

(5) "Equine professional" means a person engaged for compensation in:

(a) Instructing a participant or renting to a participant an equine for the purpose of riding, driving or being a passenger upon the equine; or

(b) Renting equipment or tack to a participant.

(6) "Participant" means any person, whether amateur or professional, who directly engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

6-1802. LIMITATION OF LIABILITY ON EQUINE ACTIVITIES. (1) Except as provided in subsections (2) and (3) of this section, an equine activity sponsor or an equine professional shall not be liable for any injury to or the death of a participant engaged in an equine activity and, except as provided in subsections (2) and (3) of this section, no participant nor participant's representative may maintain an action

against or recover from an equine activity sponsor or an equine professional for an injury to or the death of a participant engaged in an equine activity.

(2) The provisions of this chapter do not apply to the horse or mule racing industry as regulated in chapter 25, title 54, Idaho Code.

(3) Nothing in subsection (1) of this section shall prevent or limit the liability of an equine activity sponsor or an equine professional:

(a) If the equine activity sponsor or the equine professional:

(i) Provided the equipment or tack and the equipment or tack caused the injury; or

(ii) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity, determine the ability of the equine to behave safely with the participant, and to determine the ability of the participant to safely manage the particular equine;

(iii) Owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known to or should have been known to the equine activity sponsor or the equine professional and for which warning signs have not been conspicuously posted;

(iv) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant and that act or omission caused the injury;

(v) Intentionally injures the participant;

(b) Under liability provisions as set forth in the products liability laws; or

(c) Under the liability provisions set forth in chapter 9, title 6, Idaho Code.

SECTION 2. The provisions of this act apply only to causes of action filed on or after July 1, 1990.

Approved March 9, 1990.

CHAPTER 41
(H.B. No. 524)

AN ACT

RELATING TO BONDING OF CIGARETTE WHOLESALERS; AMENDING SECTION 63-2510A, IDAHO CODE, TO PROVIDE THAT WHOLESALERS MAY PETITION FOR RELEASE FROM THE BOND REQUIREMENT AFTER FILING OF RETURNS AND PAYMENT OF CIGARETTE TAXES FOR TWELVE MONTHS, TO PROVIDE PROCEDURES FOR THE REVIEW AND DETERMINATION OF THE PETITION, TO PROVIDE FOR REINSTATEMENT OF THE BOND UPON FAILURE TO FILE RETURNS OR PAY TAXES, TO PROVIDE FOR REDETERMINATION UPON PETITION OF THE WHOLESALER, AND TO PROVIDE FOR JEOPARDY ASSESSMENT AND ENFORCEMENT PROCEDURES IF NO REDETERMINATION IS SOUGHT BY THE WHOLESALER.

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

SECTION 1. That Section 63-2510A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2510A. BONDING. (1) At the time an application for a wholesaler's license or permit, under section 63-2503, Idaho Code, is submitted to the state tax commission, the applicant shall file a bond, in such form as the commission may determine, conditioned upon faithful performance of all of the requirements of this chapter. The total amount of the bond shall be fixed by the commission and shall be equivalent to, at least, twice the estimated average tax liability for the reporting period for which the applicant will be required to file a return, under section 63-2510, Idaho Code. The bond required shall, in no case, be less than one thousand dollars ($1,000). The total amount required to be secured by the bond may be increased or reduced by the commission at any time. Any bond given in conjunction with the provisions of this section shall be a continuing instrument, and shall cover the period during which the license or permit in connection with which the bond is given is in effect, unless the surety on the bond is released or discharged by the commission. Any surety on any bond furnished by a wholesaler shall be discharged only by the commission. Any surety on any bond furnished by a wholesaler shall be discharged and released by the commission from, any and all, liability to the state, accruing on the bond after the expiration of thirty (30) days from the date upon which the surety shall have lodged with the commission a written request to be released and discharged. The request shall not operate to relieve, release, or discharge the surety from any liability accrued, or which will accrue, before the expiration of the thirty (30) day period. The commission shall promptly, upon receipt of the notice of the request, notify the wholesaler and require him to furnish a new bond. Unless the wholesaler files a new bond with the commission in the amount provided in this section before the expiration of the thirty (30) day period, the commission shall immediately cancel the wholesaler's license or permit.

(2) In the event that any taxes due under the provisions of this chapter are not paid by a wholesaler, and the unpaid taxes are assessed by the commission, and after all avenues for appeal of the assessment have been exhausted, the commission may apply the unpaid tax liability against the bond required in this section.

(3) A wholesaler may petition for release from the bond requirement after having filed timely and fully paid cigarette tax returns, as provided in section 63-2510, Idaho Code, for a period of not less than twelve (12) months. Upon such petition from the wholesaler, the commission will review the cigarette tax return filing and payment record of the wholesaler and, if determined necessary, within sixty (60) days examine the books and records of the wholesaler. The commission will, no later than ninety (90) days from the date of receipt of the petition, advise the wholesaler in writing of its determination and the reasons therefor. If the wholesaler wishes to seek a redetermination of the commission's decision, a petition for redetermination may be filed as provided in section 63-3045, Idaho Code.

(4) If at any time after release of a bond requirement the whole-

saler becomes delinquent for any period in the filing of tax returns or the payment of the tax as required in section 63-2510, Idaho Code, the commission may make immediate demand that the return be filed or the payment be tendered and that a bond be filed as set forth in subsection (1) of this section. Any wholesaler against whom such demand is made may petition for a redetermination as provided in section 63-3045, Idaho Code, except that the petition must be filed no later than ten (10) days after service upon the person of notice thereof. If a petition for redetermination is not filed within the ten (10) day period, the determination shall become final and the commission shall issue a jeopardy assessment as provided in section 63-3630, Idaho Code, and thereafter may:

(a) Seize all Idaho cigarette stamps in the possession of the wholesaler which are not applied to cigarettes;

(b) File a lien of record upon the cigarettes held in inventory by the wholesaler or seize such cigarettes;

(c) Revoke the wholesaler's cigarette permit as provided in section 63-2518, Idaho Code, except that no notice or hearing shall be required; and

(d) Notify the manufacturers of the cigarettes held in inventory by the wholesaler of any or all actions so taken.

Approved March 9, 1990.

CHAPTER 42
(H.B. No. 503)

AN ACT

RELATING TO EXEMPTIONS FROM SALES TAX; REPEALING SECTION 63-3622N, IDAHO CODE; AND AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622N, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM SALES TAX FOR PRESCRIPTION ITEMS.

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

SECTION 1. That Section 63-3622N, 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 63-3622N, Idaho Code, and to read as follows:

63-3622N. PRESCRIPTIONS. (a) There are exempted from the taxes imposed by this chapter the following when administered or distributed by a practitioner licensed by the state under title 54, Idaho Code, to administer or distribute such items or when purchased by or on behalf of an individual for use by such individual under a prescription or work order of a practitioner licensed by the state under title 54, Idaho Code, to prescribe such items:

(1) Drugs, hypodermic syringes, insulin, insulin syringes, artificial eyes, hearing aids, and hearing aid parts and accessories;
(2) Drugs and supplies used in hemodialysis and peritoneal dialysis;
(3) Braces and other orthopedic appliances;
(4) Catheters, urinary accessories, colostomy supplies, and other prosthetic devices which shall include, but is not limited to, enteral and parenteral feeding equipment and supplies, (tubing, pumps, containers) catheter devices and supplies, but not including eyeglasses, contact lenses and dental bridgework;
(5) Equipment and devices or chemical reagents which are used by a diabetic to test or monitor blood or urine;
(6) Other durable medical equipment and devices and related parts and supplies specifically designed for those products which shall include, but is not limited to: oxygen equipment, oxygen cylinders, cylinder transport devices (sheaths, carts), cylinder stands, support devices, regulators, flowmeters, tank wrench, oxygen concentrators, liquid oxygen base dispenser, liquid oxygen portable dispenser, oxygen tubing, nasal cannulas, face masks, oxygen humidifiers, oxygen fittings and accessories, respiratory therapy equipment, room humidifiers, aspirators, aerosol compressors (stationary and portable), ultrasonic nebulizers, volume ventilators, respirators and related device supplies, percussors, vibrators, IPPB, circuits, devices and supplies, air oxygen mixers, manual resuscitators, nebulizers, tubing, emergency oxygen delivery units, patient care equipment, physical and occupational therapy items, hospital beds, trapeze bars and bar stand, bed rails, geriatric chairs, lift recliners, bedside commodes, overbed tables, patient lifts, patient lift slings, traction stands and pulleys, shower seating, shower grip bars, raised toilet seats, toilet safety frames, walking canes, quad canes and accessories, walkers, wheeled walkers, walker accessories, I.V. stands, crawlers, posture back supports for seating, posture back supports, wheelchairs, crutches, crutch pads, tips, grips, restraints, standing frame devices and accessories, hand exercise equipment and putty, specially designed hand utensils, leg weights, paraffin baths, hydrocollators, hydrotherm heating pads, communication aids for physically impaired, specialized seating, desks, work stations, foam wedges, writing and speech aids for the impaired, dressing aids, button loops and zipper aids, grooming aids, dental aids, eating and drinking aids, splints, holders, household aids for the impaired, shampoo trays, reaching aids, foam seating pads, decubitus seating pads, bed pads, fitted stroller, alternating pressure pads and pumps, stethoscope, sphygmomanometers, otoscopes, sitting and sleeping cushions, patient transport devices, boards, stairglides, lifts in home, transcutaneous nerve stimulators, muscle stimulators, bone fracture therapy devices.

(b) The term "practitioner" means a physician, surgeon, podiatrist, chiropractor, dentist, optometrist, psychologist, ophthalmologist, nurse practitioner, audiologist, and hearing aid dealer or fitter.

(c) The term "drug" as defined in section 54-1705, Idaho Code,

shall not include articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than man.

(d) The term "prosthetic device" means a device which replaces a missing part or function of the human body and shall include any supplies physically connected to such devices.

(e) The term "durable medical equipment" means equipment which:

(1) Can withstand repeated use;

(2) Is primarily and customarily used to serve a medical purpose;

(3) Generally is not useful to a person in the absence of illness or injury; and

(4) Is appropriate for use in the home.

Approved March 12, 1990.

CHAPTER 43
(S.B. No. 1423)

AN ACT

ESTABLISHING A PROGRAM OF ENROLLMENT OPTIONS WITHIN IDAHO SCHOOL DISTRICTS; AMENDING SECTION 33-1401, IDAHO CODE, TO INCLUDE KINDERGARTENS WITHIN THE DEFINITION OF ELEMENTARY PUPIL; AMENDING CHAPTER 14, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1402, IDAHO CODE, TO ESTABLISH A PROGRAM OF ENROLLMENT OPTIONS FOR IDAHO PUPILS, AND TO PROVIDE STANDARDS GOVERNING THE PROGRAMS; AMENDING SECTION 33-1404, IDAHO CODE, TO AUTHORIZE WAIVER OF TUITION FOR THE ENROLLMENT OPTIONS PROGRAM, AND TO PROVIDE FOR WRITTEN POLICIES GOVERNING ADMISSIONS THROUGH ENROLLMENT OPTIONS; AND AMENDING SECTION 33-1405, IDAHO CODE, TO CLARIFY REFERENCE TO TUITION WHERE NO TUITION WAIVER HAS BEEN GRANTED.

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

SECTION 1. That Section 33-1401, Idaho Code, be, and the same is hereby amended to read as follows:

33-1401. DEFINITIONS. For the purposes of tuition charges and payments, the following words and phrases shall have these meanings:

1. "District" ~~shall~~ means any public school district including specially chartered school districts.

2. "Residence" of a pupil ~~shall~~ means the residence of his parent or guardian.

3. "Home district" ~~shall~~ means the school district of the pupil's residence.

4. "Creditor district" ~~shall~~ means a district in which nonresident pupils are in attendance.

5. "Nonresident pupils" ~~shall~~ mean pupils attending schools in districts other than their home districts, or from other states.

6. "Debtor district" ~~shall~~ means the home district of nonresident pupils.

7. "Pupil" ~~shall~~ means a pupil in any grade, ~~one (1)~~ kindergarten through twelve (12).

8. "Elementary pupil," in the case of districts not giving instruction above grade eight (8), ~~shall~~ means any pupil. In all other districts it ~~shall~~ means any pupil in grades ~~one (1)~~ kindergarten through six (6).

9. "Secondary pupil" ~~shall~~ means, in the case of districts which give instruction beyond grade eight (8) any pupil in grades seven (7) through twelve (12).

10. "Guardian" ~~shall~~ means any person so designated by court order, or any person with whom the pupil is residing and making his home on a full-time basis, provided such person has in his possession a properly executed power of attorney for the care and custody of the pupil for a period of time not less than the balance of the school term.

SECTION 2. That Chapter 14, 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 33-1402, Idaho Code, and to read as follows:

33-1402. ENROLLMENT OPTIONS. Beginning with the 1991-92 school year, an enrollment options program shall be implemented as provided in this section.

Whenever the parent or guardian of any pupil determines that it is in the best interest of the pupil to attend a school within another district, such pupil, or pupils, may be transferred to and attend the selected school, subject to the provisions of this section and section 33-1404, Idaho Code. The pupil's parent or guardian must apply annually for admission to a school within another district on a form provided by the state department of education. The application, accompanied by the pupil's accumulative record, must be submitted to the receiving school district by February 1 for enrollment during the following school year, and notice of such application given to the home district. The receiving school district shall notify the applicant within sixty (60) days and, if denied, must include written explanation of the denial. Upon agreement between the resident and the nonresident school boards, the deadlines for application may be waived. Whenever any pupil enrolls in, and attends a school outside the district within which the parent or guardian resides, the parent or guardian shall be responsible for transporting the pupil to and from the school or to an appropriate bus stop within the receiving district. Tuition shall be waived for any pupils allowed under the provisions of this section.

No pupil shall gain eligibility to participate in extracurricular activities in violation of policies governing eligibility as a result of an enrollment option transfer to another school district.

A pupil who applies and is accepted in a nonresident school district, but fails to attend the nonresident district, shall be ineligible to again apply for an enrollment option in that nonresident district.

No district shall take any action to prohibit or prevent application by resident pupils to attend school in another school district.

By resolution of the board of trustees, any district may opt not to receive pupils in the enrollment options program.

A pupil under suspension or expulsion shall be ineligible for the provisions of this section.

The state department of education shall conduct an annual survey of districts participating in the enrollment options program to determine the number of participants, the number of denied applications, the effectiveness of the program, and other relevant information, and prepare an annual report of the program.

SECTION 3. That Section 33-1404, Idaho Code, be, and the same is hereby amended to read as follows:

33-1404. DISTRICTS TO RECEIVE PUPILS. Every school district shall receive and admit pupils transferred thereto, where payment of their tuition is to be paid by the home district, ~~parent or guardian~~ or waived by the receiving district, except when any such transfer would work a hardship on the receiving district~~; but no district shall be required to accept and admit secondary school pupils who have not completed the grades given in their home districts, nor pupils who have failed in any of their home district classes in the year next preceding the proposed transfer~~. Each receiving school district shall be governed by written policy guidelines, adopted by the board of trustees, which define hardship impact upon the district or upon an individual school within the district. The policy shall provide specific standards for acceptance and rejection of applications for accepting out of district pupils. Standards may include the capacity of a program, class, grade level or school building. Standards may not include previous academic achievement, athletic or other extracurricular ability, handicapping conditions, or proficiency in the English language.

Nonresident pupils who are placed by court order under provisions of the Idaho youth rehabilitation or child protective acts and reside in licensed group homes, agencies and institutions shall be received and admitted by the school district in which the facility is located.

SECTION 4. That Section 33-1405, Idaho Code, be, and the same is hereby amended to read as follows:

33-1405. RATES OF TUITION -- TUITION CERTIFICATES. The state department of education shall prepare and distribute all necessary forms; and shall issue to each school district, annually, a tuition certificate bearing a serial number, which certificate shall authorize the receiving district to charge and to bill for the tuition of its nonresident pupils where tuition has not been waived.

In determining tuition rates to be charged by any creditor school district, the state department of education shall compute the sum of that district's maintenance and operation costs, depreciation on its buildings, equipment, and other property, and the interest, if any paid by it on bonded debt or registered warrants. The said state department of education shall then compute what proportion of the sum of said costs, depreciation and interest is allocable to elementary schools, and what proportion is ~~allowable~~ allocable to secondary

schools, in the district. The proportion ~~allowable~~ allocable to elementary schools shall then be divided by the average daily attendance of elementary school pupils, and the proportion allocable to secondary schools shall be divided by the average daily attendance of secondary school pupils, in the district, and the amount so determined shall be the gross per-pupil cost, elementary or secondary, as the case may be. The net per-pupil cost shall be the gross per-pupil cost less the per-pupil apportionment to the district of any foundation program funds.

Computations of tuition rates shall be made as of the school year next preceding the year for which tuition charges are determined and made.

Charges for tuition made by any creditor school district shall be its net per-pupil cost, as hereinabove defined; except that its gross per-pupil cost shall be charged where any pupil has transferred to the creditor district by transfer other than one prescribed by section 33-1403, Idaho Code, or where the home district of any pupil attending school in the creditor district is without the state of Idaho.

Approved March 13, 1990.

CHAPTER 44
(S.B. No. 1432)

AN ACT

RELATING TO THE STATE LIBRARY BOARD; AMENDING SECTION 33-2501, IDAHO CODE, TO INCREASE THE COMPENSATION OF THE IDAHO STATE LIBRARY BOARD MEMBERS.

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

SECTION 1. That Section 33-2501, Idaho Code, be, and the same is hereby amended to read as follows:

33-2501. STATE LIBRARY BOARD -- MEMBERSHIP. The state library board which shall be maintained within the office of the state board of education shall consist of the state superintendent of public instruction, as ex officio member, and three (3) members appointed by the state board of education, one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, and one (1) member for a term of three (3) years. Thereafter the state board of education shall annually on the first Monday of July appoint one (1) member of said board to serve for a term of three (3) years. The state library board shall meet not less than twice each year, and the members thereof shall be compensated as provided by section 59-509(~~f~~h), Idaho Code. The board shall elect its own officers and shall make and prescribe all necessary rules and regulations for the conduct of the public business hereby entrusted to its care.

Approved March 13, 1990.

CHAPTER 45
(S.B. No. 1339)

AN ACT

RELATING TO CLASSES OF MOTOR VEHICLE DRIVER'S LICENSES; AMENDING SECTION 70, CHAPTER 88, LAWS OF 1989, TO CHANGE THE EFFECTIVE DATE; AMENDING SECTION 49-104, IDAHO CODE, TO PROVIDE A DEFINITION AND TO STRIKE DEFINITIONS; AMENDING SECTION 49-105, IDAHO CODE, TO REDEFINE DEFINITIONS; AMENDING SECTION 49-106, IDAHO CODE, TO PROVIDE A DEFINITION AND TO STRIKE DEFINITIONS; AMENDING SECTIONS 49-109 AND 49-113, IDAHO CODE, TO REDEFINE DEFINITIONS; AMENDING SECTION 49-115, IDAHO CODE, TO STRIKE A DEFINITION; AMENDING SECTIONS 49-116, 49-120 AND 49-123, IDAHO CODE, TO REDEFINE DEFINITIONS; AMENDING SECTION 49-201, IDAHO CODE, TO PROVIDE FOR DUTIES OF THE BOARD; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE DUTIES OF THE DEPARTMENT; AMENDING SECTION 49-208, IDAHO CODE, TO PROVIDE POWERS OF LOCAL AUTHORITIES; AMENDING SECTION 49-301, IDAHO CODE, TO PROVIDE FOR LICENSING OF DRIVERS AND TO PROVIDE FOR EXPIRATION OF CERTAIN LICENSES; AMENDING SECTION 49-302, IDAHO CODE, TO PROVIDE EXEMPTIONS FROM CERTAIN LICENSING PROVISIONS; AMENDING SECTION 49-303, IDAHO CODE, TO PROVIDE WHAT PERSONS SHALL NOT BE LICENSED; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE FOR INSTRUCTION PERMITS, TEMPORARY AND SPECIAL LICENSES AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-307, IDAHO CODE, TO PROVIDE FOR COMMERCIAL DRIVER TRAINING INSTRUCTION PERMITS, DISTRIBUTION OF FEES AND POSSESSION OF PERMITS; AMENDING SECTION 49-313, IDAHO CODE, TO PROVIDE FOR EXAMINATION OF DRIVER LICENSE APPLICANTS, RETAKING OF TESTS, FEES AND DENIAL OF LICENSE; AMENDING SECTION 49-314, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OF LOCAL EXAMINERS OF COMMERCIAL DRIVERS' LICENSES APPLICANTS; AMENDING SECTION 49-318, IDAHO CODE, TO PROVIDE FOR PROOF OF IDENTITY ON APPLICATION FOR DUPLICATE DRIVERS' LICENSES; AMENDING SECTION 49-319, IDAHO CODE, TO PROVIDE FOR ADDITIONAL CONDITIONS FOR RENEWAL OF EXPIRED DRIVERS' LICENSES; AMENDING SECTION 49-321, IDAHO CODE, TO PROVIDE FOR ADDITIONAL INFORMATION ON COMMERCIAL DRIVERS' LICENSES; AMENDING SECTION 49-323, IDAHO CODE, TO PROVIDE FOR DISQUALIFICATION OF NONRESIDENT DRIVING PRIVILEGES; AMENDING SECTION 49-324, IDAHO CODE, TO PROVIDE FOR DISQUALIFICATION OF RESIDENT DRIVING PRIVILEGES UPON CONVICTION IN ANOTHER STATE; AMENDING SECTION 49-326, IDAHO CODE, TO PROVIDE FOR DISQUALIFICATION AUTHORITY OF THE DEPARTMENT; AMENDING SECTION 49-328, IDAHO CODE, TO PROVIDE FOR REINSTATEMENT OF A DISQUALIFIED DRIVER'S LICENSE; AMENDING SECTION 49-330, IDAHO CODE, TO PROVIDE FOR RIGHT OF APPEAL UPON DISQUALIFICATION; AMENDING SECTION 49-331, IDAHO CODE, TO PROVIDE ADDITIONAL CONDITIONS WHICH CONSTITUTE AN UNLAWFUL USE OF A DRIVER'S LICENSE; AMENDING SECTION 49-335, IDAHO CODE, TO PROVIDE CLARIFICATION OF PENALTIES UPON DISQUALIFICATION OF A COMMERCIAL DRIVER'S LICENSE; AMENDING SECTION 49-336, IDAHO CODE, TO PROVIDE COMMERCIAL DRIVING PRIVILEGES TO CERTAIN NONRESIDENTS; AMENDING SECTIONS 49-1203, 49-1204, 49-1205, 49-1207 AND 49-1208, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-2001, IDAHO CODE, TO PROVIDE DISQUALIFICA-

TION AUTHORITY OF THE HOME STATE AND TO REMOVE AN EXCEPTION FOR ISSUANCE OF A DRIVER'S LICENSE WITHIN THE DRIVER LICENSE COMPACT; AMENDING SECTION 49-2442, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-2443, IDAHO CODE, TO CLARIFY INFORMATION REQUIRED OF AN APPLICANT FOR AN IDENTIFICATION CARD; AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE FOR FEES, EXPIRATION AND RENEWAL OF IDENTIFICATION CARDS; AMENDING SECTION 49-2446, IDAHO CODE, TO PROVIDE ADDITIONAL CONDITIONS CONSTITUTING FRAUDULENT MISREPRESENTATION OF AN IDENTIFICATION CARD AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 18-8001, IDAHO CODE, TO PROVIDE THAT DRIVING WHILE DISQUALIFIED IS A MISDEMEANOR OFFENSE; AMENDING SECTION 18-8002, IDAHO CODE, TO CLARIFY TEMPORARY DRIVING PRIVILEGES A POLICE OFFICER MAY ISSUE UNDER CERTAIN CONDITIONS; AMENDING SECTION 18-8004, IDAHO CODE, TO PROVIDE LEVELS OF BLOOD ALCOHOL CONCENTRATION WHICH ARE UNLAWFUL WHEN OPERATING A COMMERCIAL VEHICLE; AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE PENALTIES FOR OPERATING A COMMERCIAL MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES; AMENDING SECTION 18-8006, IDAHO CODE, TO PROVIDE CORRECT REFERENCES; AND PROVIDING AN EFFECTIVE DATE WITH SPECIFIED CONDITIONS.

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

SECTION 1. That Section 70, Chapter 88, Laws of 1989, be, and the same is hereby amended to read as follows:

SECTION 70. This act shall be in full force and effect on and after ~~April~~ July 1, 1990.

SECTION 2. That Section 49-104, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-104. DEFINITIONS -- C.

(1) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person'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 a 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.

(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.~~ "Commercial driver's license" means any class A, class B or class C driver's license as defined in section 49-105, Idaho Code.

(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.

(8) "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.~~

~~(10)~~ "Commercial vehicle" or "commercial motor vehicle." (See "Vehicle", section 49-123, Idaho Code)

(~~11~~0) "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.

(~~12~~1) "Conviction" means the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(~~13~~2) "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, effective April 1, 1990, 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. 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) "Disqualification" means ~~a--prohibition--against--driving--a~~ withdrawal by the department of commercial ~~motor~~ vehicle driving privileges.

(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.

(8) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(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.

(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.

(11) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(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.

(13) "Driver" means every person who drives or is in actual physical 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 or commercial 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" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the oper-

ation 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 also operate vehicles ~~in~~ requiring a classes B, C, ~~and~~ or D license for operation, 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 also operate vehicles ~~in~~ requiring a class C license, with any appropriate endorsements, and vehicles ~~in~~ requiring a class D license.

(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 also operate vehicles ~~in~~ requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that ~~does~~ is not ~~belong--to~~ a ~~group--of~~ commercial ~~motor~~ vehicles as defined in 49-104~~(9)~~23, 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~~

(e) Special class D. This license shall be issued and be valid

for the operation of a motor vehicle that is not a commercial vehicle and use of the license is restricted according to the provisions of section 49-305, Idaho Code. The fee is the same as for a class D license.

(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 commercial vehicles or motor commercial vehicles hauling certain types of cargo.

(a) "Endorsement T - 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) "Endorsement H - 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) "Endorsement P - 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) "Endorsement N - Tanker vehicle" 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.

(17) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(18) "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, effective April 1, 1990, 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.~~

~~(4)~~ "Encumbrance." (See "Lien", section 49-113, Idaho Code)

(5~~3~~) "EPA" means the environmental protection agency of the United States.

(6~~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.

(~~7~~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.

(~~8~~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) "Excessive speed" means any speed of fifteen (15) miles per hour or more above the posted speed limit, and is only for purposes of determining disqualification of commercial driving privileges.

(~~9~~8) "Executive head," as used in chapter 20, means the governor of the state of Idaho.

(~~10~~9) "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.

(1~~1~~0) "Extraordinary circumstances" mean any situation where an emergency exists or public safety is endangered, 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 5. That Section 49-109, Idaho Code, be, and the same is hereby amended to read as follows:

49-109. DEFINITIONS -- H.

(1) "Habitual violator" means any person who has a driving record which shows a violation point count of eighteen (18) or more points in any consecutive twenty-four (24) month period; or twenty-four (24) or more points in any consecutive thirty-six (36) month period.

(2) "Handicapped" means a person:

(a) Who has lost, or has lost the use of, one (1) or both lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device.

(b) Who is blind to such an extent that the person's central visual acuity does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than twenty (20) degrees.

(c) Who suffers from lung disease to the extent that his forced (respiratory) expiratory volume for one (1) second when measured by spirometry is less than one (1) liter or his arterial oxygen tension is less than 60mm/Hg on room air at rest.

(d) Who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

(3) "Hazardous material" means a substance or material ~~which--has been-determined-by-the-United-States-secretary-of-transportation-to-be capable--of-posing-an-unreasonable-risk-to-health,-safety-and-property when-transported-in-commerce,-and-which--has--been--so--designated--by property--adopted-rule-and-regulation~~ as defined in section 103 of the hazardous material transportation act 49 APP, U.S.C. 1801 et seq.

(4) "Hazardous waste" means a material that is subject to the hazardous waste manifest requirements of the EPA due to the type and quantity of the material, or which would be subject to these requirements absent an interim authorization to a state under title 40, code of federal regulations or which includes in whole or in part polychlorinated biphenyls which are regulated by title 40, code of federal regulations, part 761.

(5) "Hearing aid dog." (See "Hearing Impaired," section 56-701A, Idaho Code)

(6) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part is open to the use of the public for vehicular travel, with jurisdiction extending to the adjacent property line, including sidewalks, shoulders, berms and rights-of-way not intended for motorized traffic. The term "street" is interchangeable with highway.

(a) Arterial. Any highway designated by the local authority as part of a major arterial system of highways within its jurisdiction.

(b) Controlled-access. Any highway or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway except at such points only or in such manner as may be determined by the public authority having jurisdiction over the highway.

(c) Through. Any highway or portion of it on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on the through high-

way in obedience to a stop sign, yield sign, or other traffic-control device.

SECTION 6. That Section 49-113, Idaho Code, effective April 1, 1990, 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 license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license;

(c) Any nonresident's operating privilege;

(d) Any special permit issued by the department.

(5) "Licensing authority" as used in chapter 20 of this title with reference to Idaho, means the department.

(6) "Lien" or "encumbrance" means every security interest in any vehicle other than security interests in vehicles held in inventory for sale.

(7) "Lien holder" means a person holding a security interest in a vehicle.

(8) "Light weight" or "unladen weight" means the scale weight of a vehicle equipped for operation, but without any cargo on it.

(9) "Local authorities" mean every county, highway district, municipal and other local board or body having authority to enact ~~laws~~ regulations and ordinances relating to traffic under the constitution and laws of this state.

SECTION 7. That Section 49-115, Idaho Code, effective April 1, 1990, 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 8. That Section 49-116, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-116. DEFINITIONS -- O.

(1) "Operator" means every person who is in actual physical control of a motor vehicle upon a highway or private property open to public use.

(2) "Out of service order" means a temporary prohibition against operating a commercial 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 9. That Section 49-120, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-120. DEFINITIONS -- S.

(1) "Safety glazing materials" mean 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.

(~~3~~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 approved activities~~.--included--in-this-definition-are~~ and includes 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) "Secretary" means the secretary of transportation of the United States.

(~~5~~6) "Security agreement." (See section 28-9-105, Idaho Code)

(~~6~~7) "Security interest." (See section 28-1-201, Idaho Code)

(~~7~~8) "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.

(~~8~~9) "Semitrailer." (See "Trailer", section 49-121, Idaho Code)

(~~9~~10) "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~~ conviction of an offense specified in 49 CFR part 383 while operating a commercial motor vehicle.

(~~10~~1) "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.

(~~11~~2) "Signal." (See "Railroad sign", section 49-119, Idaho Code)

(~~12~~3) "Slow moving vehicle" means any vehicle not normally operated upon the highways.

(~~13~~4) "Snow tire." (See "Tires", section 49-121, Idaho Code)

(~~14~~5) "Sold." (See "Sell", "buy", and "purchase", this section)

(~~15~~6) "Solid rubber tire." (See "Tires", section 49-121, Idaho Code)

(~~16~~7) "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, 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.

(~~17~~8) "Specially constructed vehicle." (See "Vehicle", section 49-123, Idaho Code)

(~~18~~9) "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.

(~~19~~20) "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.

(~~20~~1) "Stop" means the act of or complete cessation from movement.

(~~21~~2) "Stopping" means the act of any halting even momentarily of a vehicle.

(~~22~~3) "Street." (See "Highways", section 49-109, Idaho Code)

(~~23~~4) "Studded tire." (See "Tires", section 49-121, Idaho Code)

(~~24~~5) "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.

(~~25~~6) "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.

(~~26~~7) "Suspension of driver's license" means the temporary with-

drawal 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 10. 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, 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 <u>or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:</u>

<u>1. Has a gross vehicle weight rating or gross combination weight rating of twenty-six thousand and one (26,001) or more pounds; or</u>

<u>2. Is designed to transport sixteen (16) or more persons, including the driver; or</u>

<u>3. Is of any size, is transporting materials found to be hazardous for the purposes of the hazardous material transportation act and which is required to be placarded.</u>

<u>For the purposes of chapter 4 of this title (motor vehicle registration), a</u> ~~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 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. For the purposes of chapter 4 of this title, (motor vehicle registration), a nNoncommercial 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 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 dis-

tinctive 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 11. That Section 49-201, Idaho Code, be, and the same is hereby amended to read as follows:

49-201. DUTIES OF BOARD. (1) With the exception of requirements for sections 49-217 and 49-218 and chapters 6 and 9, title 49, Idaho Code, which shall be the responsibility of the director of the department of law enforcement, the board shall adopt and enforce administrative rules and regulations and designate agencies as may be necessary to carry out the provisions of this title. It shall also provide suitable forms for applications, registration cards, vehicle licenses, and all other forms requisite for the purpose of the provisions of this title, and shall prepay all transportation charges.

(2) The board may enter into agreements, compacts or arrangements with other jurisdictions on behalf of Idaho for the purpose of conforming procedures for proportional registration of commercial vehicles and other types of reciprocal agreements. Copies of agreements, compacts or arrangements shall be placed on file in the department and

the board shall, as to all filings and adoption, conform with the provisions of chapter 52, title 67, Idaho Code.

(3) The board shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this title for use upon highways within the state. The uniform system shall correlate with, and so far as possible, conform to the system set forth in the most recent edition of the manual on uniform traffic control devices for streets and highways and other standards issued or endorsed by the federal highway administrator.

(4) Whenever the board shall determine upon the basis of an engineering and traffic investigation that any maximum speed is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway or interstate highway system, the board may determine and declare a reasonable and safe maximum limit, thereat, not exceeding a maximum limit of sixty-five (65) miles per hour, which shall be effective when appropriate signs giving notice are erected. The speed limit may be declared to be effective at all times or at the times as indicated upon the signs. Differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(5) The board shall adopt and enforce rules as may be consistent with and necessary to determine the classification of and the basis on which operating fees shall be computed on specially constructed or reconstructed vehicles not otherwise provided for in this title, as nearly as possible to conform to the fees provided for similar vehicles.

SECTION 12. That Section 49-202, Idaho Code, effective April 1, 1990, 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 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 driver's license records, per vehicle registration, title or per driver's license record $2.00

(h) For services in furnishing copies of files of motor vehicle or other registrations, motor vehicle titles, or 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 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~~.

(9) 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.

(10) 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.

(11) 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.

(12) The department shall institute educational programs, demonstrations, exhibits and displays;

(13) The department shall examine persons and vehicles by written, oral and physical tests without compulsion except as provided by law;

(14) The department shall employ expert and special help as needed in the department;

(15) The department shall compile accident statistics and disseminate information relating to those statistics;

(16) The department shall cooperate with the United States in the

elimination of road hazards, whether of a physical, visual or mental character.

(17) 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.

(18) 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.

(19) 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.

(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.

(21) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(22) 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.

(23) 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.

(24) 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.

(25) The department and local highway authorities within their respective jurisdictions may place official traffic-control devices prohibiting, limiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles unduly intereferes with the free movement of traffic thereon.

SECTION 13. That Section 49-208, Idaho Code, be, and the same is hereby amended to read as follows:

49-208. POWERS OF LOCAL AUTHORITIES. (1) The provisions of this title shall not be deemed to prevent local authorities with respect to highways under their jurisdiction and within the reasonable exercise of the police power from:

(a) Regulating or prohibiting stopping, standing or parking;

(b) Regulating traffic by means of peace officers or traffic-control devices;

(c) Regulating or prohibiting processions or assemblages on the highways;

(d) Designating particular highways for use by traffic moving in one direction;

(e) Establishing speed limits for vehicles in public parks;

(f) Designating any highway as a through highway or designating any intersection or junction of highways as a stop or yield intersection or junction;

(g) Restricting the use of highways as authorized in chapter 10, title 49, Idaho Code;

(h) Regulating or prohibiting the turning of vehicles or specified types of vehicles;

(i) Altering or establishing speed limits;

(j) Designating no-passing zones;

(k) Prohibiting or regulating the use of controlled-access highways by any class or kind of traffic;

(l) Prohibiting or regulating the use of heavily traveled highways by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;

(m) Establishing minimum speed limits;

(n) Prohibiting pedestrians from crossing a highway in a business district or any designated highway except in a crosswalk;

(o) Restricting pedestrian crossings at unmarked crosswalks;

(p) Establishing the maximum speed of vehicles on a bridge or other elevated structure;

(q) Requiring written accident reports;

(~~q~~r) Regulating persons propelling pushcarts;

(~~r~~s) Regulating persons upon skates, coasters, sleds and other toy vehicles;

(~~s~~t) Adopting and enforcing temporary or experimental regulations as may be necessary to cover emergencies or special conditions;

(~~t~~u) Prohibiting drivers of ambulances from exceeding maximum speed limits;

(~~u~~v) Adopting such other traffic regulations as are specifically authorized by this title.

(2) No ordinance or regulation enacted under paragraphs (d) through (~~o~~p) of subsection (1) of this section shall be effective until traffic-control devices giving notice of local traffic regulations are erected upon or at the entrances to the highway or part affected as may be most appropriate.

(3) No local authority shall erect or maintain any traffic-control device at any location so as to require traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the department.

(4) Local authorities by ordinance may adopt by reference all or any part of title 49, Idaho Code, without publishing or posting in full the provisions thereof, provided that not less than one (1) copy is available for public use and examination in the office of the clerk.

(5) Local authorities may adopt an ordinance establishing procedures for the abatement and removal of abandoned, junk, dismantled or inoperative vehicles or their parts from private or public property, including highways, provided the ordinance is not in conflict with the provisions of this title.

SECTION 14. That Section 49-301, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-301. ~~OPERATORS~~ DRIVERS 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 Idaho driver's license. No person shall operate a ~~vehicle belonging to a group of~~ commercial motor vehicles as defined in 49-~~104(9)~~23, Idaho Code, upon a highway unless he has a class A, B or C driver's license. No person shall receive a driver's license unless and until he surrenders to the department all ~~valid~~ driver's licenses in his possession issued to him by Idaho or any other jurisdiction, or until he executes an affidavit that he does not possess a driver's license. No person shall be permitted to have more than one (1) driver's license at any time. ~~No person shall operate a motor vehicle as a chauffeur unless he holds a valid driver's license. No person shall receive a driver's license unless and until he surrenders to the department any driver's license issued to him or an affidavit that he does not possess a driver's license.~~

(2) All operator's and chauffeur's licenses issued ~~prior to April 1, 1990,~~ shall remain valid until expired, except a chauffeur's or operator's license will not remain valid after April 1, 1992, for ~~driving a vehicle belonging to a group~~ operation of a commercial motor ~~vehicles as defined in 49-104(9), Idaho Code.~~

SECTION 15. That Section 49-302, Idaho Code, effective April 1, 1990, 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 licensureing if driving privileges are not suspended, cancelled or revoked, disqualified, denied or refused:

(~~2~~1) Any person while driving or operating any ~~road-machine~~ special mobile equipment, farm tractor, or implement of husbandry ~~temporarily-operated-or~~ moved on a highway.

(~~3~~2) 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.

(~~7~~3) 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.

(4) Any person is exempt from obtaining a class A, B or C license to operate a commercial vehicle which is exclusively used to transport personal possessions or family members for nonbusiness purposes.

(5) A nonresident who is at least fourteen (14) years of age and who has in his immediate possession a valid driver's license issued to him in his home state or country may operate a motor vehicle in Idaho only as a class D operator, and only if Idaho residency is not established.

(~~5~~6) A nonresident who has in his immediate possession a valid commercial driver's license issued to him in his home state or country may operate a motor vehicle in Idaho.

(~~6~~7) 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 a 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.

(8) A nonresident on active duty in the armed forces of the United States who has a valid driver's license issued by his home jurisdiction, and such nonresident's spouse or dependent son or daughter who has a valid driver's license issued by such person's home jurisdiction.

(~~1~~9) Any ~~person--serving--on~~ active duty ~~in-the-armed-forces-is~~ military personnel, and members of the reserves and national guard on active duty including personnel on full time national guard duty, personnel on part-time training and national guard military technicians who as civilians are required to wear military uniforms and are subject to the code of military justice, are exempt from obtaining a ~~class-A,-B-or-C~~ commercial 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~~.

SECTION 16. That Section 49-303, Idaho Code, effective April 1, 1990, 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, is under the age of sixteen (16) years, except that the department may issue a special ~~or 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~~ an operator of a vehicle requiring a class D driver's license, is under the age of sixteen (16) years and six (6) months and has not successfully completed an approved driver training course.

(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 a 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.

(5) Is an habitual drunkard, or is addicted to the use of narcotic drugs.

(6) 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.

(7) Is required by the provisions of this chapter to take an examination, unless that person shall have successfully passed such examination.

(8) May be required under any law of this state to deposit proof of financial responsibility and who has not deposited that proof.

(9) 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 license, except he may be issued a class D driver's license.

SECTION 17. That Section 49-305, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS, TEMPORARY AND ~~RESTRICTED~~ SPECIAL 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-a--driver's--license,--may-apply--for--a--temporary-instruction-permit-for-the-type-of-vehicle(s)-the-person-will-be-operating.~~ Upon passage of a knowledge test for the license class type, t~~T~~he department may issue an instruction permit for the type of vehicle(s) the person will be operating, 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 eighty (180) days ~~but,-except~~. Except when operating a motorcycle, that person must be accompanied by an adult licensed driver ~~that~~ who holds at least the same class of driver's license and who is

actually occupying a seat beside the driver.

(a) Any person who has reached the age of fifteen (15) years may apply for a class D instruction permit.

(b) Any person who has reached the age of eighteen (18) years may apply for a class A, B or C instruction permit.

(2) The department may, in its discretion, issue a temporary class D driver's ~~permit~~ license to an applicant for a 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 a driver's license. The ~~permit~~ temporary license 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) The department may, in its discretion, issue a special ~~operator's~~ class D license to any person who:

(a) Is over fourteen (14) years of age but under sixteen (16) years of age, and

(b) Wwhose parent(s) or guardian(s) and employer ~~has~~ have certified on a form furnished by the department that a special ~~operator's~~ class D 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, and

(c) Has successfully completed an approved driver's training course.

Notwithstanding the provisions of section 49-319, Idaho Code, a special ~~operator's~~ class D 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-[(may)]-shall-be-issued-any-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 18. That Section 49-307, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-307. ~~ADDITIONAL~~ FEE FOR DRIVER'S TRAINING INSTRUCTION PERMIT. (1) Every ~~applicant-for-an-instruction-permit-or--a--driver's--license who--is--required--to--take-or-who-elects-to-take~~ enrollee of a driver training course in a public school shall~~,-in-addition--to--other--fees required-by-law,~~ pay ~~an-additional~~ a fee of thirty dollars ($30.00).

~~(3)~~ Twenty-five dollars ($25.00) of each fee so imposed ~~in-this section-will~~ shall be deposited in the driver training account and five dollars ($5.00) will be deposited in the county current expense fund.

(2) Every enrollee of a driver's training course offered by a commercial business shall pay a fee of ten dollars ($10.00). Five dol-

lars ($5.00) of the fee so imposed shall be deposited in the driver training account and five dollars ($5.00) shall be deposited in the county current expense fund.

(3) Each ~~application--for~~ enrollee of a driver training course ~~permit~~ shall provide the type of information required for a driver's license or instruction permit, but the driver's training instruction permit shall be issued to the instructor of the course.

SECTION 19. That Section 49-313, Idaho Code, effective April 1, 1990, 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 instruction permit or a driver's license, except as otherwise provided by law. 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. 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.

(~~4~~3) The skill test for a class A, B, C or D driver's license shall be given by the department or its authorized agents.

(~~6~~4) 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.

(~~3~~5) 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.

(6) Any person retaking a knowledge endorsement or skill test for a driver's license shall pay the appropriate testing fee as specified in section 49-306, Idaho Code.

(~~5~~7) 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.

(8) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be limited to, the applicant's inability to pass the eye test, written tests, or a statement by a licensed physician stating the applicant is not physically able to drive a motor vehicle.

(9) The department or its authorized agents may deny issuance or renewal of a driver's license to any applicant who does not meet the licensing requirements for the class of driver's license being renewed or issued.

SECTION 20. That Section 49-314, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-314. LOCAL EXAMINERS APPOINTED BY DEPARTMENT. (1) 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.

(2) The department shall appoint at least one (1) employee in the department who shall be skilled and highly qualified in the method of giving 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 driver's license examinations and acquaint them with the use of equipment and forms needed in examining applicants for licensure.

(3) Agents of the department appointed to administer skill tests for class A, B or C driver's licenses must be certified according to 49 CFR part 383.

SECTION 21. That Section 49-318, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-318. DUPLICATE DRIVER LICENSES. In the event that an instruction permit or 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 and identity 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 22. That Section 49-319, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE ~~---AUTOMATIC EXTENSION FOR ACTIVE MILITARY DUTY~~. (1) Every driver's license originally issued to a driver shall expire on the licensee's birthday in the 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 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 fourth year following issuance of the driver's license.

(3) (a) 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, denied or disqualified, 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.

(b) 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.

(c) A hazardous material endorsement cannot be extended.

(4) An Idaho 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 four (4) years so long as active duty continues, if the driver's license is not suspended, denied, disqualified, 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 23. That Section 49-321, Idaho Code, effective April 1, 1990, 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;

(c) The name of every licensee whose driver's license has been suspended, 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; and

(e) The social security number of the applicant for a commercial driver's license.

(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 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 24. That Section 49-323, Idaho Code, effective April 1, 1990, 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, disqualification or revocation by the department in a like manner and for a like cause as a driver's license issued to a resident may be suspended, disqualified 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 25. That Section 49-324, Idaho Code, effective April 1,

1990, 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, disqualify 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, disqualification or revocation of the driver's license of the driver. The department shall forward a certified copy or electronic transfer to the national driver register.

SECTION 26. That Section 49-326, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-326. AUTHORITY OF DEPARTMENT TO SUSPEND, DISQUALIFY OR REVOKE DRIVER'S LICENSE. (1) If the court has not ordered the suspension of a license, the department is authorized to suspend, disqualify 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 or disqualification 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 or disqualification of this 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, disqualification 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 driver's licenses issued by the department.

(4) Upon suspending, revoking or disqualifying 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 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 or disqualification 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, with good cause, may extend the suspension or disqualification 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.

(6) The department shall not disqualify a driver for a period longer than specified by 49 CFR part 383.

SECTION 27. That Section 49-328, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-328. REINSTATEMENT OF REVOKED, DISQUALIFIED OR SUSPENDED DRIVER'S LICENSE -- FEE -- WHEN REINSTATEMENT PROHIBITED. (1) When the period of revocation, disqualification or suspension of a driver's license has expired, or the reason for the revocation, disqualification 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 28. That Section 49-330, Idaho Code, effective April 1, 1990, 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, disqualified 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, disqualification or revocation of the driver's license.

SECTION 29. That Section 49-331, Idaho Code, effective April 1, 1990, 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, disqualified, fictitious or fraudulently altered driver's license;

(2) To lend his 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 a driver's license not issued to him;

(4) To fail or refuse to surrender to the department, upon its lawful demand, any driver's license which has been suspended, revoked, disqualified or cancelled;

(5) To use a false or fictitious name in any application for a 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 a driver's license issued to him; ~~or~~

(7) To manufacture, produce, sell, offer for sale or transfer to another person any document purporting to be a certificate of birth or driver's license; or

(8) 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~~7) of this section, the court upon conviction may enter an order directing the department to suspend the ~~operator's license, the chauffeur's~~ driver'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 30. That Section 49-335, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-335. DISQUALIFICATIONS AND PENALTIES -- COMMERCIAL DRIVER'S LICENSE. (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 or bodily substance is 0.04 or more;

(c) ~~Knowingly and willfully l~~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~~ (2) Any person who operates a commercial motor vehi-

:le and who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if the person refuses 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~~3) If any of the ~~above violations~~ offenses specified in subsection (1) or (2) of this section 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~~4) A person is disqualified for ~~life~~ the period of time specified in 49 CFR part 383 if ~~convicted of~~ found to have committed two (2) or more ~~violations~~ of any of the offenses specified in subsections (1) or (2) of this section, or any combination of those offenses, arising from two (2) or more separate incidents.

(~~4~~5) A person is disqualified for ~~life~~ the period of time specified in 49 CFR part 383 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~~6) 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~~7) 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.

SECTION 31. That Section 49-336, Idaho Code, effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-336. NONRESIDENT COMMERCIAL 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~~ an 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 for a nonresident driver's license 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 commercial driver's license of the nonresident driver.

SECTION 32. That Section 49-1203, Idaho Code, be, and the same is hereby amended to read as follows:

49-1203. COURTS TO REPORT NONPAYMENT OF JUDGMENTS -- NONRESIDENTS. (1) Whenever any person fails within sixty (60) days to satisfy a judgment, it shall be the duty of the clerk of the court, or of the judge of a court, which has no clerk, in which a judgment is rendered within this state, to forward to the department immediately after the expiration of the sixty (60) days, a certified copy of the judgment.

(2) If the defendant named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of ~~operator's and chauffeur's~~ drivers' licenses of the state of which the defendant is a resident.

SECTION 33. That Section 49-1204, Idaho Code, be, and the same is hereby amended to read as follows:

49-1204. SUSPENSION FOR NONPAYMENT OF JUDGMENTS. (1) Upon receipt of a certified copy of a judgment, the department shall suspend, except as provided in section 49-1207, Idaho Code, the ~~operator's or chauffeur's~~ driver's license ~~and~~ or the nonresident's ~~operating~~ driving privilege of any person against whom the judgment was rendered.

(2) If the judgment creditor consents in writing, in a form as the department may prescribe, that the judgment debtor be allowed ~~an operator's or chauffeur's~~ a driver's license or nonresident's ~~operating~~ driving privilege, ~~they~~ he may so be allowed by the department, in its discretion, for six (6) months from the date of consent and thereafter until consent is revoked in writing, notwithstanding default in the payment of the judgment, or of any installments prescribed in section 49-1207, Idaho Code, provided the judgment debtor furnishes proof of financial responsibility.

SECTION 34. That Section 49-1205, Idaho Code, be, and the same is hereby amended to read as follows:

49-1205. SUSPENSION TO CONTINUE UNTIL JUDGMENTS PAID AND PROOF GIVEN. The ~~operator's or chauffeur's~~ driver's license and nonresident's ~~operating~~ driving privilege shall, except as provided in section 49-1207, Idaho Code, remain suspended and shall not be renewed, nor shall any ~~operator's or chauffeur's~~ driver's license be issued in the name of that person, including any person not previously licensed, unless and until every judgment is stayed, satisfied or discharged and proof of financial responsibility is given. A discharge in bankruptcy shall not be deemed a satisfaction of judgment unless the person gives proof of financial responsibility.

SECTION 35. That Section 49-1207, Idaho Code, be, and the same is hereby amended to read as follows:

49-1207. INSTALLMENT PAYMENT OF JUDGMENTS -- DEFAULT. (1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which judgment was rendered for the privilege of paying the judgment in installments and the court may, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, so order and fix the amounts and times of payment of

the installments.

(2) The department shall not suspend ~~an operator's or chauffeur's~~ a driver's license or a nonresident's ~~operating~~ driving privilege, and shall restore any ~~operator's or chauffeur's~~ driver's license or nonresident's ~~operating~~ driving privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains an order permitting the payment of the judgment in installments, and while the payment of any installment is not in default.

(3) In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of default, the department shall suspend the ~~operator's or chauffeur's~~ driver's license or nonresident's ~~operating~~ driving privilege of the judgment debtor until the judgment is satisfied, as provided in this chapter.

SECTION 36. 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 driver's license, or for operating a motor vehicle upon the highways without being licensed to do so, no ~~operator's or chauffeur's~~ driver'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 driver's license or nonresident's ~~operating~~ driving privilege by reason of a conviction, 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 37. That Section 49-2001, Idaho Code, effective April 1, 1990, 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, disqualify 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 jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV

Effect of Conviction

(a) The licensing authority in the home state, for the purposes of suspension, disqualification, 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 driving privileges, 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~~ or driving privileges have 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~~ or driving privileges have 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 administra-

tors, 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 38. That Section 49-2442, Idaho Code, be, and the same is hereby amended to read as follows:

49-2442. IDENTIFICATION CARDS AUTHORIZED. Any ~~person~~ Idaho resident may apply to the department for an identification card. It is prima facie evidence of age when the authorized holder of an identification card exhibits a card which contains information indicating that the person has attained a certain age.

SECTION 39. 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 driver licenses. The examiner shall obtain the following from the applicant:

(1) The true and full name and Idaho 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~~ identity;

(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 40. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED. (1) 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~~ seven dollars and fifty cents ($5.00)~~,-one-half (1/2)~~ of which five dollars ($5.00) shall be retained by the county and credited to the current expense fund, and ~~the-other-one-half-(1/2) of-which~~ two dollars and fifty cents ($2.50) shall be deposited in the state treasury to the credit of the highway distribution account. Every identification card shall expire on the cardholder's birthday in the ~~third~~ fourth year following issuance of the card.

(2) Every identification card shall be renewable on or before its expiration, but not more than twelve (12) months before, and upon application and payment of the required fee.

(3) When an identification card has been expired for less than twelve (12) months, the renewal of the identification card shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the identification card is expired for more than twelve (12) months, the application shall expire on the applicant's birthday in the fourth year following issuance of the identification card.

SECTION 41. 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, or to manufacture, produce, sell, offer for sale, or transfer to another person any document purporting to be a certificate of birth or 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~~ driver'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 42. That Section 18-8001, Idaho Code, effective April 1,

1990, 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, disqualified 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, disqualification 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, disqualification or revocation existing at the time of the second violation, during which time he shall have absolutely no driving privileges of any kind.

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

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

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

(c) Shall have his driving privileges suspended by the court for an additional three (3) years following the end of any period of suspension, disqualification 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 43. That Section 18-8002, Idaho Code, effective April 1, 1990, 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 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, 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 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 such evidentiary testing.

(3) At the time 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 submit to or if he fails to complete, evidentiary testing:

(a) His driver's license will be seized by the police officer and a temporary permit applicable to class D driving privileges only, 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,~~ and in no instance shall a temporary permit ~~shall~~ be issued ~~for--holders--of class-A,-B-or-C-drivers'-licenses~~ to drive a commercial vehicle;

(b) He has the right to request a hearing within seven (7) days to show cause why he refused to submit to, or complete evidentiary testing;

(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 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 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 submit to or complete evidentiary testing 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 applica-

ble to class D driving privileges only, 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 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 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 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 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.

SECTION 44. That Section 18-8004, Idaho Code, effective April 1, 1990, 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 through 0.09, 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.

(c) 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 or higher, as defined in subsection (4) of this section, as shown by analysis of his blood, urine, or breath, to drive or be in actual physical control of a commercial motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public.

(2) Any person having an alcohol concentration of less than 0.10, as defined in subsection (4) of this section, as shown by analysis of his blood, urine, or breath, by a test requested by a police officer shall not be prosecuted for driving under the influence of alcohol, except as provided in subsection (3) 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 45. That Section 18-8005, Idaho Code, effective April 1, 1990, 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(1)(a), 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 class D 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(1)(b), Idaho Code, for the first time is subject to the provisions of section 49-335, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(c), Idaho Code, for the first time, is guilty of a misdemeanor and is subject to:

(a) The provisions of section 18-8005(1), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(4) 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 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 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 one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted.

(~~3~~5) 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 driver's license or permit to the court; and

(d) Shall have his class D driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his class D 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~~6~~) For the purposes of ~~paragraphs~~ subsections (~~2~~4) and (~~3~~5) 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~~7~~) 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 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~~8~~) 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~~9) 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~~10) In the event that the alcohol evaluation required in subsection (~~5~~7) 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~~11) Any person who ~~holds a class A, B or C driver's license~~ is disqualified shall not be ~~issued~~ granted restricted driving privileges ~~otherwise allowed by the provisions of subsections (1) and (2) of this section~~ to operate a commercial motor vehicle.

SECTION 46. That Section 18-8006, Idaho Code, effective April 1, 1990, 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(1)(a) or (1)(c), 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 47. This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect.

Approved March 12, 1990.

CHAPTER 46
(S.B. No. 1562)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 225, LAWS OF 1989; 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 225, Laws of 1989, 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 account for the period July 1, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$ 4,000
Operating Expenditures	6,000
TOTAL	$10,000
FROM:	
Interagency Billing and Receipts Account	$10,000

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

Approved March 12, 1990.

CHAPTER 47
(S.B. No. 1555)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION FOR THE BLIND IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 329, LAWS OF 1989; 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 329, Laws of 1989, 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 account for the period July 1, 1989, through June 30, 1990:

FOR:	
Operating Expenditures	$ 2,300
Trustee and Benefit Payments	30,000
TOTAL	$32,300
FROM:	
Randolph-Sheppard Account	$32,300

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 March 12, 1990.

CHAPTER 48
(S.B. No. 1554)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 391, LAWS OF 1989; 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 391, Laws of 1989, there is hereby appropriated to the Department of Lands, the following amount to be expended for the Forest and Range Fire Protection Program from the listed accounts for the period July 1, 1989, through June 30, 1990:

FROM:

General Account	$4,750,000
Timber Fire Deficiency Warrant Account	250,000
TOTAL	$5,000,000

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

Approved March 12, 1990.

CHAPTER 49
(S.B. No. 1464)

AN ACT

RELATING TO THE PUBLIC ASSISTANCE LAW; AMENDING SECTION 56-209, IDAHO CODE, TO ADD UNEMPLOYMENT AS A DEPRIVATION FACTOR FOR AID TO FAMILIES WITH DEPENDENT CHILDREN, TO REPLACE THE WORK INCENTIVE PROGRAM AND WORK EXPERIENCE AND TRAINING COMPONENT WITH THE JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM, AND TO PROVIDE FOR A GUARANTEE OF THE AVAILABILITY OF CHILD CARE FOR PARTICIPATION IN THE JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM.

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

SECTION 1. That Section 56-209, Idaho Code, be, and the same is hereby amended to read as follows:

56-209. AID TO DEPENDENT CHILDREN. (1) Financial assistance under the aid to dependent children program shall be awarded on behalf of needy children who are residents of the state, and 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, or continuous unemployment of the principal wage-earning parent. If deprivation is due to unemployment, entitlement to financial assistance may

be limited. Such aid shall be awarded in accordance with department regulations which shall be consistent with the applicable titles of the social security act or other federal legislation affecting federal financial participation in the administration or award of such assistance.

(2) Each employable person applying for or receiving financial assistance under the provisions of subsection (1) of this section in areas of the state not served by the job opportunities and basic skills training program under title IV of the social security act, shall be required to register for employment and training with the Idaho department of employment and to present to the department of health and welfare certification from the department of employment stating that he or she has registered for employment and has not refused to report for or accept offered employment or training; provided, however, that no registrant shall be required to accept employment which does not meet the Idaho minimum wage, health and safety standards.

(3) The department of employment shall provide job market information and referral services when appropriate to both applicants and recipients of financial assistance under this section, and shall consider such persons as preferred candidates for job placement and training. The department of employment shall report to the department of health and welfare any failure of an employable person to cooperate with the referral services or the failure to accept available employment or to participate in training programs.

(4) The department will not take into account an individual's needs in determining the family's need for assistance and the amount of the assistance payment of a~~A~~ny employable person who fails to comply with ~~the~~ any requirements of subsection (2) of this section or who fails or refuses without good cause as defined by department regulations to accept ~~available~~ employment or training ~~shall-not-be-eligible-to-receive-or-to-continue-receiving-payments-under-the-aid-to--dependent-children-program~~ pursuant to department regulation.

(5) Any person determined to be unemployable solely because of a physical or mental incapacity shall be referred ~~to-the--department--of education~~ for vocational rehabilitation services; and as a condition of eligibility for financial assistance under this section shall be required to participate in any program of rehabilitation ~~the-department-of-education~~ offer~~sed~~.

(6) ~~The-department-of-education-shall--consider--a~~Applicants and recipients of financial assistance under this section shall be considered as preferred candidates for vocational rehabilitation services and ~~shall-report-to-the-department-of-health-and-welfare~~ any failure of such applicant or recipient to cooperate by not reporting to vocational rehabilitation offices for assessment, testing, and counseling, or to accept any program of rehabilitation shall be reported to the department of health and welfare.

(7) The department of health and welfare shall be responsible for establishment and administration of ~~a-work-experience-and-training component-of-the-aid-to-dependent-children--program,--which--component shall--supplement-the-work-incentive-program~~ the job opportunities and basic skills training program established under the provisions of titles ~~IV-A--and--IV-C~~ of the social security act, and which shall be

designed to provide training, education or employment for ~~employable persons--for--whom--positions-are-unavailable-under-the-work-incentive program.-Such-work-experience-and-training-component-shall-make-use-of other-employment-and-training-programs-administered-by-the--department of--employment--or-other-agencies~~ recipients of aid to dependent children. The department of health and welfare may cooperate with any governmental unit or agency or with private entities for purposes of providing employment or training for employable persons. The department of health and welfare shall also provide necessary social services to remove or reduce barriers to employment or employability of applicants and recipients of assistance under this section.

(8) The department will not take into account an individual's needs in determining the family's need for assistance and the amount of the assistance payment of any person who fails to cooperate or participate in any work, education or training activities required under subsection (7) pursuant to department regulation.

(9) The director of the department of health and welfare shall promulgate rules and regulations for the administration of the aid to dependent children programs, including regulations defining "employable person" and "available employment." Such definitions shall take into consideration the health and age of the registrant, the physical distance from the registrant to the employment, the availability of child care, the availability of transportation, the skills and ability of the registrant, and the number and ages of the minor children of the registrant. The department of health and welfare must guarantee the availability of child care as specified by federal statute to permit an AFDC eligible family member to participate in the job opportunities and basic skills training program, to accept employment, or to participate in an approved educational or training activity. Each family receiving transitional child care benefits must contribute toward the payment based on the family's ability to pay.

(~~9~~10) In addition to the requirements of subsections (2) through (~~8~~9) of this section, the department of health and welfare shall require, when feasible, adult applicants and recipients of assistance under this section to work in public service positions with state and local governmental agencies and private industry and private nonprofit associations as a condition of continuing to receive assistance.

(~~10~~11) On or before the fifteenth legislative day of each regular session, the director of the department of health and welfare shall submit to the chairpersons of the germane standing committees of the house and senate a report describing placements in programs developed pursuant to subsections (2) through (~~9~~10) of this section.

Approved March 12, 1990.

CHAPTER 50
(H.B. No. 656)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 397, LAWS OF 1989;

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 397, Laws of 1989, there is hereby appropriated to the Department of Correction for the Administration and Institutional Support Program the following amount to be expended according to the designated expense class from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:	
Trustee and Benefit Payments	$1,592,300
FROM:	
General Account	$1,592,300

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 March 13, 1990.

CHAPTER 51
(H.B. No. 655)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME IN ADDITION TO THE APPROPRIATION MADE BY SECTION 3, CHAPTER 277, LAWS OF 1989; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 3, Chapter 277, Laws of 1989, there is hereby appropriated to the Department of Fish and Game, the following amount to be expended for the Administration Program according to the designated expense class from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:	
Capital Outlay	$60,000
FROM:	
Fish & Game Account	$60,000

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

Approved March 13, 1990.

CHAPTER 52
(H.B. No. 628)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1990; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Department of Correction for the St. Anthony Work Camp Program 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	$153,200
Operating Expenditures	106,800
Capital Outlay	100,000
TOTAL	$360,000
FROM:	
General Account	$360,000

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

Approved March 13, 1990.

CHAPTER 53
(S.B. No. 1570)

AN ACT
APPROPRIATING MONEYS TO THE SUPREME COURT IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 223, LAWS OF 1989; 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 223, Laws of 1989, 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	$755,800
Interagency Billing and Receipts Account	35,000
TOTAL	$790,800

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

Approved March 15, 1990.

CHAPTER 54
(S.B. No. 1531)

AN ACT

RELATING TO TUITION AND FEES AT COMMUNITY COLLEGES; AMENDING SECTION 33-2110, IDAHO CODE, TO INCREASE THE MINIMUM TUITION THAT MAY BE CHARGED, TO PROVIDE FOR ANNUAL INCREASES, TO PROVIDE A MAXIMUM TUITION, TO PROVIDE DEFINITIONS AND TO PROVIDE LIMITATIONS ON FEES REGARDING CAPITAL IMPROVEMENTS.

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

SECTION 1. That Section 33-2110, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110. TUITION. (1) All students of a ~~junior~~ community college shall pay tuition that shall be fixed annually by the board of trustees not later than the 1st day of August of each year. The tuition for full-time students taking normal academic courses provided by the college, who are residents of the district, shall be fixed at not less than ~~one-hundred-twenty-five-dollars-($125)--per--annum,--and not--more--than~~ three hundred fifty dollars ($350) per annum~~,~~, and may be increased by annual increments of not more than twenty dollars ($20.00) to a maximum tuition of four hundred fifty dollars ($450) per annum. ~~F~~for all other students taking such courses the tuition shall be, as nearly as is practicable, the annual costs of all elements of providing the courses of instruction, including interest on general obligation bonds, teaching, administration, maintenance, operation and depreciation of equipment and buildings, supplies and fuel, and other ordinary and necessary expenses of operation incurred in providing courses by the ~~junior~~ community college, provided that the tuition of students residing outside the district but within the county or counties wherein the district is located shall be fixed after taking into account moneys received by the ~~junior~~ community college district from any funds allocated to the ~~junior~~ community college from the educational funds of the state of Idaho, other than allocations for vocational education; and provided that the tuition of students residing outside the district and the county but within the state of Idaho shall be fixed after taking into account moneys received from educational funds other than vocational moneys, as referred to in this chapter, from the state of Idaho. Receipt of moneys, as hereinbefore provided in this section, shall be based upon the receipts from the sources referred to during the fiscal year preceding the fixing of the tuition. A student in a ~~junior~~ community college shall not be deemed a resident of the district or of the county or of the state of Idaho, unless that student is deemed a resident as defined by section 33-2110B, Idaho Code, for the district, county or state prior to the date of his first enrollment in the ~~junior~~ community college, and no student who was not a resident of the district, county or state shall gain residence while attending and enrolled in the ~~junior~~ community college. The residence of a minor shall be deemed to be the residence of his parents or parent or guardian. Tuition shall be payable in advance; but the board may, in its discretion, permit tuition to be

paid in instalments.

(2) The board of trustees shall also fix fees for laboratory and other special services provided by the ~~junior~~ community college and for special courses, including, but not limited to, night school, off-campus courses, summer school, vocational courses, as otherwise provided in this chapter, and other special instruction provided by the ~~junior~~ community college and nothing in this chapter shall be deemed to control the amount of tuition for special courses or fees for special services, as herein provided, but the same shall be, as nearly as reasonable, sufficient to cover the cost of all elements of providing courses as above defined.

(3) In this chapter unless the context requires otherwise, the following definitions shall be uniformly applied. The application of these definitions shall be retroactive and prospective.

(a) "Fees" shall include all charges imposed by the governing body, to students, as a whole or individually, in excess of tuition. Student fees may be imposed for special courses, instruction, and service:

(i) "Special course or instruction fee" means those fees charged for any class or educational endeavor which shall have unique costs beyond a traditional college lecture class; for example, foreign language audio or visual instruction, specialized musical instruction, computer class, art class involving supplies or audiovisual equipment, vocational instruction, laboratory class, remedial instruction, team teaching, satellite transmissions, outside instructor, professionally assisted instruction, etc.

(ii) "Special service fee" means those fees charged for activity, benefit, or assistance offered to students which is beyond traditional classroom instruction; for example, student government support, providing of student health staff or facilities, student union support, intramural and intercollegiate athletics, recreational opportunities, financial aid services, graduation expense, automobile parking, student yearbook/publication, insurance, registration, non-capital library user fee, etc.

Fees shall not be imposed for any capital improvements except as specifically authorized in chapter 21, title 33, Idaho Code.

(b) "Tuition" shall mean a sum charged students for cost of college instruction and shall include costs associated with maintenance and operation of physical plant, student services and institutional support.

Approved March 20, 1990.

CHAPTER 55
(S.B. No. 1572)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 334, LAWS

OF 1989; 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 334, Laws of 1989, there is hereby appropriated to the Department of Parks and Recreation, the following amount to be expended for the Park Operations Program according to the designated expense classes from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$24,900
Operating Expenses	12,000
Capital Outlay	20,000
TOTAL	$56,900
FROM:	
Park and Recreation Account	$56,900

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 20, 1990.

CHAPTER 56
(S.B. No. 1467)

AN ACT

RELATING TO THE DIVISION OF VETERANS SERVICES AND THE VETERANS AFFAIRS COMMISSION; AMENDING SECTION 36-401, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 39-106, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATORS IN CHARGE OF THE STATE VETERANS HOMES SHALL SERVE AT THE PLEASURE OF THE DIRECTOR; AMENDING SECTION 65-201, IDAHO CODE, TO DELETE THE REQUIREMENT FOR DIRECT SUPERVISION OF A VETERANS HOME BY THE ADMINISTRATOR OF THE DIVISION OF VETERANS SERVICES; AMENDING SECTION 65-202, IDAHO CODE, TO PROVIDE FOR OVERSEEING THE MANAGEMENT AND OPERATION OF ALL OF THE STATE'S VETERANS HOMES RATHER THAN TO MANAGE AND OPERATE ONE; AMENDING SECTION 65-204, IDAHO CODE, TO PROVIDE FOR THE ADMINISTRATOR OF THE DIVISION OF VETERANS SERVICES TO SERVE AS EXECUTIVE SECRETARY; AND AMENDING SECTIONS 66-901, 66-904, 66-906, 66-907, 66-1106 AND 66-1107, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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 -- 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, without first having procured a license as hereinafter provided. Provided that no license shall be required:

(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.

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.

(b) For any person to fish on a "free fishing day" as may be designated by the commission.

(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.

(d) Blind Persons. For resident blind persons who are holders of a "permit for the blind" to fish during the open season.

(e) Institutional Inmates. For any inmate of the state hospital north, state hospital south, Idaho state school and hospital, and state veteran's homes to fish during open seasons, provided said inmate has a permit therefor from the director. The director is authorized to issue such permits upon the request of the head of the respective institution having custody of said inmate upon a showing that the institution recommends the issuance of such permit and will assume full responsibility for and control over said inmate while using said permit.

(f) Resident Military Personnel. For resident persons engaged in the military service of the United States, while on temporary furlough or leave, upon receipt of a temporary permit from the director, to hunt and fish during the open season.

(g) Disabled Persons. For any resident person who is permanently and totally disabled as certified by a physician licensed to practice in the United States or Canada, to hunt and fish during the open season, providing such person has obtained a permit from the director.

(h) State Youth ~~Training~~ Services Center Students. For students of the ~~Idaho~~ state youth ~~training~~ services center, under the supervision of an officer of said school, to fish during the open season.

(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.

(j) Nothing contained herein shall be construed to prohibit citi-

zens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

SECTION 2. That Section 39-106, Idaho Code, be, and the same is hereby amended to read as follows:

39-106. DIRECTOR -- ADDITIONAL POWERS AND DUTIES. 1. The director shall exercise the following powers and duties in addition to all other powers and duties inherent in the position:

a. Prescribe such rules and regulations as may be necessary for the administration of the department, the conduct and duties of the employees, the orderly and efficient management of department business, and the custody, use and preservation of department records, papers, books and property belonging to the state.

b. Employ such personnel as may be deemed necessary, prescribe their duties and fix their compensation within the limits provided by the state personnel system law.

c. Administer oaths for all purposes required in the discharge of his duties.

d. Prescribe the qualifications of all personnel of the department on a nonpartisan merit basis, in accordance with the Idaho personnel system law, provided, however, that the administrators in charge of any division of the department, and the administrators in charge of the state veterans homes, state hospital north, state hospital south, and Idaho state school and hospital shall serve at the pleasure of the director.

e. Create such units, sections and subdivisions as are or may be necessary for the proper and efficient functioning of the department.

2. All of the executive and administrative duties, powers and functions transferred to the administrator of the department of environmental and community services by chapter 87, Laws of 1973, are hereby transferred to the director of the department of health and welfare, who shall be the successor in law to all contractual obligations entered into by his predecessors in law.

3. All rights and title to property transferred to and vested in the department of environmental and community services by chapter 87, Laws of 1973, are hereby transferred to and vested in the department of health and welfare. The department established by this act is empowered to acquire, by purchase or exchange, any property which in the judgment of the department is not needful for the operation of the facilities and programs for which it is responsible and to dispose of, by sale or exchange, any property which in the judgment of the department is not needful for the operation of the same.

4. All codes, rules, regulations, standards, plans, licenses, permits and certificates heretofore adopted by the board of environmental and community services, or the department of environmental and community services, pursuant to chapter 87, Laws of 1973, shall remain in full force and effect until superseded by rules, regulations, standards, plans, licenses, permits and certificates duly adopted or issued under the provisions of this act.

SECTION 3. That Section 65-201, Idaho Code, be, and the same is

hereby amended to read as follows:

65-201. DIVISION OF VETERANS' SERVICES -- CREATION OF COMMISSION -- APPOINTMENT OF MEMBERS -- DISCONTINUANCE OF COMMISSION. (1) There is hereby established in the department of health and welfare the division of veterans' services. The division shall be headed by an administrator who shall ~~also serve as commandant of the veterans home, as provided in section 66-901, Idaho Code. The~~ be appointed by the director of the department ~~shall appoint the administrator of the division of veterans' services~~ from a nomination list of eligible candidates for administrator submitted by the veterans affairs commission. The administrator may be removed from office by the director of the department of health and welfare only with the consent of the veterans affairs commission.

(2) There is hereby created an advisory commission to be known as the Idaho veterans affairs commission to consist of five (5) persons, all of whom shall be appointed by the governor of the state of Idaho not more than thirty (30) days after the effective date of this act. Said appointees shall have had active service in any war or conflict officially engaged in by the government of the United States and have been honorably discharged from such service. No more than two (2) of said commission shall be residents of the same judicial district of the state of Idaho. Of the members of the commission serving on the effective date of this act, the terms of three (3) such members shall expire on the third Monday in January, 1987, and the terms of the remaining members shall expire on the third Monday in January, 1988. Members of the commission serving on the effective date of this act shall draw lots to determine the length of term for each member. Thereafter, upon the expiration of a member's term, the subsequent appointment shall be made by the governor and shall be for a term of three (3) years. Such subsequent terms shall expire on the third Monday in January of the appropriate year. The governor shall have power to fill any and all vacancies occurring in said commission. The governor shall have the further full power to discontinue said commission by proclamation whenever the governor determines that the government of the United States, or the state of Idaho, shall have made adequate provision for the care and assistance of honorably discharged and destitute veterans of the armed forces.

SECTION 4. That Section 65-202, Idaho Code, be, and the same is hereby amended to read as follows:

65-202. POWERS AND DUTIES. The administrator of the division of veterans' services shall have full power and authority on behalf of the state of Idaho, in recognition of the services rendered by disabled or destitute servicemen and servicewomen honorably discharged from the armed forces of the United States, to ~~manage and operate~~ oversee the management and operation of the Veterans' Homes ~~at Boise, Idaho~~ in the state, and provide such care and extend such financial relief and assistance to said disabled or destitute, honorably discharged servicemen and servicewomen and to those dependent upon such honorably discharged, disabled or destitute servicemen and servicewomen as the commission shall determine to be reasonably

required by such disabled or destitute servicemen and servicewomen and their dependents under such rules and regulations as the administrator may, from time to time adopt; and said administrator shall have power and authority to render such financial assistance to any person honorably discharged from the armed forces of the United States, regardless of the period during which he or she shall have served; provided, however, that no financial aid or direct relief shall be granted to any discharged person unless he or she shall have served during one (1) of the periods hereinafter referred to and shall come under the definition of veteran set out in section 65-203, Idaho Code.

SECTION 5. That Section 65-204, Idaho Code, be, and the same is hereby amended to read as follows:

65-204. RULES AND REGULATIONS -- EMPLOYMENT OF ASSISTANTS. The commission shall advise the administrator of the division of veterans' services and the board of health and welfare in the adoption of rules and regulations with respect to all matters of administration hereunder and to carry into effect the purposes of this chapter and employ such assistants as it may deem advisable. The commission is authorized to name the ~~commandant~~ administrator of the division of veterans'~~-home~~ services as executive secretary.

SECTION 6. That Section 66-901, Idaho Code, be, and the same is hereby amended to read as follows:

66-901. ESTABLISHMENT OF HOMES. There shall be established in the department of health and welfare in this state ~~a~~ homes for veterans which shall hereafter be known and designated as ~~the~~ Idaho State Veterans' Homes, which institutions shall be ~~a~~ homes for honorably discharged male and female veterans who had actual service ~~in~~ during any war or conflict officially engaged in by the government of the United States and for members of the state national guard disabled while in the line of duty who did not refuse military duty on account of conscientious objection~~;~~; provided, that before a person is admitted to ~~said~~ a home he shall have been a bona fide resident of this state for not less than two (2) years prior to making application for admission thereto. But such residence shall not be required of any person who, at the time of his enlistment or induction into such service, was a bona fide resident of this state.

SECTION 7. That Section 66-904, Idaho Code, be, and the same is hereby amended to read as follows:

66-904. INSPECTION OF HOMES. The ~~said~~ veterans' homes shall be subject to inspection at any time by the governor or any officer of his staff designated by him for the purpose of making such inspection.

SECTION 8. That Section 66-906, Idaho Code, be, and the same is hereby amended to read as follows:

66-906. SUCCESSION TO PROPERTY OF DECEASED RESIDENT. Hereafter, the application of any person for membership in ~~the~~ a veterans' home

of this state, and the admission of the applicant thereunder shall be and constitute a valid and binding contract between such applicant and the director of the department of health and welfare of the state of Idaho that on the death of said applicant, while a member of such home, leaving no heirs at law next of kin, all personal property owned by said applicant at the time of his death, including money or choses in action held by him and not disposed of by will, whether such property be the proceeds of pensions or otherwise derived, shall vest in and become the property of said department of health and welfare of the state of Idaho for the sole use and benefit of said home, the proceeds to be disposed of in such manner as may be ordered by the said director, and that all personal property of said applicant which, upon his death, while a member, shall at once pass to and vest in said director, subject to be reclaimed by any legatee or person entitled to take the same by inheritance at any time within five (5) years after the death of such member. The director of the department of health and welfare of the state of Idaho is directed to so change the form of application for membership as to give reasonable notice of this provision to each applicant, and as to contain the consent of the applicant to accept membership upon the conditions herein provided.

SECTION 9. That Section 66-907, Idaho Code, be, and the same is hereby amended to read as follows:

66-907. ADMISSIONS TO AND CHARGES FOR RESIDENCE AT NEW HOMES. The board of health and welfare with the advice of the veterans' affairs commission is hereby authorized and directed to establish appropriate admissions criteria for the ~~new~~ homes and to establish by regulation ~~a schedule of~~ charges for residence in those cases where residents have available resources for this purpose.

SECTION 10. That Section 66-1106, Idaho Code, be, and the same is hereby amended to read as follows:

66-1106. CHARITABLE INSTITUTIONS FUND -- TRANSFER OF MONEYS TO SEPARATE FUNDS. Any and all moneys hereafter accruing to said charitable institutions fund shall be forthwith transferred and credited to the following designated funds in the following proportions, respectively, to wit:

To the Idaho State University fund, four-fifteenths (4/15) thereof;

To the State Youth Services Center fund, four-fifteenths (4/15) thereof;

To the State Hospital North fund, four-fifteenths (4/15) thereof;

To the Veteran's Home fund, five-thirtieths (5/30) thereof;

To the School for the Deaf and Blind Fund, one-thirtieth (1/30) thereof.

SECTION 11. That Section 66-1107, Idaho Code, be, and the same is hereby amended to read as follows:

66-1107. MONEYS CREDITED OR ACCRUING TO SPECIAL FUNDS -- EXCLUSIVE USE. All moneys heretofore properly credited to or accruing to

any special fund heretofore created out of any portion of the expendable income from the land grant of one hundred and fifty thousand (150,000) acres aforesaid, for the support or maintenance of the Idaho State University, the State Youth Services Center, State Hospital North, ~~the~~ Idaho State Veterans' Homes and the State School for the Deaf and the Blind, respectively, or any of such institutions, together with all funds hereafter accruing under this act to the funds designated in section 66-1106, Idaho Code, are hereby appropriated for the maintenance of said institutions, respectively, and no portion of said funds shall be diverted to any other purpose or transferred to any other fund: provided, that no provision hereof shall be so construed as to preclude the state auditor from correcting errors in the apportionment of receipts or distribution of disbursements heretofore or hereafter erroneously credited or charged to any of such funds.

Approved March 20, 1990.

CHAPTER 57
(S.B. No. 1405)

AN ACT

RELATING TO AUTOMOBILE INSURANCE; AMENDING CHAPTER 25, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2516, IDAHO CODE, TO PROVIDE FOR TEMPORARY SUSPENSION OF AUTOMOBILE POLICY COVERAGE FOR A CONTINUOUS ONE HUNDRED EIGHTY DAY PERIOD, TO REQUIRE WRITTEN NOTICE, TO PROVIDE PENALTIES FOR DRIVING WHILE THE LIABILITY POLICY COVERAGE IS SUSPENDED, AND TO PROVIDE AN EFFECTIVE DATE.

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 41-2516, Idaho Code, and to read as follows:

41-2516. OPTIONAL SUSPENSION OF AUTOMOBILE INSURANCE COVERAGE. (1) If a person enters into a contract with an insurer for coverage under an automobile insurance policy (policy) as defined in section 41-2506, Idaho Code, the policy may contain the option of allowing the person to suspend policy coverages for a continuous period of not more than one hundred eighty (180) days during the current renewal period. The suspension period may begin at any time, at the person's option, provided, the person shall give the insurer not less than fourteen (14) days' written notice on an endorsement provided by the insurer, advising when the period of suspension is to begin. If less than fourteen (14) days' written notice is given, the policy shall remain in force for a period of time after the requested suspension date sufficient to equal the required notice period. The suspension of coverage shall not constitute a cancellation of the policy. For those coverages suspended, during the period of suspension, premiums shall not be charged to the person, and the insurer shall not be liable for any

loss occurring during said suspension period. The period of suspension may be changed at any time upon written agreement by the parties. This shall not preclude the insurer's right to reinspect the previously insured motor vehicle regarding its insurability.

(2) Suspended premium may accrue on a pro rata basis as a credit for future premium.

(3) If a person drives a motor vehicle within the state of Idaho while the liability coverage of the policy is suspended, he shall be subject to the penalties set out for the violation of the provisions of section 49-1428, Idaho Code.

(4) The provisions of this section shall apply to a policy entered into or renewed after July 1, 1990.

Approved March 20, 1990.

CHAPTER 58
(S.B. No. 1386, As Amended)

AN ACT

RELATING TO THE PUBLICATION OF NOTICE FOR ADOPTION; AMENDING SECTION 16-2007, IDAHO CODE, TO DELETE REFERENCE TO LEGITIMACY, AND TO SPECIFY WHERE PUBLICATION OF NOTICE FOR ADOPTION MUST TAKE PLACE.

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

SECTION 1. That Section 16-2007, Idaho Code, be, and the same is hereby amended to read as follows:

16-2007. NOTICE -- WAIVER -- GUARDIAN AD LITEM. After a petition has been filed, the court shall set the time and place for hearing, and shall cause notice thereof to be given to the petitioner, the parents of the child, ~~whether said child be legitimate or illegitimate if the names and addresses of said illegitimate parents are set forth in the petition;~~ the guardian of the person of the child, the person having legal custody of the child, any individual standing in loco parentis to the child, and the guardian ad litem of any party, or if service cannot be had on the parent or guardian, then upon the nearest blood relative named in the petition. The division of welfare of the Idaho department of health and welfare shall be given notice of the hearing if the petition for termination was not filed in conjunction with a petition for adoption or by an adoption agency licensed by the state of Idaho. Notice shall be given by personal service on the parents or guardian. Where reasonable efforts to effect personal service have been unsuccessful, the court shall order service by registered or certified mail to the last known address of the person to be notified and by publication once a week for three (3) successive weeks in a newspaper ~~of general circulation within the county where the court is located~~ <u>or newspapers to be designated by the court as most likely to give notice to the person to be served.</u> The hearing shall take place no sooner than ten (10) days after service of notice, or where service

is by registered or certified mail and publication, the hearing shall take place no sooner than ten (10) days after the date of last publication. Notice and appearance may be waived by a parent in writing before the court or in the presence of, and witnessed by, a clerk of court or a representative of an authorized agency, provided that such parent has been apprised by the court or by such person of the meaning and consequences of the termination action. Where the parent resides outside the state, the waiver shall be acknowledged before a notary of the state and shall contain the current address of the parent. The parent who has executed such a waiver shall not be required to appear. Where the parent is a minor, the waiver shall be effective only upon approval by the court. When the termination of the parent and child relationship is sought under section 16-2005(d), Idaho Code, the court shall appoint a guardian ad litem for the alleged incompetent parent. The court may in any other case appoint a guardian ad litem, as may be deemed necessary or desirable, for any party.

Approved March 20, 1990.

CHAPTER 59
(S.B. No. 1578)

AN ACT

APPROPRIATING MONEYS TO THE STATE TAX COMMISSION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 3, CHAPTER 395, LAWS OF 1989; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 3, Chapter 395, Laws of 1989, there is hereby appropriated to the State Tax Commission the following amount to be expended for the named program according to the designated expense class from the listed account for the period July 1, 1989, through June 30, 1990:

COUNTY SUPPORT PROGRAM:

FOR:

Trustee and Benefit Payments	$185,000

FROM:

General Account	$185,000

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 20, 1990.

CHAPTER 60
(S.B. No. 1433)

AN ACT

RELATING TO THE ABANDONMENT OR ASSUMPTION OF CONTROL OF HIGHWAYS BY THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING CHAPTER 2, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-203B, IDAHO CODE, TO PROVIDE CONDITIONS FOR ABANDONMENT OF ALL OR A SECTION OF A STATE HIGHWAY AND TO PROVIDE CONDITIONS FOR ASSUMING CONTROL OF ALL OR A SECTION OF A HIGHWAY WHICH IS UNDER JURISDICTION OF A COUNTY, CITY OR HIGHWAY DISTRICT; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 40-203B, Idaho Code, and to read as follows:

40-203B. ABANDONMENT OR ASSUMING CONTROL OF A HIGHWAY. Whenever the Idaho transportation department is either planning to abandon any section or all of a state highway to a county, a city or a highway district or assume control of a section or all of a highway which is under the jurisdiction of a county, city or a highway district, the transportation department shall first obtain the consent of the applicable local highway jurisdiction before it may abandon or assume control of the highway. Consent shall be obtained by passage of a resolution by the local highway jurisdiction assenting to the proposed action of the transportation department. If consent is not obtained as provided in this section, the action by the transportation department regarding the abandonment of a state highway or assumption of control of a local jurisdiction highway shall be null, void, and of no force and effect.

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, 1990.

CHAPTER 61
(H.B. No. 741)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE PERMANENT BUILDING ACCOUNT; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated $42,000,000 from the Gen-

eral Account to the Permanent Building 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 March 20, 1990.

CHAPTER 62
(H.B. No. 566)

AN ACT

RELATING TO CAMPAIGN CONTRIBUTIONS; REPEALING SECTIONS 67-6605 AND 67-6606, IDAHO CODE; AMENDING SECTION 67-6607, IDAHO CODE, TO PROVIDE ADDITIONAL REPORTING REQUIREMENTS FOR POLITICAL TREASURERS FOR CANDIDATES AND POLITICAL COMMITTEES UPON CERTAIN CONDITIONS; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Sections 67-6605 and 67-6606, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 67-6607, Idaho Code, be, and the same is hereby amended to read as follows:

67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES. (a) The political treasurer for each candidate and the political treasurer of each political committee shall file with the secretary of state:

(1) Not more than fourteen (14) days and not less than seven (7) days before the date of a primary election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee prior to the fifteenth day before the primary election;

(2) Not more than thirty (30) days after the date of a primary election in which a candidate or a political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the primary election to and including the tenth day after the primary election~~.~~;

(3) Not more than fourteen (14) days and not less than seven (7) days before the date of a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee since and including the eleventh day after the date of the primary election and to and including the fifteenth day before the general election, together with a cumulative statement showing all such contributions and

expenditures or encumbrances to and including the fifteenth day before the general election; and

(4) Not more than thirty (30) days after the date of a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the general election to and including the tenth day after the general election.

(b) For the first report under this section the reporting period shall cover the period beginning with the first contribution, expenditure, or encumbrance.

(c) Notwithstanding any other reports required under this section, the political treasurer for each candidate and any political committee supporting or opposing a measure shall notify the secretary of state, in writing, of any contribution of one thousand dollars ($1,000) or more, received by the political treasurer after the sixteenth day before, but more than forty-eight (48) hours before, any primary or general election. This notification shall be made within forty-eight (48) hours after the receipt of such contribution and shall include the name of the candidate or measure, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions in the post election report.

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, 1990.

Approved March 20, 1990.

CHAPTER 63
(H.B. No. 467)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE THAT ALL AMOUNTS DEDUCTED UNDER INTERNAL REVENUE CODE SECTION 402(e)(3) MUST BE ADDED TO IDAHO TAXABLE INCOME; 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 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; 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 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 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.

(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~~ taxable amount of any lump sum distribution deducted from gross income pursuant to section 402(e)(3) of the Internal Revenue Code. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(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, 1990.

Approved March 20, 1990.

CHAPTER 64
(H.B. No. 504)

AN ACT

RELATING TO EXEMPTIONS FROM THE SALES TAX; AMENDING SECTION 63-3622O, IDAHO CODE, TO PROVIDE THAT NONRESIDENT NONPROFIT COLLEGES, UNIVERSITIES, PRIMARY AND SECONDARY SCHOOLS WHICH HAVE A BRANCH CAMPUS OR FACILITY IN THIS STATE SHALL BE DEFINED AS EDUCATIONAL INSTITUTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3622O, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622O. NONPROFIT ORGANIZATIONS. There are exempted from the taxes imposed by this chapter sales to and purchases by hospitals, health-related entities, educational institutions, forest-protective associations and canal companies which are nonprofit organizations. As used in this subsection, these words shall have the following meanings:

(a) "Educational institution" shall mean resident nonprofit colleges, universities, primary and secondary schools <u>and nonresident nonprofit colleges, universities, primary and secondary schools which have a branch campus, or facility located in this state,</u> the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, Idaho Association of Retarded Citizens, Idaho Heart Association, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, and Easter Seals, together with said entities' local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

SECTION 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, 1990.

CHAPTER 65
(H.B. No. 507)

AN ACT

RELATING TO THE UNIFORM ARBITRATION ACT; AMENDING SECTION 7-912, IDAHO CODE, TO CORRECT A CODE REFERENCE.

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

SECTION 1. That Section 7-912, Idaho Code, be, and the same is hereby amended to read as follows:

7-912. VACATING AN AWARD. (a) Upon application of a party, the court shall vacate an award where;

(1) The award was procured by corruption, fraud or other undue means;

(2) There was evident partiality by an arbitrator appointed as a neutral, or corruption in any of the arbitrators, or misconduct prejudicing the rights of any party;

(3) The arbitrators exceeded their powers;

(4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of section 7-9~~1~~05, Idaho Code, as to prejudice substantially the rights of a party; or

(5) There was no arbitration agreement and the issue was not adversely determined in proceedings under section 7-902, Idaho Code, and the party did not participate in the arbitration hearing without raising the objection.

The fact that the relief was such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

(b) An application under this section shall be made within ninety

(90) days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within ninety (90) days after such grounds are known or should have been known.

(c) In vacating the award on grounds other than stated in clause (5) of subsection (a) the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with section 7-903, Idaho Code, or, if the award is vacated on grounds set forth in clauses (3) and (4) of subsection (a) the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with section 7-903, Idaho Code. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

(d) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

Approved March 20, 1990.

CHAPTER 66
(H.B. No. 505)

AN ACT

RELATING TO UNSOLVED MURDERS; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2906, IDAHO CODE, TO REQUIRE A REPORT OF UNSOLVED MURDERS.

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 67-2906, Idaho Code, and to read as follows:

67-2906. REPORTS OF MURDERS. (1) As used in this section:

(a) "Director" means the director of the department of law enforcement of the state of Idaho.

(b) "Murder" has the meaning provided in section 18-4003, Idaho Code.

(2) Any law enforcement agency within the state of Idaho having primary responsibility for the investigation of the case shall provide information relating to any suspected murder to the director within twenty-five (25) days after its discovery. The law enforcement agency shall submit the information on a form which shall be developed and provided by the director. The form shall contain only information necessary to aid law enforcement personnel in comparing murders and suspected murders and discovering those exhibiting similar characteristics. The director shall enter information submitted by an investigating agency into a file maintained and controlled by the director

and shall compare such information to information on other murders or suspected murders, for the purpose of discovering similarities in criminal methods and suspect descriptions. The director shall advise the concerned investigating agencies if the director finds murders exhibiting similar criminal methods or suspect descriptions.

(3) When an investigating law enforcement agency terminates active investigation of a suspected murder due to an arrest having been made in the case, death of the primary suspect, or whatever other reason, the investigating agency shall so notify the director within thirty (30) days following such termination. Notification shall include the reason for terminating active investigation.

(4) All suspected murders coming under the jurisdiction of any law enforcement agency in the state of Idaho occurring less than one (1) year before the effective date of this section shall be reported to the director as provided in this section within sixty-five (65) days after the effective date of this section or thirty (30) days after the director provides forms for such purpose, whichever is later.

Approved March 20, 1990.

CHAPTER 67
(H.B. No. 556)

AN ACT

RELATING TO FREE-STANDING SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES; AMENDING SECTION 56-108, IDAHO CODE, TO RECOGNIZE THE COST OF RENOVATION AND REMODELING TO FACILITIES WITH LEASES SIGNED PRIOR TO MARCH 30, 1981, IN THE MEDICAID PROVIDER REIMBURSEMENT SYSTEM; DECLARING AN EMERGENCY, AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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:

$$\text{Property rental rate} = (\text{"Property base"}) \times (\text{"Change in building costs"}) \times \frac{(40 - \text{"Age of facility"})}{40}$$

where:

(a) "Property base" = $9.24 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 when major repairs, replacement, remodeling or renovation initiated after April 1, 1985, 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 three-fourths (3/4) of the difference between the 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 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. 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. Effective July 1, 1989, the director shall adjust the property rental rate of a leased skilled facility under this paragraph to compensate for the cost of major repairs, replacement, expansion, remodeling and renovation initiated after January 1, 1985, by adding the per diem of the recognized cost of such expenditures amortized over the American hospital association guideline component useful life. Such addition shall not increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the current property rental rate and the adjusted property base as determined in paragraphs (a) and (b) of subsection (1) of this section. 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.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 1989.

Approved March 20, 1990.

CHAPTER 68
(H.B. No. 450)

AN ACT

RELATING TO THE STATE BOARD OF PSYCHOLOGY; AMENDING SECTION 54-2304, IDAHO CODE, TO PROVIDE FOR A PUBLIC BOARD MEMBER, AND TO PROVIDE FOR STAGGERED TERMS OF THE PSYCHOLOGIST BOARD MEMBERS.

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

SECTION 1. That Section 54-2304, Idaho Code, be, and the same is hereby amended to read as follows:

54-2304. ESTABLISHMENT OF BOARD OF PSYCHOLOGIST EXAMINERS. There is hereby created in the department of self-governing agencies, an Idaho state board of psychologist examiners as follows:

(a) Said board shall consist of three (3) licensed psychologist members and one (1) public member who is not a practitioner or spouse of a practitioner in any health care field and who is not a convicted felon and who has not been an applicant for licensure as a psychologist, who are citizens of the United States, residents of the state of Idaho, and appointed by the governor ~~within--thirty--(30)--days--after July--1,-1963,-to-serve-the-following-terms:-one-(1)-member-for-a-term ending-July-30,-1964;-one-(1)-member-for-a-term-ending-June-30,--1965; one--(1)--member--for--a--term-ending-June-30,-1966~~ for three (3) year terms. The psychologist members' terms shall be staggered such that only one (1) term expires June 30 of each year.

(b) Each psychologist board member shall be licensed under this ~~act,-except-that-members-comprising-the-board-as-first-appointed-shall be-persons-who-have-rendered-services,-teaching,-training-or--research in-psychology-for-at-least-five-(5)-years-and-who-have-held-a-doctoral~~

~~degree--in--psychology--or--closely--related--field-from-an-accredited school-for-a-period-of-three-(3)-years.~~

(c) When the term of each psychologist member of the board ends, the governor shall appoint his successor for a term of three (3) years from a list of eligible candidates for board membership submitted to the governor by the president of the Idaho psychological association. Any vacancy occurring on the board shall be filled by the governor, from a list of all eligible candidates for board membership, by appointment for the unexpired term. The governor may give consideration to recommendations from any source in making appointments of the public member to a full or unexpired term. The governor may remove any board member for misconduct, incompetency, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon.

(d) At all times, the board shall have at least one (1) member who is engaged primarily in rendering services in psychology and at least one (1) member who is engaged primarily in teaching, training, or research in psychology.

(e) No board member shall serve more than two (2) consecutive terms.

(f) Each board member shall be compensated as provided by section 59-509(h), Idaho Code.

(g) The board shall ~~within-sixty-(60)-days--after--the--effective date-of-this-act,-and~~ annually ~~thereafter~~ in the month of July, hold a meeting, and elect a chairman and vice chairman. The board shall meet at such other times as deemed necessary and advisable by the chairman, or by a majority of its members, or by the governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board shall constitute a quorum at any meeting or hearing.

Approved March 20, 1990.

CHAPTER 69
(H.B. No. 501)

AN ACT

RELATING TO REPORTS OF ACCIDENTS; AMENDING SECTION 49-1305, IDAHO CODE, TO PROVIDE FOR REPORTS OF ACCIDENT DAMAGE WHEN THE DAMAGE EXCEEDS A STATED AMOUNT.

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

SECTION 1. That Section 49-1305, Idaho Code, be, and the same is hereby amended to read as follows:

49-1305. IMMEDIATE NOTICE OF ACCIDENTS. (1) The driver of a vehicle involved in an accident resulting in injury to or death of any person, or damage to the property of any one (1) person in excess of ~~two~~ seven hundred and fifty dollars ($~~2~~750) shall immediately, by the

quickest means of communication, give notice of the accident to the local police department if the accident occurs within a city, otherwise to the office of the county sheriff or the nearest office of the state police.

(2) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required herein, and there was another occupant in the vehicle at the time of the accident capable of doing so, the occupant shall give or cause to be given the notice not given by the driver.

Approved March 20, 1990.

CHAPTER 70
(H.B. No. 666)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR THE CHRISTA McAULIFFE FELLOWSHIP PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Superintendent of Public Instruction/State Department of Education, the following amount to be expended for the Christa McAuliffe Fellowship Program according to the designated expense class from the listed account for the period from the effective date of this act through June 30, 1991:

FOR:	
Trustee and Benefit Payments	$31,200
FROM:	
General Account	$31,200

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 20, 1990.

CHAPTER 71
(H.B. No. 506)

AN ACT

RELATING TO THE JUDICIAL COUNCIL; AMENDING SECTION 1-2101, IDAHO CODE, TO PROVIDE FOR PERMANENT MEMBERS OF THE JUDICIAL COUNCIL, AND TO PROVIDE FOR A DISTRICT COURT MAGISTRATE ADJUNCT MEMBER FOR CERTAIN PURPOSES; AMENDING SECTION 1-2102, IDAHO CODE, TO PROVIDE THAT THE DUTIES OF THE JUDICIAL COUNCIL INCLUDE RECOMMENDATIONS AFFECTING

MAGISTRATES; AMENDING CHAPTER 21, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2103A, IDAHO CODE, TO PROVIDE A PROCESS FOR THE REMOVAL, DISCIPLINING, OR RETIREMENT OF MAGISTRATES; AMENDING SECTION 1-2104, IDAHO CODE, TO PROVIDE FOR HONORARIA AND EXPENSES OF MEMBERS OF THE JUDICIAL COUNCIL; AND AMENDING SECTION 1-2207, IDAHO CODE, TO CLARIFY CONDITIONS NECESSARY FOR THE REMOVAL OF A MAGISTRATE FROM OFFICE.

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

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

1-2101. JUDICIAL COUNCIL -- CREATION -- MEMBERSHIP -- APPOINTMENTS -- VACANCIES. (1) There is hereby created a judicial council which shall consist of seven (7) permanent members, and one (1) adjunct member. Three (3) permanent attorney members, one (1) of whom shall be a district judge, shall be appointed by the board of commissioners of the Idaho state bar with the consent of the senate. Three (3) permanent non-attorney members shall be appointed by the governor with the consent of the senate. If any of the above appointments be made during a recess of the senate, they shall be subject to consent of the senate at its next session. The term of office for an permanent appointed member of the judicial council shall be six (6) years~~; except--that--of--the-members-first-appointed;-one-(1)-attorney-member and-one-(1)-non-attorney-member-shall-each-serve-for--two--(2)--years; one--(1)--attorney--member--and-one-(1)-non-attorney-member-shall-each serve-for-four-(4)-years;-and-one-(1)-attorney-member-and-one-(1)-non-attorney-member-shall--each--serve--for--six--(6)--years;--thereafter; appointments--shall-be-made-for-six-(6)-year-terms~~. Vacancies shall be filled for the unexpired term in like manner. Appointments shall be made with due consideration for area representation and not more than three (3) of the permanent appointed members shall be from one (1) political party. The chief justice of the Supreme Court shall be the seventh member and chairman of the judicial council. No permanent member of the judicial council, except a judge or justice, may hold any other office or position of profit under the United States or the state. The judicial council shall act by concurrence of four (4) or more members and according to rules which it adopts.

(2) In addition to the permanent members of the judicial council, whenever there is an issue before the council which involves the removal, discipline or recommendation for retirement of a district court magistrate, the chief justice shall appoint an adjunct member of the judicial council, who shall be a district court magistrate. For all purposes for which the adjunct appointment is made, the adjunct member shall be a full voting member of the judicial council.

SECTION 2. That Section 1-2102, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(4) Recommend the removal, discipline and retirement of judicial officers, including magistrates; and~~,~~

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

SECTION 3. That Chapter 21, 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 1-2103A, Idaho Code, and to read as follows:

1-2103A. REMOVAL, DISCIPLINING, OR RETIREMENT OF MAGISTRATES. A magistrate of the district court, in accordance with the procedure prescribed in this section, may be disciplined or removed for wilful misconduct in office or wilful and persistent failure to perform his duties or habitual intemperance or conduct prejudicial to the administration of justice that brings judicial office into disrepute, or he may be recommended for retirement for disability seriously interfering with the performance of his duties, which is, or is likely to become of a permanent character.

The judicial council may, after such investigation as the council deems necessary, order a hearing to be held before it concerning the removal, discipline or retirement of a magistrate, or the council may in its discretion request the Supreme Court to appoint three (3) special masters, who shall be district judges or district magistrates, to hear and take evidence in any such matters, and to report their findings to the council. If, after hearing, or after considering the record and the findings and report of the masters, the council finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline or retirement, as the case may be, of the magistrate.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal or discipline, or recommend retirement for disability, or wholly reject the recommendation. Upon a recommendation for retirement for disability, the recommendation shall be presented to the public employee retirement system for action. Upon an order for removal, the magistrate shall thereby be removed from office, and his salary shall cease from the date of such order.

All papers filed with and the proceedings before the judicial council, or masters appointed by the Supreme Court, pursuant to this section, shall be confidential; provided, however, that if allegations against a magistrate are made public by the complainant, the magistrate, or third person, the judicial council may, in its discretion, comment on the existence, nature and status of any investigation. The

filing of papers with and the giving of testimony before the council or the masters shall be privileged, but no other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the council in the Supreme Court continues privileged and upon such filing loses its confidential character; and (b) a writing which was privileged prior to its filing with the council or the masters does not lose such privilege by such filing. The judicial council shall by rule provide for procedures under the provisions of this section including the exercise of requisite process and subpoena powers.

The provisions of this section are alternative to, and cumulative with, the removal of magistrates by impeachment, and the original supervisory control of members of the judicial system by the Supreme Court.

SECTION 4. That Section 1-2104, Idaho Code, be, and the same is hereby amended to read as follows:

1-2104. HONORARIA AND EXPENSES OF MEMBERS. Each member of the judicial council, except a judge, ~~or~~ justice or magistrate, shall be compensated as provided by section 59-509(h), Idaho Code.

SECTION 5. That Section 1-2207, Idaho Code, be, and the same is hereby amended to read as follows:

1-2207. MAGISTRATES -- TERM -- REMOVAL -- VACANCIES. (1) The term of office of a magistrate shall be four (4) years. The term of office of a magistrate shall begin on the second Monday of January of the odd-numbered year next succeeding his election.

(2) Vacancies in the office of magistrate shall be filled by appointment pursuant to section 1-2205, Idaho Code.

(3) Any magistrate appointed pursuant to section 1-2205, Idaho Code, and subsection (2) of this section, shall exercise the authority of a magistrate from the date of taking office. A magistrate appointed after the effective date of this act may be removed from office within eighteen (18) months of his appointment by majority vote of all the voting members of the district magistrates commission without cause in accordance with procedures to be established by rules of the Supreme Court.

(4) ~~Upon-expiration-of-the-eighteen-(18)-month-period-established in--subsection-(3)-of-this-section,-a~~ A magistrate may be removed from office ~~for-cause~~ before the expiration of the term to which he was appointed or elected ~~after-a-hearing-before-the-district-judges-of-the judicial-district-sitting-en-banc-and-upon-a-majority-vote-of-the-district--judges--for-removal,-in-accordance-with-procedures-to-be-established-by-rules-of-the-Supreme-Court-or~~ as ~~otherwise~~ provided by ~~law~~ section 1-2103A, Idaho Code.

Approved March 20, 1990.

CHAPTER 72
(H.B. No. 523)

AN ACT

RELATING TO FORFEITURE OF MONEY DEPOSITED INSTEAD OF BAIL; AMENDING SECTION 19-2929, IDAHO CODE, TO PROVIDE FOR WRITTEN NOTICE OF FAILURE TO APPEAR TO THE PERSON POSTING BAIL, AND FURTHER PROVIDING FOR FORFEITURE AFTER NINETY DAYS.

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

SECTION 1. That Section 19-2929, Idaho Code, be, and the same is hereby amended to read as follows:

19-2929. FORFEITURE OF DEPOSIT. If, by reason of the neglect of the defendant to appear, money deposited instead of bail is forfeited, ~~and~~ the clerk shall mail written notice within five (5) days to the last known address of the person posting the money of the forfeiture for failure to appear. A failure to give timely notice shall exonerate the bail. If the forfeiture is not discharged or remitted, the clerk with whom it is deposited must, at the end of ~~thirty~~ ninety (~~3~~90) days, of the date of forfeiture, unless the court has before that time discharged the forfeiture, pay over the money deposited to the county treasurer.

Approved March 20, 1990.

CHAPTER 73
(H.B. No. 522)

AN ACT

RELATING TO THE FORFEITURE OF BAIL; AMENDING SECTION 19-2927, IDAHO CODE, TO PROVIDE FOR WRITTEN NOTICE OF A DEFENDANT'S FAILURE TO APPEAR, AND TO PROVIDE FOR THE DISCHARGE OF THE FORFEITURE OF AN UNDERTAKING OR DEPOSIT OF BAIL, UPON THE APPEARANCE OF A DEFENDANT WITHIN NINETY DAYS AFTER FORFEITURE AS ENTERED ON THE COURT MINUTES; AND AMENDING SECTION 19-2928, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT OF FORFEITURE OF BAIL AT ANY TIME AFTER NINETY DAYS OF THE ENTRY OF FORFEITURE ON THE COURT MINUTES.

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

SECTION 1. That Section 19-2927, Idaho Code, be, and the same is hereby amended to read as follows:

19-2927. FORFEITURE OF BAIL. If, without sufficient excuse, the defendant neglects to appear for arraignment or for trial or judgment, or upon any other occasion when his presence in court may be lawfully required, or to surrender himself in execution of the judgment, the

court must direct the fact to be entered upon its minutes and the undertaking of bail, or the money deposited instead of bail, as the case may be, is thereupon declared forfeited. ~~But if~~ The clerk shall mail written notice within five (5) days of the forfeiture for failure to appear to the last known address of the person posting the undertaking of bail. A failure to give timely notice shall exonerate the bail or undertaking. If at any time within ~~twenty~~ ninety (~~20~~90) days after such entry in the minutes, the defendant appears and satisfactorily excuses his neglect, the court may direct the forfeiture of the undertaking or the deposit to be discharged upon such terms as may be just.

If within ~~twenty~~ ninety (~~20~~90) days of the date of forfeiture, a person, other than the defendant, who has provided bail for the defendant, brings the defendant before the court, the court shall direct that the forfeiture of the undertaking or deposit be discharged.

SECTION 2. That Section 19-2928, Idaho Code, be, and the same is hereby amended to read as follows:

19-2928. ENFORCEMENT OF FORFEITURE. If the forfeiture is not discharged, as provided in the last section, the prosecuting attorney may, at any time after ~~twenty~~ ninety (~~20~~90) days from the entry upon the minutes, as provided in the last section, proceed by action in the name of the county, against the bail upon their undertaking.

Approved March 20, 1990.

CHAPTER 74
(H.B. No. 567)

AN ACT

RELATING TO SALES TAX EXEMPTIONS; AMENDING SECTION 63-3622O, IDAHO CODE, TO CLARIFY THE EXEMPTION FROM SALES TAX GRANTED FOR CERTAIN HEALTH-RELATED ENTITIES.

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

SECTION 1. That Section 63-3622O, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622O. NONPROFIT ORGANIZATIONS. There are exempted from the taxes imposed by this chapter sales to and purchases by hospitals, health-related entities, educational institutions, forest-protective associations and canal companies which are nonprofit organizations. As used in this subsection, these words shall have the following meanings:

(a) "Educational institution" shall mean resident nonprofit colleges, universities, primary and secondary schools the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not

include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, ~~Idaho~~ Association ~~of~~ for Retarded Citizens of the United States, Idaho Heart Association, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, and Easter Seals, together with said entities' local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

Approved March 20, 1990.

CHAPTER 75
(H.B. No. 446)

AN ACT

RELATING TO BOAT ACCIDENT NOTIFICATION AND REPORTING; AMENDING SECTION 67-7027, IDAHO CODE, TO PROVIDE THAT IT SHALL BE THE DUTY OF THE OPERATOR OF A VESSEL INVOLVED IN AN ACCIDENT TO IMMEDIATELY NOTIFY THE LOCAL SHERIFF OF THE ACCIDENT AND TO PROPERLY COMPLETE AND SUBMIT A BOATING ACCIDENT REPORT AS REQUIRED.

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

SECTION 1. That Section 67-7027, Idaho Code, be, and the same is hereby amended to read as follows:

67-7027. COLLISIONS, ACCIDENTS AND CASUALTIES -- REPORTS. (1) It shall be unlawful for the operator of any vessel on the water of this state to fail to report any accident or casualty occasioned by the operation of a vessel and as herein provided.

(2) It shall be the duty of the operator of any vessel involved in a collision, accident or other casualty, so far as he can do so

without serious danger to his own vessel, crew, passengers and guests, to render aid to other persons affected by the collision, accident or other casualty and also to give his name, address and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

(3) It shall be the duty of the operator of any vessel involved in a collision, accident or other casualty resulting in death or injury to a person or damage to property in excess of two hundred dollars ($200)~~,--to~~:

(a) To immediately, by the quickest means of communication, give notice of the accident to the sheriff of the county in which the accident occurred; and

(b) To file with the sheriff of the county in which the accident occurred, a boating accident report within forty-eight (48) hours of the occurrence if a person dies within twenty-four (24) hours of the occurrence, or in the case of an incapacitating injury or if a person disappears from the vessel. A report shall be filed within ten (10) days of the occurrence or death if an earlier report is not required by this paragraph. The report shall be made on forms provided by the department, but shall not be referred to in any way as evidence in any judicial proceeding. A copy of such report shall also be readily transmitted by the sheriff to the designated state boating safety coordinator.

(4) If the operator of the vessel involved in a collision, accident, or other casualty is incapacitated, and there is another person in the vessel at the time of the accident capable of giving immediate notice of an accident as required herein, the person shall give or cause to be given the notice not given by the operator.

(5) If the operator of the vessel involved in a collision, accident, or other casualty is incapacitated, the investigating law enforcement officer shall file the required form as prescribed by the director.

Approved March 20, 1990.

CHAPTER 76
(H.B. No. 553)

AN ACT
RELATING TO THE COUNTY TREASURER AND TAX COLLECTOR; AMENDING SECTION 31-2103, IDAHO CODE, TO ALLOW ELECTRONIC TRANSFERS OF FUNDS.

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

SECTION 1. That Section 31-2103, Idaho Code, be, and the same is hereby amended to read as follows:

31-2103. RECEIPT OF MONEY. He must receive no money into the treasury unless ~~accompanied~~ documented by the certificate of the auditor. However, this procedure shall not prohibit electronic transfers followed by documented information as required by the county auditor

and county treasurer.

Approved March 20, 1990.

CHAPTER 77
(H.B. No. 485)

AN ACT

RELATING TO INFORMATION TAX RETURNS FILED WITH THE STATE TAX COMMISSION; AMENDING SECTION 63-3037, IDAHO CODE, TO EMPOWER THE STATE TAX COMMISSION TO PROVIDE, BY REGULATION, FOR EXCEPTIONS TO THE REQUIREMENT TO FILE INFORMATION RETURNS.

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

SECTION 1. That Section 63-3037, Idaho Code, be, and the same is hereby amended to read as follows:

63-3037. INFORMATION RETURNS. (a) All persons, in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries and employers, making payment to another person of interest, rent, salaries, wages, except as provided by subsection (b) of section 63-3035, Idaho Code, and section 63-3036, Idaho Code, premiums, annuities, compensation, remunerations, emoluments, payments to subcontractors, other fixed or determinable gains, profits and income, or corporate liquidation distributions shall make returns to the state tax commission setting forth the amount of such gains, profits and income, and the name and address of the recipient of such payment. Such returns shall correspond to the requirements of the Internal Revenue Code.

(b) The state tax commission may, by regulation, excuse the filing of any returns required by subsection (a) of this section when it finds that the returns required of any class or group of persons do not contribute to the efficient administration of the taxes imposed by this chapter.

Approved March 20, 1990.

CHAPTER 78
(H.B. No. 665)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 384, LAWS OF 1989; 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 384, Laws of 1989, there is hereby appropriated to the Department of Law Enforcement for the Racing Commission, 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:	
Trustee and Benefit Payments	$135,000
FROM:	
Idaho Horse Breeders' and Owners' Award Account	$ 25,000
County Dog Racing Fund Account	110,000
TOTAL	$135,000

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 20, 1990.

CHAPTER 79
(H.B. No. 532)

AN ACT

RELATING TO PUBLIC UTILITY REGULATION; AMENDING SECTION 61-505, IDAHO CODE, TO CLARIFY THE PROVISIONS UNDER WHICH THE IDAHO PUBLIC UTILITIES COMMISSION CAN ENTER INTO CONTRACTS WITH REGULATORY AGENCIES OF NEIGHBORING STATES.

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

SECTION 1. That Section 61-505, Idaho Code, be, and the same is hereby amended to read as follows:

61-505. JOINT HEARINGS AND INVESTIGATIONS -- RECIPROCITY -- CONTRACTS WITH REGULATORY AGENCIES OF NEIGHBORING STATES. (1) The commission shall have full power and authority to make joint investigations, hold joint hearings within or without the state of Idaho with any official, board, commission, or agency of any state or of the United States, whether in the holding of the investigations or hearings the commission shall function under agreements or compacts between states or under the concurrent power of states to regulate the interstate commerce, or as an agency of the federal government, or otherwise.

(2) The commission shall have full power and authority to contract with the regulatory agencies ~~or~~ of neighboring states to hold hearings and ~~make--recommendations--to-the-commission-concerning~~ set rates and charges ~~of~~ for customers in Idaho located in or nearby border communities served by utilities principally located in states other than Idaho. These contracts may have a term that extends beyond the terms of the current commissioners.

(3) The commission shall have this authority under subsection (2) of this section only if it finds that:

(a) ~~the--rate--payers~~ The affected Idaho residents live in or nearby a border community that is or may be served by a utility principally located in a state other than Idaho~~,--that--it~~;

(b) The provision of utility service to such a community by a utility located principally in a state other than Idaho is in the public interest;

(c) It is impractical or not in the public interest to conduct proceedings for these ~~rate-payers-located-in-the-state-of~~ affected Idaho residents separate from proceedings conducted by the regulatory agency of the neighboring state for rate payers of that utility located in that state~~,--and--that--the~~;

(d) The affected ~~rate-payers~~ Idaho residents have full rights of participation in the hearings conducted by the regulatory agency with which the commission has contracted~~.--The-commission-shall-not accept-or-reject-any-recommendation-of-a--regulatory--agency--with which--it--has--contracted--without-giving-affected-rate-payers-an opportunity-to-submit-written-comments-concerning-the--recommendation~~, as well as the same rights that customers in the neighboring state have to pursue service-related issues; and

(e) The rates, charges and service regulations for Idaho customers are not less favorable than those of similarly situated customers in the neighboring state.

(4) When the commission has entered into a contract authorized in subsection (2) of this section, the findings, decisions and orders of the regulatory agency of the neighboring state are presumptively correct and will take effect according to the terms of the order of the regulatory agency of the neighboring state. Affected Idaho customers may petition the commission for a review of the contract or the rates set under the contract upon a showing that:

(a) All remedies with the neighboring state's utility have been exhausted;

(b) All remedies with the neighboring state's regulatory agency with which the commission has signed a contract have been exhausted; and

(c) Idaho customers have been discriminatorily, preferentially or otherwise unlawfully treated by the regulatory agency of the neighboring state.

The commission, upon its preliminary finding that rates set by the regulatory agency of the neighboring state are prima facie discriminatory, preferential or otherwise unlawful, and that all remedies with the neighboring state's utility and commission have been exhausted, may initiate proceedings to review the decision of the regulatory agency of the neighboring state. Any subsequent order of the commission altering the decision of the regulatory agency of the neighboring state will be of prospective effect only.

(5) The contract authorized in subsection (2) of this section, may be revoked if the commission finds that the affected Idaho residents have been unreasonably, discriminatorily, preferentially or otherwise unlawfully treated by the neighboring state's regulatory agency.

Approved March 20, 1990.

CHAPTER 80
(H.B. No. 699)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 222, LAWS OF 1989; 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 222, Laws of 1989, there is hereby appropriated to the Attorney General for the Special Services Litigation Program, the following amount to be expended according to the designated expense class from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:	
Operating Expenditures	$850,000
FROM:	
General Account	$850,000

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 20, 1990.

CHAPTER 81
(H.B. No. 680)

AN ACT

RELATING TO RECOVERY OF DAMAGES; AMENDING SECTION 6-210, IDAHO CODE, TO CORRECT A CODE CITATION AND TO PROVIDE DEFINITIONS.

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

SECTION 1. That Section 6-210, Idaho Code, be, and the same is hereby amended to read as follows:

6-210. RECOVERY OF DAMAGES FOR ECONOMIC LOSS WILFULLY CAUSED BY A MINOR. (1) Any municipal corporation, county, city, school district, or any person, partnership, corporation or association, or any religious organization, whether incorporated or unincorporated, shall be entitled to recover damages in an amount not to exceed two thousand five hundred dollars ($2,500) in a court of competent jurisdiction from the parents of any minor, under the age of eighteen (18) years, living with the parents, who shall wilfully cause economic loss to such persons or entities, except as otherwise provided in section 49-3130, Idaho Code.

(2) Economic loss shall include but not be limited to, the value

of property, as that term is defined in section 18-2402(8), Idaho Code, taken, destroyed, broken or otherwise harmed, lost wages and direct out-of-pocket losses or expenses such as medical expenses resulting from the minor's wilful conduct, but shall not include less tangible damage such as pain and suffering, wrongful death or emotional distress.

(3) As used in this section, "parents" shall mean any persons or entities who have legal custody of the minor, or any persons or entities who are licensed to accept children for child care under chapter 12, title 39, Idaho Code. "Legal custody" shall be as that term is defined in section 16-2002(f), Idaho Code.

Approved March 21, 1990.

CHAPTER 82
(S.B. No. 1451)

AN ACT

RELATING TO CERTIFICATION OF REAL ESTATE APPRAISERS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 41, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO PROHIBIT USE OF THE TERM "CERTIFIED APPRAISER" ABSENT CERTIFICATION BY THE CERTIFIED REAL ESTATE APPRAISER BOARD, TO PROVIDE DEFINITIONS, TO PROVIDE EXCEPTIONS FROM THE APPLICATION OF THE CHAPTER, TO CREATE A CERTIFIED REAL ESTATE APPRAISER BOARD AND DEFINE ITS POWERS AND DUTIES, TO PROVIDE FOR DISCIPLINARY PROCEEDINGS, TO PROVIDE FOR HEARINGS, TO PROVIDE FOR RETENTION OF RECORDS, TO PROVIDE FOR QUALIFICATIONS TO OBTAIN CERTIFICATION, TO PROVIDE FOR USE OF THE DESIGNATION "STATE CERTIFIED REAL ESTATE APPRAISER," TO PROVIDE THAT EXAMINATIONS FOR CERTIFICATION BE HELD AT LEAST ONCE A YEAR, TO PROVIDE FOR FEES AND ISSUANCE OF CERTIFICATES, TO ESTABLISH THE TERM OF THE CERTIFICATE AND PROVIDE FOR RENEWAL, TO PROVIDE FOR CERTIFICATION OF NONRESIDENTS AND TEMPORARY PRACTICE, TO PROVIDE FOR ISSUANCE OF RENEWAL CERTIFICATES, TO PROVIDE FOR INJUNCTIVE RELIEF TO RESTRAIN VIOLATIONS OF THE CHAPTER, TO PROVIDE FOR PROSECUTION OF VIOLATIONS, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

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 41, Title 54, Idaho Code, and to read as follows:

CHAPTER 41
IDAHO CERTIFIED REAL ESTATE APPRAISERS ACT

54-4101. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Certified Real Estate Appraisers Act."

54-4102. LEGISLATIVE INTENT. In order to safeguard life, health and property and to promote the public welfare, any person holding himself out to be a state certified real estate appraiser, as herein defined, in the state of Idaho shall submit evidence of his qualifications so to practice and be certified as hereinafter provided. Except as herein otherwise expressly provided, no certification shall be issued until an applicant has successfully passed an examination conducted by the certified real estate appraiser board.

54-4103. USE OF TERM "CERTIFIED" APPRAISER. From and after July 1, 1991, it shall be unlawful for any person in this state to assume or use the title "state certified real estate appraiser" or any title, designation or abbreviation likely to create the impression of certification by the state of Idaho for either residential or general real estate appraisals, unless the person has first been certified by the certified real estate appraiser board under the provisions of this chapter. The board may adopt for the exclusive use of persons certified under the provisions of this chapter, a seal, symbol or other mark identifying the user as a state certified real estate appraiser.

From and after July 1, 1991, it shall be unlawful for any person who performs an appraisal of real estate located in this state to describe or refer to such appraisal as "certified" or "state certified" unless the person has first been certified by the board under the provisions of this chapter.

54-4104. DEFINITIONS. As used in this chapter:

(1) "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the value, nature, quality, or utility of specified interests in, or aspects of, identified real estate.

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased opinion or conclusion relating to the value, nature, quality or utility of specified interests in, or aspects of, identified real estate.

(3) "Appraisal foundation" or "foundation" means the appraisal foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

(4) "Board" means the certified real estate appraiser board.

(5) "Certificate" means that document issued by the certified real estate appraiser board certifying that the person named thereon has satisfied the requirements for certification as a state certified real estate appraiser and bearing a certificate number assigned by the board.

(6) "Certified appraisal" means any appraisal performed by a state certified real estate appraiser.

(7) "Certified appraisal report" means any communication, written or oral or an appraisal by a state certified real estate appraiser.

(8) "Real estate appraiser" or "appraiser" means a person who for a fee or other valuable consideration or the expectation thereof, develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.

(9) "Real property" or "real estate" means and includes lease-

holds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold and whether situated in this state or elsewhere.

(10) "State certified general real estate appraiser" means a person who is certified to appraise all types of real property.

(11) "State certified real estate appraiser" means a person who holds a current, valid certificate as a state certified residential or state certified general real estate appraiser issued under the provisions of this chapter.

(12) "State certified residential real estate appraiser" means a person who is certified to appraise residential real property consisting of one (1) to four (4) units.

54-4105. EXCEPTIONS. (1) The provisions of this chapter do not apply to any person who does not hold himself out as, or offer to perform services as, a state certified real estate appraiser.

(2) The provisions of this chapter do not restrict the right to use the term "certified appraiser for ad valorem tax purposes," provided that such term is not used in a manner that creates the impression of certification by the state of Idaho to perform real estate appraisals other than ad valorem tax appraisals. However, nothing in this chapter shall entitle a "state certified real estate appraiser" to appraise real estate for ad valorem tax purposes unless he has first been certified by the Idaho state tax commission pursuant to section 63-513(24), Idaho Code.

(3) The provisions of this chapter shall not apply to a licensed real estate broker, associate broker or salesperson who, in the ordinary course of his business gives an opinion of the price of real estate for the purpose of a prospective listing or sale, provided that such person does not represent himself as being a state certified real estate appraiser.

(4) Any person who is not certified under the provisions of this chapter may assist a state certified real estate appraiser in the performance of an appraisal, provided that he is actively and personally supervised by the state certified appraiser and provided further that any appraisal report rendered in connection with the appraisal is reviewed and signed by the state certified real estate appraiser.

54-4106. REAL ESTATE APPRAISERS -- CERTIFIED REAL ESTATE APPRAISER BOARD -- POWERS AND DUTIES -- COMPENSATION. (1) There is hereby created in the department of self-governing agencies, a certified real estate appraiser board, hereinafter referred to as the "board," which shall administer the provisions of this chapter. The board shall consist of five (5) members to be appointed by the governor as follows:

(a) One (1) from the northern district consisting of the counties of Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Boundary, Shoshone, Kootenai and Bonner; one (1) from the southeastern district consisting of the counties of Lemhi, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Caribou, Bear Lake, Franklin, Oneida, Power and Bannock; one (1) from the southwestern district consisting of the counties of Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams and

Valley; one (1) from the south central district consisting of the counties of Blaine, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Minidoka and Twin Falls; and one (1) from the state at large;

(b) On July 1, 1990, the governor shall appoint the members of the board, each of whom shall be a real estate appraiser with not less than five (5) years experience in the real estate appraisal business in Idaho. The initial appointments shall be for a term of three (3) years. After July 1, 1991, appointments to the board shall be made so as to appoint a board member from the northern district for a three (3) year term and a board member from the south central district for a four (4) year term. Each regular appointment thereafter, other than an appointment to fill an unexpired term, shall be for a term of four (4) years and each board member shall hold office until a successor is appointed and qualified. Upon the death, resignation or removal of any member of the board, the governor shall appoint a qualified state certified real estate appraiser to fill the unexpired term. Appointments to fill any vacancy other than that resulting from the expiration of a term shall be made for the unexpired term. After July 1, 1991, new board members shall be required to be state certified real estate appraisers with not less than five (5) years experience in the real estate appraisal business in Idaho;

(c) Within fifteen (15) days after the appointment of the members of the board, the board shall call a meeting and organize by the election of a chairman. Thereafter the chairman may call meetings of the board whenever he deems it advisable but if he refuses to call a meeting upon written demand of the other four (4) members of the board, then such members may call such meeting. Reasonable notice shall be given in writing by mail of such meeting.

(2) The board shall have, in addition to the powers conferred elsewhere in this chapter, the following powers and duties:

(a) To authorize, by written agreement, the bureau of occupational licenses to act as its agent in its interest;

(b) To adopt, pursuant to the administrative procedures act, such rules and regulations as the board, in its discretion, deems necessary for the administration and enforcement of this chapter, and any such rules and regulations deemed necessary by the board to keep the Idaho certified real estate appraisers act in compliance with federal law, rule, regulation or policy;

(c) To conduct investigations into violations of the provisions of this chapter;

(d) To receive applications for and issue certificates to real estate appraisers pursuant to this chapter;

(e) To hold meetings, hearings and examinations at such places and at such times as it shall designate;

(f) To collect, deposit and disburse application and other fees, as required by this chapter or federal law;

(g) To maintain a register of all state certified residential and state certified general real estate appraisers; and

(h) To censure a state certified appraiser or suspend or revoke appraisal certificates as provided in this chapter, subject to the provisions of the Idaho administrative procedures act, chapter 52,

title 67, Idaho Code.

(3) Each member of the board of real estate appraisers shall be compensated as provided in section 59-509(g), Idaho Code.

54-4107. DISCIPLINARY PROCEEDINGS. (1) The board shall upon a written sworn complaint or may upon its own motion investigate the actions of any state certified real estate appraiser and may suspend or revoke any certification issued under this chapter for any of the following:

(a) Procuring certification pursuant to this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or through any form of fraud or misrepresentation;

(b) Being convicted of a felony;

(c) Making any substantial misrepresentation, false promises or false or fraudulent representation;

(d) Violating the provisions of this chapter or any rules or regulations of the board;

(e) Being negligent or incompetent, as defined in the uniform standards of professional appraisal practices, in developing an appraisal, in preparing an appraisal report or in communicating an appraisal;

(f) Accepting an appraisal assignment when the employment is contingent upon the certified appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

(g) Violating the confidential nature of governmental records to which he gained access through employment as a certified appraiser by a governmental agency;

(h) Entering into an agreement to perform specialized services for a contingent fee, and failing to clearly state this fact in each written and oral report; or

(i) Failing as a state certified real estate appraiser to actively and personally supervise any person not certified under the provisions of this chapter, who assists said state certified appraiser in performing real estate appraisals.

(2) The board, or its duly appointed hearing officer, shall have the power in any disciplinary proceeding under this chapter, to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and may apply to any district court of this state for a subpoena to require the attendance of such witnesses and the production of such books, records and papers as it deems necessary. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in civil cases, which fees and mileage shall be paid in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of any district court in this state on application by the board to compel compliance with the subpoena by proceedings for contempt, as in the case of disobedi-

ence of the requirements of a subpoena issued from such court or for refusal to testify therein. The state certified person accused in such proceedings shall have the same right of subpoena.

(3) Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedures act, chapter 52, title 67, Idaho Code.

54-4108. HEARING. The hearing on any charge of violation of section 54-4107, Idaho Code, shall be at a time and place prescribed by the board.

54-4109. RETENTION OF RECORDS. (1) A state certified real estate appraiser shall retain, for at least five (5) years, originals or true copies of all written contracts engaging his services for real estate appraisal work, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports.

(2) The five (5) year period for retention of records provided by subsection (1) of this section is applicable to each engagement of the services of the appraiser and shall commence upon the date of the submittal of the appraisal to the client unless, within the five (5) year period, the appraiser is notified that the appraisal or report is involved in litigation, in which event the five (5) year period for the retention of records shall commence upon the date of the final disposition of the litigation.

(3) All records required to be maintained under the provisions of this chapter shall be made available by the certified real estate appraiser for inspection and copying by the board on reasonable notice to the appraiser.

54-4110. QUALIFICATIONS FOR RESIDENTIAL AND GENERAL CERTIFICATION -- EXAMINATIONS. (1) Any person who desires to obtain certification as a real estate appraiser shall make written application to the board on such forms as it may prescribe. Each applicant shall satisfy the following requirements:

(a) State certified residential real estate appraiser. An applicant for certification as a residential real estate appraiser must satisfactorily complete the education and experience requirements set forth by rule of the board and successfully complete an examination conducted by or authorized by the board;

(b) State certified general real estate appraiser. An applicant for certification as a general real estate appraiser must satisfactorily complete the experience and education requirements necessary to obtain residential certification. In addition, said applicant shall satisfactorily complete those additional requirements of education and experience necessary for general certification as set forth by rule of the board. The applicant shall successfully complete an examination conducted or authorized by the board which shall include the examination for residential certification.

The board shall consider and/or adopt, if required by federal law, the appraiser qualifications criteria adopted by the appraiser qualifications board of the appraisal foundation, and the uniform standards of professional appraisal practice promulgated by the appraisal standards

board of the appraisal foundation as well as any forthcoming federal rule or regulation deemed pertinent.

54-4111. USE OF DESIGNATION -- CORPORATION, PARTNERSHIPS. The term "state certified real estate appraiser" shall only be used to refer to individuals who hold certificates under this chapter and may not be used following or immediately in connection with the name of a partnership, association, corporation or group, or in such a manner that it might be interpreted as referring to a firm, partnership, corporation, group or anyone other than an individual holder of the certificate. No certificate shall be issued under the provisions of this chapter to a firm, partnership, corporation or group practice. However, this subsection shall not be construed to prevent a state certified real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm or group practice.

54-4112. REGULAR EXAMINATIONS. The bureau of occupational licenses shall hold each year at least one (1) examination for certification to practice real estate appraisal, if there be any such applicants. The examinations shall be conducted by the certified real estate appraiser board under fair and wholly impartial methods and subject to such rules as the board may establish to test the applicant's qualifications in all branches of the professional practice of appraisal.

54-4113. FEES -- ISSUANCE OF CERTIFICATES. Every person applying for examination for a certificate under this chapter shall pay a fee of not to exceed three hundred fifty dollars ($350) to the bureau of occupational licenses. In case the applicant fails to qualify, said fee shall be retained by the bureau to cover the necessary expenses of said examination. If the result of the examination of any applicant shall be satisfactory to the board, under its rules, it shall issue to such applicant a certificate setting forth the fact that he is a state certified real estate appraiser and authorized to practice his profession in this state. The fee for reexamination shall not exceed two hundred dollars ($200). The fee for obtaining a certificate under the provisions of this chapter shall be an amount not to exceed five hundred dollars ($500). The annual fee for renewal of a certificate shall be an amount not to exceed five hundred dollars ($500), which shall be paid to the bureau. The fee for reinstatement of any certificate shall be as provided in section 67-2614, Idaho Code. The board shall adopt all fees by rule.

In addition to those fees described above, the board may collect from applicants for certification and holders of state certificates of appraisal and remit to the appropriate agency or instrumentality of the federal government, any additional fees as may be required to render Idaho state certified residential and general real estate appraisers eligible to perform appraisals in connection with federally-related transactions.

54-4114. TERM OF CERTIFICATE -- RENEWAL. Any certificate for the practice of residential and/or general real estate appraisal shall expire one (1) year after issuance, and shall become invalid on the

366th day unless renewed prior to the expiration date. The board may adopt rules establishing a system of certificate renewal in which certificates expire annually with varying expiration dates.

54-4115. NONRESIDENT CERTIFICATION AND TEMPORARY PRACTICE. (1) Nonresident certification. If the board determines that another state has substantially equivalent requirements for appraiser certification and reciprocity exists between the states, an applicant from such other state may obtain a certificate to practice as a certified residential or general real estate appraiser in this state, subject to the rules and regulations set forth by the board.

(2) Temporary practice. Only to the extent required by federal law, and subject to the rules and regulations set forth by the board, a temporary certification for real estate appraisal may be issued to an individual from another state.

(3) Service of process. Prior to and as a condition of an individual's application for either a nonresident certification or a temporary certification, said applicant who is not a resident of Idaho shall submit with his application an irrevocable consent, on a form prescribed by the board, that service of process in any action against the applicant arising out of the applicant's activities as a state certified real estate appraiser may be made by delivery of process on the chief of the bureau of occupational licenses.

54-4116. RENEWAL CERTIFICATES. To obtain a renewal certificate to practice as a state certified residential or general real estate appraiser, the holder of the current certificate shall make application and pay the prescribed fee to the board. Further, the applicant shall present evidence in a form satisfactory to the board of having successfully completed any continuing education requirements for renewal as shall be specified by rule and regulation of the board.

54-4117. INJUNCTIVE RELIEF. The board is hereby authorized to institute injunction proceedings in the district court of competent jurisdiction, pursuant to the Idaho rules of civil procedure, for cause shown, to restrain any person or persons from violating any provision of this chapter regardless of whether or not there exists an adequate remedy at law.

54-4118. PROOF OF COMPLAINT -- PROSECUTION BY COUNTY ATTORNEY. The board may prefer a complaint for violation of any section of this chapter before any court of competent jurisdiction. It shall be the duty of the prosecuting attorney of each county in the state to prosecute all violations of the aforesaid provisions of this chapter in their respective counties in which said violations occur.

54-4119. PENALTY FOR VIOLATION. Any person who acts as or holds himself out to be, a state certified residential or state certified general real estate appraiser within the meaning of this chapter without first obtaining a certificate as provided herein, may be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment in the discretion of the court. The

board may prefer a complaint for violation of any section of this chapter before any court of competent jurisdiction and in any manner prescribed in section 54-4118, Idaho Code.

Approved March 21, 1990.

CHAPTER 83
(S.B. No. 1588)

AN ACT
AMENDING SECTIONS 1 AND 2, CHAPTER 398, LAWS OF 1989, RELATING TO THE APPROPRIATION FOR THE STATE AUDITOR; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 398, Laws of 1989, be, and the same is hereby amended to read as follows:

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~~	2,299,000
Computer Center		3,928,700
Financial Improvement Practices		379,000
SAFIRS		600,000
Board of Examiners		7,800
TOTAL	~~$6,734,600~~	7,214,500
FROM:		
General Account	~~$2,803,500~~	3,283,400
Interagency Billing and Receipts Account		3,931,100
TOTAL	~~$6,734,600~~	7,214,500

SECTION 2. That Section 2, Chapter 398, Laws of 1989, be, and the same is hereby amended to read as follows:

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	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. AUDITING AND ACCOUNTING:					
FROM:					
General Account	$ ~~872,200~~	$ ~~952,300~~			~~$1,824,500~~
	914,500	1,377,100	$ 5,000		2,296,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Interagency Billing and Receipts Account			2,400		2,400
TOTAL	$ ~~872,200~~	$ ~~952,300~~	$ ~~2,400~~		~~$1,826,900~~
	914,500	1,377,100	7,400		2,299,000
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
	79,000	521,000			
V. BOARD OF EXAMINERS:					
FROM:					
General Account				$7,800	$ 7,800
GRAND TOTAL	~~$2,600,100~~	~~$2,811,600~~	~~$1,322,900~~		~~$6,734,600~~
	2,656,400	3,222,400	1,327,900	$7,800	7,214,500

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

Approved March 22, 1990.

CHAPTER 84
(S.B. No. 1598)

AN ACT
APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

FROM:
General Account $8,095,300

Approved March 22, 1990.

CHAPTER 85
(S.B. No. 1590)

AN ACT

AMENDING SECTION 2, CHAPTER 397, LAWS OF 1989, RELATING TO THE APPROPRIATION FOR THE DEPARTMENT OF CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 397, Laws of 1989, 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, 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~~
	2,576,800	2,053,500	116,700		5,240,800
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~~	$~~1,926,000~~	$~~111,100~~	$493,800	$ ~~5,355,680~~
	2,914,700	2,130,400	116,700		5,655,600
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ 5,708,600	$ ~~970,100~~	$ 73,000		$ ~~6,751,700~~
		1,005,900			6,787,500
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~~
		1,987,300			7,810,400
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General					
Account	$ ~~1,907,600~~	$ ~~711,600~~	$ ~~7,100~~	$ 48,700	$ ~~2,675,000~~
	1,961,700	742,000	17,100		2,769,500
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General					
Account	$ 1,024,000	$ ~~536,600~~	$ 52,400		$ ~~1,613,000~~
		549,800			1,626,200
Interagency Billing and Receipts					
Account	16,900	36,600			53,500
TOTAL	$ 1,040,900	$ ~~573,200~~	$ 52,400		$ ~~1,666,500~~
		586,400			1,679,700
E. FIELD AND COMMUNITY SERVICES:					
FROM:					
General					
Account	$ 2,837,800	$ ~~581,100~~	$137,900		$ ~~3,556,800~~
		586,700			3,562,400
Probation and Parole Receipts					
Account	449,400	54,500			503,900
Interagency Billing and Receipts					
Account		124,700			124,700
TOTAL	$ 3,287,200	$ ~~760,300~~	$137,900		$ ~~4,185,400~~
		765,900			4,191,000
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~~
	926,900	376,100			1,323,800
Interagency Billing and Receipts					
Account	~~11,700~~	~~46,100~~			
	21,700	36,100			57,800
TOTAL	$ ~~889,700~~	$ ~~403,400~~	$ 20,800		$ ~~1,313,900~~
	948,600	412,200			1,381,600
H. MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General					
Account	$ 3,142,200	$ ~~915,400~~	$100,000		$ ~~4,157,600~~

		933,500			4,175,700
GRAND TOTAL	~~$18,973,700~~ 19,177,500	~~$7,287,800~~ 7,603,300	~~$506,200~~ 521,800	$542,500	~~$27,310,200~~ 27,845,100

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

Approved March 22, 1990.

CHAPTER 86
(S.B. No. 1589)

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 1991; LIMITING THE APPROPRIATION FOR THE OFFICE OF THE STATE BOARD OF EDUCATION; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO $2,500,000 OF THE GENERAL ACCOUNT APPROPRIATION; 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, 1990, through June 30, 1991:

FOR:	
General Education Programs	$160,099,200
FROM:	
General Account	$133,264,300
State Endowment Funds	6,547,100
Interagency Billing and Receipts Account	20,287,800
TOTAL	$160,099,200

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, 1990, through June 30, 1991.

SECTION 3. It is legislative intent that $2,500,000 within the

General Account appropriation be limited to specific research funding, matching awards, research centers and infrastructure, with commercial application as a goal.

SECTION 4. 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, 1990, through June 30, 1991, the provisions of Section 67-3516(1), (3) and (4), Idaho Code, notwithstanding.

SECTION 5. 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 116, Laws of 1989, to be used for nonrecurring expenditures only, for the period July 1, 1990, through June 30, 1991.

Approved March 22, 1990.

CHAPTER 87
(H.B. No. 582, As Amended in the Senate)

AN ACT

RELATING TO CARE OF THE MEDICALLY INDIGENT; REPEALING SECTIONS 31-873, 31-874, 31-3409, 31-3410, 31-3504, 31-3505, 31-3506, 31-3507, 31-3508, 31-3509, 31-3510, 31-3510A, 31-3511, 31-3517, 31-3518, 31-3519, 56-460 AND 57-813, IDAHO CODE; AMENDING SECTION 31-3401, IDAHO CODE, TO STRIKE REFERENCE TO THE MEDICALLY INDIGENT; AMENDING SECTION 31-3404, IDAHO CODE, TO STRIKE REFERENCE TO THE MEDICALLY INDIGENT AND TO ELIMINATE COUNTY AUTHORITY AND RESPONSIBILITY FOR PROVIDING CARE OF THE MEDICALLY INDIGENT; AMENDING SECTION 31-3405, IDAHO CODE, TO STRIKE REFERENCE TO THE MEDICALLY INDIGENT; AMENDING SECTION 31-3406, IDAHO CODE, TO STRIKE REFERENCE TO THE MEDICALLY INDIGENT, AND TO PROVIDE THAT THE COUNTY MAY MAKE PROVISION FOR CARE OF THE NONMEDICALLY INDIGENT; AMENDING SECTION 31-3407, IDAHO CODE, TO STRIKE REFERENCE TO THE MEDICALLY INDIGENT AND TO ELIMINATE COUNTY AUTHORITY AND RESPONSIBILITY FOR PROVIDING CARE OF THE MEDICALLY INDIGENT; AMENDING SECTION 31-3408, IDAHO CODE, TO STRIKE REFERENCE TO THE MEDICALLY INDIGENT; AMENDING SECTION 31-3501, IDAHO CODE, TO STRIKE REFERENCE TO PROVISION OF CARE OF THE MEDICALLY INDIGENT IN COUNTY HOSPITALS; AMENDING SECTION 31-3502, IDAHO CODE, TO STRIKE DEFINITIONS RELATIVE TO THE MEDICALLY INDIGENT; AMENDING SECTION 31-3503, IDAHO CODE, TO STRIKE REFERENCES TO THE MEDICALLY INDIGENT AND TO ELIMINATE COUNTY AUTHORITY AND RESPONSIBILITY FOR PROVIDING CARE OF THE MEDICALLY INDIGENT, AND TO REDUCE THE LEVY AUTHORITY FOR CARE OF THE NONMEDICALLY INDIGENT; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209f, IDAHO CODE, TO PROVIDE

FOR DEVELOPMENT OF A MEDICAL ASSISTANCE PROGRAM, TO PROVIDE DETERMINATION OF ELIGIBILITY, TO PROVIDE THAT THE PROGRAM SHALL BE A PAYOR OF LAST RESORT, AND TO PROVIDE FOR DETERMINATION OF WHICH COSTS SHALL BE COVERED UNDER THIS PROGRAM; AND PROVIDING AN EFFECTIVE DATE AND PROVISIONS FOR TRANSITION.

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

SECTION 1. That Sections 31-873, 31-874, 31-3409, 31-3410, 31-3504, 31-3505, 31-3506, 31-3507, 31-3508, 31-3509, 31-3510, 31-3510A, 31-3511, 31-3517, 31-3518, 31-3519, 56-460 and 57-813, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 31-3401, Idaho Code, be, and the same is hereby amended to read as follows:

31-3401. CONTRACT FOR MAINTENANCE OF INDIGENT. The boards of county commissioners in their respective counties, may contract for the care, protection and maintenance of the nonmedically indigent~~, sick, or otherwise indigent~~ of the county. They shall require the contractor to enter into a bond to the county with two (2) or more approved sureties, in such sum as the board may fix, conditioned for the faithful performance of his duties and obligations as such contractor, and require him to report to the board quarterly all persons committed to his charge, showing the ~~cause and nature of their confinement, and the~~ expense attendant upon their care and maintenance.

SECTION 3. That Section 31-3404, Idaho Code, be, and the same is hereby amended to read as follows:

31-3404. APPLICATION FOR COUNTY AID. ~~Except as provided in sections 31-873 and 31-3504, Idaho Code, a~~Any nonmedically indigent~~, sick or otherwise indigent~~ person desiring aid from any county of this state, shall before such aid can be given, make a written application to the clerk of the board of county commissioners of the county where such applicant may reside, setting forth and describing all resources of the applicant; which application must be signed by the party or parties making such application and sworn to before some officer authorized by the laws of this state to administer oaths, and filed in the office of the clerk of the board of county commissioners ~~not less than ten (10) days prior to admission to any health care facility or hospital~~; provided however, except in the case of an emergency or extreme necessity no person shall receive the benefit of this chapter who shall not have been a resident of the state of Idaho for at least one (1) year and of the county at least six (6) months next preceding the application for county aid.

~~An application for hospitalization for a medically indigent person shall be on a standard form provided by the board of county commissioners.~~

SECTION 4. That Section 31-3405, Idaho Code, be, and the same is hereby amended to read as follows:

31-3405. INVESTIGATION OF APPLICATION. ~~Except as provided in section 31-873, Idaho Code, i~~It is the duty of the clerk of the board of county commissioners, to whom such application is made, to immediately investigate, or cause to be investigated, the grounds of such application, and for such purpose he may require the person to submit to physical and mental examination to be performed by the county physician or by someone else approved by the county commissioners at the expense of the county, and require the person, and such other persons as may be deemed necessary, to testify under oath, and he shall file a statement of his findings with the board of county commissioners of such county. If said board of county commissioners is not to meet in regular session within ten (10) days of the date on which the application is filed, the clerk to whom said application is made may authorize ~~the person to be hospitalized or placed in the county hospital or, if the county is not provided with a hospital, he may authorize said person to be placed in some other suitable institution, and he may authorize~~ the expenditure of sums not exceeding two hundred dollars ($200) in the aggregate as may be necessary to provide for ~~the hospitalization or~~ immediate necessities of such person, and the bill for such ~~hospitalization or~~ expenditure shall be presented to the board of county commissioners, duly verified under oath, and the board must audit and pay such bill out of the proper fund of such county at their next regular session.

SECTION 5. That Section 31-3406, Idaho Code, be, and the same is hereby amended to read as follows:

31-3406. PROVISION FOR RELIEF. ~~Except as provided in section 31-873, Idaho Code, t~~The county commissioners of such county ~~shall~~ may, after the filing of the application and findings of the clerk as aforesaid, if in their judgment the applicant is ~~medically~~ indigent make such provisions for his relief~~, or pay for his hospitalization,~~ as may be necessary under the circumstances.

SECTION 6. That Section 31-3407, Idaho Code, be, and the same is hereby amended to read as follows:

31-3407. APPROVED CLAIMS ONLY TO BE ALLOWED. ~~Except as provided in section 31-873, Idaho Code, t~~The county commissioners shall not allow any claim or demand against the county for services rendered to any nonmedically indigent~~, sick, or otherwise indigent~~ person until the filing and approval of the application; provided, that the board of county commissioners, or, if such board be not then in session, any member thereof, by written order to be filed with the clerk of said board, may authorize the expenditure of not to exceed two hundred dollars ($200), in the aggregate, to provide for the immediate necessities of any indigent person where, in the opinion of said board of commissioners, or the member so making said order, it is proper ~~so to do rather than send such person to the county hospital; provided further that a claim against the county shall be allowed for services rendered prior to approval of the application heretofore mentioned where a hospital renders the services to a medically indigent person in an emergency and subsequently there is obtained said approval here-~~

~~tofore--mentioned.--Services--rendered--in-an-emergency-are-defined-as those-reasonably-necessary-to-alleviate-illness--or--injury--which--if untreated--is--likely--to-cause-death-or-serious-disability.-Such-services-shall-be-paid-for-by-the-county-of--residence--of--the--sick--or otherwise--indigent-person.~~ Bills for such expenditures, duly verified under oath, shall be presented to said board and the board shall audit and pay such bills out of the proper fund of such county. ~~Payment--for hospitalization--of-medically-indigent-persons-shall-be-controlled-and determined-by-the-provisions-of-chapter-35,-title-31,-Idaho-Code.~~

SECTION 7. That Section 31-3408, Idaho Code, be, and the same is hereby amended to read as follows:

31-3408. APPLICATION BY THIRD PERSON. If any nonmedically indigent~~,-or-sick-or-otherwise-indigent~~ person or persons, desiring assistance from any county in this state, fails to make the application in writing required in this and the succeeding chapter, such application may be made for him or on his behalf, by any other person under oath.

SECTION 8. That Section 31-3501, Idaho Code, be, and the same is hereby amended to read as follows:

31-3501. DECLARATION OF POLICY. In order to safeguard the public health, safety and welfare, and to provide suitable facilities and provisions for the care and hospitalization of persons in this state, ~~and,-in-the-case-of-indigent--persons,--to--provide--for--the--payment thereof,~~ the respective counties of this state shall have the duties and powers as hereinafter provided.

SECTION 9. 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~~2) "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~~3) "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~~4) "Nonmedically 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~~5) "Residency" or "residence", as used in this chapter, means a physical presence with a home, house, place of abode, place of habitation, dwelling or place where one actually lives.

SECTION 10. 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 nonmedically ~~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~~ two one-hundredths of one percent (0.~~10~~2%) 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

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 11. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-209f, Idaho Code, and to read as follows:

56-209f. STATE MEDICAL ASSISTANCE PROGRAM. (1) The department shall develop a medical assistance program, which shall be known as the Idaho medical assistance program, for low income persons who are not eligible under the state plan for medicaid under title XIX of the social security act or medicare under title XVIII of that act.

(2) Persons in the custody of prisons, jails, halfway houses and other nonmedical government institutions are not eligible for medical services provided under this section.

(3) The department shall develop standards and administer policies relating to eligibility requirements for participation in the program, and for payment of medical claims for eligible persons.

(4) The program shall be a payor of last resort. Before assistance is rendered the department shall investigate the availability of the resources of the spouse, father, mother, and adult children of the person making the application.

(5) The department shall determine what medically necessary care or services are covered under the program, including duration of care, and method of payment, which may be partial or in full.

(6) The department shall adopt rules and regulations, as provided in chapter 52, title 67, Idaho Code, to carry out the provisions of this section.

SECTION 12. This act shall be in full force and effect on and after October 1, 1991, except that the Idaho medical assistance program shall become operative on July 1, 1991, and the time between July

1, 1991, and October 1, 1991, shall be a transition from the county program to the state program. On July 1, 1991, the catastrophic health care cost account, created in section 57-813, Idaho Code, or the fund created in any county to meet the requirements of section 57-813, Idaho Code, shall cease to be responsible for medical costs which occur after that date, but shall continue to fund medical costs incurred prior to that date, or medical costs for events which occurred prior to that date, until the funds in the account are exhausted. When the funds in the account are exhausted, any remaining claims shall be made against the program created in this act. Any fund balance remaining after the proper payment of claims incurred prior to July 1, 1991, shall be apportioned back to the county of origin. For the purpose of carrying out the provisions of this section, the repeal of section 57-813, Idaho Code, shall be effective when the funds in the account are exhausted.

Approved March 22, 1990.

CHAPTER 88
(H.B. No. 595)

AN ACT

RELATING TO PUBLICATION OF FINANCIAL STATEMENTS OF CITIES; AMENDING SECTION 50-1011, IDAHO CODE, TO PROVIDE FOR PUBLICATION OF FINAL QUARTERLY FINANCIAL REPORTS.

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~~ no later than thirty (30) days from the date of completion of the annual audit. Notwithstanding the above, no one shall be precluded from making this filing prior to the completion of an audit. Failure upon the part of the treasurer of any city to comply with the requirements of this section shall be deemed a misdemeanor.

Approved March 22, 1990.

CHAPTER 89
(H.B. No. 469, As Amended in the Senate)

AN ACT
RELATING TO THE IDAHO PURE SEED LAW; AMENDING SECTIONS 22-415 AND 22-416, IDAHO CODE, BY ADOPTING THE TOXICITY CATEGORIES, SIGNAL WORDS AND PRECAUTIONARY STATEMENTS OF TITLE 40, CODE OF FEDERAL REGULATION, TO DEFINE LABEL REQUIREMENTS FOR TREATED SEED.

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 agricultural seed component in excess of five 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 indicate 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 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 The appropriate toxicity category signal word and precautionary statements which correspond to the toxicity categories set forth in title 40, code of federal regulations, effective July 1, 1989;

Signal Words for Toxicity Categories

Toxicity Category	Signal Word	
I	DANGER	If assigned to toxicity category I on the basis of oral, inhalation or dermal toxicity, the word "Poison" shall appear in red on a background of distinctly contrasting color and the skull and crossbones shall appear in immediate proximity to the word "Poison".
II	WARNING	
III	CAUTION	
IV	CAUTION	

(d) When more than one (1) substance is applied, each substance shall be noted on the label, and the seed shall be labeled for the substance with the higher level of toxicity category; and

(e) 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 Section 22-416, Idaho Code, be, and the same is hereby amended to read as follows:

22-416. PROHIBITIONS. (1) It shall be unlawful for any person to sell, offer for sale, expose for sale, or deliver under a contract any seed within the state:

(a) Unless the test to determine the percentage of germination required by section 22-415, Idaho Code, shall have been completed within a fifteen (15) month period, exclusive of the calendar month in which the test was completed immediately prior to sale, exposure for sale, or offered for sale or transportation. This prohibition does not apply to tree and shrub seeds or agricultural or vegetable seed in hermetically-sealed containers. The director may by regulation prescribe a longer period than otherwise stated herein, and the conditions and methods of treatment or packaging and labeling which he deems to be necessary to maintain the identification and viability of such seed.

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

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

(d) Containing prohibited noxious weed seeds.

(e) Containing restricted noxious weed seeds singly or collectively in excess of tolerances as provided by the rules and regulations of the department.

(f) Labeled a variety name not certified by an official seed

certifying agency when it is a variety for which a United States certificate or application for certificate of plant variety protection under the federal "Plant Variety Protection Act" specifies sale only as a class of certified seed.

(g) If the crop seed rye (Secale cereale) is present in wheat, oats or barley.

(2) It shall be unlawful for any person within this state:

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

(b) To disseminate any false or misleading advertisement concerning seeds in any manner or by any means.

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

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

(e) To ship, deliver, transport, or sell seeds treated with any substance likely to be poisonous to human beings or animals unless there is conspicuously shown ~~in red letters~~ on the analysis tag or label, or on a separate tag or container, the words "~~poison~~ treated" ~~or--other,~~ signal word and precautionary statements for appropriate warning adequate to protect the public based on the toxicity categories set forth in title 40, code of federal regulations, effective July 1, 1989. It is unlawful to sell or divert seed so treated for use or for processing either for human or animal consumption.

(f) To transport screenings containing noxious weed seeds without proper covering or tarping, or containerizing or boxing, to prevent noxious weed seed dissemination. All screenings containing noxious weed seeds must be processed to eliminate germination.

(g) To return to a seed dealer treated seed in open bags except for storage purposes.

Approved March 22, 1990.

CHAPTER 90
(S.B. No. 1400)

AN ACT

RELATING TO CHILD SUPPORT PAYMENTS; AMENDING SECTION 32-710A, IDAHO CODE, BY PROVIDING FOR THE DIRECT RECEIPT OF SUPPORT PAYMENTS BY THE DEPARTMENT OF HEALTH AND WELFARE ON CASES RECEIVING SERVICES PURSUANT TO SECTION 56-203A, IDAHO CODE, IN ORDER TO ELIMINATE DUPLICATION OF RECEIPTING AND DELAY IN PAYMENT DISTRIBUTION, AND TO COMPLY WITH THE FAMILY SUPPORT ACT OF 1988 WHICH REQUIRES TIMELY DISTRIBUTION OF SUPPORT PAYMENTS.

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

SECTION 1. That Section 32-710A, Idaho Code, be, and the same is

hereby amended to read as follows:

32-710A. SUPPORT PAYMENTS PAID TO CLERK OR THE DEPARTMENT OF HEALTH AND WELFARE -- PROSECUTING ATTORNEY TO ENFORCE PAYMENTS. A. All payments for ~~child~~ support ordered pursuant to any decree of divorce ~~or~~, separate maintenance or other order for support shall be paid to the clerk of the district court which entered the order or decree requiring the same, unless otherwise ordered by said court, ~~and--said~~ or upon provision of support enforcement services pursuant to section 56-203A, Idaho Code, to the department of health and welfare. The clerk or the department shall keep a record of payments made under said order or decree and shall transmit said payments to the person or persons entitled thereto by virtue of said order or decree.

B. On any order or decree not receiving support enforcement services from the department of health and welfare, s~~S~~aid clerk shall notify the prosecuting attorney of the county in which the order or decree is entered of any failure to comply with the terms of payments specified by any such order or decree, and said prosecuting attorney shall be responsible for enforcing said order or decree as follows:

~~A~~1. If the person required to pay resides in the county in which the order or decree was entered, the prosecuting attorney shall institute appropriate action to enforce the order or decree.

~~B~~2. If the person required to pay resides outside the state, the prosecuting attorney shall institute proceedings through the Uniform Reciprocal Enforcement of Support Act.

~~C~~3. If the person required to pay resides in some other county in the state, the prosecuting attorney shall make such showing to the district court which entered the order or decree and upon further order of the court shall forward two (2) certified copies of the order or decree with all modifications together with two (2) certified copies of the payment record to the clerk of the district court of the county in which the person required to pay resides. Said clerk shall file and docket one (1) copy of the order or decree and payment record without fee and deliver the other copies to the prosecuting attorney of that county who shall institute appropriate action to enforce the order or decree.

C. Upon the filing and docketing of the certified copies of the order or decree and payment record, said order or decree shall be enforced, and may be modified as to the amount of payment required, by the district court in that county as if originally entered in that county. The procedure for the enforcement or modification of said order or decree as to amount of payment shall be the same as in the case of an order or decree originally entered in that court, including the power to punish the person required to pay for contempt. Any payments made as a result of proceedings in that court shall be made ~~through--the--clerk-of-that-court~~ as provided in subsection A. and the clerk or the department of health and welfare shall keep a record of such payments and shall transmit said payments to the person or persons entitled thereto by virtue of said order or decree.

D. If the district court in a county other than the county in which the order or decree is entered modifies the order or decree as to the amount of payment required, the clerk of that court shall send a certified copy of the order modifying the original order or decree

to the clerk of the court in the county in which the order or decree was originally entered and the latter clerk shall file the same in the action in which the original order or decree was entered.

E. If the person required to pay changes his residence from any county to which certified copies of the order or decree and payment record have been forwarded as herein provided, and the prosecuting attorney of that county discovers that the defendant resides in another county of this state, the prosecuting attorney shall make such showing to the district court and upon order of the court shall forward the entire file to the clerk of the district court of the county where the defendant resides, where the same proceedings shall be had for enforcement or modification as herein provided.

F. When the department of health and welfare is providing support enforcement services and the support order or decree directs payment to be made through the clerk of the court or any entity other than the department, the department shall:

1. Make reasonable attempts to provide written notice to the person required to pay when support payments shall be made to the department of health and welfare and again when payments to the department are to cease.

2. Provide written notice to the clerk in the county where payments were required to be paid when support payments shall be paid to the department of health and welfare, and any payments subsequently received by the clerk shall be forwarded to the department.

3. Maintain a record of payments made under said order or decree and transmit the payments to the person or persons entitled thereto by virtue of said order or decree or the assignment of rights thereof.

4. Provide written notice to the clerk in the county where payments were last required to be paid together with two (2) certified copies of the department of health and welfare's payment record when payments to the department are to cease.

G. Any ~~child~~ support order or decree issued or modified under this section ~~after July 1, 1986,~~ shall contain a provision allowing the obligee to enforce the order or decree 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 or decree 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 or decree. 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.

Approved March 23, 1990.

CHAPTER 91
(S.B. No. 1402)

AN ACT

RELATING TO ENFORCEMENT OF CHILD SUPPORT ORDERS; AMENDING SECTION 56-203D, IDAHO CODE, TO PROVIDE A BROADER DEFINITION OF "DELINQUENCY" TO ENABLE RECOVERY OF PUBLIC ASSISTANCE.

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

SECTION 1. That Section 56-203D, Idaho Code, be, and the same is hereby amended to read as follows:

56-203D. SET-OFF PROCEDURE FOR CHILD SUPPORT DEBT. (1) The state tax commission shall withhold and set-off any income tax or tax credit refund of any taxpayer upon notification from the department of health and welfare to collect any unpaid~~,-court-ordered-support-for--a--minor~~ child support, including a judgment for reimbursement of public assistance, or unpaid spousal support. The set-off or withholding of a refund due a taxpayer shall be completed only after the following conditions have been met:

(a) ~~The-delinquent-child-support-payments-referred-to--the--state tax-commission-for-withholding-and-set-off-must-have-accrued-under~~ A delinquency exists, which shall be defined as any unpaid child or spousal support including public assistance, pursuant to a court order from this state or a court or administrative order of another state~~,-and-the-amount-of-the--delinquency--must--equal--at least-one-(1)-month's-current-support~~.

(b) All outstanding tax liabilities collectible by the state tax commission are satisfied.

(c) The department of health and welfare, bureau of child support enforcement, shall forward to the state tax commission the full name and social security number of the taxpayer. The tax commission shall notify the department of health and welfare of the amount of refund due the taxpayer and the taxpayer's address on the income tax return.

(d) Notice of the proposed set-off shall be sent by registered or certified mail to the taxpayer at the address listed on the income tax return. Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday or state holidays as the 14th day) the taxpayer may file a protest in writing requesting a hearing before the department of health and welfare. The hearing shall be held within thirty-five (35) days from the date of the mailing of the original notice. No issues at that hearing may be considered that have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or by mail to the taxpayer within ten (10) days of the hearing.

(e) When set-off is attempted on a joint return under the provisions of this section the taxpayer not specified to be the obligor in the claim may protest under the provisions of subsection (1)(d) of this section, and the set-off will be limited to one-half (1/2)

of the joint refund.

(f) After the decision of the department of health and welfare is issued, or if the taxpayer has failed to file a timely protest of the claim, the set-off procedure shall become final.

(2) The proceeds from the set-off shall be credited to an account designated by the department of health and welfare, and notice shall be given to the appropriate clerk of the district court.

(3) This procedure for set-off shall not be subject to section 67-1021, Idaho Code.

(4) Any information furnished by the state tax commission, its employees or agents, under this section shall not be subject to the restrictions and penalties enumerated in section 63-3076, Idaho Code.

(5) Upon request, the department of health and welfare, bureau of child support enforcement, shall make the procedures established in this section for collecting child support arrears available to county prosecuting attorneys. The provisions of this subsection apply only if appropriate arrangements have been made for reimbursement by the requesting prosecuting attorney for the administrative costs incurred by the bureau which are attributable to the request.

Approved March 23, 1990.

CHAPTER 92
(S.B. No. 1403)

AN ACT

RELATING TO CHILD SUPPORT ORDERS; AMENDING SECTION 7-1202, IDAHO CODE, TO DEFINE THE TERM "CHILD SUPPORT" AND TO REDEFINE THE TERM "DELINQUENCY".

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

SECTION 1. That Section 7-1202, Idaho Code, be, and the same is hereby amended to read as follows:

7-1202. DEFINITIONS. As used in this chapter:

(1) "Bureau" means the bureau of child support enforcement, department of health and welfare of the state of Idaho.

(2) "Child support" means a legally enforceable obligation assessed against an individual for the support of a child which shall include any amount owing under an order for reimbursement of public assistance.

(3) "Current support" means the present month's required support pursuant to an order that is to be paid in increments, excluding amounts ordered to satisfy a delinquency.

(~~3~~4) "Delinquency" means unpaid~~, past due~~ support for a minor child or spouse which has accrued under an order, the amount of which is at least equal to the support payable for one (1) month or any unreimbursed amount owed under an order for reimbursement of public assistance.

(~~4~~5) "Obligee" means any person, state agency or bureau entitled by order to receive child support payments or child and spousal support payments.

(~~5~~6) "Obligor" means any person obligated by order to pay child or spousal support.

(~~6~~7) "Order" means a judgment, decree, order, or administrative ruling directing a person or persons to pay money for support of a minor child or a spouse.

(~~7~~8) "Income" means any form of payment to an individual, regardless of source, including, but not limited to, wages, salary, commission, compensation as an independent contractor, workers' compensation, disability, veteran's annuity and retirement benefits, and any other payments made by any person, private entity, federal or state government, any unit of local government, school district or any entity created by a public act.

(~~8~~9) "Withholding order" means any order issued by the bureau ordering an employer to retain an amount of the obligor's income for child support or spousal support.

(~~9~~10) "Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse.

(~~10~~1) "Employer" means any person, private entity, federal or state government, unit of local government, school district, or any entity created by a public act who pays income to an individual.

Approved March 23, 1990.

CHAPTER 93
(S.B. No. 1408)

AN ACT

RELATING TO LOANS BY A BANK TO ITS EXECUTIVE OFFICERS; AMENDING SECTION 26-710, IDAHO CODE, TO INCREASE THE MAXIMUM AMOUNT A BANK MAY LEND TO ITS EXECUTIVE OFFICERS FOR CERTAIN PURPOSES.

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

SECTION 1. That Section 26-710, Idaho Code, be, and the same is hereby amended to read as follows:

26-710. LOANS TO OFFICERS. (1) Except as authorized under this section, no bank may extend credit in any manner to any of its own executive officers. Any extension of credit under this section must be approved by the board of directors of the bank, and may be made only if:

(a) the bank would be authorized to make it to borrowers other than its executive officers;

(b) it is on terms not more favorable than those afforded other borrowers;

(c) the executive officer has submitted a detailed current financial statement; and

(d) it is on condition that it shall become due and payable on demand of the bank at any time when the executive officer is indebted to any other bank or banks on account of extensions of credit of any one (1) of three (3) categories respectively referred to in subsections (2), (3) and (4) of this section in an aggregate amount greater than the amount of credit of the same category that could be extended to him by the bank of which he is an officer.

(2) A bank may make a loan not exceeding the loan limit of the bank under section 26-703, Idaho Code, to any executive officer of the bank if, at the time the loan is made:

(a) it is secured by a first lien on a dwelling which is after the making of the loan, expected to be owned by the officer and used by him as his residence; and

(b) no other loan by the bank to the officer under authority of this subsection is outstanding.

(3) A bank may make extensions of credit to any executive officer of the bank, not exceeding the aggregate amount of ~~thirty~~ sixty thousand dollars ($~~3~~60,000) outstanding at any one time to finance the education of the children of the officer.

(4) A bank may make extensions of credit for purposes not otherwise set out in this section to any executive officer of the bank, not exceeding the aggregate amount of ~~fifteen~~ fifty thousand dollars ($~~15~~50,000) outstanding at any one time.

(5) Except to the extent permitted under subsection (4) of this section, a bank may not extend credit to a partnership in which one (1) or more of its executive officers are partners ~~having~~ either individually or together a majority interest. For the purposes of subsection (4), the full amount of any credit so extended shall be considered to have been extended to each officer of the bank who is a member of the partnership.

(6) Whenever an executive officer of a bank becomes indebted to any bank or banks (other than the one of which he is an officer) on account of extensions of credit of any one (1) of the three (3) categories respectively referred to in subsections (2), (3) and (4) of this section in an aggregate amount greater than the aggregate amount of credit of same category that could lawfully be extended to him by the bank, he shall make a written report to the board of directors of the bank stating the date and amount of each such extension of credit, the security therefor, and the purposes for which the proceeds have been or are to be used.

Approved March 23, 1990.

CHAPTER 94
(S.B. No. 1421, As Amended)

AN ACT

RELATING TO RECALL OF SCHOOL DISTRICT TRUSTEES; REPEALING SECTIONS 33-425, 33-426 AND 33-427, IDAHO CODE; AMENDING SECTION 33-424, IDAHO CODE, TO REVISE THE PROCEDURE TO INITIATE A RECALL; AMENDING

SECTION 33-428, IDAHO CODE, TO REMOVE THE REQUIREMENT TO FILE SUPPORTING SIGNATURES AFTER A TIME CERTAIN; AMENDING SECTION 33-429, IDAHO CODE, TO PROVIDE FOR THE FORM OF A RECALL PETITION; AMENDING SECTION 33-435, IDAHO CODE, TO PROVIDE FOR RESPONSE TO A RECALL PETITION; AMENDING SECTION 33-436, IDAHO CODE, TO UPDATE LANGUAGE; AMENDING SECTION 33-438, IDAHO CODE, TO PROVIDE FOR THE FORM OF A RECALL ELECTION BALLOT; AND AMENDING SECTION 33-439, IDAHO CODE, TO SPECIFY CONDITIONS WHEN RECALL OF A TRUSTEE IS EFFECTIVE.

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

SECTION 1. That Sections 33-425, 33-426 and 33-427, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 33-424, Idaho Code, be, and the same is hereby amended to read as follows:

33-424. INITIATING RECALL PROCEEDINGS ~~---STATEMENT----CONTENTS---VERIFICATION------DEFINITIONS.~~ Whenever any legal voter of the school district in the same trustee zone as the school trustee for whom the recall is being submitted, either individually or on behalf of an organization, desires to demand the recall and discharge of the school trustee, under the provisions of article VI, section 6, of the constitution of the state of Idaho, he shall ~~prepare-a--typewritten--charge,-reciting--that-such-school-trustee-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 charge-shall-state-the-act-or-acts-complained-of-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--have knowledge--of--the--alleged--facts--upon--which-the-stated-grounds-for recall-are-based~~ send or deliver to the clerk of the board a copy of a petition of recall duly signed by at least twenty (20) electors eligible to sign such petition. The receiving officer shall immediately examine the petition. The clerk of the board shall indicate in writing on the recall petition that he has approved it as to form and the date of such approval. Upon approval as to form, the clerk of the board shall immediately inform the person or persons, organization or organizations under whose authority the recall petition is to be circulated, in writing, that the petition must be perfected with the required number of certified signatures within sixty (60) days following the date of approval as to form. Any petition that has not been perfected with the required number of certified signatures within the sixty (60) days allowed shall be declared void in its entirety.

SECTION 3. That Section 33-428, Idaho Code, be, and the same is hereby amended to read as follows:

33-428. FILING ~~SUPPORTING-SIGNATURES~~ PETITIONS -- TIME LIMITA-

TIONS. ~~a.~~ The sponsors of a recall demanded of any school trustee shall stop circulation and file all petitions with the appropriate school board clerk not less than six (6) months before the next regular election in which any school trustee is subject to reelection.

~~b. The sponsors of a recall demanded of any school trustee 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.~~

SECTION 4. That Section 33-429, Idaho Code, be, and the same is hereby amended to read as follows:

33-429. 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 clerk of the school board with whom the charge is filed).

We, the undersigned citizens and legal voters of (the school district's official name and school trustee zone number), respectfully direct that a special election be called ~~to determine whether or not (here insert the name of the person charged) be recalled and discharged from his office, for and on account of (his having committed the act or acts of malfeasance or misfeasance while in office, or having violated his oath of office, as the case may be), in the following particulars: (here insert the synopsis of the charge);~~ and for the following reasons: (setting out the reasons in a recall statement of not more than two hundred (200) words); each of us for himself says: I have personally signed this petition; I am a legal voter of the state of Idaho in (the school district's official name and school trustee zone number) 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

SECTION 5. That Section 33-435, Idaho Code, be, and the same is hereby amended to read as follows:

33-435. RESPONSE TO RECALL PETITION ~~CHARGES~~ STATEMENT. When a date for a special election is set, the clerk of the school board shall serve a notice of the date of the election to the school trustee 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 school trustee whose recall is demanded may submit to the clerk of the school board a response, not to exceed two hundred (200) words in length, to the ~~charge-contained in-the-ballot-synopsis~~ recall statement. Such response shall be submitted by the seventh consecutive day after service of the notice. The clerk of the school board shall promptly send a copy of the response to the person who filed the petition.

SECTION 6. That Section 33-436, Idaho Code, be, and the same is hereby amended to read as follows:

33-436. 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 clerk of the school board 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 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.

SECTION 7. That Section 33-438, Idaho Code, be, and the same is hereby amended to read as follows:

33-438. CONDUCT OF ELECTION -- FORM OF BALLOT. The special election to be called for the recall of school trustees shall be conducted in the same manner as regular school trustee elections are conducted. The clerk of the school board 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 school trustee elections. The ballots at any recall election shall contain a full true, and correct

copy of the ~~ballot synopsis of the charge~~ recall statement, the school trustee's response to the ~~charge~~ recall statement 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 school trustee 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~~ recall statement.~~)~~ ~~(~~Here insert the school trustee's response to the ~~charge~~ recall statement.~~)~~

FOR the recall of (here insert the name of the school trustee) .....
AGAINST the recall (here insert the name of the school trustee) .....

SECTION 8. That Section 33-439, Idaho Code, be, and the same is hereby amended to read as follows:

33-439. 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 school trustee. ~~If a majority of all votes cast at the recall election is for the recall of the school trustee charged, he shall thereupon be recalled and discharged from his office.~~

To recall any school 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 favor of the recall must at least equal the number of votes cast in favor of such trustee as a candidate at the last election. A vacancy in the office shall exist when the board of canvassers certifies the results of the election in favor of the recall vote.

Approved March 23, 1990.

CHAPTER 95
(S.B. No. 1431)

AN ACT

RELATING TO THE WORK STUDY PROGRAM; AMENDING SECTION 33-4402, IDAHO CODE, TO PROVIDE ADDITIONAL LEGISLATIVE INTENT OF POLICY; AMENDING SECTION 33-4403, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 33-4404, IDAHO CODE, TO EXPAND THE PURPOSE OF THE PROGRAM; AMENDING SECTION 33-4405, IDAHO CODE, TO PROVIDE ADDITIONAL PROGRAM REQUIREMENTS; AND AMENDING SECTION 33-4407, IDAHO CODE, TO PROVIDE THAT ELIGIBLE EMPLOYMENT IS SUBJECT TO LIMITATIONS.

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

SECTION 1. That Section 33-4402, Idaho Code, be, and the same is hereby amended to read as follows:

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 with financial need to earn funds to assist in attending accredited institutions of higher education in Idaho or resident students with educational need to obtain work experience related to the student's course of academic study, 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.

SECTION 2. That Section 33-4403, Idaho Code, be, and the same is hereby amended to read as follows:

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; provided, further, that private accredited institutions of higher education which are controlled by sectarian organizations, and students attending such institutions, may participate only in the educational need, off-campus work experience portion of this program and such off-campus employment may not be located at, or be performed on behalf of, a sectarian or religious establishment.

(2) "Board" means the state board of education.

(~~4~~3) "Program" means the Idaho work study program established pursuant to this chapter.

(~~5~~4) "Resident student" means an individual as defined in section 33-3717, Idaho Code.

(~~6~~5) "Student" means an individual currently at an Idaho school enrolled in a post-secondary degree program, or a state supported vocational-technical program.

(6) "Student with educational need" means a post high school student in good standing at an accredited institution of higher learning who is desirous of obtaining work experience related to the student's course of academic study, in either on-campus or approved off-campus employment, and who meets the institutional requirements for determining educational need; provided, however, a student whose academic course of study is sectarian in nature or who is pursuing an educational program leading to a baccalaureate degree in theology or divinity may not participate in this program.

(~~3~~7) "~~Needy student~~ Student with financial need" 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 person-

ally, 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.

SECTION 3. That Section 33-4404, Idaho Code, be, and the same is hereby amended to read as follows:

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 <u>or educational need</u> 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.

SECTION 4. That Section 33-4405, Idaho Code, be, and the same is hereby amended to read as follows:

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 <u>or educational need</u>. 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.

<u>Requirements for determination of educational need shall be formulated by each participating institution, subject to review by the state board of education; provided, that such requirements shall include a requirement that the work experience be related to the student's course of academic study.</u>

SECTION 5. That Section 33-4407, Idaho Code, be, and the same is hereby amended to read as follows:

33-4407. ELIGIBLE TYPES OF EMPLOYMENT. Students may be employed either on-campus or off-campus at eligible accredited institutions of higher education, subject to the limitations expressed in this chapter. 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.

Approved March 23, 1990.

CHAPTER 96
(S.B. No. 1452)

AN ACT

RELATING TO THE DEPARTMENT OF CORRECTION; AMENDING SECTION 20-501, IDAHO CODE, RELATING TO THE LOCATION OF FACILITIES FOR THE BOARD OF CORRECTION CONFINEMENT OR DETENTION OF WOMEN OFFENDERS, BY ALLOWING THE BOARD OF CORRECTION TO CHOOSE SUCH FACILITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 20-501, Idaho Code, be, and the same is hereby amended to read as follows:

20-501. STATE BOARD OF CORRECTION TO PROVIDE FOR WOMEN PRISONERS. (1) The state board of correction shall provide facilities ~~at State Hospital North in Orofino~~ for the confinement and detention of ~~female convicts~~ women offenders, for the reception and detention, care, maintenance and employment of all ~~females~~ women convicted of a felony in any of the courts of Idaho and sentenced to a term of imprisonment therefor.

(2) If, in the opinion of the board of corrections, ~~the~~ state facilities ~~at State Hospital North~~ are not suitable for housing a certain ~~female~~ women prisoner or prisoners, the board shall enter into a

contract with the authorities of some other state having a state prison, state penitentiary, women's reformatory or prison or other penal institution provided with a woman's ward or division or department for the confinement and detention of ~~female--convicts~~ women offenders for the housing of that certain prisoner or prisoners.

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

Approved March 23, 1990.

CHAPTER 97
(S.B. No. 1453)

AN ACT

RELATING TO THE DEPARTMENT OF CORRECTION; AMENDING SECTION 20-502, IDAHO CODE, RELATING TO THE LOCATION OF FACILITIES FOR THE BOARD OF CORRECTION CONFINEMENT OR DETENTION OF WOMEN OFFENDERS, BY ALLOWING THE BOARD OF CORRECTION TO CHOOSE SUCH FACILITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 20-502, Idaho Code, be, and the same is hereby amended to read as follows:

20-502. CONVEYANCE TO PRISON. All ~~females~~ women offenders convicted of a felony in any court of this state shall be committed to the custody of the board of correction for incarceration at ~~the~~ state facilities ~~at State Hospital North in Orofino~~ or at the facility named in the contract provided for in subsection (2) of section 20-501, Idaho Code, there to be confined until their respective sentences shall have expired or until they shall be otherwise discharged by 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 23, 1990.

CHAPTER 98
(S.B. No. 1495)

AN ACT

RELATING TO COSMETOLOGY; AMENDING SECTION 54-802, IDAHO CODE, TO STRIKE REFERENCES TO COSMETOLOGIST AND DEFINE REGISTERED COSMETOLOGIST; AMENDING SECTION 54-805, IDAHO CODE, TO STRIKE CERTAIN

PRACTICE REQUIREMENTS FOR LICENSURE AS A REGISTERED COSMETOLOGIST AND INCLUDE REFERENCES TO MANICURIST AND ELECTROLOGIST/ESTHETICIAN; AMENDING SECTION 54-806, IDAHO CODE, TO PROVIDE QUALIFICATION REQUIREMENTS FOR OPERATORS OF A COSMETOLOGICAL ESTABLISHMENT OR A SCHOOL OF COSMETOLOGY AND INCLUDE REFERENCES TO ELECTROLOGIST/ESTHETICIAN; AND AMENDING SECTION 54-818, IDAHO CODE, TO STRIKE REFERENCES TO COSMETOLOGIST AND INCLUDE REFERENCES TO ELECTROLOGIST/ESTHETICIAN.

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) "Registered c~~C~~osmetologist" 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~~d~~) "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~~e~~) "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~~f~~) "Instructor" shall mean a cosmetologist who teaches cosmetology or any practices thereof in a school of cosmetology or school or college of barbering.

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

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

(j~~i~~) "School of cosmetology" shall mean any place or part thereof

wherein cosmetology is taught to students.

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

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

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

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

SECTION 2. That Section 54-805, Idaho Code, be, and the same is hereby amended to read as follows:

54-805. REQUIREMENTS FOR LICENSE. Except as herein otherwise provided, the following shall be considered minimum requirements for license in the respective categories, and all applicants shall be of good moral character and temperate habits:

1. As a registered cosmetologist:

(a) Completion of two (2) years' high school education or its equivalent.

(b) Graduation from and completion of two thousand (2000) hours' training in a school of cosmetology, or four thousand (4000) hours' training as an apprentice covering all phases of the practice of cosmetology.

(c) Successful passage of the examination for cosmetologist given under the supervision of the board.

2. ~~As a Registered Cosmetologist:~~

~~(a) One (1) year's experience as a licensed cosmetologist in a registered cosmetological establishment.~~

~~3.~~ As an instructor: twelve (12) semester college credit hours or equivalent as approved by the board or successful completion of the examination required by board rules and regulations, and

(a) One (1) year's experience as a licensed cosmetologist in a registered cosmetological establishment and six (6) months of teacher's training in a school of cosmetology, or

(b) Two (2) years' experience as a licensed cosmetologist in a registered cosmetological establishment and three (3) months of teacher's training in a school of cosmetology, or

(c) Five (5) years' experience as a licensed cosmetologist, immediately preceding the application for license, and

~~4~~3. As a student:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

~~5~~4. As an apprentice:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

~~6~~5. As a manicurist:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least three hundred (300) hours of training and graduated from such training in a school of cosmetology.

(~~3~~d) Successful passage of the examination for manicurist given under the supervision of the board.

~~7~~6. As an electrologist/esthetician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least eight hundred (800) hours of training for such in a school approved by the board to teach electrology/esthetics or sixteen hundred (1600) hours as an apprentice under the direct personal supervision of a licensed electrologist/esthetician qualified to teach electrology and esthetics as established by board regulations.

(d) Successfully passed the examination for electrologist/esthetician given under supervision of the board.

SECTION 3. That Section 54-806, Idaho Code, be, and the same is hereby amended to read as follows:

54-806. SCHOOLS AND ESTABLISHMENTS -- WHO MAY OPERATE -- REGISTRATION -- MANAGEMENT. Any person, firm, association or corporation may own and operate a cosmetological establishment or school of cosmetology, provided that such establishment or school has been duly registered with the board and each establishment maintains at least one (1) registered cosmetologist, manicurist or electrologist/esthetician ~~with--at--least--one-(1)-year-experience~~ under licensure in the establishment when open for business and instruction in an establishment or school is at all times under the direct personal supervision of a licensed cosmetology instructor.

SECTION 4. 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 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/esthetician, original license 22.00
electrologist/esthetician, 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 registered cosmetologist $35.00
as a manicurist 35.00
as an instructor when required by board regulation 35.00
as an electrologist/esthetician 35.00

Fees shall not be prorated or returnable.

All certificates expire December 31.

Approved March 23, 1990.

CHAPTER 99
(S.B. No. 1604)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST ACCOUNT FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 1991.

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

SECTION 1. There is hereby appropriated $4,117,700 from the General Account to be deposited in the Public Health Trust Account for the period July 1, 1990, through June 30, 1991.

Approved March 23, 1990.

CHAPTER 100
(S.B. No. 1606)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1991; AUTHORIZING AN AMOUNT FOR PAYMENT OF BANK SERVICE FEES; 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 State Treasurer the following amount from the listed accounts, to be expended according to designated expense classes for the period July 1, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$350,400	$ 38,700	$10,900	$ 400,000
Interagency Billing and Receipts Account	230,400	379,100	12,600	622,100
TOTAL	$580,800	$417,800	$23,500	$1,022,100

SECTION 2. Of the amount appropriated from the Interagency Billing and Receipts Account for Operating Expenditures in Section 1, an amount not to exceed $287,700 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, 1990, through June 30, 1991, any other provisions of law notwithstanding.

SECTION 3. It is legislative intent that an amount not to exceed $3,500 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. Of such moneys $1,000 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.

SECTION 4. There is hereby reappropriated to the State Treasurer any unexpended and unencumbered balances of the moneys appropriated by Section 1, Chapter 378, Laws of 1989, for the period July 1, 1990, through June 30, 1991.

Approved March 23, 1990.

CHAPTER 101
(S.B. No. 1607)

AN ACT

APPROPRIATING MONEYS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$148,100	$101,200	$2,300	$251,600
Interagency Billing and Receipts Account	49,100	25,200	800	75,100
TOTAL	$197,200	$126,400	$3,100	$326,700

Approved March 23, 1990.

CHAPTER 102
(S.B. No. 1608)

AN ACT

APPROPRIATING MONEYS FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$224,100	$ 94,800	$16,700	$335,600
Human Rights Federal Account	56,700	25,500	1,000	83,200
TOTAL	$280,800	$120,300	$17,700	$418,800

Approved March 23, 1990.

CHAPTER 103
(S.B. No. 1609)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIQUOR DISPENSARY FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Liquor Account	$3,989,500	$2,963,400	$85,600	$7,038,500

Approved March 23, 1990.

CHAPTER 104
(S.B. No. 1610)

AN ACT
EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1991; 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 Secretary of State not exceed the following amount for the period July 1, 1990, through June 30, 1991:

FOR:	
Office of the Secretary of State	$ 920,400
Commission on Uniform Laws	10,400
Idaho Commission on the Arts	1,465,500
Centralized Uniform Commercial Code	622,400
TOTAL	$3,018,700
FROM:	
General Account	$2,218,600
Interagency Billing and Receipts Account	219,800
Idaho Commission on the Arts Account	580,300
TOTAL	$3,018,700

SECTION 2. There is hereby appropriated to the Secretary of

State, the following amount, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1990, through June 30, 1991:

	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	$572,100	$331,900	$16,400		$ 920,400
B. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Account		$ 10,400			$ 10,400
C. IDAHO COMMISSION ON THE ARTS:					
FROM:					
General Account	$200,900	$ 91,800	$8,000	$364,700	$ 665,400
Interagency Billing and Receipts Account	25,000	104,000		90,800	219,800
Idaho Commission on the Arts Account	123,000	193,800		263,500	580,300
TOTAL	$348,900	$389,600	$8,000	$719,000	$1,465,500
D. CENTRALIZED UNIFORM COMMERCIAL CODE:					
FROM:					
General Account					$ 622,400
GRAND TOTAL					$3,018,700

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.

SECTION 4. There is hereby reappropriated to the Secretary of State any unexpended and unencumbered balances of the moneys appropriated to the Secretary of State for the Office of the Secretary of State Program by Section 2, Chapter 330, Laws of 1989, for the period July 1, 1990 through June 30, 1991.

Approved March 23, 1990.

CHAPTER 105
(H.B. No. 746)

AN ACT

RELATING TO CIVIL LIABILITY; AMENDING SECTION 6-1601, IDAHO CODE, TO DEFINE NONPROFIT CORPORATION OR ORGANIZATION; AND AMENDING SECTION 6-1605, IDAHO CODE, TO PROVIDE LIMITATION ON LIABILITY OF VOLUNTEERS WHO SERVE NONPROFIT CORPORATIONS OR ORGANIZATIONS WITHOUT COMPENSATION AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. That Section 6-1601, Idaho Code, be, and the same is hereby amended to read as follows:

6-1601. DEFINITIONS. As used in this act:

(1) "Charitable corporation or organization" means a corporation or organization including any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

(2) "Claimant" means any party to a civil action making a claim for relief, legal or equitable, compensatory or noncompensatory.

(3) "Economic damages" mean objectively verifiable monetary loss, including but not limited to out-of-pocket expenses, loss of earnings, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, medical expenses, or loss of business or employment opportunities.

(4) "Future damages" mean noneconomic damages and economic damages to be incurred after entry of a judgment.

(5) "Noneconomic damages" mean subjective, nonmonetary losses including, but not limited to, pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party; emotional distress; loss of society and companionship; loss of consortium; or destruction or impairment of the parent-child relationship.

(6) "Nonprofit corporation or organization" means a charitable corporation or organization; any other corporation organized or existing under chapter 3, title 30, Idaho Code, or an equivalent provision of the law of another state; or an unincorporated association; which corporation or unincorporated association is organized and existing exclusively for nonprofit purposes, which regularly bestows benefits to the community at large and no part of the net income of which is distributable to its members, directors or officers.

(7) "Personal injury" means a physical injury, sickness or death suffered by an individual.

(~~7~~8) "Property damage" means loss in value or in use of real or

personal property, where such loss arises from physical damage to or destruction of such property.

(~~8~~9) "Punitive damages" mean damages awarded to a claimant, over and above what will compensate the claimant for actual personal injury and property damage, to serve the public policies of punishing a defendant for outrageous conduct and of deterring future like conduct.

SECTION 2. That Section 6-1605, Idaho Code, be, and the same is hereby amended to read as follows:

6-1605. LIMITATION ON LIABILITY OF VOLUNTEERS, OFFICERS AND DIRECTORS OF ~~CHARITABLE~~ NONPROFIT CORPORATIONS AND ORGANIZATIONS. (1) In any ~~charitable~~ nonprofit corporation or organization as defined in section 6-1601(~~1~~6), Idaho Code, ~~or any unincorporated membership organization engaged exclusively in charitable activities which qualifies as a charitable organization,~~ officers, or directors ~~of the charitable~~, and volunteers who serve the nonprofit corporation or organization without compensation shall be personally immune from civil liability arising out of their conduct as an officer, or director, ~~provided that such provision~~ or volunteer, if such conduct is within the course and scope of the duties and functions of the individual officer, director or volunteer and at the direction of the corporation or organization. The provisions of this section shall not eliminate or limit, and no immunity is hereby granted for the liability of an officer, ~~or~~ director or volunteer:

(a) For conduct which is willful, wanton, or which involves fraud or knowing violation of the law;

(b) To the extent ~~that there exists any policy of liability insurance providing~~ coverage for such conduct under a policy of liability insurance, whether the policy is purchased by the corporation or organization, the individual officer, ~~or~~ director, volunteer or some third party;

(c) For any intentional breach of a fiduciary duty or duty of loyalty owed by the officer, ~~or~~ director or volunteer to the corporation, organization or the members thereof;

(d) For acts or omissions not in good faith or which involve intentional misconduct, fraud or a knowing violation of law;

(e) For any transaction from which the officer, ~~or~~ director or volunteer derived an improper personal benefit; ~~or~~

(f) For any violation of the provisions of sections 30-321 and 30-322, Idaho Code; or

(g) For damages which result from the operation of a motor vehicle.

(2) Reimbursement of an officer, ~~or~~ director or volunteer of a ~~charitable~~ nonprofit corporation or ~~charitable~~ organization for costs and expenses actually incurred shall not be considered compensation.

(3) Nothing in this section shall be construed to supersede, abrogate, or limit any immunities or limitation of liability otherwise provided by law.

Approved March 23, 1990.

CHAPTER 106
(H.B. No. 739)

AN ACT

RELATING TO THE MEDICAL PRACTICE ACT; AMENDING SECTION 54-1805, IDAHO CODE, TO PROVIDE THAT THE BOARD OF MEDICINE BE INCREASED TO TEN MEMBERS BY ADDING TWO MEMBERS FROM THE PUBLIC AT LARGE, AND TO PROVIDE QUALIFICATIONS FOR THE PUBLIC MEMBERS; AND AMENDING SECTION 54-1806A, IDAHO CODE, TO PROVIDE COMPENSATION FOR MEMBERS OF THE BOARD AND TO PROVIDE FOR ADMINISTRATIVE FINES AND ASSESSMENT OF ATTORNEY'S FEES IN CERTAIN PROCEEDINGS.

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

SECTION 1. That Section 54-1805, Idaho Code, be, and the same is hereby amended to read as follows:

54-1805. THE STATE BOARD OF MEDICINE ESTABLISHED. (1) There is hereby established in the department of self-governing agencies a state board of medicine to be composed of ~~eight~~ ten (~~8~~10) members. The membership of the state board of medicine as it exists on the effective date of this act is hereby confirmed as ~~members of~~ the board for the terms to which they were originally appointed.

(2) (a) The board shall consist of ~~eight~~ ten (~~8~~10) members. The director of the department of law enforcement shall be a member of the board. ~~The--other-s~~Seven (7) members shall be physicians who are residents of this state and engaged in the active practice of medicine in this state, and ~~shall-be-appointed-by-the-governor-in the-manner-hereinafter-set-forth~~ two (2) members shall be public members.

(b) All physician appointments to the board shall be for six (6) year terms. The ~~board~~ physician members shall consist of six (6) members who are licensed to practice medicine and surgery in this state and one (1) member who is licensed to practice osteopathic medicine or osteopathic medicine and surgery in this state. Whenever a term of a member of the board who is licensed to practice medicine and surgery expires or becomes vacant, the Idaho medical association shall nominate three (3) persons licensed to practice medicine and surgery for each such vacancy, and forward such nominations to the governor who shall appoint from among such nominees, one (1) person to be a member of the board to fill such vacancy. Whenever a term of the member of the board who is licensed to practice osteopathic medicine or osteopathic medicine and surgery expires or becomes vacant, the Idaho osteopathic association shall nominate three (3) persons licensed to practice osteopathic medicine or osteopathic medicine and surgery for such vacancy, and shall forward the nominations to the governor who shall appoint from among such nominees one (1) person to be a member of the board to fill such vacancy.

(c) All public members shall be appointed by the governor for three (3) year terms. Public members must reside in the state and be persons of integrity and good reputation who have lived in this

state for at least five (5) years immediately preceding their appointment, who have never been authorized to practice a healing art, and who have never had a substantial personal, business, professional, or pecuniary connection with a healing art or with a medical education or health care facility, except as patients or potential patients.

(3) Appointments to fill vacancies occurring from some other reason than expiration of a term for which a member was appointed, shall be made in the same manner as hereinabove set forth for the unexpired term. The governor may remove any member of the board from the membership of the board, who is guilty of malfeasance, misfeasance or nonfeasance.

(~~3~~4) The board shall elect a chairman from its membership. The members of the board except for state employees shall be compensated as provided by section 59-509(h), Idaho Code. Five (5) members of the board shall constitute a quorum, and the board may act by virtue of a majority vote of members present at a meeting.

SECTION 2. That Section 54-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806A. MEDICAL DISCIPLINARY ENFORCEMENT. The board of medicine is authorized to create a board of professional discipline and to delegate to it its role and authority in the enforcement and supervision of professional disciplinary enforcement under this chapter and particularly under sections 54-1810 and 54-1814, Idaho Code, including without limitation the power to make rules and regulations and to provide forms and procedures therefor, to the full extent that the board of medicine is authorized or empowered to act; such board of professional discipline, however, shall not act or be authorized to act in connection with licensing of applicants, except as respects proceedings for reinstatement following voluntary surrender of license while under investigation or prosecution for conduct allegedly improper, or following restriction, suspension or revocation of license in the state of Idaho or under any other duly constituted medical licensing authority of any other state or territory of the United States or of any other nation. By its order therefor, the state board of medicine shall provide as follows respecting a board of professional discipline created ~~under this act~~ in this section:

(1) Membership. Said board shall consist of five (5) members appointed by the board of medicine. Initially, it shall consist of two (2) members licensed to practice medicine and surgery in the state of Idaho, whose terms shall expire midnight, June 30, 1979; and two (2) members licensed to practice medicine and surgery in the state of Idaho, whose terms shall expire midnight, June 30, 1978, and one (1) member who is an adult Idaho citizen of good character and reputation who shall not be licensed to practice medicine and surgery in the state of Idaho, whose term shall expire midnight June 30, 1977. Subsequent terms of all members appointed shall be for three (3) years so that there shall be a rotation of membership of a portion of the said board~~,~~ each year; provided, the board of medicine may, in its discretion, reappoint members and may but need not appoint members of the board of medicine itself to any or all of the positions of membership

upon said board initially and/or from time to time as vacancies occur. Subsequent appointees to the board shall have the qualifications required of the original appointees.

(2) Chairman. The board of medicine shall designate one (1) member of the board of professional discipline as its chairman, and he shall serve and function in that capacity for one (1) year or until his successor is duly appointed, whichever is later.

(3) Quorum. Three (3) members shall constitute a quorum though no meeting of said board shall be held without reasonable prior notice of at least three (3) days to all members, which notice may be given by the chairman or any three (3) members. Notice may be waived unanimously; otherwise, it shall be in writing and state the time, place and purpose of the meeting.

(4) Compensation. Members shall be compensated as provided by section 59-509(~~b~~h), Idaho Code, from the state board of medicine fund for expenses incurred in the course of serving on said board or acting on its behalf.

(5) Conflicts and Disqualification. Members shall disqualify themselves and, on motion of any interested party may, on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service.

(6) Additional Powers of Board of Professional Discipline. In addition to its other powers, the board of professional discipline shall be empowered and authorized:

(a) To initiate or commence proceedings, studies or investigations on its own motion and initiative or to proceed on the request or complaint of any person, whether formally or informally stated and whether or not verified; provided, it may impose reasonable requirements respecting the form, content and sufficiency of complaints invoking its jurisdiction.

(b) To investigate or inquire into misconduct or unprofessional behavior, whether real, apparent or merely suspected; and take such action with respect thereto as it deems best in the interest of the public and justice.

(c) To retain and appoint staff to administer, process and assist in the work assigned it under this ~~act~~ section or by the board of medicine, including, as deemed appropriate, legal counsel to assist in presentation of matters before it and/or to advise it on matters of law.

(d) To appoint hearing committees to take evidence, conduct hearings and make recommended findings and conclusions to it in any matter or proceeding assigned to the committee, which hearing committees shall be of such number and size as the disciplinary board directs composed of licensed physicians resident and licensed to practice medicine and surgery in Idaho, who shall serve without pay and for such term as the board may specify, not to exceed one (1) year or during the pendency of any matters referred to it, whichever is longer. Proceedings before such committees, and before said board, except as otherwise provided or may be inconsistent with the clear intent or conflicting specific provisions of this act, shall be as provided by the Administrative Procedures Act, chapter 52, title 67, Idaho Code; provided, there shall be no

hearings de novo on appellate review as a matter of right.

(e) To make findings respecting matters coming before it or before any hearing committee or authorized hearing officer acting on its behalf, and to make conclusions and enter orders dispositive of such proceedings, including, without limitation, disciplinary orders as provided in and by the Idaho Code respecting misconduct or other grounds for discipline respecting any licensed physician and surgeon licensed to practice medicine and surgery in the state of Idaho, which authority shall, for good cause shown, include the power to suspend, restrict, condition, limit or revoke the license or present or future right or privilege to practice medicine of any physician, surgeon or other person licensed or purporting to be qualified or authorized to practice medicine and surgery in the state of Idaho.

(f) To privately and confidentially reprimand by informal admonition any licensed physician and surgeon respecting any matter it finds is minor misconduct.

(g) To accept the resignation and surrender of license of any physician and surgeon under investigation or prosecution who tenders the same, and to impose terms and conditions in connection therewith as it may deem appropriate in the best interest of the public and of justice.

(h) To order, for good cause, nondisciplinary suspension or transfer to inactive status of any licensed physician and surgeon incapacitated by illness, senility, disability, or addiction to drugs, intoxicants or other chemical or like substances, and to provide terms and conditions therefor, including provisions and conditions controlling reinstatement and any request therefor; provided, this subparagraph shall not be construed to amend or repeal specific legislation expressly dealing with disabled physicians whether heretofore or hereafter enacted by the legislature of the state of Idaho but rather shall be construed as complementary thereto.

(i) To provide by order in general and/or in particular for reciprocal discipline in cases involving the discipline of a licensed physician and surgeon disciplined in any other jurisdiction, provided that such licensee or applicant shall be entitled on due motion and notice to appear and show cause why such order should not apply in his or her case.

(j) To provide for and conduct informal proceedings and to provide rules and practices to encourage fair and expeditious disposition of business, complaints and matters properly coming before it.

(7) Substitution of Board of Professional Discipline in Matters of Discipline and Self-Policing. From and after the effective date of the board of medicine creating and establishing the board of professional discipline, references in the laws of the state of Idaho, including the Medical Practices Act, this ~~act~~ section and the Idaho Code in general, to the board shall, when concerned with matters of self-policing or professional discipline within the medical profession, be deemed and construed to be references to the board of professional discipline.

(8) Confidentiality. Except as specifically otherwise ordered in

the interest of justice or the public health, hearings and proceedings before the board of professional discipline shall be open in all cases in which the board has determined that there is probable cause to proceed to formal hearing; provided, as respects private and confidential reprimands for minor misconduct, proceedings shall be closed and confidential unless the respondent physician in writing rejects the reprimand within ten (10) days of the order providing therefor, in which cases said matters shall promptly be set for hearing and such proceedings and hearings thereafter shall be public and open unless, as hereinabove authorized, the board for good cause otherwise orders and directs. Determination that there is probable cause to proceed may be made informally by the chairman and also by written expression of a majority of the members of the board of professional discipline. The determination that there is not probable cause to proceed shall be made in writing and a copy forwarded to such person whose complaint may have initiated or commenced the proceedings, which person shall have standing to request en banc review of such determination by the entire committee which shall have jurisdiction to reverse or affirm such determination as in its discretion it deems in the interest of justice and the public health.

(9) Voluntary Restriction of Licensure. A physician may request in writing to the board of professional discipline a restriction of his license to practice medicine and the board is authorized to grant such request and, if it deems it appropriate to do so, it is granted the authority in such cases to attach conditions to the licensure of the physician to practice medicine within specified limitations. The board is also authorized in such cases thereafter to waive the commencement of proceedings under this act or other provisions of the Medical Practice Act if in the interest of justice it determines that such voluntary proceedings have rendered the same unnecessary. Removal of a voluntary restriction on or suspension of licensure to practice medicine shall be subject to the procedures for reinstatement elsewhere in this act, in the Medical Practice Act or by rule and regulation of the board of professional discipline provided; also, such reinstatements may be subject to further conditions specially imposed in the individual case as a condition of the order entered therein.

(10) Adjudication of Discipline or Exoneration. At the conclusion of the proceedings the board of professional discipline shall make a determination of the merits and, if grounds therefor are found to exist, may issue its order:

(a) Revoking the respondent physician's license to practice medicine~~.~~;

(b) Suspending or restricting the respondent physician's license to practice medicine~~.~~;

(c) Imposing conditions or probation upon the respondent physician and requiring rehabilitation planning, commitment and conditions upon such respondent physician's licensure; ~~and.~~

(d) Imposing an administrative fine not to exceed ten thousand dollars ($10,000) for each count or offense; and/or

(e) Assessing costs and attorney's fees against the respondent physician for any investigation and/or administrative proceeding.

~~I~~If grounds for any of the foregoing are not found to exist, the board shall enter its order so stating and dismissing the proceedings and

shall provide the respondent and, if there be one, the complainant or petitioner in the proceedings a true copy thereof.

(11) Temporary Suspension or Restriction Pending Final Order. The board of professional discipline may temporarily suspend or restrict the license of any physician or enter an appropriate order of temporary probation, ex parte, on its own motion or on verified petition of any person, pending further or final order, without prior hearing, simultaneously with or at any time after the institution of proceedings under this act or the Medical Practice Act, but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician in his capacity as such and for reasons set forth by petition, affidavit, or other verified showing, or determined by it in reliance upon other reliable proof, is causing great harm to the public or to any patient or group of patients, or is imminently likely to cause such harm, for which reason he or she and his or her license to practice medicine should be immediately suspended or restricted or he or she should be specially controlled, suspended in or restricted from the practice of medicine. In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings. Thereafter the physician may, for good cause, request dissolution or amendment of any such temporary order by petition filed with the board of professional discipline, which petition shall be set for prompt hearing before said board or, if necessary and if requested by the affected respondent physician in the interest of early consideration, before a designated hearing officer or special committee appointed by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its report and recommendations. The board, consistent with due process, shall rule on such petition for dissolution or amendment with the least amount of delay reasonably possible. Neither the record of the proceeding nor any order entered therein may be used against the respondent physician in any other legal proceeding except upon judicial review as provided elsewhere herein.

(12) Judicial Review. All final decisions by the board of professional discipline shall be subject to judicial review pursuant to the procedures of the administrative procedures act, chapter 52, title 67, Idaho Code.

(13) Protected Action and Communication. There shall be no liability on the part of and no action for damages against:

(a) Any member of the board of professional discipline or the staff or officials thereof for any action undertaken or performed within the scope of the functions of said board or this act; or

(b) Any person providing information or testimony to the said board or its staff or officials.

Approved March 23, 1990.

CHAPTER 107
(H.B. No. 477)

AN ACT

RELATING TO COMMERCIAL FISHING AND PURCHASES FROM OTHER THAN LICENSED FISHERMEN; AMENDING SECTION 36-802, IDAHO CODE, TO PROVIDE THAT FISHERMEN USING FIVE OR FEWER TRAPS OR A SINGLE MINNOW OR SEINE NET AND HAVING ANNUAL GROSS RETAIL SALES OF LESS THAN FIVE HUNDRED DOLLARS ARE EXEMPT FROM PURCHASING A COMMERCIAL LICENSE; AND AMENDING SECTION 36-803, IDAHO CODE, TO PROVIDE THAT FISH MAY BE PURCHASED FROM A COMMERCIAL FISHERMAN EXEMPT FROM OBTAINING A COMMERCIAL 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. Fishermen using five (5) or fewer traps or a single minnow or seine net and having annual gross retail sales of five hundred dollars ($500) or less, are exempt from purchasing a commercial license. 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 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. The director shall charge the following fees for the commercial gear tags: for each crayfish or minnow trap, one dollar ($1.00); for each seine net one hundred (100) feet long or less, twenty-five dollars ($25.00); for each seine net longer than one hundred (100) feet, fifty dollars ($50.00); for each trawl net, fifty dollars ($50.00); and for each item of experimental gear approved by the commission, ten dollars ($10.00).

SECTION 2. That Section 36-803, Idaho Code, be, and the same is hereby amended to read as follows:

36-803. PURCHASE FROM OTHER THAN LICENSED FISHERMAN PROHIBITED -- EXCEPTIONS. No person shall purchase fish or crustacea taken from the waters of the state except from a fisherman licensed as provided in either section 36-802 or section 36-501(f), Idaho Code or a commercial fisherman exempt from purchasing a commercial license.

Approved March 23, 1990.

CHAPTER 108
(H.B. No. 581)

AN ACT

RELATING TO THE SALARIES OF STATE TAX COMMISSIONERS; AMENDING SECTION 63-508, IDAHO CODE, TO INCREASE THE SALARY OF STATE TAX COMMISSIONERS.

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

SECTION 1. That Section 63-508, Idaho Code, be, and the same is hereby amended to read as follows:

63-508. COMPENSATION. Each member of the commission shall devote full time to the performance of duties and shall receive an annual salary of ~~thirty-nine--thousand--seven--hundred--and--fifty--dollars ($39,750)~~ forty-three thousand seven hundred and twenty-five dollars ($43,725) notwithstanding the provisions of section 59-510, Idaho Code.

Approved March 23, 1990

CHAPTER 109
(H.B. No. 794)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST ACCOUNT FOR THE PUBLIC HEALTH DISTRICTS IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 327, LAWS OF 1989; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; 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 327, Laws of 1989, there is hereby appropriated $75,000 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. It is legislative intent that, of the amount appropriated in Section 1 of this act, $45,000 be distributed to the Southwest Health District; and $30,000 be distributed among the remaining Public Health Districts as agreed upon by the Directors of the Districts.

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 23, 1990.

CHAPTER 110
(H.B. No. 448)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-433, IDAHO CODE, TO CLARIFY THE RATE OF REIMBURSEMENT FOR LOSS OF WAGES OR FOR TRANSPORTATION OR TRAVEL EXPENSES.

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

SECTION 1. That Section 72-433, Idaho Code, be, and the same is hereby amended to read as follows:

72-433. SUBMISSION OF INJURED EMPLOYEE TO MEDICAL EXAMINATION OR PHYSICAL REHABILITATION. (1) After an injury or contraction of an occupational disease and during the period of disability the employee, if requested by the employer or ordered by the commission, shall submit himself for examination at reasonable times and places to a duly qualified physician or surgeon. The employee shall be reimbursed for his expenses of necessary travel and subsistence in submitting himself for any such examination and for loss of wages, if any. For purposes of this section, the reimbursement for loss of wages shall be at the employee's then current rate of pay if the employee is then working; otherwise, such reimbursement shall be at the total temporary disability rate. Reimbursement for travel expenses, if the employee utilizes his own vehicle, shall be at the mileage rate allowed by the state board of examiners for state employees.

(2) The employee shall have the right to have a physician or surgeon designated and paid by himself present at an examination by a physician or surgeon so designated by the employer. Such right, however, shall not be construed to deny the employer's designated physician or surgeon the right to visit the injured employee during reasonable times and under all reasonable conditions during disability.

(3) At any time after injury, if an injured employee be sent to a facility approved by the commission for physical or vocational rehabilitation, the employee shall be furnished by the employer reasonable travel accommodations to and from such facility and if the injured employee is an outpatient in a physical rehabilitation facility, he shall be paid daily subsistence as the commission may authorize to cover reasonable expenses of board, lodging and transportation. Reimbursement for transportation expense, if the employee utilizes his own vehicle, shall be at the mileage rate allowed by the state board of examiners for state employees.

Approved March 23, 1990.

CHAPTER 111
(H.B. No. 632)

AN ACT

RELATING TO THE VETERINARY PRACTICE ACT; AMENDING SECTION 54-2102, IDAHO CODE, TO MODERNIZE LANGUAGE; AMENDING SECTION 54-2103, IDAHO CODE, TO ALPHABETIZE AND TO DEFINE ADDITIONAL TERMS; AMENDING SECTION 54-2104, IDAHO CODE, TO PROVIDE ADDITIONAL EXEMPTIONS TO THE LICENSING REQUIREMENTS; AMENDING SECTION 54-2105, IDAHO CODE, TO INCREASE THE SIZE OF THE BOARD, ADD A PUBLIC MEMBER, AND PRESCRIBE TERMS AND QUALIFICATIONS FOR MEMBERS; AMENDING SECTION 54-2106, IDAHO CODE, TO MODERNIZE LANGUAGE; AMENDING SECTION 54-2107, IDAHO CODE, TO CORRECT A CODE CITATION; AMENDING SECTION 54-2108, IDAHO CODE, TO PROVIDE AUTHORITY TO DESIGNATE AN INDEPENDENT ORGANIZATION TO ADMINISTER PRACTICAL EXAMS; AMENDING SECTION 54-2109, IDAHO CODE, TO MODERNIZE LANGUAGE; AMENDING CHAPTER 21, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2110, IDAHO CODE, TO PROVIDE CRITERIA FOR VETERINARY LICENSURE WITHOUT EXAMINATION; AMENDING SECTION 54-2110, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FURTHER RESTRICTIONS ON THE ISSUANCE OF TEMPORARY PERMITS; AMENDING SECTION 54-2111, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FURTHER PROVISIONS FOR LICENSE RENEWAL AND LICENSE REINSTATEMENT AFTER CANCELLATION; AMENDING SECTION 54-2112, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO CLARIFY GROUNDS FOR REVOCATION OR SUSPENSION OF A LICENSE; AMENDING SECTION 54-2113, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MODERNIZE THE LANGUAGE; AMENDING SECTION 54-2114, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-2115, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO AUTHORIZE ADDITIONAL REQUIREMENTS FOR REINSTATING A LICENSE THAT HAS BEEN SUSPENDED OR REVOKED; AMENDING SECTION 54-2116, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE CIVIL PENALTIES AND TO AMEND MISDEMEANOR PENALTIES; AMENDING SECTIONS 54-2117 AND 54-2118, IDAHO CODE, TO REDESIGNATE THE SECTIONS; AND AMENDING SECTION 54-2119, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE INCLUSION OF CIVIL PENALTIES IN THE VETERINARY MEDICINE ACCOUNT.

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

SECTION 1. That Section 54-2102, Idaho Code, be, and the same is hereby amended to read as follows:

54-2102. SHORT TITLE. (1) This chapter shall be known as the Idaho Veterinary Practice Act.

(2) Except where otherwise indicated by context, in this chapter the present tense includes the past and future tenses and the future tense includes the present, each gender includes the other ~~two--(2)~~ genders; and the singular includes the plural and the plural the singular.

SECTION 2. That Section 54-2103, Idaho Code, be, and the same is hereby amended to read as follows:

54-2103. DEFINITIONS. As used in this chapter:

(1) "Accredited continuing education activity" means a course, video or audio tape recording, motion picture or any other activity approved by the board or its designees for continuing education credit.

(2) "Allied health professional" means a person currently licensed in any state to practice one (1) of the healing arts including, but not limited to medicine, dentistry, osteopathy, chiropractic and podiatry.

(~~1~~3) "Animal" means any animal other than man and includes fowl, birds, fi~~sh and re~~ptiles, wild or domestic, living or dead.

(4) "Assistant" means any individual who is not a veterinary technician or veterinarian.

(~~8~~5) "Board" means the state board of veterinary medicine.

(6) "Certified euthanasia technician" or "C.E.T." means:

(a) A person employed by a certified agency who is instructed and certified by the euthanasia task force as defined in regulation by the board.

(b) Any person who is trained prior to December 31, 1992, in euthanasia methods, in a course approved by the board, may be certified upon presentation of evidence of such training to either the euthanasia task force or the board.

(7) "Consultation" means a deliberation between two (2) or more veterinarians concerning the diagnosis of a disease or the proper management of the case.

(8) "Credit hour" means fifty (50) minutes of participation in an accredited continuing education activity.

(9) "Dentistry" means:

(a) The application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue; and

(b) Preventive dental procedures including, but not limited to, the removal of calculus, soft deposits, plaque, stains or the smoothing, filing or polishing of tooth surfaces.

(10) "Direct supervision" means the supervisor is on the premises where the animal is being treated and is quickly and easily available and the animal has been examined by a veterinarian as acceptable veterinary medical practice requires.

(11) "Emergency" means that the animal has been placed in a life-threatening condition where immediate treatment is necessary to sustain life.

(12) "Euthanasia task force" means a task force established for the purposes of training, examining and certifying euthanasia technicians.

(13) "Immediate supervision" means the supervisor is in the immediate area and in audible and visual range of the animal patient and the person treating the patient.

(14) "Indirect supervision" means the supervisor is not on the premises but has given either written or oral instructions for treatment of the animal patient and the animal has been examined by a veterinarian as acceptable veterinary medical practice requires and the

animal is not in a surgical plane of anesthesia.

(15) "Liaison officer" means the veterinary board member whose term has just expired and whose duties shall include advising the board and other tasks assigned by the board.

(~~5~~16) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state.

(~~1~~7) "Person" means any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(~~3~~18) "Practice of veterinary medicine" means:

(a) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions; including the prescription or administration of any drug, medicine, biologic, apparatus application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any obstetrical procedure or any manual or mechanical procedure for artificial insemination, for testing or examining for pregnancy, fertility evaluation, embryo transplant, grading of fresh semen, or to render advice or recommendation with regard to any of the above.

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subsection 3(a) of this section.

(c) To use any title, words, abbreviations or letter in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subsection 3(a) of this section, except where such person is a veterinarian.

(19) "Professional supervision" means the supervisor is in daily contact with the temporary licensee.

(20) "Referral" means the transfer of responsibility for diagnosis and treatment from the referring veterinarian to the receiving veterinarian.

(~~6~~21) "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of doctor ~~or~~ of veterinary medicine or its equivalent and that conforms to the standards required for accreditation by the American ~~V~~veterinary ~~M~~medical ~~A~~association.

(22) "Supervisor" means a licensed veterinarian employing or utilizing the services of a registered veterinary technician. A supervisor shall be individually responsible and liable for the performance of the acts and omissions delegated to the veterinary technician. Nothing herein shall be construed to relieve veterinary technicians of any responsibility or liability for any of their own acts and omissions.

(~~4~~23) "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from a school of veterinary medicine.

(24) "Veterinary medical facility" means any premise, unit, structure or vehicle where any animal is received or confined to be examined, diagnosed or treated medically, surgically or

prophylactically. This does not include the owner's animal on the owner's premises.

(25) "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine.

(26) "Veterinary technician" means a person who has graduated from a veterinary technology program accredited by the American veterinary medical association.

(27) "Veterinary technology" means the performance of services within the field of veterinary medicine by a person employed by a licensed veterinarian to perform such duties that require an understanding of veterinary medicine as are required in carrying out the orders of the veterinarian. However, such services shall not include prognosis, diagnosis or the prescribing of treatment or performing surgery.

SECTION 3. That Section 54-2104, Idaho Code, be, and the same is hereby amended to read as follows:

54-2104. LICENSE A PREREQUISITE TO PRACTICE -- EXCEPTIONS. (1) No person may practice veterinary medicine in the state who is not a licensed veterinarian or the holder of a valid temporary permit issued by the board.

(2) This chapter shall not be construed to prohibit:

(a) A veterinarian employed by the federal, state, or local government performing his official duties.

(b) A person who is a regular student currently ~~enrolled~~ and in good standing in a veterinary school performing duties or actions assigned by his instructors, or working under the direct supervision of a licensed veterinarian during a school vacation period.

(c) Idaho extension personnel from performing their official duties.

(d) A veterinarian regularly licensed in another state consulting with a licensed veterinarian in this state.

(e) Any merchant or manufacturer selling medicines, biologics, feed, medicated feed, appliances or other products for the prevention or treatment of animal and poultry diseases.

(f) A farmer, rancher or feedlot operator, including custom ranch or feedlot operators, and the employees or agents thereof, from caring for and treating animals within their possession or control including castration or dehorning, or the owner of an animal or his employee from caring for and treating the animal belonging to such owner, or livestock owners or employees pregnancy testing their own or employer's cattle or the exchange of services between owners or their employees or agents who are farmers, ranchers or feedlot operators, including custom ranch or feedlot operators, except where the ownership or possession of the animal was transferred for the purposes of circumventing this chapter.

(g) A member of faculty of a veterinary school or veterinary science department, performing his regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or veterinary science department, or in connection with a continuing education course or seminar.

(h) Any person selling or applying any pesticide, insecticide, or herbicide.
(i) Any person engaging in bona fide scientific research which reasonably requires experimentation involving animals.
(j) Any person performing artificial insemination of domestic animals as governed by chapter 8, title 25, Idaho Code.
(k) Any person ~~castrating, dehorning, or~~ horseshoeing or hoof trimming ~~cattle~~ bovine, equine and farm animals~~, excluding dogs and cats~~.
(l) A member of an allied health profession participating in a procedure involving an animal, under the immediate supervision of a licensed veterinarian.
(m) The gratuitous treatment of animals in an emergency as a neighborly act.
(~~m~~n) Any state or federal livestock inspector while in the performance of ~~his~~ official duties.
(o) A certified euthanasia technician from performing those duties as defined by the board under accompanying rules and regulations.
(p) Any person from utilizing cotton swabs, gauze, dental floss, dentifrice, toothbrushes or similar items to clean an animal's teeth.

SECTION 4. That Section 54-2105, Idaho Code, be, and the same is hereby amended to read as follows:

54-2105. BOARD OF VETERINARY MEDICINE -- COMPOSITION -- APPOINTMENT -- VACANCY -- QUALIFICATIONS -- COMPENSATION -- REMOVAL -- MEETINGS -- OFFICERS -- REVENUES -- POWERS. (1) A board of veterinary medicine which shall consist of ~~four (4)~~ five (5) members to be appointed by the governor, is hereby created in the department of self-governing agencies. Four (4) members shall be veterinarians and one (1) member shall be a public member. Each of the four (4) appointive veterinary members shall serve a term of four (4) years or until his successor is appointed, except that the terms of the first appointees may be for shorter periods to permit staggering of terms whereby one (1) term expires each year. The public member shall serve for a term of three (3) years.

Whenever the occasion arises for an appointment of a veterinary member under this section, the state ~~V~~veterinary ~~M~~medical ~~A~~association may nominate three (3) or more qualified persons and forward the nominations to the governor at least thirty (30) days before the date set for the appointment. The governor ~~may~~ shall appoint one (1) of the persons so nominated. Vacancies due to death, resignation or removal shall be filled for the remainder of the unexpired term in the same manner as regular appointments. No person shall serve two (2) consecutive ~~four (4) year~~ terms, ~~but a person appointed for a term of less than four (4) years may succeed himself~~ except in the case of a person appointed for less than a full term. ~~A person~~ Each of the four (4) veterinarians shall be qualified to serve as a member of the board if ~~he is~~ a graduate of a veterinary school, a resident of this state, and has been licensed to practice veterinary medicine in this state for the five (5) years immediately preceding the time of ~~his~~ appointment.

The public member shall be at least twenty-one (21) years of age and a resident of this state for five (5) years immediately preceding appointment. No person may serve on the board who is, or was, during the two (2) years preceding ~~his~~ appointment, a member of the faculty~~,~~ or trustees ~~or advisory board~~ of a veterinary school.

Each member of the board shall be compensated as provided by section 59-509(h), Idaho Code.

Any member of the board may be removed by the governor after a hearing by the board determines cause for removal.

(2) The board shall meet at least once each year at the time and place fixed by rule of the board. Other necessary meetings may be called by the president of the board by giving notice as may be required by rule. Except as may otherwise be provided, a majority of the board constitutes a quorum. Meetings shall be open and public except that the board may meet in closed session to prepare, approve, administer or grade examinations, or to deliberate the qualifications of an applicant for license or the disposition of a proceeding to discipline a licensed veterinarian.

(3) At its annual meeting, the board shall organize by electing a president, a secretary-treasurer, and such other officers as may be prescribed by rule. Officers of the board serve for terms of one (1) year and until a successor is elected, without limitation on the number of terms an officer may serve. The president shall serve as a chairman of board meetings.

(4) All revenues received under this chapter shall be paid to the state board of veterinary medicine account created in section 54-21~~19~~20, Idaho Code, and shall be subject to and administered in accordance with the provisions of this chapter.

(5) The board shall have the power to:

(a) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in the state.

(b) Issue, renew, deny, suspend or revoke licenses and temporary permits to practice veterinary medicine in the state or otherwise discipline licensed veterinarians consistent with the provisions of this chapter and the rules and regulations adopted hereunder.

(c) Establish and publish annually a schedule of fees for licensing and registration of veterinarians.

(d) Conduct investigations for the purpose of discovering violations of this chapter or grounds for disciplining licensed veterinarians.

(e) Hold hearings on all matters properly brought before the board, and in connection thereto to administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may require the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and may commission depositions. The board may designate one or more of its members to serve as its hearing officer.

(f) Employ full-time or part-time personnel, professional, clerical or special, necessary to effectuate the provision of this chapter and purchase or rent necessary office space, equipment and supplies.

(g) Appoint from its own membership one or more members to act as representatives of the board at any meeting within or ~~without~~ outside the state where such representation is deemed desirable.
(h) Bring proceedings in the courts for the enforcement of this chapter or any regulations made pursuant thereto.
(i) Levy civil penalties.
(j) Establish a certified euthanasia task force and assess application and certification fees. The fees so assessed are continuously appropriated to the board to support the activities of the task force.
(k) Establish a veterinary technical committee and assess application and certification fees. The fees so assessed are to be deposited to the state board of veterinary medicine account to support the activities of the committee.
(l) Adopt, amend, or repeal all rules necessary for its government and all regulations necessary to carry into effect the provisions of this chapter pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

The powers enumerated above are granted for the purpose of enabling the board to effectively supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

SECTION 5. That Section 54-2106, Idaho Code, be, and the same is hereby amended to read as follows:

54-2106. EXISTING LICENSES. Any person holding a license to practice veterinary medicine in this state on July 1, 1971, shall be recognized as a licensed veterinarian and shall be entitled to retain ~~his~~ that status so long as ~~he~~ that individual complies with the provisions of this chapter, including annual renewal of the license.

SECTION 6. That Section 54-2107, Idaho Code, be, and the same is hereby amended to read as follows:

54-2107. LICENSE APPLICATION -- CONTENTS -- FEE. Any person desiring a license to practice veterinary medicine in this state shall make written application to the board. The application shall show that the applicant is twenty-one (21) years of age, or more, a graduate of a veterinary school, a person of good moral character, and such other information and proof as the board may require by rule. The application shall be accompanied by a fee in the amount established and published by the board. If the board determines that the applicant possesses the proper qualifications, it shall admit the applicant to the next examination. If an applicant is found not qualified to take the examination, the secretary-treasurer of the board shall immediately notify the applicant in writing of such finding and grounds therefor. An applicant found unqualified may require a hearing on the question of ~~his~~ qualification under the procedure set forth in section 54-2114~~5~~, Idaho Code. Any applicant who is found not qualified shall be allowed the return of ~~his~~ the application fee.

SECTION 7. That Section 54-2108, Idaho Code, be, and the same is hereby amended to read as follows:

54-2108. EXAMINATIONS. The board shall hold at least one (1) examination during each year and may hold such additional examinations as are necessary. The secretary-treasurer shall give public notice of the time and place for each examination at least one hundred twenty (120) days in advance of the date set for the examination. A person desiring to take an examination shall make application at least sixty (60) days before the date of the examination.

The preparation, administration and grading of examinations shall be governed by rules prescribed by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove ~~himself a competent person~~ competency to practice veterinary medicine. All examinees must pass the national board examination with a score determined acceptable by the board as defined in rules and regulations of the board, and pass a practical examination administered by the board with a score determined acceptable by the board as defined by their rules and regulations. The practical examination shall, at the discretion of the board, be oral, ~~essay~~ written, multiple choice, true-false, ~~and~~/or practical demonstrations. The board may, at its discretion, designate an independent organization to administer the practical examination in part or in total.

SECTION 8. That Section 54-2109, Idaho Code, be, and the same is hereby amended to read as follows:

54-2109. LICENSE WITHOUT NATIONAL BOARD EXAMINATION. (1) The board may issue a license without a current national board examination to a qualified applicant who furnishes satisfactory proof that ~~he~~ the applicant is a graduate of a veterinary school and who:

(a) Has for the five (5) years ~~next~~ immediately prior to filing ~~his~~ application been a practicing veterinarian licensed in a state, territory or district of the United States having license requirements at the time applicant was first licensed, which were substantially equivalent to the requirements of this chapter; or

(b) Has within the five (5) years ~~next~~ immediately prior to filing ~~his~~ application successfully completed the examination conducted by the national board ~~of veterinary examiners~~ examination committee and must demonstrate scientific and practical knowledge sufficient to prove ~~himself a competent person~~ competency to practice veterinary medicine.

(2) The board shall orally and/or practically examine any person qualifying for licensing under this section.

SECTION 9. That Chapter 21, 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 54-2110, Idaho Code, and to read as follows:

54-2110. LICENSE WITHOUT EXAMINATION. (1) The board may issue a license without examination to a qualified applicant who furnishes satisfactory proof that the applicant is a graduate of a veterinary school and who meets the following requirements:

(a) The applicant has for the five (5) years immediately prior to making application been a practicing veterinarian licensed in a state, territory or district of the United States having license requirements at the time the applicant was first licensed which were substantially equivalent to the requirements of this chapter; and

(b) The applicant shall submit to the office of the board a duly attested certificate from the examining board of the state or territory in which the applicant is licensed and has been lawfully and continuously practicing veterinary medicine, surgery and dentistry for five (5) years or more immediately before filing application to practice in this state, certifying to the fact of licensure and of being a person of good moral character and of professional attainments; and

(c) The applicant is a resident of Idaho; and

(d) The applicant is not currently under investigation for violation of any veterinary practice act, and has never been disciplined by the veterinary licensing authority of any other state, territory or country, and has not been found guilty of a crime, the circumstances of which are substantially related to the practice of veterinary medicine; and

(e) The applicant shall submit three (3) recommendations on forms prescribed by the board. The recommendations shall be completed by licensed veterinarians from the state in which the applicant has practiced for the five (5) years immediately preceding application; and

(f) Applications for licensure under this section shall be made no later than January 1 of each year. If all requirements under this section are met, a license shall be granted by March 1. If requirements under this section are not met, the board shall notify the applicant by March 1; and

(g) Failure to comply with any requirement of this section results in immediate license revocation, but does not exclude the individual from applying for and taking the state board examination.

(2) The board may, upon payment of the fee prescribed under section 54-2107, Idaho Code, license without examination any person who is a diplomate from a specialty board approved by the American veterinary medical association. The veterinary practice of any person who is licensed pursuant to this subsection is limited to the specialty in which the person is certified.

(3) If an applicant for a license under this section is denied a license, any fee or fees tendered by the applicant may be returned at the discretion of the board. The applicant may, however, apply for and take the state board examination.

(4) The board may require a personal interview of any or all applicants under this section.

SECTION 10. That Section 54-2110, Idaho Code, be, and the same is

hereby amended to read as follows:

54-2110~~1~~. TEMPORARY PERMIT. The board may, at its discretion, issue a temporary permit to an applicant without an examination to practice veterinary medicine prior to taking the examination, if the applicant is ~~employed by or~~ working under the professional supervision of a veterinarian licensed in this state. The temporary permit shall be valid only until the date of the next examination, and under no circumstances shall a second temporary permit be issued to the same person. A temporary permit shall not be issued to a person who has failed an examination under the provisions of sections 54-2107 through 54-2109, Idaho Code, nor shall a temporary permit be issued to any applicant not holding a valid license to practice veterinary medicine in any other state, territory, or district of the United States, nor shall a temporary permit be issued to any applicant whose license has been revoked in any state for a reason other than nonpayment of license renewal fees.

SECTION 11. That Section 54-2111, Idaho Code, be, and the same is hereby amended to read as follows:

54-2111~~1~~2. EXPIRATION OF LICENSE -- NOTICE -- RENEWAL. All licenses shall expire annually on July 1 of each year, but may be renewed by ~~registration with~~ submission of proof of completion of the appropriate hours of continuing education as defined in the rules and regulations adopted by the board and by payment of the ~~registration~~ renewal fee established and published by the board. On or about ~~June~~ May 1 of each year, the board shall mail a notice to each licensed veterinarian that ~~his~~ the license will expire on July 1, and shall also provide ~~him with~~ a form ~~of reregistration~~ for renewal. The board shall issue a new ~~certificate of registration~~ license to all persons registering under this chapter. ~~Any license not renewed by July 1 becomes delinquent and is cancelled on October 1 of that year.~~

Any person who shall practice veterinary medicine after the expiration of ~~his~~ a license and who wilfully or by neglect fails to renew ~~his~~ the license shall be practicing in violation of this chapter. Any person may renew an expired license within five (5) years of the date of its expiration by making written application for renewal and paying the current reinstatement and renewal fees plus all delinquent renewal fees. After five (5) years have elapsed since the date of ~~the~~ expiration, a license may not be renewed, but the holder ~~must~~ may make application for a new license ~~and take the license examination~~.

The board may by rule waive the payment of the registration renewal fee of a licensed veterinarian during the period when ~~he~~ the license is on active duty with the armed services of the United States, not to exceed the longer of three (3) years or the durat~~ion of~~ a national emergency.

SECTION 12. That Section 54-2112, Idaho Code, be, and the same is hereby amended to read as follows:

54-2112~~3~~. REVOCATION OR SUSPENSION -- GROUNDS. Upon written complaint sworn to by any person, the board may, after a fair hearing and

by a majority of the board, revoke or suspend for a certain time the license of, or otherwise discipline, any licensed veterinarian for any of the following reasons:

(1) The employment of fraud, misrepresentation or deception in obtaining a license.

(2) Adjudication of insanity.

(3) ~~Chronic-inebriety-or-habitual-use--of--drugs.~~ Unprofessional conduct, which includes, but is not limited to, conviction of a charge of violating any federal statute or rule of this state regulating narcotics, dangerous drugs or controlled substances, and the record of the conviction is conclusive evidence.

(4) The use of advertising or solicitation which is false, misleading, or ~~is--otherwise--deemed--unprofessional--under-regulations adopted-by-the-board~~ fraudulent.

(5) Conviction~~,-withheld-judgment,-suspended--sentence,--plea--of guilty,-or-cash-compromise-of-a-felony-or-other-public-offense-involving-moral-turpitude~~ of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which the case record of such conviction shall be conclusive evidence.

(6) Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine.

(7) Having professional association with or employing or lending one's name to any ~~person-practicing~~ illegal practitioner of veterinary medicine ~~unlawfully~~ and the various branches thereof.

(8) Fraud or dishonesty in the application treatment, or reporting of any test for disease in animals.

(9) Failure to keep one's veterinary ~~premises~~ medical facility and all equipment therein in a clean and sanitary condition.

(10) Failure to report, as required by law, or making false report of, any contagious or infectious disease.

(11) Dishonesty or gross negligence in the inspection of foodstuffs or the issuance of health or inspection certificates.

(12) Cruelty to animals.

(13) The ~~r~~Revocation by a sister state or territory of a license or certificate by virtue of which one (1) is licensed to practice veterinary medicine ~~by-another~~ in that state, territory or district of the United States on grounds other than nonpayment of ~~registration~~ renewal fees.

(14) ~~Unprofessional-conduct-as-defined-in-regulations-adopted--by the--board~~ Aiding or abetting or violating any of the provisions of this chapter.

SECTION 13. That Section 54-2113, Idaho Code, be, and the same is hereby amended to read as follows:

54-211~~3~~4. HEARING -- PROCEDURE. A hearing shall be held no sooner than twenty (20) days after written notice to a licensed veterinarian of a complaint against ~~him~~ that person under section 54-211~~2~~3, Idaho Code, or in the case of a person whose application for license is denied, no sooner than ten (10) days after receipt by the board of a written request for hearing. Notice of the time and place of the hearing, meeting the requirements of section 67-5209, Idaho Code, along

with a copy of the complaint filed, shall be served on a licensee in the same manner required for original service of process in a civil suit. The applicant or licensee shall have the right to be heard in person and by counsel, the right to have subpoenaed the attendance of witnesses ~~in--his--behalf~~, and the right to cross-examine witnesses ~~appearing-against-him~~. Strict rules of evidence shall not apply. The board shall provide a stenographer to take down the testimony and shall preserve a full record of the proceeding. A transcript of the record may be purchased by any person interested in the hearing on payment to the board of the cost of preparing the transcript. The board shall notify the applicant or licensee of its decision in writing within ten (10) days after the conclusion of the hearing. The board, in all cases of suspension or revocation shall enter the fact on the register.

Any person whose license is suspended or revoked shall be deemed an unlicensed person for purposes of this chapter.

In all proceedings under this chapter, the rules of administrative procedure enacted as chapter 52, title 67, Idaho Code, shall apply.

SECTION 14. That Section 54-2114, Idaho Code, be, and the same is hereby amended to read as follows:

54-2114~~5~~. JUDICIAL REVIEW. Any party aggrieved by a decision of the board may appeal the matter and obtain judicial review of the decision as permitted by section 67-5215, Idaho Code, to the district court.

SECTION 15. That Section 54-2115, Idaho Code, be, and the same is hereby amended to read as follows:

54-2115~~6~~. RELICENSING AND REINSTATEMENT. Any person whose license is suspended or revoked may, at the discretion of the board, be relicensed or reinstated at any time with or without an examination, by majority vote of the board on written application made to the board showing cause justifying relicensing or reinstatement.

In reinstating a license which has been suspended or revoked under section 54-2113, Idaho Code, the board may impose terms and conditions to be followed by the licensee after the certificate has been reinstated. The authority of the board to impose terms and conditions includes, but is not limited to, the following:

(1) Requiring the licensee to obtain additional professional training and to pass an examination upon completion of the training.

(2) Requiring the licensee to pass an oral, written, practical or clinical examination, or any combination thereof to determine present fitness to engage in the practice of veterinary medicine.

(3) Restricting or limiting the extent, scope, or type of practice of the licensee.

SECTION 16. That Section 54-2116, Idaho Code, be, and the same is hereby amended to read as follows:

54-2116~~7~~. VIOLATIONS OF CHAPTER -- REMEDIES AND PENALTIES. (1) Any person violating the provisions of this chapter, or violating a

rule or regulation promulgated by the board to implement the provisions of this chapter may be assessed a civil penalty by the board or its duly authorized agent of not more than three thousand dollars ($3,000) for each offense and shall be liable for reasonable attorney fees. Assessment of a civil penalty may be made in conjunction with any other board administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedures act. If the board is unable to collect the civil penalty or if any person fails to pay all of a set portion of the civil penalty as determined by the board, it may recover such amount by action in the appropriate district court. Any person against whom the board has assessed a civil penalty under this section may, within thirty (30) days of the final agency action making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the board to have occurred.

(2) Any person who ~~shall~~ practices veterinary medicine without a currently valid license or temporary permit shall be guilty of a misdemeanor and upon conviction shall be fined not less than ~~fifty~~ one hundred dollars ($~~50~~100~~.00~~), nor more than five ~~hundred~~ thousand dollars ($5,000), or imprisoned for no more than ~~ninety (90)~~ one hundred eighty (180) days, or both fined and imprisoned, provided that each act of such unlawful practice shall constitute a distinct and separate offense.

(~~2~~3) No person who shall practice veterinary medicine without a currently valid license or temporary permit may receive any compensation for services so rendered.

(~~3~~4) The board or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit. If the court finds that the person is violating~~, or is threatening to violate~~ the provisions of this chapter, it shall enter an injunction restraining ~~him~~ that individual from such unlawful acts.

(~~4~~5) The successful maintenance of an action based on any one (1) of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other of the remedies.

SECTION 17. That Section 54-2117, Idaho Code, be, and the same is hereby amended to read as follows:

54-211~~7~~8. ADMINISTRATION AND ENFORCEMENT OF CHAPTER. This chapter shall be administered by the board.

SECTION 18. That Section 54-2118, Idaho Code, be, and the same is hereby amended to read as follows:

54-211~~8~~9. ATTORNEY GENERAL TO ADVISE AND REPRESENT. The attorney general of the state of Idaho shall represent the board and shall give opinions on all questions of law arising out of the administration of the laws which it shall administer, and to act for, and on behalf of the board in all actions brought for or against it under the provisions of this chapter, or as otherwise provided by law.

SECTION 19. That Section 54-2119, Idaho Code, be, and the same is hereby amended to read as follows:

54-21~~19~~20. CREATION OF STATE BOARD OF VETERINARY MEDICINE ACCOUNT. All moneys, including civil penalties collected under the provisions of this chapter shall be deposited in the dedicated fund of the state treasury to the credit of a separate account to be known as the "state board of veterinary medicine account," and all moneys as are now in or may hereafter come into the account are hereby appropriated to the board for carrying out the purposes and objects of this chapter, and to pay all costs and expenses incurred in connection with the provisions of this chapter. All moneys in the occupational licenses account belonging to the state board of veterinary medicine as of July 1, 1983, are hereby transferred and appropriated to the state board of veterinary medicine account hereby created. Moneys shall be paid out of the account upon warrants drawn by the state auditor upon presentation of proper vouchers approved by the board.

Approved March 23, 1990.

CHAPTER 112
(H.B. No. 742)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE WATER POLLUTION CONTROL ACCOUNT; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated $6,000,000 from the General Account to the Water Pollution Control 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 March 23, 1990.

CHAPTER 113
(H.B. No. 664)

AN ACT

RELATING TO COMMUNITY COLLEGE DISTRICTS; AMENDING SECTION 33-2110A, IDAHO CODE, TO EXPEDITE THE VERIFICATION OF THE COUNTY OF RESIDENCE FOR COMMUNITY COLLEGE STUDENTS.

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

SECTION 1. That Section 33-2110A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110A. TUITION OF OUT OF DISTRICT IDAHO STUDENTS, COUNTY TAXES AND OTHER FINANCIAL SUPPORT. (1) Any student residing in the area of a county outside of a ~~junior~~ community college district or in a county without a ~~junior~~ community college district, who has been a resident of the county and state as defined by section 33-2110B, Idaho Code, immediately prior to the date of his first enrollment in a ~~junior~~ community college, which residence may not be acquired while attending and enrolled in a ~~junior~~ community college, may enroll in any ~~junior~~ community college in the state, and the county of his residence shall pay that portion of his tuition as hereinafter set out. The tuition which shall be paid by the resident county shall be that portion of the tuition uniformly established by a ~~junior~~ community college district for all out of district students, both in state as well as out of state, pursuant to section 33-2110, Idaho Code, after deducting therefrom the amount of tuition paid by a resident student at the ~~junior~~ community college; however, the liability of the resident county shall not exceed two-thirds (2/3) the total tuition and fees charged and in no instance shall it exceed five hundred dollars ($500) each semester for a two- (2) semester year for a full-time student. The student shall pay the tuition and fees charged a student resident in the district, and the balance, if any, of the nonresident student tuition above the maximum liability of the county of his residence. No county shall be liable for out of district tuition unless the board of county commissioners of that county has first verified to the ~~junior~~ community college in writing the fact that the student is a resident of the county. ~~The verification shall be made to the college not less than ten (10) days prior to the first day of enrollment. The~~ Upon verification, the county shall thereafter be liable for the out of district tuition so long as the student is duly enrolled and attending the college subject to the following limitations:

(a) Liability shall be for six (6) semesters or the term of the curriculum for which the student is enrolled, whichever is lesser.

(b) Liability shall terminate if the student's domiciliary residence changes and that change continues for twelve (12) months.

(2) The nonresident tuition shall be established annually not later than August 1st and shall be forthwith filed with the state board of education, together with a statement supporting the computation thereof. Each ~~junior~~ community college, by September 30 and March 1 of each year, shall bill the county of residence of each nonresident student enrolled at the commencement of each semester, and each board of county commissioners shall allow and order paid any bill for tuition at the first regular meeting following receipt of the bill, but not exceeding forty-five (45) days after receipt. Upon failure of a county to pay the tuition, a ~~junior~~ community college district may commence action in the district court of the state of Idaho for the county to collect the same.

(3) For the payment of tuition of nonresident students as herein provided, there shall be allocated in each county without a ~~junior~~ community college district to a county ~~junior~~ community college fund, and paid to the county treasurer to be held in that fund, fifty per

cent (50%) of all moneys apportioned to the county out of liquor funds of the state of Idaho as set forth in chapter 4, title 23, Idaho Code, and that amount shall be deducted from the amount that would otherwise be allocated to the county; and if liquor funds are not sufficient to pay the tuition, commencing for the calendar year 1966, the board of county commissioners shall levy upon the taxable property within each county without a ~~junior~~ community college district, and, in a county with such a district, upon the taxable property within the county lying outside of the ~~junior~~ community college district, an ad valorem tax not to exceed six hundredths per cent (.0600%) of market value for assessment purposes, to be certified as set out in section 33-2111, Idaho Code. Such levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and the moneys derived from such levy shall be exempt from the limitation imposed by section 63-2220, Idaho Code. The proceeds of the levy shall be placed in the county ~~junior~~ community college fund. Apportionment of liquor funds herein provided shall commence for the fiscal quarter ending September 30, 1965, and accruing during that quarter.

(4) Based upon the enrollment established by the first semester's tuition bills received by September 30, the board of county commissioners shall establish immediately a total ~~junior~~ community college annual tuition budget for two (2) semesters which shall be equal to twice the amount of the tuition bills plus a contingency factor of ten per cent (10%). This budget shall be adjusted after March 1 based on any change of enrollment shown by the second semester tuition bills. If enrollment is from none to not more than four (4) students, a minimum budget of five (5) students at five hundred dollars ($500) each shall be established. In the event all tuition bills received have been paid, notwithstanding any other provision hereof, (a) any liquor funds received, which in the quarter when received to any extent are in excess of the budget, to the extent of that excess shall not be paid over to the county treasurer to be held in the ~~junior~~ community college fund, and (b) any funds received from the levy on taxable property, which when received to any extent are in excess of the budget after the application of liquor funds thereto, to the extent of that excess shall not be paid over to the ~~junior~~ community college fund. Excess liquor funds shall be paid pursuant to law as if this section were not applicable and excess funds shall be paid to the general fund of the county. In the event the total liquor fund payable hereunder to the county ~~junior~~ community college fund together with the receipts from the levy on taxable property for each fiscal year are insufficient to pay tuition bills, which deficiency is caused by a levy of less than the maximum allowed hereunder, or by enrollment in excess of the budget herein provided, the budget for each following year shall be increased to the maximum allowed by the maximum tax levy authorized to pay any deficiency at the earliest time. If the deficiency is due to the lack of funds in a fiscal year when the maximum levy authorized shall have been made, for the next fiscal year thereafter the number of students from that county shall be limited by the board of county commissioners to the extent necessary to pay the deficiency not later than the end of the following year. Provided nevertheless, for the two (2) semesters commencing September, 1965 the board of county commissioners shall limit the ~~junior~~ community college

budget and total students to estimated liquor funds available on quarterly disbursements through June 30, 1966. Any limitation of students authorized shall be accomplished (a) on the basis of student grades and financial need, and (b) by each ~~junior~~ community college notifying the county of residence of each student's application and the county shall accept or reject the application at least five (5) days prior to the tuition billing dates set out herein. A ~~junior~~ community college shall nevertheless have a right to require any student residing outside the district to pay nonresident tuition if the county of his residence is more than twenty-five per cent (25%) in arrears of a total county tuition bill for one (1) year as of the beginning of the subsequent semester, but tuition shall be refunded to such students when paid by the county.

Approved March 23, 1990.

CHAPTER 114
(H.B. No. 458)

AN ACT

RELATING TO THE RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT LOAN ACCOUNT; AMENDING SECTION 22-2729, IDAHO CODE, BY DELETING THE WORD "ANNUALLY" TO ENHANCE ADMINISTRATION OF THE PROGRAM.

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

SECTION 1. That Section 22-2729, Idaho Code, be, and the same is hereby amended to read as follows:

22-2729. ADDITIONAL POWERS. (a) In addition to the powers, functions, and duties of the soil conservation districts and state soil conservation commission previously provided for in this chapter, these districts and the commission shall have the following additional powers, functions, and duties:

(1) The districts shall conduct, in cooperation with appropriate federal and state agencies and the owners and operators of privately-owned rangelands and other agricultural lands in this state, conservation improvements on or in respect to these lands for the purposes of implementing conservation systems to conserve and improve natural resource conditions;

(2) The commission shall assist and advise the districts in implementing the conservation improvements and shall within the funds available provide loans from the resource conservation and rangeland development loan account for funding of selected conservation improvements;

(3) The commission shall determine whether funds are available before approving any conservation improvements and after having made such determination shall enter into the necessary contracts for this implementation;

(4) The Idaho soil conservation commission shall be the agency

for administration of funds accruing to the resource conservation and rangeland development program loan account, and may receive up to four percent (4%) of the moneys accruing ~~annually~~ to the account to be appropriated annually for the purpose of administering loans authorized pursuant to this section;

(5) The commission shall promulgate such rules and regulations as are necessary to carry out the purposes of this act.

Approved March 23, 1990.

CHAPTER 115
(H.B. No. 438)

AN ACT

RELATING TO SALARIES OF THE IDAHO PUBLIC UTILITIES COMMISSIONERS; AMENDING SECTION 61-215, IDAHO CODE, TO RAISE THE SALARY OF IDAHO PUBLIC UTILITIES COMMISSIONERS.

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

SECTION 1. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the performance of his duties and shall each receive an annual salary of <u>fifty-five</u> thousand dollars ($50<u>5</u>,000), notwithstanding the provisions of section 59-510, Idaho Code, and shall be paid from sources set by the legislature.

Approved March 23, 1990.

CHAPTER 116
(H.B. No. 601, As Amended)

AN ACT

RELATING TO BOARD AND CARE; REPEALING CHAPTER 33, TITLE 39, IDAHO CODE; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 33, TITLE 39, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT AND DECLARATION; TO PROVIDE DEFINITIONS; TO PROVIDE FOR PAYMENT LEVELS; TO PROVIDE FOR TYPES OF FACILITIES; TO PROVIDE FOR RULES AND REGULATIONS; TO PROVIDE THAT STATE LICENSING SUPERSEDES LOCAL REGULATION; TO PROVIDE FOR ADMISSIONS; TO PROVIDE FOR PLANS OF CARE; TO PROVIDE FOR PREPARATION OF A PLAN OF CARE; TO PROVIDE FOR PERIODIC REVIEW; TO PROVIDE FOR A PHYSICIAN'S CERTIFICATION; TO PROVIDE FOR RESPONSIBILITIES OF LICENSEES; TO PROVIDE FOR ADMISSION AGREEMENTS; TO PROVIDE FOR TERMINATION OF ADMISSION AGREEMENTS; TO PROVIDE FOR ADMISSION RECORDS; TO PROVIDE FOR RESIDENT RIGHTS; TO PROVIDE FOR NOTICE OF RIGHTS; TO PROVIDE FOR

RESPONSES TO INCIDENTS AND COMPLAINTS; TO PROVIDE FOR ACCESS BY ADVOCATES AND REPRESENTATIVES; TO PROVIDE FOR RESIDENT COUNCILS; TO PROVIDE FOR QUALIFICATIONS AND REQUIREMENTS OF AN ADMINISTRATOR/OPERATOR; TO PROVIDE FOR QUALIFICATIONS AND REQUIREMENTS FOR FACILITY STAFF; TO PROVIDE FOR TRAINING; TO PROVIDE FOR STAFF TRAINING; TO PROVIDE FOR LOCATION AND PHYSICAL ENVIRONMENT OF FACILITIES; TO PROVIDE FOR A BOARD AND CARE COUNCIL; TO PROVIDE FOR POWERS AND DUTIES OF THE COUNCIL; TO PROVIDE FOR MEETINGS OF THE COUNCIL; TO PROVIDE FOR REIMBURSEMENT OF EXPENSES FOR MEMBERS OF THE COUNCIL; TO PROVIDE FOR LICENSING OF RESIDENTIAL CARE FACILITIES; TO PROVIDE FOR INITIAL APPLICATION AND ISSUANCE OF A LICENSE; TO PROVIDE FOR APPLICATIONS; TO PROVIDE FOR A TEMPORARY LICENSE; TO PROVIDE FOR RENEWAL OF A LICENSE; TO PROVIDE FOR DENIAL OR REVOCATION OF A LICENSE; TO PROVIDE FOR PROCEDURES FOR REVOCATION OR DENIAL OF A LICENSE; TO PROVIDE FOR EFFECT OF A PREVIOUS REVOCATION OR DENIAL OF A LICENSE; TO PROVIDE FOR REGULATIONS; TO PROVIDE FOR INSPECTIONS AND LICENSING, AND THE NONTRANSFERABILITY OF LICENSES; TO PROVIDE FOR CONSULTING SERVICES; TO PROVIDE FOR FACILITIES THAT ARE EXEMPT FROM THE PROVISIONS OF THIS CHAPTER; TO PROHIBIT UNLICENSED RESIDENTIAL CARE FACILITIES; TO PROHIBIT PLACEMENT OF PERSONS INTO AN UNLICENSED FACILITY; TO PROVIDE FOR WAIVERS OR VARIANCES; TO PROVIDE FOR INSPECTIONS; TO PROVIDE FOR COMPLAINTS; TO PROVIDE FOR AN ENFORCEMENT PROCESS; TO PROVIDE FOR SPECIFIED REMEDIES; TO PROVIDE FOR TRANSFER OF RESIDENTS; TO PROVIDE A STATEMENT OF PURPOSE FOR ADULT FOSTER CARE HOMES; TO PROVIDE FOR STANDARDS FOR ADULT FOSTER CARE HOMES; TO PROVIDE FOR APPLICATIONS FOR CERTIFICATION; TO PROVIDE FOR ISSUANCE AND RENEWAL OF CERTIFICATION; TO PROVIDE FOR TEMPORARY CERTIFICATION; TO PROVIDE FOR DENIAL OR REVOCATION OF CERTIFICATION; TO PROVIDE FOR PROCEDURES FOR DENIAL OR REVOCATION; TO PROVIDE FOR THE EFFECT OF A PREVIOUS REVOCATION OR DENIAL; TO PROVIDE FOR REGULATIONS; TO PROVIDE FOR INSPECTIONS; TO PROVIDE FOR AN ENFORCEMENT PROCESS; TO PROHIBIT OPERATION WITHOUT CERTIFICATION; TO PROHIBIT PLACEMENT OF PERSONS INTO AN UNLICENSED ADULT FOSTER CARE HOME; TO PROVIDE FOR PLANS OF CARE; TO PROVIDE FOR PHYSICIANS' ORDERS; TO PROVIDE FOR WRITTEN SERVICE AGREEMENTS; TO PROVIDE FOR RESIDENT RIGHTS; TO PROVIDE FOR TRAINING; TO PROVIDE FOR PHYSICAL AND ENVIRONMENTAL STANDARDS; TO PROVIDE FOR FOSTER CARE AGREEMENTS; AND TO PROVIDE SEPARABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 33, 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 33, Title 39, Idaho Code, and to read as follows:

CHAPTER 33
IDAHO BOARD AND CARE ACT

39-3301. LEGISLATIVE INTENT AND DECLARATION. The purpose of a board and care facility in Idaho is to provide a humane, safe, and home-like living arrangement for persons who are mentally ill, developmentally disabled, physically disabled, and/or elderly who need some assistance with activities of daily living and personal care but do not require the level of care provided by nursing facilities or other institutions.

The state will encourage the development of facilities tailored to the needs of individual populations which operate in integrated settings in communities where sufficient supportive services exist to provide the resident, if appropriate, an opportunity to work and be involved in recreation and education opportunities alongside people who are not mentally ill, developmentally disabled, physically disabled, and/or elderly.

The facilities shall be operated and staffed by individuals who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility. The operators shall protect the rights and provide appropriate services to meet the needs of the individual residents.

The department will be responsible for monitoring and enforcing the provisions of this chapter. This responsibility includes, but is not limited to, monitoring the condition of the facility, the individualized, written plan of care including activities of daily living and support services to be provided, and the development of enforcement procedures when violations occur.

Nothing in this chapter is intended to reduce or eliminate any duty of the department or any other public or private entity for provision of services for any resident.

39-3302. DEFINITIONS. As used in this chapter:

(1) "Activities of daily living" mean the performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment.

(2) "Administrator/operator" means any person who has responsibility for day-to-day administration or operation of a residential care facility.

(3) "Adult" means a person who has attained the age of eighteen (18) years.

(4) "Adult foster care family" means all individuals related by blood or marriage, other than residents, residing in the adult foster care home.

(5) "Adult foster care home" means a family home in which two (2) or less adults are placed to live who are not able to reside in their own home and who require family care, help in daily living, protection, security, and encouragement toward independence (may be referred to as a "home").

(6) "Advocate" means an authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of mentally ill, developmentally disabled, or elderly residents.

(7) "Board" means the board of health and welfare.

(8) "Board and care council" means the interdisciplinary group appointed by the director to advise the agency on matters of policy

relating to board and care facilities.

(9) "Certificate" means a one (1) year certificate issued by the certifying agent of the department to adult foster care homes complying with this chapter.

(10) "Certifying agent" means a person representing the areas of social services, mental health or developmental disabilities, acting under the authority of the department to participate in the certification, inspection, and regulation of an adult foster care home.

(11) "Client" means any person who receives financial aid and/or services from an organized program of the department.

(12) "Continuing" means personal assistance services required over an extended period of time.

(13) "Department" means the Idaho department of health and welfare.

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

(15) "Facility" means a residential care facility or an adult foster care home.

(16) "Foster care provider" means an adult member of the foster care family responsible for maintaining the adult foster care home. The foster care provider and the legal owner may not necessarily be the same person.

(17) "Governmental unit" means the state, any county, any city, other political subdivision, or any department, division, board, or other agency thereof.

(18) "Him or his" means him or her.

(19) "License" means a basic permit to operate a residential care facility.

(20) "Licensee" means the holder of a license to operate a residential care facility under this chapter.

(21) "Licensing agency" means the unit of the department of health and welfare that conducts inspections and surveys and issues licenses based on compliance with this chapter.

(22) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.

(23) "Personal assistance" means the provision by the staff of the facility of one or more of the following services:

(a) Assisting the resident with activities of daily living.

(b) Arranging for supportive services.

(c) Being aware of the resident's general whereabouts.

(d) Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety and well-being.

(24) "Plan of care" means a written description of the functional capabilities of an individual, the individual's need for personal assistance and supervision, and the services to be provided to meet the individual's needs.

(25) "Political subdivision" means a city or county.

(26) "Representative of the department" means an employee of the department.

(27) "Resident" means an adult who resides in a residential care facility or an adult foster care home who may be mentally ill, developmentally disabled, physically disabled and/or elderly and for whom

appropriate care is given.

(28) "Residential care facility" means a facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals and lodging to three (3) or more elderly, developmentally disabled, physically disabled and/or mentally ill adults not related to the owner.

(29) "Room and board" means lodging and meals.

(30) "Qualified mental health professional" means a person who is qualified, by training and experience as defined by regulations promulgated by the board, to provide services to the mentally ill.

(31) "Qualified mental retardation professional" means a person who is qualified, by training and experience as defined by regulations promulgated by the board, to provide services to the mentally retarded.

(32) "Service coordinator" means an employee of the department who is qualified, by training and experience as defined by regulations promulgated by the board, and designated at the regional level to develop or coordinate plans of care for clients of the department.

(33) "Substantial compliance" means there are no deficiencies which would endanger the health, safety, or welfare of the residents.

(34) "Supervision" means administrative activity which provides the following: protection, guidance, knowledge of the resident's whereabouts, and assistance with activities of daily living. The operator is responsible for providing appropriate supervision based on each resident's plan of care.

(35) "Supportive services" mean the specific services that are provided to the resident in the community and that are required by the plan of care or reasonably requested by the resident.

39-3303. PAYMENT LEVELS. Clients of the department receiving financial aid as set out in sections 56-207, 56-208 and 56-209a, Idaho Code, seeking placement in a residential care facility will be assessed by a service coordinator. Based upon the assessed need and plan of care, the specific types of services and supports required will determine the level of payment to be received by the resident according to the following criteria:

(1) Level I. The client requires room, board, and supervision and may require one or more of the following:

(a) Minimal assistance with activities of daily living and nonmedical personal assistance.

(b) Minimal assistance with mobility, i.e., client is independently mobile.

(c) Minimal assistance in an emergency, i.e., client is capable of self-preservation in an emergency.

(d) Minimal assistance with medications, i.e., client does not require medication management or supervision.

(e) Minimal behavior management substantiated by the client's history.

(2) Level II. The client requires room, board, and supervision and may require one or more of the following:

(a) Moderate assistance with activities of daily living and nonmedical personal assistance.

(b) Moderate assistance with mobility, but easily mobile with assistance.
(c) Moderate assistance in an emergency, but client is capable of self-preservation with assistance.
(d) Moderate assistance with medications.
(e) Moderate assistance with behavior management.
(3) Level III. The client requires room, board, and staff up and awake on a twenty-four (24) hour basis and may require one or more of the following:
(a) Extensive assistance with activities of daily living.
(b) Extensive personal assistance.
(c) Extensive assistance with mobility and may be immobile without extensive assistance.
(d) Extensive assistance in an emergency and may be incapable of self-preservation without assistance.
(e) Extensive assistance with and monitoring of medications.
(f) Extensive assistance with training and/or behavior management.

39-3304. TYPES OF FACILITIES. (1) The state will foster the development of, and provide incentives for, residential care facilities serving specific mentally ill and developmentally disabled populations which are small in size to provide for family and home-like arrangements. Small facilities of eight (8) beds or less for the developmentally disabled population and fifteen (15) beds or less for the mentally ill population will provide residents with the opportunity for normalized and integrated living in typical homes in neighborhoods and communities.
(2) The state shall also foster the development of residential care facilities serving clients with Alzheimer's disease which are thirty (30) beds or less in size.

39-3305. RULES AND REGULATIONS. The board shall have the authority to adopt, amend, repeal and enforce such reasonable rules, regulations, and standards as may be necessary or proper to carry out the purpose and intent of this chapter which are designed to protect the health, safety and individual rights of residents in residential care facilities and provide adequate nutrition, supervision, and therapeutic recreational activities and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state. These rules, regulations, and standards shall be promulgated in accordance with the provisions of the Idaho administrative procedures act.

39-3306. STATE LICENSING TO SUPERSEDE LOCAL REGULATION. This chapter and the rules, regulations, and standards promulgated pursuant to this chapter shall supersede any program of any political subdivision of the state which licenses or sets standards for residential care facilities.

39-3307. ADMISSIONS. (1) A residential care facility shall not admit or retain any resident requiring a level of services or type of service for which the facility is not licensed or which the facility

does not provide, or if the facility does not have the staff, appropriate in numbers and with appropriate skills, to provide.

(2) The facility shall not admit any client of the department without a written statement from the service coordinator that the resident requires residential care based on an assessment, prior to admission, of the resident's medical/social/skills information.

(3) The facility shall not admit any nonclient of the department without a written order by the attending physician for admission to the residential care facility which shall include orders for medications, treatments and activity level.

(4) The department shall develop regulations governing admissions to residential care facilities.

39-3308. PLAN OF CARE. (1) The mechanism for coordinating services for each resident is the individualized plan of care. Upon completion, the plan shall clearly describe the resident and the services to be provided to the resident and how they are to be accomplished in a manner that will guide the staff of the facility in assisting the resident.

(2) At a minimum, the written plan of care shall describe, in lay terms, the following:

(a) The resident's specific strengths and limitations in performing activities of daily living.

(b) Any medical or health problems of the resident which are relevant to the services needed by the resident.

(c) Any physical disabilities or impairments of the resident which are relevant to the services needed by the resident.

(d) Any emotional or mental health problems of the resident which are relevant to the services needed by the resident.

(e) The resident's requirements for recreational activities.

(f) The resident's requirements for supervision.

(g) The resident's requirements for supportive services.

(h) Where indicated, will include a functional habilitation record specifying measurable goals and objectives supported by documentation reflecting outcomes which compliment supportive services in the community.

(i) Any other problems of the resident which are relevant to the services needed by the resident.

(j) A transitional or discharge plan.

39-3309. PREPARATION. (1) For clients of the department, the plan of care shall be developed by a professional team with the service coordinator as team leader utilizing information gathered from the client, the client's physical examination, medical history, social evaluations, skills evaluations, and where appropriate input from discharge planners, trainers, the residential care facility operator, family, advocates and others.

(2) For nonclients of the department, the plan of care shall be developed by the operator, the resident and/or their legal representative based on information provided in the resident's medical history and physical, social information, skills evaluations, and where appropriate input from discharge planners, family, advocates and others.

(3) Upon completion, the written plan of care shall be signed and

dated by the service coordinator for the clients of the department and the operator for nonclients of the department.

(4) If a resident is admitted to the facility without a plan of care, it shall be completed within fifteen (15) days of admission.

(5) Upon request, a copy of the plan of care shall be provided to the resident or their legal representative.

(6) Each individual who is a resident of a residential care facility as of the effective date of this chapter shall have a plan of care within one hundred and eighty (180) days of the effective date of this chapter. The department shall assist facilities and residents in complying with the provisions of this chapter.

39-3310. PERIODIC REVIEW. The plan of care may be reviewed as necessary but must be reviewed at least every six (6) months.

39-3311. PHYSICIAN'S ORDER FOR NONCLIENTS OF THE DEPARTMENT. A physician's order shall include the following:

(1) A history and physical documenting any medical or health problems of the resident which are relevant to the services needed by the resident.

(2) A description of the functional abilities of the resident including his specific strengths and limitations.

(3) The specific needs of the resident for personal assistance.

39-3312. RESPONSIBILITIES OF LICENSEE. The facility shall be responsible for informing residents and persons seeking admission to a residential care facility of the requirement of a plan of care or physician's order.

39-3313. ADMISSION AGREEMENTS. Upon admission to a residential care facility, the facility and the resident shall enter into an admission agreement. The agreement shall be in writing and shall be signed by both parties. The board shall promulgate rules and regulations governing admission agreements.

39-3314. TERMINATION OF ADMISSION AGREEMENTS. Admission agreements may only be terminated pursuant to rules and regulations promulgated by the board.

39-3315. ADMISSION RECORDS. Records required for admission to a facility shall be maintained and updated for administrative purposes only and shall be confidential. Their availability, subject to Idaho department of health and welfare rules and regulations, title 5, chapter 1, shall be limited to administration, professional consultants, the resident's physician, and representatives of the licensing agency. They shall include at least the following information:

(1) Name and social security number.

(2) Permanent address if other than the facility.

(3) Marital status and sex.

(4) Birthplace and date of birth.

(5) Name, address and telephone number of responsible agent or agen

(6) Personal physician and dentist.

(7) Admission date and by whom admitted.

(8) Results of a physical or health status examination performed by a licensed physician or nurse practitioner within six (6) months prior to admission.

(9) A list of medications, treatments and diet prescribed for the resident which is signed and dated by the physician giving the order(s).

(10) The results of an assessment of any developmentally disabled or mentally ill person which support the ability of the facility to meet the needs of the resident.

(11) Psychosocial history, current within six (6) months prior to admission, completed by a licensed social worker, psychologist, psychiatrist, or licensed physician for clients of the department. For residents who are either developmentally disabled or mentally ill, the psychosocial history shall be performed by either a qualified mental retardation professional or qualified mental health professional.

(12) Religious affiliation if resident chooses to so state.

(13) Interested relatives and friends other than those in subsection (5) of this section. Names, addresses and telephone numbers of family members and/or significant others.

39-3316. RESIDENT RIGHTS. A residential care facility must protect and promote the rights of each resident, including each of the following rights:

(1) Resident records. Each facility must maintain and keep current a record of the following information on each resident:

(a) A copy of the resident's current plan of care or physician's order.

(b) Written acknowledgement that the resident has received copies of the rights.

(c) A record of all personal property and funds which the resident has entrusted to the facility, including copies of receipts for the property.

(d) Information about any specific health problems of the resident which may be useful in a medical emergency.

(e) The name, address and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident.

(f) Any other health-related, emergency, or pertinent information which the resident requests the facility to keep on record.

(g) The current admission agreement between the resident and the facility.

(2) Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups.

(3) Humane care and environment (dignity and respect).

(a) Each resident shall have the right to humane care and a humane environment, including the following:

1. The right to a diet which is consistent with any religious or health-related restrictions.

2. The right to refuse a restricted diet.

3. The right to a safe and sanitary living environment.

(b) Each resident shall have the right to be treated with dignity

and respect, including:

1. The right to be treated in a courteous manner by staff.

2. The right to receive a response from the facility to any request of the resident within a reasonable time.

(4) Personal possessions. Each resident shall have the right to:

(a) Wear his own clothing.

(b) Determine his own dress or hair style.

(c) Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity.

(d) Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer for keeping personal property.

(5) Personal funds. Residents whose board and care is paid for by public assistance shall retain, for their personal use, the difference between their total income and the applicable board and care allowance established by department regulations.

(a) A facility shall not require a resident to deposit his personal funds with the facility.

(b) Once the facility accepts the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this subparagraph.

(6) Management of personal funds. Upon a facility's acceptance of written authorization of a resident, the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

(a) The facility must deposit any amount of a resident's personal funds in excess of one hundred dollars ($100) in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. The facility must maintain any other personal funds in a noninterest bearing account or petty cash fund.

(b) The facility must assure a full and complete separate accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

(c) Upon the death of a resident with such an account, the facility must promptly convey the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate.

(7) Access and visitation rights. Each facility must permit:

(a) Immediate access to any resident by any representative of the department, by the state ombudsman for the elderly or his designees, or by the resident's individual physician.

(b) Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives.

(c) Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the

resident.

(d) Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(8) Employment. Each resident shall have the right to refuse to perform services for the facility except as contracted for by the resident and the operator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident shall be consistent with state and federal law.

(9) Confidentiality. Each resident shall have the right to confidentiality of personal and clinical records.

(10) Freedom from abuse, neglect, and restraints. Each resident shall have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience.

(11) Freedom of religion. Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others.

(12) Control and receipt of health-related services. Each resident shall have the right to control his receipt of health-related services, including:

(a) The right to retain the services of his own personal physician and dentist.

(b) The right to select the pharmacy or pharmacist of his choice.

(c) The right to confidentiality and privacy concerning his medical or dental condition and treatment.

(13) Grievances. Each resident shall have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(14) Participation in resident and family groups. Each resident shall have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

(15) Participation in other activities. Each resident shall the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(16) Examination of survey results. Each resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the department with respect to the facility and any plan of correction in effect with respect to the facility.

(17) Other rights. Each resident shall have any other right established by the department.

39-3317. NOTICE OF RIGHTS. Each facility must:

(1) Inform each resident, orally and in writing at the time of admission to the facility, of his legal rights during the stay at the facility.

(2) Make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights).

(3) The written description of legal rights under this subsection shall include a description of the protection of personal funds and a statement that a resident may file a complaint with the licensing agency respecting resident abuse and neglect and misappropriation of resident property in the facility. A copy of the list of resident rights shall be conspicuously posted in the facility at all times.

39-3318. FACILITY RESPONSE TO INCIDENTS AND COMPLAINTS. (1) In addition to any other requirements of this chapter, the residential care facility shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken. In the case of anonymous complaints, the administrator/operator shall document the action taken or a reason why no action needs to be taken.

(2) In order to assure the opportunity for complaints from the residents, the neighborhood, and the community to be made directly to the owner, licensee, or person designated by the owner or licensee, each facility shall establish a regular time when the owner, licensee, or person designated by the owner or licensee will be present to respond to such incidents or complaints.

39-3319. ACCESS BY ADVOCATES AND REPRESENTATIVES. A residential care facility shall permit advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the facility 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.

(6) Observe all common areas of the facility.

39-3320. RESIDENT COUNCILS. (1) Every licensed residential care facility over fifteen (15) beds shall assist the residents in establishing and maintaining a resident council. The council shall be composed of residents of the facility and may include their family members. The council may extend membership to advocates, friends and others.

(2) The council shall have the following duties:

(a) To assist the facility in developing a grievance procedure.

(b) To communicate resident opinions and concerns.

(c) To obtain information from the facility and disseminate the information to the residents.

(d) To identify problems and participate in the resolution of those problems.

(e) To act as a liaison with the community.

(3) Every licensed facility of less than fifteen (15) beds, at the request of the majority of its residents, shall be subject to the provisions of this section.

39-3321. QUALIFICATIONS AND REQUIREMENTS OF ADMINISTRATOR/OPERATOR. Each residential care facility must employ at least one (1) full-time administrator who:

(1) Is twenty-one (21) years of age or older.

(2) Has successfully completed a basic initial training and participates in ongoing training programs approved by the department and designed to assure the individual's competence to carry out the requirements of this chapter.

(3) Meets such minimum educational standards as prescribed by the department.

(4) Is of good moral and responsible character and has not been convicted of any felony or defrauding the federal government.

(5) Has sufficient physical, emotional, and mental capacity to carry out the requirements of this chapter.

(6) Has sufficient management and administrative ability to carry out the requirements of this chapter.

39-3322. QUALIFICATIONS AND REQUIREMENTS FOR FACILITY STAFF. Each residential care facility must employ sufficient trained staff to fully meet the needs of its residents and the requirements of this chapter. The department shall develop a staff-to-resident ratio deemed to meet this requirement. There must be at least one (1) staff person immediately available to the residents at all times and when a resident is present in the facility, there must be at least one (1) staff person also present in the facility.

39-3323. TRAINING. The department shall insure that administrators/ operators applying for a license have successfully completed a department approved orientation and training program covering areas related to providing the care and services for which the license is to be issued. The department shall approve a uniform core of knowledge within the required training which shall include, at a minimum, basic understanding of the psychosocial and physical needs of residents to

be served and facility administration. The department will specify annual continuing education requirements for administrators/operators.

39-3324. STAFF TRAINING. All employees of a residential care facility shall receive department approved orientation and continuing education pertinent to their job responsibilities.

39-3325. REQUIREMENTS FOR LOCATION AND PHYSICAL ENVIRONMENT OF FACILITIES. (1) Residential care facilities shall:

(a) Be located in geographical areas which are accessible to supportive services and are free from conditions which would pose a danger to the residents.

(b) Be maintained internally and externally in good repair and condition.

(c) Be maintained in a clean and sanitary manner, including proper sewage disposal, food handling, and hygiene practices.

(d) Be maintained in such a manner as to be free from fire/safety hazards.

(2) The department shall promulgate rules and regulations concerning physical structure, fire safety, health and sanitation, household items and furnishings, diet, self-administered medications, and rooms.

39-3326 -- 39-3329. [RESERVED.]

39-3330. BOARD AND CARE COUNCIL. (1) The department shall establish a state level board and care council consisting of sixteen (16) members appointed by the director. The director, or his designee, shall serve as chairman of the council. The members of the council shall be:

(a) The representative of the department's adult services unit or his designee.

(b) The representative of the department's mental health unit or his designee.

(c) The representative of the department's developmental disabilities unit or his designee.

(d) The state ombudsman for the elderly or his designee.

(e) The director of the state protection and advocacy system or his designee.

(f) An advocate for mentally ill citizens in the state.

(g) An advocate for physically disabled citizens in the state.

(h) The director of the state developmental disabilities council or his designee.

(i) Three (3) administrators or licensees of licensed residential care facilities.

(j) One (1) adult foster care home provider.

(k) Three (3) residents of residential care facilities or adult foster care homes.

(2) In appointing the first members of the council who are not state agency representatives, the director shall appoint six (6) members for a term of two (2) years and six (6) members for a term of three (3) years. After the initial appointment, members who are not

state agency representatives shall serve three (3) year terms. A vacancy shall be filled for the remainder of the unexpired term from the same class of persons represented by the outgoing member.

39-3331. POWERS AND DUTIES. The board and care council shall have the following powers and duties:

(1) To make policy recommendations regarding the coordination of licensing, certifying and enforcement standards in board and care facilities and the provision of services to residents of board and care facilities.

(2) To advise the department regarding methods for identification of unlicensed board and care facilities.

(3) To advise the agency during development and revision of rules and regulations.

(4) To review and comment upon proposed rules and regulations.

39-3332. MEETINGS. The board and care council shall meet as necessary but not less than two (2) times a year. Meetings of the council shall be open to the public. The department shall provide:

(1) Staff necessary to assist the council in performing its duties.

(2) Space for meetings of the council.

39-3333. REIMBURSEMENT OF EXPENSES. Members of the board and care council shall be reimbursed by the department for their actual expenses incurred in the performance of their duties.

39-3334 -- 39-3339. [RESERVED.]

39-3340. LICENSING OF RESIDENTIAL CARE FACILITIES FOR THE MENTALLY ILL, DEVELOPMENTALLY DISABLED, PHYSICALLY DISABLED, AND ELDERLY. After July 1, 1991, no person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential care facility in the state without a current valid license issued by the licensing agency of the department.

39-3341. INITIAL APPLICATION AND ISSUANCE OF A LICENSE. Any person or governmental unit proposing to operate a residential care facility shall apply for a license to the licensing agency specifying the types of residents to be served and the level(s) of care to be provided.

39-3342. APPLICATION. The applicant shall apply for a license upon forms provided by the licensing agency giving such information as the licensing agency shall require including, but not limited to:

(1) Evidence satisfactory to the licensing agency of the ability of the applicant to comply with the provisions of this chapter and with the rules, regulations and standards adopted under this chapter by the department.

(2) Evidence satisfactory to the department that the applicant is of reputable and responsible character.

(3) The evidence shall include, but not be limited to:

(a) A criminal record clearance;
(b) Fingerprinting;
(c) Employment history;
(d) Credit report;
(e) Character references.

(4) If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders holding ten percent (10%) or more interest thereof, and the administrator/operator of the residential care facility.

(5) Evidence satisfactory to the licensing agency that the applicant has sufficient financial resources to maintain the standards of service required by rules, regulations and standards adopted pursuant to this chapter.

(6) Evidence satisfactory to the licensing agency that the administrator/operator has successfully completed the department approved orientation.

(7) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities in Idaho as specified in section 39-3345, Idaho Code, or any other jurisdiction.

(8) Any other information as may be required by the licensing agency for the proper administration and enforcement of the provisions of this chapter.

(9) Failure of the applicant to cooperate with the licensing agency in the completion of the application shall result in the denial of the application. Failure to cooperate means that the information described in this section and in regulations of the department has not been provided, or not provided in the form requested by the licensing agency, or both.

(10) A signed statement that the person desiring issuance or renewal of a license has read and understands the provisions of this chapter and residential care facility rules and regulations.

39-3343. TEMPORARY LICENSE. (1) Following completion of an acceptable application and an inspection by the licensing agency determining that the facility has the initial capability to provide services, the facility will be issued a license not to exceed six (6) months. Within the six (6) month period, the licensing agency will conduct a full survey to determine the facility's ongoing capability to provide services.

(2) Each license issued shall be only for the premises and persons named in the application and shall not be transferable or assignable.

(3) Each license shall specify the maximum allowable number of beds or residents to be housed, which number shall not be exceeded. All occupants other than the owner, manager, immediate family, or employees shall be included in the licensed bed capacity.

(4) The license shall be posted in the facility so as to be clearly visible to the general public.

(5) The temporary license may be replaced with a full license when the licensing agency has completed a revisit to the facility prior to the expiration of the temporary license and has determined

that the facility qualifies for a full license.

(6) Following a revisit by the licensing agency prior to the expiration of the temporary license, if the licensing agency determines that the facility is not in compliance with the provisions of this chapter, or applicable rules, regulations or standards, the facility will be denied a full license and the temporary license shall be revoked.

39-3344. RENEWAL OF A LICENSE. (1) The application for renewal of a license shall be submitted on a form prescribed by the licensing agency. The completed application shall be returned to the licensing agency at least sixty (60) days prior to the expiration.

(2) A full license shall be valid for a period of time not to exceed twelve (12) months from the date of approval by the licensing agency. The license shall expire at the end of its stated period unless it is continued in effect by agreement with the licensing agency or by operation of law.

(3) A provisional license, not to exceed six (6) months, may be granted to a facility which is not in full compliance with this chapter pending the satisfactory correction of all deficiencies and provided that the deficiencies do not jeopardize the health and safety of residents.

39-3345. DENIAL OR REVOCATION OF A LICENSE. The licensing agency may deny the issuance of a license or revoke any license when persuaded by a preponderance of evidence that such conditions exist as to endanger the health or safety of any resident, or when the facility is not in substantial compliance with the provisions of this chapter and rules, regulations and standards promulgated pursuant to this chapter.

39-3346. PROCEDURE FOR DENIAL OR REVOCATION OF A LICENSE. Immediately upon the denial of any application for a license, or the revocation of a license, the licensing agency shall notify the applicant in writing including notification that upon request the applicant may request an informal pre-hearing conference with the licensing agency. Within twenty-one (21) days after the licensing agency mails the notice, the applicant may present his or her written petition for a hearing to the department's administrative procedures section. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with the Idaho administrative procedures act and the department has all the powers granted therein.

39-3347. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE. The licensing agency is not required to review the application of an applicant who has had a license denied or revoked until five (5) years have elapsed from the date of licensure denial, revocation, or appeals.

39-3348. REGULATIONS PROVIDED. Upon initial licensure, residential care facilities shall be provided a printed copy of all applicable regulations by the department, without charge.

39-3349. RESPONSIBILITY FOR INSPECTIONS AND LICENSING -- NONTRANSFERABILITY OF LICENSES. The licensing agency shall inspect and license residential care facilities. A license is not transferable.

39-3350. CONSULTING SERVICES. The department may provide consulting services upon request to any residential care facility to assist in the identification or correction of deficiencies and in the upgrading of the quality of care provided by the facility.

39-3351. EXEMPTIONS. The provisions of this chapter do not apply to any of the following:

(1) Any health facility as defined by chapter 13, title 39, Idaho Code.

(2) Any house, institution, hotel, congregate housing project for the elderly, retirement home or other similar place that is limited to providing one (1) or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities; or that have residents independently accessing supportive services; provided, however, that no resident thereof requires any continuing element of care and supervision or protective supervision as determined by the director.

(3) Any arrangement for the receiving and care of persons by a relative.

(4) Any similar facility determined by the director.

39-3352. UNLICENSED RESIDENTIAL CARE FACILITIES. (1) No unlicensed residential care facility shall operate in this state.

(2) A facility shall be deemed to be an "unlicensed residential care facility" and "maintained and operated to provide residential care" if it is unlicensed and not exempt from licensure, and any one (1) of the following conditions is satisfied:

(a) The facility is, or is held out as or represented as, providing care, supervision and services.

(b) The facility accepts or retains residents who demonstrate the need for care, supervision, and services, as defined by this chapter or the rules, regulations and standards adopted pursuant to this chapter.

(3) Upon discovery of an unlicensed residential care facility, the department shall refer residents to the appropriate placement or adult protective services agency if either of the following conditions exist:

(a) There is an immediate threat to the resident's health and safety.

(b) The facility will not cooperate with the licensing agency to apply for a license, meet licensing standards, and obtain a valid license.

(4) A person found to be operating a residential care facility without a license shall be guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed five thousand dollars ($5,000).

(5) In the event the county attorney in the county where the alleged violation occurred fails or refuses to act within thirty (30) days of notification of the violation, the attorney general is autho-

rized to prosecute violations under the provisions of this section.

39-3353. PLACEMENT OF PERSONS INTO AN UNLICENSED RESIDENTIAL CARE FACILITY. (1) No person or public agency employee shall place, refer, or recommend placement of a person into a residential care facility which is operating without a license.

(2) Any person or public agency employee who knows that a residential care facility is operating without a license shall report the name and address of the facility to the licensing agency of the department. Failure to comply with the provisions of this subsection shall constitute a misdemeanor.

39-3354. WAIVER OR VARIANCE. The board shall provide by rule and regulation a procedure whereby a temporary variance or a permanent waiver of a specific standard may be granted in the event that good cause is shown for such a variance or waiver and providing that a variance or waiver of a standard does not endanger the health and safety of any resident. The decision to grant a variance or waiver shall not be considered as precedent or be given any force of effect in any other proceeding.

39-3355. INSPECTIONS. (1) The licensing agency shall cause to be made such inspections and investigations as it may deem necessary to determine compliance with this chapter and applicable rules, regulations and standards.

(2) All inspections for such purposes will be made unannounced and without prior notice.

(3) Inspections shall be conducted at least once each twelve (12) months.

(4) Inspections shall be conducted by the agency designated for licensing.

(5) An inspector shall have full access and authority to examine, among other things, quality of care and service delivery, a facility's records, resident accounts, physical premises, including buildings, grounds and equipment, and any other areas necessary to determine compliance with this chapter and applicable rules, regulations and standards.

(6) An inspector shall have authority to interview the licensee, administrator/operator, staff and residents. Interviews with residents shall be confidential and conducted privately unless otherwise specified by the resident.

(7) The licensing agency shall notify the facility, in writing, of all deficiencies and shall approve a reasonable length of time for compliance by the facility.

(8) Current lists of deficiencies, including plans of correction, shall be available to the public upon request in the individual facilities or by written request to the regional office of the department or the licensing agency.

39-3356. COMPLAINTS. (1) A person who believes that any provision of this chapter has been violated may file a complaint with the licensing agency.

(2) The licensing agency shall investigate, or cause to be inves-

tigated, any complaint alleging a violation of this chapter or applicable rules, regulations and standards. If the licensing agency reasonably believes a requirement of this chapter has been violated, it shall conduct an inspection of the facility.

(3) A complaint filed with the licensing agency which is subsequently released to the facility that is the subject of the complaint or to any member of the public shall not disclose the name or identifying characteristics of the complainant unless:

(a) The complainant consents in writing to the disclosure.

(b) The investigation results in a judicial proceeding and disclosure is ordered by the court.

(c) If the disclosure is essential to the investigation, the complainant shall be given an opportunity to withdraw the complaint before disclosure.

(4) The licensing agency shall inform the complainant or, if requested by the complainant, the complainant's designated representative, of the results of the investigation and any action taken by the agency.

39-3357. ENFORCEMENT PROCESS. (1) If the licensing agency finds, on the basis of inspections as defined in this chapter or otherwise, that a residential care facility no longer meets a requirement of this chapter, and further finds that the facility's deficiencies:

(a) Immediately jeopardize the health or safety of its residents, the department shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in section 39-3358(1)(c), Idaho Code, or prohibit the facility from keeping or admitting residents and may provide, in addition, for one (1) or more of the other remedies described in section 39-3358, Idaho Code.

(b) Do not immediately jeopardize the health or safety of its residents, the department shall provide for one (1) or more of the remedies described in section 39-3358, Idaho Code.

(2) Nothing in this section shall be construed as restricting the remedies available to the department to remedy a facility's deficiencies. If the department finds that a facility meets the requirements of this chapter, but, as of a previous period, intentionally did not meet such requirements, the department may provide for a civil money penalty under section 39-3358(1)(b), Idaho Code, for the days in which it finds that the facility was not in compliance with such requirements.

39-3358. SPECIFIED REMEDIES. (1) The department shall establish at least the following remedies:

(a) Prohibit the facility from admitting residents or prohibit a facility from keeping or admitting residents with a specific diagnosis.

(b) A civil money penalty assessed and collected, with interest, for each day the facility is or was out of compliance with a requirement of this chapter. Funds collected by the department as a result of imposition of such a penalty shall be applied to the protection of the health or property of residents of residential care facilities that the department finds deficient, including

payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(c) The appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while:

(i) There is an orderly closure of the facility.

(ii) Improvements are made in order to bring the facility into compliance with all the requirements of this chapter.

(iii) The temporary management under this clause shall not be terminated until the department has determined that the facility has the management capability to ensure continued compliance with all the requirements of this chapter.

(d) The authority, in the case of an emergency, to summarily suspend the license, to close the facility, and/or to transfer residents in that facility to other facilities.

(2) The department shall also specify criteria as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.

39-3359. TRANSFER OF RESIDENTS. The department may transfer residents from a residential care facility to an alternative placement on the following grounds:

(1) As a result of a violation of a provision of this chapter or an applicable rule, regulation or standard, the facility is unable or unwilling to provide an adequate level of meals, lodging, personal assistance or supervision to persons residing in the facility at the time of the violation.

(2) A violation of a resident's rights as provided in section 39-3316, Idaho Code.

(3) The number of residents currently in the facility exceeds the number of residents the facility is licensed to serve.

(4) The facility is operating without a license.

(5) A violation of a provision of this chapter or an applicable rule, regulation or standard results in conditions that present an imminent danger.

39-3360 -- 39-3369. [RESERVED.]

39-3370. PURPOSE OF ADULT FOSTER CARE HOMES. The purpose of an adult foster care home in Idaho is to provide a residential alternative designed to help delay the need for individuals to enter residential care facilities, skilled nursing facilities, or institutional care, and to allow such individuals to remain in more normal family-style living, usually within their own communities. Families who provide adult foster care share their homes with adults who need assistance in daily living. Persons who live in adult foster care are those

who are elderly, unable to live alone and/or whose mental, emotional, developmental, and physical conditions are such that the care given by the foster care provider will meet the person's needs. Individuals requiring nursing home care, or who are unable to administer their own medication, are not suitable for adult foster care.

39-3371. RULES AND REGULATIONS. The board shall have the power and it shall be its duty to promulgate appropriate rules and regulations necessary to implement and enforce the standards for certifying adult foster care homes pursuant to this act including, but not limited to, the following:

(1) A home shall not be certified for more than two (2) adults.

(2) An adult foster care provider may be a couple or a single individual.

(3) A home cannot be certified for adult foster care if it also provides room and board for other persons.

(4) A home cannot be certified for adult foster care and child foster care at the same time.

(5) The adult foster care provider must have sufficient income to maintain the home and the services offered.

(6) Information obtained by the foster care provider shall be held confidential except to representatives of the department to provide services or determine compliance with this chapter or upon consent of the individual or his legal guardian.

(7) Record keeping and reporting requirements as may be deemed necessary.

(8) Requirements to assure the safety and adequate care of residents.

39-3372. APPLICATION FOR CERTIFICATION. An application for certification shall be made to regional offices of the department upon forms provided by the department and shall contain such information as the department reasonably requires which will include a background check and fingerprinting with the Idaho department of law enforcement. Following receipt of an application, the department shall conduct a study, including a visit to the home, to determine the capability of the provider to provide adult foster care.

39-3373. ISSUANCE AND RENEWAL OF CERTIFICATION. Each certificate shall be issued only for the home and foster care provider named in the application and shall not be transferable or assignable. Each adult foster care home is required to renew their certification annually. The application for renewal shall be filed with the regional office of the department within thirty (30) days prior to the date of expiration. The existing certificate, unless suspended or revoked, shall remain in force and effect until the department has acted upon the application renewal when such application for renewal is timely filed.

39-3374. TEMPORARY CERTIFICATION. Upon initial investigation, should an applicant for a certificate be unable to meet a standard because of conditions that are unlikely to endure beyond six (6) months, the department may grant a temporary certificate pending the

satisfactory correction of all deficiencies and provided that the deficiencies do not jeopardize the health and safety of residents. No more than one (1) provisional certificate shall be issued to the same adult foster care home in any twelve (12) month period.

39-3375. DENIAL OR REVOCATION OF A CERTIFICATE. The department may deny the issuance of a certificate or revoke any certificate when persuaded by a preponderance of evidence that such conditions exist as to endanger the health or safety of any resident, or when the home is not in substantial compliance with the provisions of this chapter or rules and regulations promulgated pursuant to this chapter.

39-3376. PROCEDURE FOR DENIAL OR REVOCATION OF A CERTIFICATE. Immediately upon the denial of any application for a certificate, or the revocation of a certificate, the department shall notify the applicant in writing. Within twenty-one (21) days after the department mails the notice, the applicant may present his written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with the Idaho administrative procedures act and the department has all the powers granted therein.

39-3377. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A CERTIFICATE. The department is not required to review the application of an applicant who has had a certificate denied or revoked until five (5) years have elapsed from the date of certificate denial, revocation, or appeals.

39-3378. REGULATIONS PROVIDED. Upon initial certification, adult foster care homes shall be provided a printed copy of all applicable regulations by the department, without charge.

39-3379. MANDATORY INSPECTIONS. For the purpose of determining whether every adult foster care home consistently maintains conformity with the standards established under the authority herein, the department, through a certifying agent, shall visit the premises of each home as it deems necessary but in any event at intervals not to exceed six (6) months.

39-3380. ENFORCEMENT PROCESS. Section 39-3357, Idaho Code, governing residential care facilities shall also govern adult foster care homes.

39-3381. OPERATING WITHOUT CERTIFICATION -- MISDEMEANOR. Any person who operates an adult foster care home within the state without first obtaining certification as provided in this chapter shall be guilty of a misdemeanor.

39-3382. PLACEMENT OF PERSONS INTO AN UNLICENSED ADULT FOSTER CARE HOME. Section 39-3353, Idaho Code, governing residential care facilities shall also govern unlicensed adult foster care homes.

39-3383. PLAN OF CARE. The plan of care as set out in section 39-3308, Idaho Code, shall govern the content, preparation and review of the plan of care for residents of adult foster care homes.

39-3384. PHYSICIAN'S ORDER FOR NONCLIENTS OF THE DEPARTMENT. The physician's order as set out in section 39-3311, Idaho Code, governing residential care facilities shall also govern adult foster care homes.

39-3385. WRITTEN SERVICE AGREEMENT. The department and the foster care providers serving clients of the department shall negotiate a written agreement annually. The purpose of the agreement shall be to ensure that a client receives services necessary to maintain him at the highest level of independence. The agreement is to establish a basis for coordination and communication between the foster family and the department. The agreement shall be maintained in the home.

39-3386. FOSTER CARE AGREEMENTS. Each foster care provider shall negotiate a written, signed and dated agreement between the foster care provider and a resident specifying the amount of monthly payment to be paid by the resident and the method for payment.

39-3387. RESIDENT RIGHTS. Section 39-3316, Idaho Code, governing residential care facilities shall also govern adult foster care homes.

39-3388. TRAINING. The department shall insure that foster care providers receive, at a minimum, training which shall include the rights of the resident, and a basic understanding of the psychosocial and physical needs of residents to be served. The department will specify annual continuing education requirements for foster care providers.

39-3389. PHYSICAL AND ENVIRONMENTAL STANDARDS. Standards shall be developed through the regulatory process by the department to insure a safe, sanitary and comfortable environment for residents of adult foster care homes.

39-3390 -- 39-3391. [RESERVED.]

39-3392. SEPARABILITY. If any section, subsection, paragraph, sentence, or any other part of this chapter is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter, but shall be confined to this section, subsection, paragraph, sentence, or any other part of this chapter directly involved in the controversy in which the judgment has been rendered.

SECTION 3. This act shall be in full force and effect on and after July 1, 1991.

Approved March 23, 1990.

CHAPTER 117
(H.B. No. 545)

AN ACT

RELATING TO GROUP HEALTH INSURANCE FOR RETIRED STATE EMPLOYEES; AMENDING SECTION 67-5761, IDAHO CODE, TO PROVIDE THAT HEALTH CARE COVERAGE FOR RETIRED STATE EMPLOYEES SHALL PARALLEL COVERAGE FOR ACTIVE STATE EMPLOYEES TO THE EXTENT NECESSARY.

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

SECTION 1. That Section 67-5761, Idaho Code, be, and the same is hereby amended to read as follows:

67-5761. POWERS AND DUTIES -- GROUP INSURANCE. (1) The administrator of the division of insurance management shall have the authority to:

(a) Establish an advisory committee to be comprised of program participants. The advisory committee may include employee representatives. The administrator shall consult with the advisory committee in the performance of those duties as enumerated in subsection (2) of this section.

(b) Fix and promulgate rules for determining eligibility of personnel for participation in any group plans.

(c) Determine the nature and extent of needs for group life insurance, group annuities, group disability insurance, and group health care service coverages with respect to personnel, including elected or appointed officers and employees, of all offices, departments, divisions, boards, commissions, institutions, agencies and operations of the government of the state of Idaho and retired personnel, the premiums or prepayments for which are payable in whole or in part from funds of the state. "Disability" insurance includes all personal accident, health, hospital, surgical, and medical coverages, and "health care service" includes all services rendered for maintenance of good health, and diagnosis, relief, or treatment of any injury, ailment, or bodily condition.

(d) Determine the types, terms, conditions, and amounts of group insurance, group annuities, or group coverage by health care service organizations, as the case may be, required by such needs.

(e) Negotiate and contract for, and have placed or continued in effect all such insurance and coverages as may reasonably be obtainable from insurers and health care service organizations, as the case may be, duly authorized to transact such business in this state. The administrator may negotiate deductibles to any group plan or coverage.

(f) Prepare or otherwise obtain and make available to all personnel affected thereby, printed information concerning all such group plans currently in effect, together with the rules governing eligibility, payment of premium or prepayment where applicable, claims procedures, and other matters designed to facilitate utilization and administration of such plans.

(g) Administer all such group plans on behalf of the policyholder or contract holder, including but not limited to:

(1) Enrollment and reporting to the insurer or health care service organization of individuals eligible for coverage and covered under particular policies or contracts, and termination of such enrollment upon termination of eligibility;

(2) Payment of premiums or prepayments for such policies and contracts and accounting for the same;

(3) Establishment of reasonable procedures for handling claims arising under such policies and contracts, and rendering assistance to claimants, as may be required in the presentation and consideration of claims;

(4) Effectuation of changes in such policies and contracts and renewal or termination thereof.

(2) Nothing herein shall be deemed to prohibit any such policy or contract providing coverage also for dependents of personnel under terms and conditions formulated and negotiated by the administrator. The administrator shall formulate and negotiate a plan of health care service coverage ~~for~~ which includes retired personnel ~~which may be a modification of the existing plan~~ and dependents eligible for a retirement benefit through the Idaho public employee retirement system which benefit equals or exceeds the retiree medical insurance premium in effect for that retiree at the date of retirement. ~~Such coverage~~ Coverage for retired personnel shall ~~be separate from~~ parallel the coverage provided to active state employees to the extent necessary, and shall include a medicare ~~supplement~~ credit for retirees who are ~~eligible for~~ covered by medicare~~, but the plans for retired personnel and for active employees shall be negotiated in a manner as to provide a combined rating of the health care plans for retired personnel and for active state employees, and any~~. Any increased cost on the health care plan for active employees as a result of such ~~combined rating~~ coverage costs shall be paid for by the state and by active state employees in equal shares. Retired personnel shall be responsible for paying their own premiums for any plan of health care service insurance coverage provided pursuant to this section. No policy or contract negotiated by the administrator which provides coverage or benefits for personnel, dependents of personnel, or retired personnel shall create any vested right or benefit for the retired personnel in retiree group insurance coverages.

Approved March 23, 1990.

CHAPTER 118
(H.B. No. 793)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 274, LAWS OF 1989; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM VARIOUS ACCOUNTS; SUPERSEDING THE PROVISIONS OF SECTION 39-3606, IDAHO CODE; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; 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 274, Laws of 1989, there is hereby appropriated to the Department of Health and Welfare the following amounts to be expended for the specified 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. INDIRECT SUPPORT		$ 421,200			$ 421,200
FROM:					
General Account					
Cooperative Welfare Account		378,800			378,800
TOTAL		$ 800,000			$ 800,000
B. ADULT AND A.D.C. ASSISTANCE PAYMENTS:					
FROM:					
General Account	$262,800	$ 177,400	$ 67,500	$ 394,600	$ 902,300
Cooperative Welfare Account	262,600	649,300	67,500	1,084,600	2,064,000
TOTAL	$525,400	$ 826,700	$135,000	$1,479,200	$2,966,300
C. SOCIAL SERVICES:					
FROM:					
General Account	$ 48,200	$ 536,800	$ 15,000	$ 359,800	$ 959,800
Cooperative Welfare Account				13,200	13,200
TOTAL	$ 48,200	$ 536,800	$ 15,000	$ 373,000	$ 973,000
D. WATER QUALITY:					
FROM:					
Water Pollution Control Account		$ 6,500			$ 6,500
GRAND TOTAL	$573,600	$2,170,000	$150,000	$1,852,200	$4,745,800

SECTION 2. The State Auditor shall make transfers of the General Account and the Water Pollution Control Account as 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. 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 4. 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 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 23, 1990.

CHAPTER 119
(H.B. No. 767)

AN ACT

RELATING TO THE CLEANUP OF PETROLEUM AND PETROLEUM PRODUCTS RELEASES; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 49, TITLE 41, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND INTENT, TO DEFINE TERMS, TO CREATE AN IDAHO PETROLEUM CLEAN WATER TRUST FUND AND PROVIDE FOR THE MANAGEMENT THEREOF, TO PROVIDE FOR A TEMPORARY LINE OF CREDIT FOR INITIAL START-UP COSTS AND ANY TEMPORARY SHORTAGES, TO PROVIDE FOR DISBURSEMENT OF MONEYS FROM THE FUND, TO PROVIDE FOR FINANCIAL RESPONSIBILITY OF PARTICIPATING OWNERS AND OPERATORS, TO PROVIDE EXCLUSIVENESS OF REMEDY, TO PROVIDE FOR TANK ENROLLMENT FEES, APPLICATIONS FOR ENROLLMENT OF TANKS AND TRANSFER FEES, TO PROVIDE FOR DISTRIBUTION OF ENROLLMENT FEES AND TRANSFER FEES, TO PROVIDE FOR THE ISSUANCE OF CONTRACTS OF INSURANCE TO PARTICIPANTS, TO SPECIFY STORAGE TANKS ELIGIBLE FOR PARTICIPATION, TO PROVIDE FOR DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND, TO PROVIDE FOR PERPETUAL APPROPRIATION OF MONEYS IN THE FUND, TO PROVIDE FOR ENROLLED SUBSCRIBER'S LIABILITY ON JUDGMENTS, TO PROVIDE FOR COLLECTION OF REIMBURSEMENTS DUE FROM INSUREDS, TO PROVIDE FOR WITHDRAWAL FROM THE FUND, TO PROVIDE FOR REINSURANCE, TO PROVIDE FOR PAYMENTS FROM THE FUND BY THE STATE TREASURER, TO PROVIDE FOR RESERVE FUNDS, TO PROVIDE FOR ADOPTION OF RULES AND REGULATIONS BY THE ADMINISTRATOR, TO PROVIDE FOR REGISTRATION OF THE FUND WITH THE DEPARTMENT OF INSURANCE, TO PROVIDE FOR FILING OF A DOCUMENT OF ORGANIZATION, TO PROVIDE FOR ISSUANCE OF A SOLICITATION PERMIT BY THE DEPARTMENT OF FINANCE, TO PROVIDE FOR ESCROW OF FUNDS, TO PROVIDE FOR BYLAWS OF THE FUND, TO PROVIDE FOR RECORDS AND ACCOUNTS AND AN ANNUAL STATEMENT, TO PROVIDE FOR A MANAGEMENT CONTRACT WITH THE STATE INSURANCE FUND, TO PROVIDE FOR APPLICATION OF INSURANCE LAWS TO THE FUND, TO PROVIDE FOR EXEMPTION OF THE FUND FROM PREMIUM TAXES, TO PROVIDE FOR EXAMINATION OF BOOKS, RECORDS AND ACCOUNTS, TO PROVIDE FOR FIDELITY BONDS, TO PROHIBIT PECUNIARY INTERESTS BY PERSONS HAVING RESPONSIBILITY FOR MANAGEMENT OF THE FUND, TO PROHIBIT POLITICAL CONTRIBUTIONS, TO PROVIDE FOR RECOVERY

OF DEPLETED FUNDS, TO PROVIDE PROCEDURES IN THE EVENT THE FUND IS IMPAIRED, TO PROVIDE FOR LIQUIDATION OF THE FUND, TO REQUIRE VOUCHERS FOR EXPENDITURES, TO PROVIDE FOR BORROWED SURPLUS AND SUBORDINATED INDEBTEDNESS, TO PROVIDE PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THE CHAPTER, TO PROVIDE FOR PROMULGATION OF RULES AND REGULATIONS BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE, TO PROVIDE FOR APPLICATION OF THE CHAPTER, TO PROVIDE INSURANCE FOR DEPARTMENT OF HEALTH AND WELFARE REQUIREMENTS, TO PROVIDE FOR LEGISLATIVE REVIEW OF THE PROGRAM; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 49, Title 41, Idaho Code, and to read as follows:

CHAPTER 49
PETROLEUM CLEAN WATER TRUST FUND ACT

41-4901. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Petroleum Clean Water Trust Fund Act."

41-4902. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds that significant quantities of petroleum and petroleum products are being stored in tanks in Idaho to meet the needs of its citizens, foster economic growth and development and the overall quality of life in the state. While most storage tanks are being operated and managed responsibly, there are occasions when leaks and other releases occur, threatening the public health and safety, and the environment. It is to the benefit of Idaho's citizens to correct any such threats to the public health and safety or environment as quickly and completely as possible. Significant financial resources must be available to investigate and remedy any release. However, reasonably affordable petroleum liability insurance coverage is unavailable to pay for such corrective and cleanup measures. Thus, creation of a fund for corrective actions for petroleum releases would be beneficial to the state. Such a fund would be created by the imposition of a "transfer fee" of one cent ($.01) per gallon on the delivery or storage of petroleum products within the state of Idaho. Such a fund would provide moneys for the immediate protection of the public health and safety and the environment, while helping avoid catastrophic losses to the owners and operators which could result in negative impacts on Idaho's economy.

(2) Therefore, it is hereby declared that the intent of the legislature in the passage of this chapter is to create and regulate in the public interest the formation and operation of a liability insurance trust fund that will make contracts of liability insurance available to owners and operators of petroleum storage tanks as defined herein through fair and equitable insurance contracts issued by a state-licensed nonprofit organization meeting reasonable standards as to its administration, reserves, financial soundness and the prompt and fair payment of claims arising out of the legal liability of the public and private entities protected and insured by these contracts,

which will also provide for swift corrective action for releases of petroleum or petroleum products from leaking storage tanks. While the release of petroleum from any storage tank in the state is considered a threat to public health and safety and the environment, this fund shall only be available for costs incurred as to those tanks which are registered with the state insurance fund and for which an enrollment fee has been paid into the fund to offset the administrative costs involved in the effectuation of a contract of insurance issued by the administrator of the fund.

41-4903. DEFINITIONS. For the purposes of this chapter:

(1) "Above ground storage tank" means any one (1) or a combination of tanks, including pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of pipes connected thereto, is less than ten percent (10%) beneath the surface of the ground. This term does not include a heating tank, farm tank or residential tank or any tank with a capacity of one hundred ten (110) gallons or less.

(2) "Accidental release" means any sudden or nonsudden release of petroleum from a storage tank that results in a need for corrective action and/or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

(3) "Administrator" means a person, other than the trustee, employed by the trustee to administer the Idaho petroleum clean water trust fund.

(4) "Bodily injury" means any bodily injury, sickness, disease or death sustained by any person and caused by an occurrence defined in subsection (18) of this section.

(5) "Commission" means the state tax commission of the state of Idaho.

(6) "Corrective action" means those actions as are reasonably necessary to satisfy applicable federal and state standards in the event of a release into the environment from a petroleum storage tank. Corrective action includes initial corrective action response or actions consistent with a remedial action to clean up contaminated ground water or address residual effects after initial corrective action is taken, as well as actions necessary to monitor, assess and evaluate a release. Corrective action also includes the cost of removing a tank which is releasing or has been releasing petroleum products and the release cannot be corrected without removing the tank; but corrective action does not include the cost of replacing this tank with another tank.

(7) "Department" means the department of insurance of the state of Idaho.

(8) "Director" means the director of the department of insurance.

(9) "Enrollment fee" means the amount paid or payable by a member subscriber into the Idaho petroleum clean water trust fund to offset the costs of issuing contracts of insurance and other costs of administering this fund.

(10) "Farm tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred (1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on

a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(11) "Free product" means petroleum or petroleum products in the nonaqueous phase, (e.g., liquid not dissolved in water).

(12) "Fund" or "trust fund" means the Idaho petroleum clean water trust fund.

(13) "Heating tank" means any tank with a capacity of more than one hundred ten (110) gallons situated above ground or underground which is used for storing heating oil for consumptive use on the premises where stored.

(14) "Legal defense costs" mean any expense that an owner or operator or the fund incurs in defending against claims or actions brought under the provisions of this act.

(15) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2409, Idaho Code. If a person subject to the fee imposed by section 41-4908(6), Idaho Code, is not required to obtain a distributor's license under the provisions of chapter 24, title 63, Idaho Code, such person shall apply to the commission for a limited license for the purpose of complying with the requirements of this chapter. Such a limited license shall not be valid for any other purpose. No bond shall be required for a limited license. A holder of a limited license is a "licensed distributor" for the purposes of filing reports, paying fees and other actions necessary to the proper administration and enforcement of this chapter.

(16) "Manager" means the duly appointed manager of the state insurance fund of the state of Idaho.

(17) "Noncommercial purposes" mean not for resale, with respect to motor fuels.

(18) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which resulted in a release into the environment of petroleum products from a petroleum storage tank.

(19) "Operator" means any person in control, or having responsibility for, the daily operations of a petroleum storage tank.

(20) "Owner" means the owner of a petroleum storage tank, except that "owner" does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect the owner's security interest in the tank.

(21) "Person" means any corporation, association, partnership, one (1) or more individuals, or any governmental unit, or agency thereof, other than federal or state agencies.

(22) "Petroleum" and/or "petroleum products" mean crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure (i.e., at sixty (60) degrees fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). The term includes motor gasoline, gasohol, other alcohol blended fuels, diesel fuel, heating oil and aviation fuel.

(23) "Property damage" means injury or destruction to tangible property caused by an occurrence.

(24) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank

into ground water, surface water, or surface or subsurface soils.

(25) "Residential tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred (1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on property used primarily for dwelling purposes.

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

(27) "Underground storage tank" means any one (1) or combination of tanks, including underground pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. This term does not include any:

(a) Farm or residential tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes;

(b) Tank used solely for storing heating oil for consumptive use on the premises where stored;

(c) Septic tank;

(d) Pipeline facility including gathering lines regulated under:

(i) The natural gas pipeline safety act of 1968 (49 U.S.C. app. 1671, et seq.); or

(ii) The hazardous liquid pipeline safety act of 1979 (49 U.S.C. app. 2001, et seq.); or

(iii) State laws comparable to the provisions of the law referred to in paragraph (d)(i) or (d)(ii) of this subsection as an intrastate pipeline facility;

(e) Surface impoundment, pit, pond or lagoon;

(f) Storm water or wastewater collection system;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;

(i) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor;

(j) Tanks with a capacity of one hundred ten (110) gallons or less.

The term "underground storage tank" does not include any pipes connected to any tank which is described in paragraphs (a) through (i) of this definition.

(28) "Underground storage tank regulations" mean regulations for petroleum storage tanks promulgated by the United States environmental protection agency (EPA) pursuant to subtitle I of the solid waste disposal act, as amended by the resource conservation and recovery act.

(29) "Tank" means a stationary device designed to contain an accumulation of petroleum or petroleum products and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

(30) "Trustee" means the trustee of the Idaho petroleum clean water trust fund, who for the purposes of this chapter shall be the manager of the state insurance fund of the state of Idaho.

41-4904. CREATION, AUTHORIZATION AND MANAGEMENT OF THE IDAHO PETROLEUM CLEAN WATER TRUST FUND. (1) The Idaho petroleum clean water trust fund is hereby created, and the manager of the state insurance fund is hereby authorized to utilize this trust fund for the purpose of insuring governmental and private entities who are owners and operators of petroleum storage tanks against the legal liability arising out of the negligent or otherwise wrongful acts or omissions of these entities and/or the employees of these entities, which acts are concerned solely with the release of petroleum products. This trust fund shall be responsible for the payment of money damages awarded as judgment on any claim or civil law suit by any court of competent jurisdiction under Idaho law or a United States court under federal law for such negligent or wrongful acts or omissions, all subject to the terms and conditions of the insurance contracts entered into by the trust fund and its insured owners or operators of storage tanks. The manager shall be the trustee of this fund, and shall appoint an administrator of this fund who shall be an employee of the state insurance fund.

(2) Nothing in this chapter shall enlarge or otherwise adversely affect the legal liability of any legal entity insured by the trust fund, and any immunity or other bar to a civil lawsuit under Idaho or federal law shall remain in effect. The fact that the trust fund insures the legal liability of any legal entity and thus may relieve the entity or an employee of the entity from the payment of any judgment arising from a civil lawsuit, shall not be communicated to the trier of fact in such a lawsuit.

(3) The trust fund shall consist of all enrollment fees and all transfer fees collected pursuant to section 41-4908, Idaho Code, all other moneys received and paid into the trust fund, property and securities acquired by or through the use of money belonging to the trust fund, money loaned to the trust fund under the terms and agreements of a subordinated note of indebtedness or borrowed surplus as hereinafter defined and authorized, and of interest earned on money and securities owned or in the possession of the trust fund under an agreement that such investment earnings can accrue to the benefit of the trust fund.

(4) The trust fund shall have the powers and privileges of a nonprofit corporate entity and in its name may sue and be sued in any court of competent jurisdiction, and may lease and maintain offices and space for its departmental and operational facilities, subject to the provisions of chapters 6 and 7, title 41, Idaho Code.

(5) (a) The personnel costs, operating expenditures and capital outlay budget of the trust fund shall be subject to review and approval in the appropriation of the state insurance fund, and it is the intent of this chapter that the trust fund be a self-supporting insurance fund, so that no appropriations, loans, or other transfers of state funds need to be made to the trust fund except as follows:

(i) A temporary line of credit for the initial start-up costs of the trust fund may be obtained as provided in paragraph (b) of this subsection; and

(ii) A temporary line of credit to offset any temporary shortages in the operating fund balance of the trust fund may be obtained as provided in paragraph (b) of this subsection.

(b) There is hereby established a temporary line of credit to be

drawn from the state general account to the trust fund account in the amount of one million dollars ($1,000,000). This amount of money is continuously appropriated for the purposes of this chapter. The temporary line of credit may be drawn upon by the trust fund 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 costs of the trust fund and any temporary shortages in the operating fund balance of the trust fund. The manager may draw upon all or part of the temporary line of credit, as shall be required. The money advanced from the state general account shall be repaid with interest from surplus moneys in the trust fund to the general account within one (1) year from the date the trust fund commences to issue contracts of insurance. Interest of ten percent (10%) per annum shall be calculated upon the principal amount outstanding each month until repaid.

(c) In the event the trust fund is unable to repay the funds drawn from the state general account under the temporary line of credit established under paragraph (b) of this subsection due to the dissolution of the trust fund pursuant to a court order, then an amount necessary to repay the line of credit shall be appropriated by the next regular session of the state legislature.

(d) Funds obtained from the temporary line of credit shall constitute a subordinated indebtedness subject to the provisions of section 41-4943, Idaho Code.

(6) The manager of the state insurance fund, as trustee of the trust fund, shall enter into a management and administrative contract with the state insurance fund to provide the following services to the trust fund:

(a) Administrative functions including the hiring of qualified personnel and the payment of salaries and wages earned, plus recordkeeping for the personnel hired to provide services for the trust fund.

(b) Accounting and recordkeeping of all receipts and disbursements of the trust fund.

(c) Underwriting functions of the trust fund to issue contracts of liability insurance and charge appropriate enrollment fees under section 41-4908, Idaho Code, for such contracts and keep accurate statistical records.

(d) Claims handling functions of the trust fund to process and pay appropriate claims in a prompt, fair and reasonable manner.

(e) Auditing functions of the trust fund to maintain accurate records of receipts and disbursements by the trust fund and accurate reporting of statistics by owners/operators of storage tanks insured by the trust fund.

(f) Actuarial functions of the trust fund to maintain credible and viable statistics, sufficient operating fund balances, and appropriate loss reserves.

(g) Computer and data processing functions to assist the trust fund in maintaining complete and accurate records in a timely manner and issue loss payments and other disbursements, as well as provide individual statistics and records of storage tanks insured by the trust fund.

(h) Computer programming functions to maintain a proficient and

current data processing system for the trust fund.

(i) Legal services for the trust fund.

(j) Any and all other functions the manager of the state insurance fund as trustee deems prudent and reasonable to assure the successful operation of the trust fund.

(7) The Idaho petroleum clean water trust fund shall be administered without liability on the part of the state insurance fund or the state of Idaho beyond the amount of said trust fund.

(8) The administrator, subject to the approval of the manager of the state insurance fund as trustee, shall have the power to receive and account for all moneys paid into the trust fund, accept and evaluate applications for insurance coverage and issue the contracts of insurance and evaluate, investigate and adjust claims made against the trust fund and make agreements for corrective actions or compensation to third parties for bodily injury or property damage those parties may be legally entitled to receive from the trust fund in accordance with the provisions of this chapter.

(9) The administrator, with the approval of the trustee, shall promulgate rules and regulations which establish underwriting procedures to issue contracts of insurance, and claim procedures which shall include, at a minimum, provisions for reasonable notice to all parties involved and opportunity for these parties to be heard. The administrator shall be given notice of all applications, hearings and proceedings involving the rights of the trust fund and shall represent the trust fund in all proceedings. The administrator's decisions shall be written, and shall include all reasons for his decisions and shall be subject to judicial review in the district court of Ada county; provided, however, that the administrator and the trust fund shall not be liable for alleged bad faith or other legal theories based on any method or timing of the claims processed on his decision.

(10) The manager of the state insurance fund may employ legal counsel or obtain legal counsel through the attorney general concerning all legal matters arising out of the existence and operation of the trust fund, including claims made against the contracts of insurance issued by the administrator of the trust fund.

(11) The manager of the state insurance fund may also employ such employees or contract for such services as are necessary to assist in the administration of the trust fund, and all such administrative expenses incurred by the state insurance fund for the benefit of the trust fund shall be reimbursed by the trust fund.

(12) The administrator may, in his official capacity, sue and be sued in all courts of the state, and shall be entitled to a defense by the state of Idaho for any alleged acts of negligence that may arise out of his official duties as administrator and/or as an employee of the state of Idaho.

41-4905. DISBURSEMENT OF MONEYS FROM THE IDAHO PETROLEUM CLEAN WATER TRUST FUND. Moneys in the trust fund shall be disbursed for the following purposes:

(1) The trust fund shall be available to the administrator for the purposes of paying the costs of corrective action and compensating third parties who are legally entitled to receive compensation for bodily injury and property damage arising out of the release of petro-

leum from covered storage tanks in the following amounts per occurrence and the following annual aggregate amounts:

(a) For owners or operators of heating tanks, farm tanks or residential tanks, no more than one hundred thousand dollars ($100,000) per occurrence and no more than one hundred thousand dollars ($100,000) annual aggregate;

(b) For nonmarketers of petroleum products who are owners or operators of above ground and underground storage tanks and who consume ten thousand (10,000) gallons or less of petroleum products each month, no more than five hundred thousand dollars ($500,000) per occurrence and no more than one million dollars ($1,000,000) annual aggregate;

(c) For owners or operators of one (1) to one hundred (100) covered underground petroleum storage tanks, no more than one million dollars ($1,000,000) per occurrence and no more than one million dollars ($1,000,000) annual aggregate;

(d) For owners or operators of one hundred and one (101) or more covered underground petroleum storage tanks, no more than one million dollars ($1,000,000) per occurrence and no more than two million dollars ($2,000,000) annual aggregate; and

(e) For owners or operators of covered above ground petroleum storage tanks, no more than one million dollars ($1,000,000) per occurrence and no more than one million dollars ($1,000,000) annual aggregate.

(2) Legal defense costs shall be disregarded for purposes of determining whether the limits specified in subsection (1) of this section have been reached.

(3) Benefits provided by the trust fund shall be primary and shall not be construed to be excess over and above any other valid and collectible insurance.

41-4906. OWNER OR OPERATOR FINANCIAL RESPONSIBILITY. (1) The owner or operator shall reimburse the trust fund for all dollars expended, excluding legal defense costs, up to but not exceeding the following amounts:

(a) With respect to a heating tank - one hundred dollars ($100) per annum;

(b) With respect to a farm tank or residential tank - two thousand dollars ($2,000) per annum;

(c) With respect to an above ground storage tank or underground storage tank, as defined in section 41-4903, Idaho Code - ten thousand dollars ($10,000) per annum.

(2) Payments by the trust fund shall not be made contingent on prior payment of the reimbursement herein required.

41-4907. EXCLUSIVENESS OF REMEDY. If compensation is made from the trust fund to a third party for property damage or personal injury, then that third party shall not recover again for the damage actually compensated by the trust fund pursuant to the collateral source doctrine or any other rule of law permitting duplicate recovery.

41-4908. SOURCE OF TRUST FUND -- TANK ENROLLMENT FEES -- APPLICA-

TION FOR ENROLLMENT -- TRANSFER FEES. (1) Every owner or operator of an underground storage tank may, if he desires to insure the underground tank, make application for and pay into the trust fund an initial enrollment fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank enrolled.

(2) Every owner or operator of an above ground storage tank may, if he desires to insure the above ground tank, make application for and pay into the trust fund an initial enrollment fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank enrolled.

(3) Every owner or operator of a farm tank or residential tank may, if he desires to insure the tank, make application for and pay into the trust fund an initial enrollment fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank enrolled.

(4) Every owner or operator of a heating tank may, if he desires to insure the tank, make application for and pay into the trust fund an initial enrollment fee set by the administrator, but not to exceed five dollars ($5.00) for each tank enrolled.

(5) The application for enrollment shall be made to the administrator on forms furnished and prescribed by him for the purpose of eliciting reasonably available information as to the type and use of the storage tank, the type of business enterprise of the tank owner/operator, the age of the storage tank, the materials used in the construction of the tank and the inside and outside protective coatings and other corrosion protective measures, leak detection methods, spill and overfill prevention methods of the tank, the location of the tank and its proximity to roads and buildings, the foundation and type of material used as a bedding and fill for the tank, any available inspection records of the tank including the gallons of petroleum products entered into the tank and the gallon dispersements from the tank, and other information that is reasonably prudent in order to obtain a sufficient body of statistical data to determine the relative hazards of various categories of tanks, the potential that future leaks or discharges may occur, and the conditions under which cleanup costs and personal injury and property damage costs may occur and vary in the severity of the leak or spill and the resultant costs to the trust fund.

(6) The administrator shall act upon the application for enrollment with all reasonable promptness, and he shall make such investigations of the applicant as he deems advisable to determine if the information contained in the application for enrollment is accurate and complete. In the event the applicant desires that the storage tanks owned or operated or otherwise under his control be covered by the trust fund, the administrator shall determine if the applicant's storage tanks meet all the eligibility requirements and promptly notify the applicant of his acceptance or nonacceptance for coverage by the trust fund. The absence of unknown data requested on the application shall not preclude an applicant's acceptance for coverage by the trust fund, if the applicant is otherwise in compliance with applicable state and federal law.

(7) In addition to the enrollment fees received by the trust fund pursuant to this section, the trust fund shall receive the revenue

produced by the imposition of a "transfer fee" of one cent ($.01) per gallon on the delivery or storage of all petroleum products as defined in subsection (22) of section 41-4903, Idaho Code, delivered or stored within the state of Idaho. This transfer fee is hereby imposed upon the first licensed distributor who transfers title to a petroleum product to another legal entity within this state for the privilege of engaging in the delivery or storage of petroleum products whose delivery or storage may present the danger of a discharge into the environment and thus create the liability to be funded.

(8) The transfer fee shall be collected by the commission on all petroleum products delivered or stored within this state after April 1, 1990. This transfer fee shall be in addition to any excise tax imposed on gasoline and/or aircraft engine fuel or other petroleum products and shall be remitted to the commission with the distributor's monthly report as required in section 63-2406, Idaho Code. The distributor may deduct from his monthly report those gallons of petroleum products returned to a licensed distributor's refinery or pipeline terminal storage or exported to another state when supported by proper documents approved by the commission. For the purpose of carrying out its duties under the provisions of this chapter, the commission shall have the powers and duties provided in sections 63-3038, 63-3039, 63-3042 through 63-3066, 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code, which sections are incorporated by reference herein as though set out verbatim.

(9) No person shall be excused from liability for any duty or fee imposed in this chapter for failure to obtain a distributor's license.

(10) The director shall certify to the commission when the unencumbered balance in the trust fund equals twenty million dollars ($20,000,000). Effective the first day of the second month following the date of such certification, the imposition of the transfer fee shall be suspended. Thereafter, the director shall certify to the commission when the unencumbered balance in the trust fund equals ten million dollars ($10,000,000). Effective the first day of the second month following the date of such certification, the imposition of the transfer fee shall be reinitiated.

41-4909. DISTRIBUTION OF ENROLLMENT FEES AND TRANSFER FEES. (1) The enrollment fees and the transfer fees collected as provided in this chapter shall be promptly remitted to the state treasurer for deposit in the Idaho petroleum clean water trust fund.

(2) An amount of money equal to the actual cost of collecting, administering and enforcing the transfer fee 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 collection, administering and enforcing the transfer fee requirements by the commission at the end of each fiscal year shall be remitted to the state treasurer for deposit into the Idaho petroleum clean water trust fund.

(3) From the receipts of the transfer fee, an amount of money shall be distributed to the state refund account established under section 63-3067, Idaho Code, sufficient to reimburse that account for all refund claims paid from that account. Any refunds due and owing

from the commission shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

41-4910. CONTRACT OF INSURANCE PROVIDED BY THE ADMINISTRATOR OF THE IDAHO PETROLEUM CLEAN WATER TRUST FUND. (1) Upon receipt of the initial enrollment fee from an owner/operator of a storage tank that meets the eligibility requirements of this chapter, the administrator of the trust fund shall cause to be issued to said owner/operator a contract of insurance that meets the financial responsibility requirements as outlined in the environmental protection agency regulation, 40 CFR part 280, or any subsequent amendment to this regulation including, but not limited to, providing coverage for corrective action and for bodily injury or property damage arising solely out of the release of petroleum products from a tank, for which the owner or operator thereof may be held legally liable in any court of competent jurisdiction in this state.

(2) Upon receipt of an annual enrollment fee not exceeding twenty-five dollars ($25.00) for each above ground tank, underground tank, farm tank or residential tank enrolled, or not to exceed five dollars ($5.00) for each heating tank enrolled, and upon receipt of evidence that the storage tanks continue to meet the eligibility provisions of this chapter, the administrator shall issue an annual renewal of coverage certificate to the owner/operator of said storage tanks.

41-4911. STORAGE TANKS ELIGIBLE FOR PARTICIPATION. (1) Eligible storage tanks are those tanks that meet all of the following criteria:

(a) Appropriate fees required in section 41-4908, Idaho Code, or section 41-4910, Idaho Code, have been paid;

(b) The tank, if an underground storage tank, is in compliance with applicable federal and state underground storage tank regulations;

(c) The tank is used only for storage of petroleum products;

(d) The tank, if an underground storage tank, passes a tank tightness test;

(e) The tank, if an above ground storage tank, is in compliance with state and federal regulations including the uniform fire code. If an above ground tank is exempt from state or federal regulations and/or the uniform fire code by virtue of its being installed prior to the effective date of such regulations or the uniform fire code, such tank is not eligible unless it passes a tank tightness test;

(f) The tank, if a farm tank or residential tank, is in compliance with any applicable state or federal regulations;

(g) Any contamination has been cleaned up, or a plan for cleanup or removal approved by the Idaho department of health and welfare, division of environmental quality, is being implemented; provided, however, that the trust fund shall not pay for any costs associated with prior contamination.

(2) Any tank which is a part of a refiner's terminal or a tank directly supplied by a pipeline shall not be eligible.

41-4912. STATE TREASURER CUSTODIAN OF TRUST FUND -- DUTIES. The

state treasurer shall be the custodian of the trust fund balance.

41-4913. DEPOSIT AND INVESTMENT OF FUNDS -- INTEREST. The state treasurer shall deposit or, on order of the administrator of the trust fund, invest any portion of the Idaho petroleum clean water trust fund not needed for immediate or currently anticipated use, in the manner provided by law. Interest earned by such invested portion of the trust fund shall be collected by the state treasurer and placed to the credit of the trust fund.

41-4914. PERPETUAL APPROPRIATION. All moneys which may come into the Idaho petroleum clean water trust fund are hereby perpetually appropriated to the manager of the state insurance fund as trustee to be expended by him for the purposes of this chapter.

41-4915. ENROLLED SUBSCRIBERS' LIABILITY ON JUDGMENT. (1) No action shall lie against any owner/operator of a tank insured by the Idaho petroleum clean water trust fund upon any obligation claimed against this trust fund until a final judgment has been obtained against this trust fund and remains unsatisfied for thirty (30) days.

(2) Any such judgment shall be binding upon each owner/operator only in such proportion as his interests may appear and in an amount not exceeding his contingent liability, if any, in excess of the amount of insurance provided by the trust fund.

41-4916. ACTIONS FOR COLLECTION IN CASE OF DEFAULT -- PENALTY -- CANCELLATION OF INSURANCE CONTRACT. (1) If an insured owner/operator of a storage tank shall default in any reimbursement required to be made by the insured to the trust fund under section 41-4906, Idaho Code, the amount due from the insured may be collected by civil action against him in the name of the administrator, and the same, when collected by the administrator shall be paid into the trust fund, and such insured's compliance with the provisions of this chapter requiring payment to be made to the trust fund shall date from the time the money is collected by the administrator.

(2) The contract of insurance held by an insured owner/operator of a storage tank which fails to comply with section 49-4911, Idaho Code, or who is in default in his enrollment fees for more than thirty (30) days may be cancelled at the discretion of the administrator.

41-4917. WITHDRAWAL FROM TRUST FUND. Any insured owner/operator of a storage tank may withdraw from the trust fund by returning his insurance contract to the administrator for cancellation. There shall be no refund of any enrollment fees paid to the trust fund as all such fees shall be deemed fully earned when an insurance contract is issued or renewed.

41-4918. REINSURANCE. (1) The administrator of the trust fund may reinsure any risk, or any part thereof, and may enter into agreements of reinsurance in the same way and to the same extent as other insurance carriers, the cost of which shall be paid out of the trust fund balance.

(2) Such reinsurance contracts may be on a specific excess basis

for each liability loss sustained, or on a quota share basis of each liability loss sustained, or on a treaty basis wherein a line of credit is available to pay losses in excess of a given amount with the money obtained from such a loan arrangement to be paid back only from expendable surplus funds, or on a facultative basis with one or more reinsurers whereby successive portions of the loss are paid on a given share basis, and/or on a net annual aggregate stop loss basis whereby the reinsurer must contribute to all losses when such losses exceed a given amount in any policy year, or any other reinsurance agreement found to be necessary, prudent and reasonable by competent actuaries.

41-4919. PAYMENTS FROM THE TRUST FUND BY STATE TREASURER. The manager of the state insurance fund as trustee of the trust fund shall, in the management contract with the state insurance fund, require the state insurance fund to submit each month to the state board of examiners an estimate of the amount necessary to meet the current disbursements for liability insurance losses to be paid in behalf of insured owners/operators of the trust fund during each succeeding calendar month, and when such estimate shall be approved by the state board of examiners, the state treasurer is authorized to pay the same out of the fund upon sight drafts drawn by the administrator. At the end of each calendar month the administrator shall account to the state board of examiners and the trustee for all money so received, furnishing proper vouchers therefor.

41-4920. RESERVE FUNDS. The Idaho petroleum clean water trust fund shall establish and maintain the following reserves or financial resources, which shall constitute liabilities in any determination of the financial condition of the trust fund:

(1) An amount sufficient for the payment of all claims made against the trust fund, which shall include reasonable estimates for claim adjustment expense, legal fees and other claim settlement costs, and including claims reported and not yet paid and claims incurred but not reported to the trust fund but only to the extent that a reasonable estimate can be made based on prior statistical evidence and the condition of storage tanks insured by the trust fund.

(2) An amount adequate under reasonable estimates for the payment of any unpaid contractual obligations, taxes and any other services and expenses incurred but not paid.

41-4921. RULES AND REGULATIONS -- PLAN OF OPERATION. The administrator shall adopt rules and regulations that are reasonable and consistent with the intent of this chapter to implement the provisions of this chapter and establish a plan of operation to be approved by the director of the department of insurance for the state of Idaho.

41-4922. REGISTRATION OF THE TRUST FUND. The trust fund established pursuant to the provisions of this chapter shall be registered with the director as set out in this chapter.

41-4923. QUALIFICATIONS FOR REGISTRATION. The director shall not register the trust fund if it is not qualified therefor. To be qualified, the trust fund:

(1) Shall require all enrollment contributions to be paid in advance and to be deposited in and disbursed from the trust fund duly created under this chapter.

(2) Shall have, or provide for, a trustworthy and responsible administrator for competent administration of the trust fund and plan.

(3) Shall provide that the administrator or trustee on behalf of the trust fund, as the case may be, furnish to each enrolled member of the trust fund a written statement adequately and clearly stating all rights and obligations of the members of the trust fund, together with all applicable restrictions, limitations and exclusions, and the procedure for filing a claim.

(4) Shall be actuarially sound; that is, assets, income and other financial resources of the trust fund must be adequate under reasonable estimates for payment of all claims, claims adjustment expenses, taxes, expenses and other obligations.

(5) Shall otherwise be in compliance with the provisions of this chapter.

41-4924. APPLICATION FOR REGISTRATION -- FEE. (1) Application for registration of the trust fund shall be made to the director, on forms furnished and designed by him for the purpose of eliciting information as to whether the trust fund is qualified for registration. The application shall be signed and verified by the trustee.

(2) The application shall be accompanied by:

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

(b) A copy of the proposed written statement referred to in subsection (3) of section 41-4923, Idaho Code;

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

(d) A current certified audited financial statement;

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

(3) A nonrefundable filing fee of twenty-five dollars ($25.00) shall be paid to the director at the time the application is filed.

41-4925. GRANT OR DENIAL OF REGISTRATION. (1) The director shall act upon an application for registration of the trust fund with all reasonable promptness. He may make such investigation of the proposal as he deems advisable. If the director finds that the application is complete and that the plan meets the qualifications stated in section 41-4923, Idaho Code, he shall issue and deliver a certificate of registration in appropriate form to the applicant; otherwise, the director shall refuse to register the plan and shall give written notice of such refusal to the applicant, stating the reasons therefor.

(2) All procedures and policies concerning the grant or denial of registration of the trust fund are subject to the provisions of chapter 52, title 67, Idaho Code, as well as the rules of practice and procedure of the department of insurance.

41-4926. FILING OF DOCUMENT OF ORGANIZATION. (1) The manager of the state insurance fund as trustee of the trust fund shall file four (4) originals of an executed document of organization accompanied by the appropriate fees with the director for his review so as to determine if the document of organization and the intended methods of operation will comply with the provisions of this chapter and the provisions of title 41, Idaho Code.

(2) If the director finds the document of organization to be in compliance with this chapter and other applicable provisions of title 41, Idaho Code, he shall deliver an original thereof to the attorney general of this state for examination, who will then subsequently determine if the document of organization and intended methods of operation of the trust fund are in accordance with the laws of this state and not inconsistent with the constitution of this state.

(3) If the attorney general finds the document of organization of the trust fund to be in accordance with law, he shall return the document of organization to the director, accompanied by his opinion so certifying his approval.

(4) If upon reviewing or examining the document of organization, the director or the attorney general finds that the document of organization and/or the intended methods of operation do not comply with the provisions of this chapter or other applicable provisions of title 41, Idaho Code, or are not in accordance with other applicable laws of this state, or are inconsistent with the constitution of this state, the director shall refuse to approve the document of organization and shall return it and all duplicate originals of the same to the manager of the state insurance fund, as trustee, accompanied by a written statement providing the reasons upon which his refusal is based. The director shall at the same time return any unearned filing fees.

(5) If the attorney general or the director of insurance finds the document of organization and the intended methods of operation to be in accordance with law and not inconsistent with the constitution of this state, then the director shall certify his approval upon each of the four (4) originals, and file one (1) of the originals in his office, file one (1) of the originals with the secretary of state, and deliver two (2) of the originals to the manager of the state insurance fund, as trustee, who shall then file one (1) original for record in the office of the Ada county recorder, and the other remaining original shall be retained by the trustee as a permanent part of the records of the Idaho petroleum clean water trust fund.

(6) The secretary of state shall not permit the document of organization to be filed with him or in his office unless the same shall bear the approval of the director.

41-4927. PERMIT REQUIRED TO SUBMIT QUALIFYING APPLICATIONS FOR INSURANCE. If required by the provisions of chapter 14, title 30, Idaho Code, and section 41-2806, Idaho Code, the manager of the state insurance fund as trustee of the trust fund shall obtain a solicitation permit issued by the director of the department of finance with the written concurrence of the director of the department of insurance prior to receiving any funds, assets, enrollment fees, or transfer fees to finance the operations of the trust fund. The director of the department of finance and the director of the department of insurance

shall assist the trustee by providing the necessary modified application forms and requests for such information as they deem pertinent, and also by providing counsel and directions to the trustee so that the solicitation permit is granted expeditiously and consideration is given to the unique characteristics of the trust fund.

41-4928. BOND FOR PERMIT. The bonding requirements for issuance of a solicitation permit provided in section 41-2814, Idaho Code, shall not apply to the organization of the trust fund.

41-4929. ESCROW OF FUNDS. The manager of the state insurance fund as trustee shall comply with the provisions of section 41-2815, Idaho Code, by depositing advance enrollment fees in an escrow account with the state treasurer under an agreement approved by the director of the department of insurance and the director of the department of finance, which will provide in substance that no part of such funds will be withdrawn from said escrow account except for the following purposes:

(1) The payment of promotion, sales, and organizational expenses as earned and as authorized by the solicitation permit;

(2) The making of any deposit of moneys required for the issuance of a certificate of authority;

(3) The payment of any fees required by the director of insurance in obtaining the solicitation permit and/or the certificate of authority;

(4) The making of refunds in the event the trust fund fails to secure a certificate of authority, in which case the procedures established under section 41-2817, Idaho Code, shall apply and the trust fund shall be dissolved;

(5) The release of the escrow funds to the fully operational accounting procedures established between the trust fund and the state treasurer when the director of insurance has issued a certificate of authority to the trust fund.

41-4930. BYLAWS OF THE FUND. The manager of the state insurance fund, as trustee of the trust fund, shall adopt original bylaws subject to the approval of the director, who shall grant his approval only after his determination that the provisions in the bylaws are not inconsistent nor contrary to the applicable provisions of title 41, Idaho Code, as amended in this chapter. These bylaws shall outline the organizational structure of the trust fund, its operational methods of complying with the provisions of this chapter, including the deposit, custody, disbursement and accounting for the moneys in the trust fund, fidelity bonds, if any, required of the administrator and the manager of the state insurance fund as trustee of the trust fund who is also under contract to administer the operations of the trust fund, the essential elements of the managerial contract with the state insurance fund, the powers and duties of the administrator of the trust fund, the rights, privileges and responsibilities of insured owners/operators of storage tanks, the manner in which annual and special meetings of the trustee shall be conducted, and such other matters as may be customary, necessary or convenient for the management and operation of the trust fund.

41-4931. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The manager of the state insurance fund, as trustee of the Idaho petroleum clean water trust fund, shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs of the trust fund.

(2) Within sixty (60) days after the close of each calendar year, the manager of the state insurance fund, as trustee, shall make an annual statement in writing summarizing the financial transactions of the trust fund for such prior calendar year and its financial condition at the end of such year in accordance with this chapter and generally accepted and applicable accounting principles. The statement shall otherwise be in the form prescribed and shall provide the information required by the director of the department of insurance of the state of Idaho, and the financial information contained therein shall be certified by the accountant by whom such information was prepared and audited.

(3) On or before the expiration of such sixty (60) day period the manager of the state insurance fund, as trustee, shall cause an original of the annual statement to be filed with the director, and shall pay any filing fee required by the director or any other state agency having jurisdiction. At an appropriate time, consistent with the usual practices of the director, the director shall declare the annual statement to be open to the scrutiny of all interested parties and the public in general.

41-4932. EXCLUSIVE MANAGEMENT CONTRACT WITH THE MANAGER OF THE STATE INSURANCE FUND -- MANDATORY PROVISIONS. (1) The management contract entered into between the manager of the state insurance fund as trustee of the trust fund and the state insurance fund, as required in this chapter, shall not become effective unless the contract is filed with and approved by the director. The contract shall be deemed approved unless disapproved by the director within twenty (20) days after date of filing, subject to such reasonable extension of time as the director may require by notice given within the twenty (20) day period. Any disapproval shall be delivered to the trustee in writing, stating the grounds therefor.

(2) Any such contract, or contract holder, shall provide that the manager of the state insurance fund, as trustee shall, within ninety (90) days after expiration of each calendar year, furnish the director a written statement of amounts received under or on account of the contract and amounts expended thereunder during such calendar year, including the emoluments received therefrom by the principal management personnel of the state insurance fund involved with the affairs of the trust fund, and with such classification of items and further detail as the director may reasonably require.

(3) The director shall disapprove any such contract if he finds that it:

(a) Subjects the trust fund to unreasonable or excessive charges; or

(b) Does not contain fair and adequate standards of performance; or

(c) Contains other inequitable provisions which impair the proper interests of the owners/operators insured by the trust fund.

(4) The director may, after a hearing held thereon, withdraw his approval of any such contract theretofore approved by him, if he finds that the basis of his original approval no longer exists, or that the contract has, in actual operation, shown itself to be subject to disapproval on any of the grounds referred to in subsection (3) of this section.

41-4933. EXISTING INSURANCE LAWS TO APPLY TO THE TRUST FUND WITH CERTAIN EXCEPTIONS. The trust fund shall comply with all of the applicable provisions of title 41, Idaho Code, with certain exceptions as follows:

(1) The creation of the trust fund by act of the legislature shall not be deemed to be an ownership, control or operation of an insurer by a governmental entity, as referred to in section 41-309, Idaho Code, and the surplus funds of the trust fund shall be considered to be dedicated and held in reserve for the purpose of providing funds for the payment of claims arising out of the discharge of petroleum products from tanks insured by the trust fund as provided for in section 41-4905, Idaho Code. The absolute control of the trust fund shall be vested in the manager of the state insurance fund as trustee.

(2) The provisions of this chapter shall be construed to be contained in the document of organization and bylaws of the trust fund for purposes of sections 41-319, 41-320 and 41-322, Idaho Code, and the director shall issue a certificate of authority to and in the name of the trust fund upon his finding that it has met all other appropriate provisions of the Idaho Code, including sections 41-313 and 41-316, Idaho Code.

(3) Section 41-337, Idaho Code, shall not apply to contracts of insurance issued by the trust fund.

(4) Section 41-1030, Idaho Code, shall not apply to employees of the state insurance fund or the trust fund.

(5) Section 41-1103, Idaho Code, shall not apply to employees of the state insurance fund or the trust fund, provided the employees restrict their claims adjusting and investigation operations only to those contracts issued by the trust fund.

(6) Except as otherwise provided in this chapter, chapter 28, title 41, Idaho Code, and chapter 14, title 30, Idaho Code, shall not apply to the trust fund nor shall this trust fund be construed to be a domestic mutual insurer, nor a reciprocal insurer, nor any other type of insurer currently regulated by title 41, Idaho Code, and the only organizational requirements of this trust fund shall be those enumerated in this chapter.

41-4934. TAXES. (1) The trust fund shall not be subject to chapter 4, title 41, Idaho Code, as it pertains to premium tax.

(2) The state of Idaho hereby preempts the field of imposing excise, privilege, franchise, income, license and similar taxes, licenses and fees upon the trust fund; and no county, city, municipality, district, school district, or other political subdivision or agency of Idaho shall levy upon this trust fund any such tax, license or fee.

41-4935. EXAMINATION OF BOOKS, RECORDS AND ACCOUNTS. (1) The

books, records, accounts and affairs of the trust fund shall be subject to examination by the director by competent examiners duly authorized by him in writing, at such times or intervals as the director deems advisable. The purposes of the examination shall be to determine compliance of the trust fund with applicable laws, the financial condition and actuarial adequacy of the trust fund, and other factors materially related to the trust fund's management and operation.

(2) The manager, as trustee, shall make the books, records and accounts of the trust fund available to the examiner and otherwise facilitate the examination.

(3) The examiner shall conduct the examination expeditiously, make his report of the examination in writing, and deliver a copy thereof to the trustee and the director. The manager, as trustee, shall have two (2) weeks after receipt of the report within which to recommend to the director such corrections or changes therein as the manager, as trustee, may deem appropriate. After making such corrections or changes, if any, as he deems proper, the director shall file the report in his office as a document open to public inspection, and deliver to the manager, as trustee, a copy of the report as so corrected or changed.

(4) The costs of the examination shall be borne by the trust fund. The manager, as trustee, shall pay to the examiner and other persons assisting in making the examination, the actual travel expenses, reasonable living expense allowance, and compensation, at reasonable rates customary for such examination and as approved by the director, necessarily incurred on account of the examination, upon presentation of a detailed account of all such charges and expenses. A consolidated account of all such charges and expenses for the examination shall be certified to in duplicate by the manager, as trustee, one (1) copy of which shall be retained by the trust fund and the other copy filed in the department as a public record.

41-4936. TRUSTEE - ADMINISTRATOR - FIDELITY BONDS. The manager of the state insurance fund as trustee shall cause all individuals handling receipts and disbursements for the trust fund to be bonded at all times under a fidelity bond issued by a surety insurer authorized to transact such insurance in this state. The bond shall be in favor of the trust fund and for such aggregate penalty amount, not less than twenty-five thousand dollars ($25,000), as the director may deem reasonably advisable in relation to the amount of funds to be so handled. The bond shall be noncancellable except upon not less than thirty (30) days advance notice in writing to the manager, as trustee, and the director. The cost of the bond shall be borne by the trust fund.

41-4937. PROHIBITED PECUNIARY INTERESTS IN PLAN MANAGEMENT. (1) Neither the manager, as trustee, nor the administrator, nor any other person having responsibility for the management of the trust fund or the investment or other handling of the trust fund moneys or assets shall:

(a) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation or emolument, other than salary or other similar compensation regularly fixed and allowed for services regularly rendered to the trust fund, arising out of any

transaction to which the trust fund is or is to be a party;

(b) Receive compensation as a consultant to the trust fund while also acting as a trustee or administrator, or as an employee of either;

(c) Have any direct or indirect material pecuniary interest in any loan or investment of the trust fund.

(2) The director may, after reasonable notice and a hearing, prohibit the manager as the trustee from employing or retaining or continuing to employ or retain any person in the administration of the trust fund upon finding that such employment or retention involves a conflict of interest not in the best interests of the trust fund or adversely affecting the interests of the owners/operators insured by the trust fund.

41-4938. POLITICAL CONTRIBUTIONS PROHIBITED. The manager, as trustee, shall not make or knowingly permit the making, directly or indirectly, of any political contribution by or from the trust fund.

41-4939. RECOVERY OF DEPLETED FUNDS. If after notice and hearing, the director finds that the trust fund has been depleted by reason of any wrongful or negligent act or omission of the trustee or any other person, he shall transmit a copy of his findings to the attorney general of this state, who may bring an action in the name of the people of this state, or intervene in any action brought by or on behalf of an enrolled member for the recovery of the amount of such depletion, for the benefit of the trust fund.

41-4940. IMPAIRED TRUST FUND. (1) If the assets of the trust fund are at any time insufficient to discharge its liabilities, and to maintain the required surplus, the administrator shall forthwith request authority from the director to make up the deficiency by borrowed surplus or other subordinated indebtedness.

(2) If the director finds that future estimated revenues from the transfer fees imposed under section 41-4908, Idaho Code, are not sufficient to justify any borrowed surplus funds or other subordinated indebtedness, then the director shall request the administrator to submit a plan of action whereby priority is given to the payment of cleanup costs of petroleum discharges that constitute a clear and present danger to persons or property, including discharges into underground or surface water that may seriously contaminate the water used for domestic and commercial use, agricultural products, livestock, fish, game and other wildlife. Consideration shall be given in this plan of action to establishing a claim payment priority based on the severity of the contamination, the possible endangerment of life and health including, but not limited to, possible toxic fumes, fire and explosion hazards, economic impact, population density, and the need for immediate cleanup action versus action that can be delayed with only minimal adverse effects. This plan of action shall also establish similar criteria for the prioritization of the payment of bodily injury and property damage claims.

(3) Upon receiving this plan of action, the director shall promptly hold a public hearing with appropriate notice to determine any possible adverse effects of the plan of action on the

owners/operators of insured tanks, the claimants and potential claimants, and the environment. After giving due consideration to the testimony of those parties affected by the proposed plan of action, the director shall either approve or disapprove the plan in writing, stating the reasons therefor, so that a plan of action that does meet with the director's approval can be placed into effect with due diligence and dispatch.

(4) Upon receiving the director's approval of the plan of action, the administrator shall promptly commence the prioritization of claims and pay such valid and compensable claims according to this priority as funds become available from collection of the transfer fees.

41-4941. LIQUIDATION OF TRUST FUND. (1) The annual tank enrollment fees and transfer fees are perpetually appropriated as dedicated funds for the purposes of this chapter, and the trust fund shall remain in existence as long as the need exists for the trust fund to insure the costs of corrective actions and the need exists for the trust fund to insure the legal liability of petroleum tank owners and operators as provided in this chapter.

(2) In the event other more appropriate means come into existence to provide the insurance provided by the trust fund, then the trust fund shall be liquidated according to the provisions of this section.

(3) Liquidation shall be conducted by the trustee under a written plan of liquidation filed with and approved by the director. If the director finds the plan to be fair and equitable to all persons having a pecuniary interest in the trust fund, he shall approve it. Any balance remaining after payment or adequate provision for payment of all claims and charges against the trust fund has been made shall be disposed of in the manner provided for in the plan of liquidation. Unless under the plan of liquidation the liability for all unpaid claims and obligations of the trust fund has been assumed by another financially responsible person or persons, the existence of surplus funds for such disposition shall not be determined prior to the expiration of two (2) years after termination of the certificate of authority issued to the trust fund as provided in section 41-4933(2), Idaho Code.

(4) After its approval by the director, the plan of liquidation for the trust fund shall be binding upon all persons pecuniarily interested in the trust fund. Pending the effectuation of the plan of liquidation the director may impose such prohibitions or restrictions upon disbursement or use of trust fund moneys as he deems advisable for the protection of all interested persons.

(5) If the trust fund is then insolvent and a plan of liquidation thereof satisfactory to the director as being fair and equitable is not filed with him within sixty (60) days after the effective date of termination of the plan's registration, or if liquidation of a solvent trust fund is not being carried out in accordance with the plan of liquidation theretofore approved by him, the director shall liquidate the trust fund under the applicable provisions of chapter 33, title 41, Idaho Code, and for this purpose the trust fund shall be deemed to be an insolvent domestic insurer.

(6) If after all indebtedness and other obligations of the trust fund are discharged to the satisfaction of the director and the trust fund is dissolved, its remaining assets, if any, shall inure to the

benefit of the state.

41-4942. VOUCHERS FOR EXPENDITURES. (1) The administrator of the trust fund, under the direction of the manager, shall not make any disbursement of twenty-five dollars ($25.00) or more, unless evidenced by a voucher or other document correctly describing the consideration for the payment and supported by a check or receipt endorsed or signed by or on behalf of the person receiving the money.

(2) If the disbursement is for services and reimbursement, the voucher or other document, or some other writing referred to therein, shall describe the services and itemize the expenditures.

(3) If the disbursement is in connection with any matter pending before any legislature or public body or before any public official, the voucher or other document shall also correctly describe the nature of the matter and of the trust fund's interest therein.

41-4943. BORROWED SURPLUS AND SUBORDINATED INDEBTEDNESS. (1) The trust fund may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the trust fund's surplus in excess of the amount stipulated in such agreement. The agreement may provide for interest, which interest shall or shall not constitute a liability of the insurer as to its funds other than such excess or surplus, as stipulated in the agreement. No commission or promotion expense shall be paid in connection with any such loan.

(2) Money so borrowed, together with the interest thereon, if so stipulated in the agreement, shall not form a part of the fund's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any setoff, but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(3) Any such loan shall be subject to the approval of the director. The trust fund shall, in advance of the loan, file with the director a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement shall be deemed approved unless within fifteen (15) days after the date of such filing, the trust fund is notified of the director's disapproval and the reasons therefor. The director shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the trust fund, or that the information so filed by the trust fund is inadequate.

(4) Any such loan to the trust fund or substantial portion thereof shall be repaid by the trust fund when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made by the fund unless approved in advance by the director.

(5) In the event of liquidation, repayment of the balance of the borrowed funds and any accrued interest then due and owing shall be paid only out of assets remaining after the payment of all obligations

and claims of owners/operators of petroleum tanks insured by the trust fund and general creditors.

(6) The provisions of this section shall not apply to loans obtained by the trust fund in ordinary course of business from banks and other financial institutions, nor to loans secured by pledge or mortgage of assets.

41-4944. PENALTIES. (1) Any person who willfully violates or causes or induces a violation of any provision of this chapter or any lawful rule or regulation of the director issued thereunder, shall be subject to penalty as provided in subsection (4) of this section.

(2) Any person who makes a false statement or representation of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact in any application, examination, or statement required under this act or by lawful rule or regulation of the director thereunder, shall be subject to penalty as provided in subsection (4) of this section.

(3) Any person who makes a false entry in any book, record, statement, or report required in this chapter or lawful rule or regulation of the director thereunder to be kept by him, with intent to injure or defraud the trust fund or any member thereof, or to deceive any one authorized or entitled to examine the affairs of the trust fund, shall be subject to penalty as provided in subsection (4) of this section.

(4) For each such violation, act or omission referred to in this section, unless greater penalty is provided therefor under any other applicable law, the offender shall upon conviction thereof be subject to a fine of not more than one thousand dollars ($1,000) and to imprisonment for not more than one (1) year, or to both such fine and imprisonment.

41-4945. RULES AND REGULATIONS -- DIRECTOR -- DEPARTMENT OF INSURANCE. (1) The director may make reasonable rules and regulations necessary as an aid to the effectuation of any provision of this chapter. No such rule or regulation shall extend, modify or conflict with any provision of this chapter and the reasonable implications thereof.

(2) Such rules and regulations, or any amendment thereof, shall be made by the director only after a public hearing thereon of which the director has given written notice not less than thirty (30) days in advance to the trustee of the trust fund then registered with him. If reasonably possible the director shall include with the notice a copy of the proposed rules and regulations or amendment, or a condensed summary of material proposed provisions.

(3) All procedures and policies concerning the promulgation of such rules and regulations, or any amendment thereof, are subject to the provisions of chapter 52, title 67, Idaho Code, and the rules of practice and procedure of the department of insurance.

41-4946. APPLICATION OF CHAPTER. All of the provisions of this chapter shall apply to and confer all rights, privileges, exemptions and immunities upon the trust fund established for the purposes contemplated in this chapter, and the manager as trustee, insured owners/operators of petroleum tanks, beneficiaries, and participants

thereof. The provisions of this chapter shall not apply to any railroad, railroad corporation, or any employee thereof.

41-4947. INSURANCE. The coverage provided by the trust fund established pursuant to this chapter shall be deemed insurance for the purposes of any requirements of the Idaho department of health and welfare concerning the financial responsibility of owners/operators of petroleum storage tanks.

41-4948. LEGISLATIVE REVIEW OF PROGRAM. By the twentieth day of the 1999 legislative session, the administrator shall prepare and submit to the legislature a report reviewing the operation of the petroleum clean water trust fund and advising the legislature of the necessity for its continued operation.

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 provisions to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

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

Approved March 23, 1990.

CHAPTER 120
(H.B. No. 744)

AN ACT

RELATING TO ACTIONS FOR NEGLIGENCE; AMENDING SECTION 6-803, IDAHO CODE, TO DEFINE "ACTING IN CONCERT."

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

SECTION 1. That Section 6-803, Idaho Code, be, and the same is hereby amended to read as follows:

6-803. CONTRIBUTION AMONG JOINT TORTFEASORS -- DECLARATION OF RIGHT -- EXCEPTION -- LIMITED JOINT AND SEVERAL LIABILITY. (1) The right of contribution exists among joint tortfeasors, but a joint tortfeasor is not entitled to a money judgment for contribution until he has by payment discharged the common liability or has paid more than his pro rata share thereof.

(2) A joint tortfeasor who enters into a settlement with the injured person is not entitled to recover contribution from another joint tortfeasor whose liability to the injured person is not extinguished by the settlement.

(3) The common law doctrine of joint and several liability is hereby limited to causes of action listed in subsections (5), (6) and

(7) of this section. In any action in which the trier of fact attributes the percentage of negligence or comparative responsibility to persons listed on a special verdict, the court shall enter a separate judgment against each party whose negligence or comparative responsibility exceeds the negligence or comparative responsibility attributed to the person recovering. The negligence or comparative responsibility of each such party is to be compared individually to the negligence or comparative responsibility of the person recovering. Judgment against each such party shall be entered in an amount equal to each party's proportionate share of the total damages awarded.

(4) As used herein, "joint tortfeasor" means one (1) of two (2) or more persons jointly or severally liable in tort for the same injury to person or property, whether or not judgment has been recovered against all or some of them.

(5) A party shall be jointly and severally liable for the fault of another person or entity or for payment of the proportionate share of another party where they were acting in concert or when a person was acting as an agent or servant of another party. As used in this section, "acting in concert" means pursuing a common plan or design which results in the commission of an intentional or reckless tortious act.

(6) Any cause of action arising out of a violation of any state or federal law or regulation relating to hazardous or toxic waste or substances or solid waste disposal sites.

(7) Any cause of action arising from the manufacture of any medical devices or pharmaceutical products.

Approved March 23, 1990.

CHAPTER 121
(H.B. No. 575)

AN ACT

RELATING TO CIVIL LIABILITY FOR NONECONOMIC DAMAGES; AMENDING SECTION 18, CHAPTER 278, LAWS OF 1987, TO STRIKE THE REPEAL OF SECTION 6-1603, IDAHO CODE.

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

SECTION 1. That Section 18, Chapter 278, Laws of 1987, be, and the same is hereby amended to read as follows:

SECTION 18. The provisions of this act shall take effect on July 1, 1987, provided however, that Section 1 through 11 shall apply only to causes of action which accrue on and after July 1, 1987. ~~Provided further, that Section 6-1603, Idaho Code, as enacted herein, is hereby repealed and does sunset for causes of action which accrue after June 30, 1992.~~

Approved March 23, 1990.

CHAPTER 122
(H.B. No. 738)

AN ACT

RELATING TO THE SALES AND USE TAX AND THE PRODUCTION EXEMPTION; AMENDING SECTION 63-3622D, IDAHO CODE, TO CLARIFY THE EXEMPTION OF SPECIFIED DISINFECTANTS USED IN THE DAIRY INDUSTRY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. 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 marketable condition are included within the exemption allowed by ~~paragraph~~ subsection (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~~ subsections (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~~ except disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats or other milking equipment; nor does it include 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 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, 1990.

Approved March 23, 1990.

CHAPTER 123
(H.B. No. 681)

AN ACT

RELATING TO COUNTIES; AMENDING SECTION 31-604, IDAHO CODE, TO PROVIDE THAT COUNTIES MAY PURCHASE AND HOLD LANDS OUTSIDE OF THEIR LIMITS; AMENDING SECTION 31-1005, IDAHO CODE, TO ELIMINATE THE REFERENCE TO DIFFERENT CLASSES OF CITIES, TO PROVIDE THAT A COUNTY AND A CITY OR ANOTHER COUNTY MAY ACQUIRE SITES WITHIN ANY SUCH CITY OR COUNTY AND JOINTLY CONSTRUCT PUBLIC BUILDINGS THEREON TO BE JOINTLY OWNED AND USED BY SUCH COUNTIES AND CITY, AND TO PROVIDE THAT ANY ONE OF SUCH MUNICIPALITIES MAY PURCHASE AN INTEREST IN A SITE ALREADY OWNED BY THE OTHER AND THEY MAY JOINTLY CONSTRUCT OR OPERATE PUBLIC BUILDINGS THEREON; AMENDING SECTION 31-1006, IDAHO CODE, TO PROVIDE THAT THE BOARDS OF COUNTY COMMISSIONERS OF SUCH COUNTIES AND THE GOVERNING BODY OF THE CITY MAY ENTER INTO ALL NECESSARY CONTRACTS WITH RESPECT TO SUCH JOINT SITES AND BUILDINGS; AND DECLARING AN EMERGENCY.

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 31-1005, Idaho Code, be, and the same is hereby amended to read as follows:

31-1005. JOINT CITY AND COUNTY SITES AND BUILDINGS. Any county

and a city ~~of-the-first-or-second-class,-or-a-city-acting--under--special--charter,--situated-within-such-county,-and-being-the-county-seat thereof~~, or another county are hereby authorized and empowered to acquire and own a site or sites within the limits of any such city or county and jointly to construct public buildings thereon, to be jointly owned and used by such ~~county~~ counties and city; or one (1) of such municipalities may purchase an interest in a site already owned by the other and they may then jointly construct or operate public buildings thereon.

SECTION 3. That Section 31-1006, Idaho Code, be, and the same is hereby amended to read as follows:

31-1006. JOINT SITES AND BUILDINGS -- CONTRACTS. The boards of county commissioners of such ~~county~~ counties and the city council or other governing body of such city, are hereby authorized and empowered to enter into all necessary contracts or agreements with respect thereto and also all necessary contracts and agreements as between such ~~county~~ counties and city for apportioning the expenses of acquiring such site and constructing such buildings for the maintenance, operation and use thereof, and may from time to time, modify or change such agreements as they may deem best.

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

Approved March 23, 1990.

CHAPTER 124
(H.B. No. 453)

AN ACT
RELATING TO TIMBER SALES; AMENDING SECTION 58-406, IDAHO CODE, TO RAISE THE APPRAISED VALUE LIMITATION FOR SMALL TIMBER SALES.

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

SECTION 1. That Section 58-406, Idaho Code, be, and the same is hereby amended to read as follows:

58-406. SALE ~~IN~~ OF PARCELS -- ADVERTISEMENT OF SALE. Whenever the state board of land commissioners directs a sale of timber, it shall direct such sale in such parcels as it deems for the best interests of the state. All sales of timber on state lands, where sold separate from the lands, shall be advertised in one or more newspapers, to be designated by the board, one (1) of which shall be in the county where such timber is located, if there be such paper, if not, then in some newspaper published in an adjoining county, and if such timber is located in more than one (1) county, then in some newspaper in each of

the said counties, if there be such paper, if not, then in some newspaper published in an adjoining county, once a week for four (4) consecutive weeks, except that in cases of catastrophic damage caused by insect, weather, or fire, the state board of land commissioners may direct an advertisement of less than four (4) consecutive weeks. The advertisement shall set forth the time and place of the sale, a description of the land by legal subdivisions on which such timber is situated, the length of time allowed for harvesting the timber, and the minimum price below which no bid shall be accepted. Provided, however, that small sales of timber, not exceeding one million (1,000,000) board feet in volume, according to the cruiser's estimate, and ~~twenty-five~~ fifty thousand dollars ($~~25~~50,000) in appraised value, may be made as provided herein, except that only one (1) publication of advertisement shall be necessary and the date of sale shall be set not less than four (4) days after date of publication, and provided further that very small sales of timber not exceeding one hundred thousand (100,000) board feet and five thousand dollars ($5,000) may be made without advertisement and upon approval of the director of the department of lands.

Approved March 23, 1990.

CHAPTER 125
(H.B. No. 440)

AN ACT
RELATING TO FOREST PRACTICES; AMENDING SECTION 38-1306, IDAHO CODE, TO CHANGE THE NOTIFICATION PERIOD FOR A FOREST PRACTICE.

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

SECTION 1. 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 land-

owner, 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 formal acceptance of the notice, but not more than fifteen (15) days from 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~~ the same period as set forth in the certificate of compliance under section 38-122, Idaho Code. At the expiration of the ~~two (2) year period~~ notification, 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~~ notification, 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.

Approved March 23, 1990.

CHAPTER 126
(H.B. No. 613)

AN ACT

RELATING TO DESTRUCTION OF LIVESTOCK; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7037, IDAHO CODE, TO PROVIDE THAT DESTRUCTION OR DESTRUCTION AND THEFT OF LIVESTOCK IS A FELONY OR A MISDEMEANOR DEPENDING UPON THE VALUE OF THE LIVESTOCK DESTROYED; REPEALING SECTION 25-1904, IDAHO CODE; AND AMENDING SECTION 25-1910, IDAHO CODE, TO PROVIDE FOR IMPOSITION OF CIVIL DAMAGES UPON CONVICTION FOR UNLAWFUL DESTRUCTION OF LIVESTOCK.

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

SECTION 1. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7037, Idaho Code, and to read as follows:

18-7037. DESTROYING LIVESTOCK. (1) Any person who shall, without the permission of the owner:

(a) Wilfully and intentionally destroy; or

(b) Destroy and remove the body or any body parts of any livestock with a value as set forth in subsection (1)(b) of section 18-2407, Idaho Code, shall be guilty of a felony.

(2) If the value of the livestock is less than that set forth in subsection (1)(b) of section 18-2407, Idaho Code, a violation of the provisions of this section shall be a misdemeanor.

SECTION 2. That Section 25-1904, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 25-1910, Idaho Code, be, and the same is hereby amended to read as follows:

25-1910. CIVIL DAMAGES UPON THEFT OR UNLAWFUL DESTRUCTION OF LIVESTOCK. In addition to the criminal penalties that may be imposed upon a person convicted of theft or unlawful destruction of livestock, the court shall assess civil damages against the defendant in any amount necessary to fully compensate the owner of the livestock for his loss, which amount shall be paid to the owner, and any amount necessary to fully compensate any trade association which has paid out rewards which led to the arrest and conviction of the defendant in the particular case, which amount shall be paid to the trade association.

Approved March 23, 1990.

CHAPTER 127
(H.B. No. 740)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 391, LAWS OF 1989; 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 391, Laws of 1989, there is hereby appropriated to the Department of Lands, the following amount to be expended for the specified program according to the designated expense classes from the listed account for the period July 1, 1989, through June 30, 1990:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENSES	TOTAL
FOREST RESOURCES MANAGEMENT:			
FROM:			
General Account	$ 60,000	$40,000	$100,000
Lands Federal Account	60,000	40,000	100,000
TOTAL	$120,000	$80,000	$200,000

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

Approved March 23, 1990.

CHAPTER 128
(H.B. No. 546)

AN ACT

RELATING TO MANDATORY ACTUARIAL STUDIES TO BE CONDUCTED BY CITIES MAINTAINING POLICEMAN'S RETIREMENT FUNDS; AMENDING SECTION 50-1525, IDAHO CODE, TO REQUIRE THAT THE ACTUARIAL STUDY OF THE POLICEMAN'S RETIREMENT FUND BE CONDUCTED EVERY FOUR YEARS.

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

SECTION 1. That Section 50-1525, Idaho Code, be, and the same is hereby amended to read as follows:

50-1525. MANDATORY ACTUARIAL STUDY. Any city establishing and maintaining a policeman's retirement fund pursuant to the provisions of this chapter shall, at its own expense, conduct an actuarial study ~~biennially hereafter~~ for the purpose of determining the actuarial soundness of such fund ~~beginning January 1, 1972, and on January 1 of~~

~~each two (2) years thereafter.~~ Commencing January 1, 1991, actuarial studies required hereunder shall be conducted within four (4) years of the last actuarial study and each four (4) years thereafter. Copies of such studies shall be submitted to the secretary of state for the state of Idaho and to the secretary of the local police retirement fund board.

Approved March 23, 1990.

CHAPTER 129
(H.B. No. 514, As Amended)

AN ACT

RELATING TO THE PRESERVATION OF IDAHO'S HISTORIC RESOURCES; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 76, TITLE 67, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE, TO RECOGNIZE THE IDAHO HERITAGE TRUST, TO PROVIDE FOR AN ANNUAL REPORT, TO PROVIDE FOR AN ANNUAL AUDIT; PROVIDING AN EFFECTIVE DATE AND PROVIDING A SUNSET CLAUSE.

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 76, Title 67, Idaho Code, and to read as follows:

CHAPTER 76
IDAHO HERITAGE TRUST

67-7601. PURPOSE. Idaho is a state with diverse historical resources. As we enter our second century of statehood, there is a growing awareness of the need to insure that future generations of Idahoans share an appreciation of our heritage. To attain that goal, it is the policy of the state of Idaho to actively encourage public and private involvement in historic preservation.

67-7602. RECOGNITION OF THE IDAHO HERITAGE TRUST. The state of Idaho recognizes the Idaho heritage trust as a private organization uniquely qualified to assist in carrying out the state's policy of encouraging historic preservation and natural resource conservation. Serving as a catalyst for activities at the state and local levels, and with both the public and private sectors, the trust has been developed as a lasting legacy of Idaho's state centennial celebration. Through its efforts, future generations will continue to discover the treasures of Idaho.

67-7603. ANNUAL REPORT. On an annual basis, the Idaho heritage trust shall issue a report outlining its activities for the previous year, including a financial statement. Copies of the report shall be provided to the governor and other elected officials of the executive

branch of state government, as well as to members of the legislature.

67-7604. ANNUAL AUDIT. Following the close of each fiscal year, the board of directors of the Idaho heritage trust shall select an accounting firm to perform an annual fiscal audit. Copies of the audit shall be provided to the state auditor and the legislative auditor.

SECTION 2. This act shall be in full force and effect on and after July 3, 1990, but shall be null, void and of no force and effect on and after July 3, 1992.

Approved March 23, 1990.

CHAPTER 130
(H.B. No. 591)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO REDEFINE THE TERM 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" mean 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 or more per week for an employer or a school teacher who works half-time or more 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) 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 four-

teen (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 23, 1990.

CHAPTER 131
(H.B. No. 745)

AN ACT

RELATING TO ACTIONS FOR CIVIL LIABILITY; AMENDING CHAPTER 16, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-1606, IDAHO CODE, TO PROHIBIT DOUBLE RECOVERIES FROM COLLATERAL SOURCES.

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 6-1606, Idaho Code, and to read as follows:

6-1606. PROHIBITING DOUBLE RECOVERIES FROM COLLATERAL SOURCES. In any action for personal injury or property damage, a judgment may be entered for the claimant only for damages which exceed amounts received by the claimant from collateral sources as compensation for the personal injury or property damage, whether from private, group or governmental sources, and whether contributory or noncontributory. For the purposes of this section, collateral sources shall not include benefits paid under federal programs which by law must seek subrogation, death benefits paid under life insurance contracts, benefits paid by a service corporation organized under chapter 34, title 41, Idaho Code, and benefits paid which are recoverable under subrogation rights created under Idaho law or by contract. Evidence of payment by collateral sources is admissible to the court after the finder of fact has rendered an award. Such award shall be reduced by the court to the extent the award includes compensation for damages which have been compensated independently from collateral sources.

Approved March 23, 1990.

CHAPTER 132
(H.B. No. 596)

AN ACT

RELATING TO MINIMUM WAGES; AMENDING SECTION 44-1502, IDAHO CODE, TO PROVIDE A SCHEDULE OF MINIMUM WAGES, TO PROVIDE FOR TIP CREDIT, AND TO PROVIDE FOR PAYMENT OF OVERTIME; AMENDING SECITON 44-1503, IDAHO CODE, TO DEFINE "TIPPED EMPLOYEE"; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 44-1502, Idaho Code, be, and the same is hereby amended to read as follows:

44-1502. MINIMUM WAGES.. (1) Except as hereinafter otherwise provided, no employer shall pay to any of his employees any wages computed at a rate of less than ~~one-dollar-and-forty-cents--($1.40)--commencing-July-1,-1971-and-one-dollar-and-sixty-cents-($1.60)-commencing July--1,--1972,--two--dollars-($2.00)-commencing-July-1,-1976,-and-two dollars-and-twenty-cents-($2.20)-commencing-January-1,-1977,--and--two dollars--and--thirty-cents-($2.30)-commencing-July-1,-1977,~~ three dollars and eighty cents ($3.80) commencing April 1, 1990, and four dollars and twenty-five cents ($4.25) commencing April 1, 1991, per hour for employment.

(2) In determining the wage of a tipped employee, the amount paid such employee by an employer shall be deemed to be increased on account of tips actually received by the employee but not by an amount in excess of twenty-five percent (25%) of the applicable minimum wage, as set forth in subsection (1) of this section. In the event a dispute arises between the employee and the employer with respect to the amount of tips actually received by the employee, it shall be the employer's burden to demonstrate the amount of tips actually received by the employee. Any portion of tips paid to an employee, which is shared with other employees under a tip pooling or similar arrangement, shall not be deemed, for the purpose of this section, to be tips actually received by the employee.

(3) Except as hereinafter otherwise provided, no employer shall employ any employee longer than forty (40) hours in a workweek consisting of seven (7) consecutive twenty-four (24) hour periods unless such employee receives compensation for employment in excess of forty (40) hours at a rate of not less than one and one-half (1 1/2) times the employee's regular rate of pay.

SECTION 2. That Section 44-1503, Idaho Code, be, and the same is hereby amended to read as follows:

44-1503. DEFINITIONS. "Wages" paid to any employee includes compensation paid to such employee in the form of legal tender of the United States, checks on banks convertible into cash on demand, and also includes the reasonable cost as determined by the employment security agency to the employer of furnishing such employee with board, lodging or other facilities if such board, lodging or other

facilities are customarily furnished by such employer to his employee and used by employees, and commissions of every kind, ~~but--shall--not include~~ and tips or gratuities as provided by section 44-1502, Idaho Code.

"Employ" includes to suffer or permit to work. "Employee" includes any individual employed by an employer. "Employer" includes any person employing an employee or acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any state or political subdivision of a state, or any labor organization (other than when acting as an employer) or any one acting in the capacity of officer or agent of such labor organization.

"Person" means any individual, partnership, association, corporation, business, trust, legal representative, or any organized group of persons.

"Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30.00) a month in tips.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after April 1, 1990.

Approved March 26, 1990.

CHAPTER 133
(H.B. No. 535, As Amended)

AN ACT

RELATING TO COMMUNICATIONS SECURITY; AMENDING CHAPTER 67, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-6711A, IDAHO CODE, TO IMPOSE CRIMINAL PENALTIES ON ANY PERSON CALLING "911" FOR THE PURPOSE OF MAKING A FALSE ALARM OR COMPLAINT AND REPORTING FALSE INFORMATION, AND TO PROVIDE FOR CIVIL DAMAGES UPON CONVICTION.

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

SECTION 1. That Chapter 67, 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 18-6711A, Idaho Code, and to read as follows:

18-6711A. FALSE ALARMS -- COMPLAINTS -- REPORTS -- PENALTIES -- CIVIL DAMAGES. (a) Any person calling the number "911" for the purpose of making a false alarm or complaint and reporting false information which could or does result in the emergency response of any firefighting, police, medical or other emergency services shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to a fine of not to exceed five hundred dollars ($500) or to a term of not to exceed one (1) year in the county jail, or to both such fine and imprisonment.

(b) In addition to the criminal penalties for violation of the

provisions of this section, civil damages may be recovered from the person so convicted in an amount of three (3) times the amount necessary to compensate or reimburse the complainant for costs incurred, losses sustained or other damages suffered in receiving, acting upon or responding to the false alarm, complaint or report. If the person so convicted is under the age of eighteen (18) years of age, the parent or legal guardian having legal custody of the minor may be jointly and severally liable with the minor for such civil damages as are imposed. Recovery from the parents or legal guardian shall not be limited by any other provision of law which limits the liability of a parent or legal guardian for the tortious or criminal conduct of a minor. A parent or guardian not having legal custody of the minor shall not be liable for civil damages imposed hereunder.

Approved March 26, 1990.

CHAPTER 134
(H.B. No. 525)

AN ACT

RELATING TO NONPROFIT ORGANIZATIONS EXEMPTED FROM SALES TAXES; AMENDING SECTION 63-3622O, IDAHO CODE, TO EXEMPT THE IDAHO SPECIAL OLYMPICS.

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

SECTION 1. That Section 63-3622O, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622O. NONPROFIT ORGANIZATIONS. There are exempted from the taxes imposed by this chapter sales to and purchases by hospitals, health-related entities, educational institutions, forest-protective associations and canal companies which are nonprofit organizations. As used in this subsection, these words shall have the following meanings:

(a) "Educational institution" shall mean resident nonprofit colleges, universities, primary and secondary schools the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, Idaho Association of Retarded Citizens, Idaho Heart Association,

United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, ~~and~~ Easter Seals, and Idaho Special Olympics, together with said entities' local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

Approved March 26, 1990.

CHAPTER 135
(H.B. No. 604)

AN ACT

RELATING TO THE SALES TAX; AMENDING SECTION 63-3622K, IDAHO CODE, TO FURTHER DEFINE THE TERM OCCASIONAL SALE.

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.

(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) A transfer of capital assets to or by a business when the transfer is accomplished through an adjustment of the beneficial interest of the business and the transferor has paid sales or use

taxes pursuant to section 63-3619 or 63-3621, Idaho Code, on the capital assets, incidental to:

(i) A division of joint venture or partnership assets among the members or partners in exchange for a proportional reduction of the transferee's interest in the joint venture or partnership;

(ii) The formation of a partnership or joint venture by the transfer of assets to the partnership or joint venture or transfers to a partnership or joint venture in exchange for proportionate interests in the partnership or joint venture;

(iii) The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for stock in proportion to assets contributed;

(iv) The transfer of assets of shareholders in the formation or dissolution of a corporation;

(v) The transfer of capital assets by a corporation to its stockholders in exchange for surrender of capital stock;

(vi) The transfer of assets from a parent corporation to a subsidiary corporation which is owned at least eighty per cent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

(vii) The transfer of assets from a subsidiary corporation which is owned at least eighty per cent (80%) by the parent corporation to a parent corporation or another subsidiary which is owned at least eighty per cent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets.

(4) The sale, but not the lease or rental, of a capital asset in substantially the same form as acquired by the transferor and on which the transferor has paid sales or use taxes pursuant to section 63-3619 or 63-3621, Idaho Code, when the owners of all the outstanding stock, equity or interest of the transferor are the same as the transferee or are members of the same family within the second degree of consanguinity or affinity.

(5) 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.

(46) Sales by persons who are not defined as "retailers" in section 63-3610, Idaho Code.

(57) Sales of animals by any 4-H club or FFA club held in conjunction with a fair or the western Idaho spring lamb sale.

(c) As used in this section, the term "occasional sale", when applied to the sale of a self-propelled motor vehicle, means only:

(1) Sales of motor vehicles between members of a family related within the second degree of consanguinity, unless a sales or use

tax was not imposed on the sale of that motor vehicle at the time of purchase, in which situation the sale is taxable.

(2) Sales of motor vehicles that fall within the scope of the transactions detailed in subsection (b)(2) ~~or (3)~~ through (b)(5) of this section.

(d) The exemption provided by subsections (b)(1) or, (b)(4) or (b)(6) 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.

Approved March 26, 1990.

CHAPTER 136
(H.B. No. 831)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 1991 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 EMPLOYERS' PORTION OF SOCIAL SECURITY TAXES; APPROPRIATING MONEYS FROM THE PUBLIC SCHOOL INCOME FUND; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FOR SCHOOL IMPROVEMENTS AND CERTIFICATED STAFF SALARY IMPROVEMENTS; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO CONTINUE THE EDUCATION MENTOR PROGRAM; SETTING ASIDE $250,000 FOR THE PURPOSE OF MAKING GRANTS TO SCHOOL DISTRICTS; AND REQUIRING THE SCHOOL DISTRICTS TO REPORT TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

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, 1990, through June 30, 1991:

FROM:		
General Account		$450,080,000
Dedicated Accounts:		
Endowment Fund Income	$19,414,700	
Department of Lands	3,600,000	
Liquor Account	1,200,000	
Miscellaneous Receipts	3,610,300	
Subtotal	$27,825,000	27,825,000
TOTAL		$477,905,000

SECTION 2. There is hereby appropriated from the General Account for Public School Support the following amount for deposit in the Pub-

lic School Income Fund for the period July 1, 1990, through June 30, 1991:

FROM:

General Account $450,080,000

SECTION 3. There is hereby appropriated from the Public School Income Fund the amount necessary for deposit in the Public Employee Retirement Account to be expended according to Section 59-1332A, Idaho Code, for the period July 1, 1990, through June 30, 1991.

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, 1990, through June 30, 1991.

SECTION 5. There is hereby appropriated from the Public School Income Fund the amount necessary to be expended for the purpose of paying the employers' portion of social security taxes for public school district employees, according to Section 59-1115, Idaho Code, for the period July 1, 1990, through June 30, 1991.

SECTION 6. There is hereby appropriated from the Public School Income Fund to the State Board of Education to be expended pursuant to law and the provisions of this act, not to exceed $477,905,000 of the moneys which may accrue to such fund for the period July 1, 1990, through June 30, 1991.

SECTION 7. (1) It is legislative intent that $44,797,800 of the moneys appropriated in Section 2 of this act shall be expended as follows:

(a) $28,382,300 for school improvements; and

(b) $16,415,500 for certificated staff salary improvements.

(2) Of the amount designated to be used for school improvements, $13,382,300 shall be for ongoing expenditures and the first priority will be to accomplish class size reduction in grades K-3 down to a 20:1 pupil/teacher ratio. Those schools already below a 20:1 pupil/teacher ratio in grades K-3 may utilize these ongoing funds for any of the five categories as follows:

(a) Curriculum improvement.

(b) Graduation rate improvement.

(c) Equipment and materials improvement.

(d) Instructional improvement.

(e) Drug education improvement.

School districts not under a 20:1 pupil/teacher ratio for grades K-3 must use these funds for class size reduction unless exceptions are granted by the State Superintendent of Public Instruction.

(3) Of the amount designated for school improvements, $15,000,000 shall be for one-time acquisitions or purposes such as: purchase of science equipment, textbooks, supplies and materials, lease or purchase of instructional equipment, purchase of library materials, minor remodeling or renovation to accommodate class size reduction in grades K-3, and for the rent, lease or purchase of classrooms to accommodate class size reduction in grades K-3.

(a) The $15,000,000 shall be distributed as follows: 50% ($7,500,000) outside the education support program on a fall enrollment basis; and 50% ($7,500,000) through the education support program.

(4) 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 (2) and (3) of this section.

SECTION 8. The Superintendent of Public Instruction shall continue the Education Mentor Program by distributing to the school districts $1,000 for each first year certificated staff person.

SECTION 9. Of the moneys appropriated in Section 2 of this act, $250,000 shall be set aside for the purpose of the Superintendent of Public Instruction making grants to school districts for experiments to develop creative and innovative instructional methods, curriculum, staff training, staff evaluation, and/or alternative forms of staff compensation. All grant applications must originate from one or more members of the faculty. The grant applications must be advanced through the administration of the school and/or school district.

SECTION 10. The school districts shall, at a time established and on a form approved by the State Superintendent of Public Instruction, report the planned, estimated or actual expenditures of the moneys designated in Section 7 of this act.

Approved March 26, 1990.

CHAPTER 137
(H.B. No. 633)

AN ACT

RELATING TO THE SHEEP COMMISSION; REPEALING SECTIONS 25-132A AND 25-132B, IDAHO CODE.

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

SECTION 1. That Sections 25-132A and 25-132B, Idaho Code, be, and the same are hereby repealed.

Approved March 26, 1990.

CHAPTER 138
(H.B. No. 720)

AN ACT

RELATING TO COMMERCIAL AND FARM VEHICLE QUARTERLY REPORTS; AMENDING SECTION 49-436, IDAHO CODE, TO REQUIRE FILING A STATEMENT BY THE

LAST DAY OF APRIL AND BY THE LAST DAY OF EACH THIRD CALENDAR MONTH THEREAFTER OF GROSS MILES TRAVELED BY EACH VEHICLE WEIGHING OVER SIXTY THOUSAND POUNDS.

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~~ last day of April, and on the ~~same~~ last 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 March 26, 1990.

CHAPTER 139
(H.B. No. 725)

AN ACT

RELATING TO EMERGENCY MEDICAL SERVICES; AMENDING SECTION 49-452, IDAHO CODE, TO INCREASE THE EMERGENCY MEDICAL SERVICES FEE FOR EACH MOTOR VEHICLE REGISTRATION, AND TO PROVIDE FOR DISTRIBUTION OF THE FEE.

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

SECTION 1. That Section 49-452, Idaho Code, be, and the same is hereby amended to read as follows:

49-452. EMERGENCY MEDICAL SERVICES FEE. An emergency medical services fee of ~~seventy-five--cents~~ one dollar and twenty-five cents ($1.~~7~~25) shall be collected in addition to each motor vehicle registration fee amount collected under the provisions of this chapter, with the exception of those vehicles proportionally registered under section 49-435, Idaho Code. ~~All collections~~ Twenty-five cents ($.25) of the fee shall be retained by the county of residence for use in funding local emergency medical service costs. One dollar ($1.00) of the fee shall be transmitted to the state treasurer for deposit in the emergency medical services account established in section 39-146, Idaho Code.

Approved March 26, 1990.

CHAPTER 140
(S.B. No. 1614)

AN ACT

APPROPRIATING MONEYS TO THE LOTTERY COMMISSION FOR FISCAL YEAR 1991.

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, to be expended according to the designated expense classes from the listed account for the period July 1, 1990, through June 30, 1991:

FOR:

Personnel Costs	$1,178,300
Operating Expenditures	6,925,000
Capital Outlay	80,000
TOTAL	$8,183,300

FROM:
State Lottery Account $8,183,300

Approved March 27, 1990.

CHAPTER 141
(S.B. No. 1545)

AN ACT
RELATING TO USE OF PUBLIC WATERS OUTSIDE THE STATE OF IDAHO; PROVIDING LEGISLATIVE INTENT; REPEALING SECTIONS 42-401, 42-408, 42-409, 42-410 AND 42-411, IDAHO CODE; AMENDING CHAPTER 4, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-401, IDAHO CODE, TO PROVIDE CRITERIA FOR THE APPROVAL OF APPLICATIONS FOR USE OF PUBLIC WATERS OUTSIDE THE STATE; AMENDING SECTION 42-203A, IDAHO CODE, TO PROVIDE CRITERIA FOR CONSERVATION OF WATER RESOURCES WITHIN THE STATE OF IDAHO; AMENDING SECTION 42-222, IDAHO CODE, TO PROVIDE CRITERIA FOR CONSERVATION OF WATER RESOURCES WITHIN THE STATE OF IDAHO; AND PROVIDING SEVERABILITY.

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

SECTION 1. It is the intent of the legislature that passage of this act shall not affect existing appropriations of water that are used outside the state of Idaho nor affect the provisions of any interstate compact.

SECTION 2. That Sections 42-401, 42-408, 42-409, 42-410 and 42-411, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Chapter 4, 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 42-401, Idaho Code, and to read as follows:

42-401. APPLICATIONS FOR USE OF PUBLIC WATERS OUTSIDE THE STATE. (1) The state of Idaho is dedicated to the conservation of its public waters and the necessity to maintain adequate water supplies for the state's water requirements. The state of Idaho also recognizes that under appropriate conditions the out-of-state transportation and use of its public waters is not in conflict with the public welfare of its citizens or the conservation of its waters.

(2) Any person, firm or corporation or any other entity intending to withdraw water from any surface or underground water source in the state of Idaho and transport it for use outside the state or to change the place or purpose of use of a water right from a place in Idaho to a place outside the state shall file with the department of water resources an application for a permit to do so, subject to the requirements of chapter 2, title 42, Idaho Code.

(3) In order to approve an application under this chapter, the director must find that the applicant's use of water outside the state

is consistent with the provisions of section 42-203A(5), Idaho Code. In addition, the director shall consider the following factors:

(a) The supply of water available to the state of Idaho;

(b) The current and reasonably anticipated water demands of the state of Idaho;

(c) Whether there are current or reasonably anticipated water shortages within the state of Idaho;

(d) Whether the water that is the subject of the application could feasibly be used to alleviate current or reasonably anticipated water shortages within the state of Idaho;

(e) The supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(f) The demands placed on the applicant's supply in the state where the applicant intends to use the water.

(5) By filing an application to use waters outside the state, the applicant shall submit to and comply with the laws of the state of Idaho governing the appropriation and use of water and any future changes to the water right.

(6) The director is empowered to condition the permit to insure that the use of water in another state is subject to the same regulations and restrictions that may be imposed upon water use in the state of Idaho.

(7) Upon submittal of the application, the applicant shall designate an agent in the state of Idaho for reception of service of process and other legal notices.

(8) The director may, as a condition to the approval of an application under this chapter, require that the applicant shall file a certificate from the proper officer or official of the state where the water shall be used, showing to the satisfaction of the director that the intended use would be beneficial, and that the intended appropriation is feasible.

SECTION 4. That Section 42-203A, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) The director of the department of water resources shall cause the notice to be published in a newspaper printed within the county wherein the point of diversion lies, or in the event no newspaper is printed in said county, then in a newspaper of general circulation therein. When the application proposes a diversion in excess of ten

(10) c.f.s. or one thousand (1,000) acre feet, the director shall cause the notice to be published in a newspaper or newspapers sufficient to achieve statewide circulation. Any notice shall be published at least once each week for two (2) successive weeks.

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

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

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

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

SECTION 5. That Section 42-222, Idaho Code, be, and the same is hereby amended to read as follows:

42-222. CHANGE IN POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE, OR NATURE OF USE OF WATER UNDER ESTABLISHED RIGHTS -- FORFEITURE AND EXTENSION -- APPEALS. (1) Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. Such application shall be upon forms furnished by the department and shall describe the right licensed, claimed or decreed which is to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee as in this chapter provided. Upon receipt of such application it shall be the duty of the director of the department of water resources to examine same, obtain any consent required by section 42-108, Idaho Code, and if otherwise proper to provide notice of the proposed change in the same manner as applications under section 42-203A, Idaho Code. Such notice shall advise that anyone who desires to protest the proposed change shall file notice of protests with the department within ten (10) days of the last date of publication. Upon the receipt of any protest it shall be the duty of the director of the department of water resources to investigate the same and to conduct a hearing thereon. He shall also advise the watermaster of the district in which such water is used of the proposed change and the watermaster shall notify the director of the department of water resources of his recommendation on the application, and the director of the department of water resources shall not finally determine the action on the application for change until he has received from such watermaster his recommendation thereof, which action of the watermaster shall be received and considered as other evidence.

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code; except the director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area. The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby. A copy of the approved application for change shall be

returned to the applicant and he shall be authorized upon receipt thereof to make the change and the original water right shall be presumed to have been amended by reason of such authorized change. In the event the director of the department of water resources determines that a proposed change shall not be approved as provided in this section, he shall deny the same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that all water rights appurtenant to land contracted in a federal cropland set-aside program, shall not be lost and forfeited for nonuse during the contracted period. The five (5) year period of nonuse for forfeiture of a water right shall begin to accrue upon termination of the contract if a period of nonuse did not occur prior to the effective date of the contract or shall continue to accrue if a period of nonuse occurred prior to the effective date of the contract. Upon proper showing before the director of the department of water resources of good and sufficient reason for nonapplication to beneficial use of such water for such term of five (5) years, the director of the department of water resources is hereby authorized to grant an extension of time extending the time for forfeiture of title for nonuse thereof, to such waters for a period of not to exceed five (5) additional years. Application for an extension shall be made before the end of the five (5) year period upon forms to be furnished by the department of water resources and shall fully describe the right on which an extension of time to resume the use is requested and the reasons for such nonuse and shall be accompanied by the statutory filing fee; provided that water rights appurtenant to land contracted in a federal cropland set-aside program are exempt from this requirement. Upon the receipt of such application it shall be the duty of the director of the department of water resources to examine the same and to provide notice of the application for an extension in the same manner as applications under section 42-203A, Idaho Code. The notice shall fully describe the right, the extension for which is requested and the reason for such nonuse and shall state that any person desiring to object to the requested extension may submit a protest to the director of the department of water resources within ten (10) days of the last date of publication. Upon receipt of a protest it shall be the duty of the director of the department of water resources to investigate and conduct a hearing thereon as in this chapter provided. The director of the department of water resources shall find from the evidence presented in any hearing, or from information available to the department, the reasons for such nonuse of water and where it appears to the satisfaction of the director of the department of water resources that other rights will not be impaired by granting an extension of time within which to resume the use of the water and good cause appearing for such nonuse, he may grant one (1) extension of five (5) years within which to resume such use. In his approval of the

application for an extension of time under this section the director of the department of water resources shall set the date when the use of water is to be resumed. Sixty (60) days before such date the director of the department of water resources shall forward to the applicant at his address of record a notice by certified mail setting forth the date on which the use of water is to be resumed and a form for reporting the resumption of the use of the water right. If the use of the water has not been resumed and report thereon made on or before the date set for resumption of use such right shall revert to the state and again be subject to appropriation, as provided in this section. In the event the director of the department of water resources determines that a proposed extension of time within which to resume use of a water right shall not be approved as provided in this section, he shall deny same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(3) Any person or persons feeling themselves aggrieved by the determination of the department of water resources in approving or rejecting an application to change the point of diversion, place, period of use or nature of use of water under an established right or an application for an extension of time within which to resume the use of water as provided in this section, may, if a protest was filed and a hearing held thereon, seek judicial review pursuant to section 42-1701A(4), Idaho Code. If no protest was filed and no hearing held, the applicant may request a hearing pursuant to section 42-1701A(3), Idaho Code, for the purpose of contesting the action of the director and may seek judicial review of the final order of the director following the hearing pursuant to section 42-1701A(4), Idaho Code.

SECTION 6. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved March 27, 1990.

CHAPTER 142
(S.B. No. 1600)

AN ACT

RELATING TO THE DAIRY PRODUCTS COMMISSION; AMENDING SECTION 25-3108, IDAHO CODE, TO INCREASE THE COMPENSATION FOR MEMBERS OF THE DAIRY PRODUCTS COMMISSION.

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

SECTION 1. That Section 25-3108, Idaho Code, be, and the same is hereby amended to read as follows:

25-3108. SALARY. Members of the commission shall be compensated

as provided by section 59-509(~~f~~h), Idaho Code.

Approved March 27, 1990.

CHAPTER 143
(S.B. No. 1583)

AN ACT

RELATING TO THE CONTROL OF VENEREAL DISEASES; AMENDING SECTION 39-601, IDAHO CODE, TO DESIGNATE AN ADDITIONAL ENUMERATED VENEREAL DISEASE; AMENDING SECTION 39-602, IDAHO CODE, TO CLARIFY THE METHOD OF REPORTING VENEREAL DISEASES; AMENDING SECTION 39-609, IDAHO CODE, TO CLARIFY THE LEGISLATURE'S DECLARATION OF POLICY; AND AMENDING SECTION 39-610, IDAHO CODE, TO CLARIFY THE METHOD AND CONDITIONS FOR DISCLOSING REPORTED INFORMATION.

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

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

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

SECTION 2. That Section 39-602, Idaho Code, be, and the same is hereby amended to read as follows:

39-602. REPORT OF VENEREAL DISEASE TO HEALTH AUTHORITIES. Any physician or other person who makes a diagnosis of or treats a case of venereal disease, and any superintendent or manager of a hospital, dispensary or charitable or penal institution, in which there is a case of venereal disease, shall immediately make a report of such case to the ~~health authorities~~ department of health and welfare, according to such form and manner as the state board of health and welfare shall direct.

SECTION 3. That Section 39-609, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

SECTION 4. That Section 39-610, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(3) The department of health and welfare shall, in a manner established by rules and regulations, accept from persons involved in providing emergency or medical services reports of significant exposures to the blood or body fluids of a patient or deceased person. The department of health and welfare shall promulgate rules and regulations defining the term "significant exposure" as used in this section. Upon receipt of a report made pursuant to section 39-602, Idaho Code, confirming the presence of HIV or HBV virus in a patient or a deceased person, the director of the department of health and welfare, or his designee, shall immediately contact and advise any and all per-

sons who, on the basis of information then or thereafter reported to the department, have had a significant exposure to the blood or body fluids of that infected patient or deceased person. The significantly exposed person shall be informed only that he may have been exposed to HIV or HBV, as the case may be, and thereafter advised of whatever prophylactic and testing procedures are appropriate. The significantly exposed person shall not be informed of the name of the infected patient or deceased person. Additionally, the department of health and welfare shall, to the greatest extent consistent with public health requirements, maintain the confidentiality of the identity of the significantly exposed person.

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

(45) Nothing in this chapter imposes liability or criminal sanction for disclosure or nondisclosure of the results of a blood test to detect HIV or HBV virus in accordance with any reporting requirements of the department of health and welfare.

Approved March 27, 1990.

CHAPTER 144
(S.B. No. 1587)

AN ACT

RELATING TO RESPONSIBILITIES OF THE BOARD OF PHARMACY; AMENDING SECTION 54-1719, IDAHO CODE, BY PROVIDING THAT THE RESPONSIBILITY OF THE BOARD OF PHARMACY TO REGULATE CERTAIN MEDICATIONS, DRUGS AND DEVICES EXTENDS TO DISPENSING WITHIN INSTITUTIONAL FACILITIES.

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

SECTION 1. That Section 54-1719, Idaho Code, be, and the same is hereby amended to read as follows:

54-1719. MEDICATIONS -- DRUGS -- DEVICES -- OTHER MATERIALS. The board of pharmacy shall also have the following responsibilities in regard to medications, drugs, devices and other materials used in this state in the diagnosis, mitigation and treatment or prevention of injury, illness and disease:

(1) The regulation of the sale at retail and the dispensing of medications, drugs, devices and other materials, including the method of dispensing in institutional facilities, and including the right to seize such drugs, devices and other materials found to be detrimental to the public health and welfare by the board after appropriate hearing as required under the administrative procedures act;

(2) The specifications of minimum professional and technical

equipment, environment, supplies and procedures for the compounding and/or dispensing of such medications, drugs, devices and other materials within the practice of pharmacy;

(3) The control of the purity and quality of such medications, drugs, devices and other materials within the practice of pharmacy;

(4) The issuance and renewal of certificates of registration of drug outlets for purposes of ascertaining those persons engaged in the manufacture and distribution of drugs.

Approved March 27, 1990.

CHAPTER 145
(S.B. No. 1602)

AN ACT

RELATING TO ORGANIC FOOD PRODUCTS; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 11, TITLE 22, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR ADMINISTRATION, ENFORCEMENT AND RULES AND REGULATIONS, TO PROVIDE PENALTIES, TO PROHIBIT CERTAIN REPRESENTATIONS AS REGARDING FOOD PRODUCTS, TO PROVIDE FEES, TO PROVIDE AN ORGANIC FOOD PRODUCTS ADMINISTRATION ACCOUNT, AND TO PROVIDE AN ORGANIC FOOD ADVISORY COUNCIL.

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 11, Title 22, Idaho Code, and to read as follows:

CHAPTER 11
ORGANIC FOOD PRODUCTS

22-1101. LEGISLATIVE INTENT. The legislature recognizes a public benefit and provides consumer protection in establishing standards for food products marketed and labeled using the term "organic", or a derivative of the term "organic." These standards will also facilitate the development of out-of-state markets for Idaho food grown by organic methods.

22-1102. DEFINITIONS. In this chapter:

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Food products" shall include all agricultural, horticultural, viticultural and vegetable products of the soil, and apiary and apiary products, but shall not include poultry and poultry products, livestock and livestock products, dairy products or aquaculture products.

(3) "Handler" means any person or organization who processes, packages, transports or stores organic food or nonorganic food.

(4) "Organic certification seal" means the design approved by the director and which when imprinted or affixed on labels, packages or

products, or used in advertising in any manner, shall signify that the standards and regulations developed in accordance with the provisions of this chapter and all other conditions of the provisions of this chapter have been met.

(5) "Organic food" means any food product that is marketed using the term organic, or any derivative of organic in its labeling or advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides.

(6) "Organically grown food" means food products grown in Idaho which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not to exceed thirty-six (36) months prior to harvest. Organically grown foods are produced under the standards and regulations established in accordance with the provisions of this chapter.

(7) "Person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(8) "Producer" means any person or organization who:

(a) Grows, raises or produces a food product; and

(b) Sells the food product as, or offers it for sale as, an organic food.

(9) "Vendor" means any person who sells organic food to the consumer or another vendor.

22-1103. ADMINISTRATION AND ENFORCEMENT -- RULES AND REGULATIONS. The administration and enforcement of the provisions of this chapter shall be under the director. The director is authorized, in conformance with chapter 52, title 67, Idaho Code, to promulgate rules and regulations concerning, but not limited to:

(1) Standards for agricultural crops produced for sale as organically grown products.

(2) Records required of organic crop producers.

(3) The number of on-site inspections, announced and unannounced.

(4) Chemical residue analysis of organically grown agricultural products and fees for conducting such analysis.

(5) Certification of private laboratories to conduct chemical residue analyses.

(6) Standards that an agricultural producer must meet to be recognized as a producer under the provisions of this chapter.

(7) Development and distribution of the organic certification seal and standards for its application for use on Idaho agricultural products.

(8) Development and implementation of labeling standards.

22-1104. VIOLATION OF RULES -- CIVIL PENALTY. Any person violating a rule or regulation promulgated by the director to implement provisions of this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than three thousand dollars ($3,000) for each offense and shall be liable for reasonable attorney fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty

may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act. If the department is unable to collect such civil penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under this section may, within thirty (30) days of the final agency action making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred.

Moneys collected for violation of a rule or regulation shall be deposited in the state treasury and credited to the organic food products administration account of the department.

22-1105. PROHIBITED REPRESENTATIONS. A producer, vendor or handler shall not sell or offer for sale any food product with the representation that the product is an organically grown food if the producer, vendor or handler knows, or has reason to know, that the food has not been grown, raised or produced as an organically grown food as defined in this chapter. Violations of this section shall be punishable as provided in section 22-1104, Idaho Code.

22-1106. FEES -- ORGANIC FOOD PRODUCTS ADMINISTRATION ACCOUNT. The director may adopt rules and regulations establishing a fee schedule that will provide for the recovery of the full cost of the certification program. Fees collected pursuant to this section shall be deposited in the organic food products administration account which is hereby created in the dedicated fund of the state treasury. Moneys in the account shall be used solely for carrying out the provisions of this chapter and may be expended only pursuant to appropriation. The director may employ as many personnel as are necessary to carry out the provisions of this chapter.

22-1107. ORGANIC FOOD ADVISORY COUNCIL. There is hereby created in the department of agriculture, the organic food advisory council which shall consist of six (6) members who shall be appointed by the director. Four (4) of the council members shall be nominated from the Idaho organic industry and two (2) members shall be chosen at large by the director. One (1) of the at large members shall be a purchaser, vendor or consumer of organic food products, and one (1) at large member shall represent conventional agriculture. Three (3) members of the council shall be originally appointed for a term of two (2) years and three (3) members of the council shall be appointed for a term of three (3) years. Thereafter all terms shall be for a period of three (3) years. The organic food advisory council shall advise the director on matters relating to administration of the provisions of this chapter. A majority of the members of the council shall represent a quorum. The council shall meet no less frequently than quarterly. If a vacancy occurs, the director may appoint a replacement for the remainder of the term. Members of the council shall be compensated as provided in section 59-509(b), Idaho Code.

Approved March 27, 1990.

CHAPTER 146
(S.B. No. 1612)

AN ACT
APPROPRIATING MONEYS FOR THE IDAHO CENTENNIAL COMMISSION FOR FISCAL YEAR 1991.

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 class from the listed account for the period July 1, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$50,000
FROM:	
General Account	$50,000

Approved March 27, 1990.

CHAPTER 147
(S.B. No. 1613)

AN ACT
APPROPRIATING MONEYS TO THE HISPANIC COMMISSION FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

FOR:	
Operating Expenditures	$10,300
Capital Outlay	$ 7,500
TOTAL	$17,800
FROM:	
General Account	$17,700
Hispanic Commission Account	100
TOTAL	$17,800

Approved March 27, 1990.

CHAPTER 148
(S.B. No. 1616)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1991; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; EXEMPTING CONSTRUCTION AUTHORIZED IN THIS ACT FROM THE PROVISIONS OF SECTION 67-5711, IDAHO CODE; DIRECTING THE STATE AUDITOR TO TRANSFER CERTAIN FUNDS; AND DECLARING AN EMERGENCY FOR SECTION 5 OF THIS ACT.

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, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$ 5,052,900
Operating Expenditures	1,618,500
Capital Outlay	3,938,600
Trustee and Benefit Payments	4,831,900
TOTAL	$15,441,900
FROM:	
General Account	$ 6,532,900
Dedicated Accounts	6,995,200
Federal Accounts	1,913,800
TOTAL	$15,441,900

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Account	$ 522,500	$ 127,700	$ 60,000		$ 710,200
Park and Recreation Account	229,900	237,300	15,900		483,100
Parks and Recreation Capital Improvement Account			18,200		18,200
Motorbike Recreation Account		16,400			16,400
Recreational Vehicle Account	55,000	15,400	2,000		72,400
Federal Surcharge Account	37,000				37,000
TOTAL	$ 844,400	$ 396,800	$ 96,100		$1,337,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. PARK OPERATIONS:					
FROM:					
General Account	$2,401,900	$ 396,200	$ 800		$2,798,900
Parks and Recreation Capital Improvement Account			254,900		254,900
Park and Recreation Account	657,500	322,600	12,500		992,600
Park Donation Account		5,700			5,700
Harriman State Park Account	65,100	58,800	2,000		125,900
Parks and Recreation Federal Account	18,000	2,000			20,000
TOTAL	$3,142,500	$ 785,300	$ 270,200		$4,198,000
III. PARK DEVELOPMENT:					
FROM:					
General Account	$ 170,200		$2,250,000	$ 31,800	$2,452,000
Parks and Recreation Capital Improvement Account			441,200		441,200
Park and Recreation Account	35,000	$ 19,600			54,600
TOTAL	$ 205,200	$ 19,600	$2,691,200	$ 31,800	$2,947,800
IV. RECREATIONAL RESOURCES:					
FROM:					
General Account	$ 122,900	$ 18,900			$ 141,800
State Vessel Account				$1,070,000	1,070,000
Cross-Country Skiing Account		6,600		24,000	30,600
Park and Recreation Account	12,300	36,300		12,000	60,600
Waterways Improvement Account	57,000	29,000	$ 42,600	751,100	879,700
Off-Road Motor Vehicle Account	115,400	27,300	335,400	398,100	876,200
State Snowmobile Account				230,000	230,000
Motorbike Recreation Account	13,900	1,000	3,300	20,200	38,400
Recreational Vehicle Account	62,600	58,800	1,000	690,700	813,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Pass-Through Account				1,500,000	1,500,000
Park and Recreation Federal Account		6,300			6,300
Federal Surcharge Account	85,600	3,400			89,000
Coast Guard Boat Safety Account	63,400	45,300	48,800	104,000	261,500
TOTAL	$ 533,100	$ 232,900	$ 431,100	$4,800,100	$5,997,200
V. LAVA HOT SPRINGS FOUNDATION:					
FROM:					
General Account			$ 430,000		$ 430,000
Lava Hot Springs Foundation Account	$ 327,700	$ 183,900	20,000		531,600
TOTAL	$ 327,700	$ 183,900	$ 450,000		$ 961,600
GRAND TOTAL	$5,052,900	$1,618,500	$3,938,600	$4,831,900	$15,441,900

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 334, Laws of 1989, to be used for nonrecurring expenditures only, for the period July 1, 1990, through June 30, 1991.

SECTION 4. Construction authorized under the provisions of this act, to include all preliminary matters through completion of construction, is expressly exempt from the provisions of Section 67-5711, Idaho Code.

SECTION 5. On or before June 30, 1990, the State Auditor shall transfer $200,000 of the General Account moneys appropriated by Section 2, Chapter 334, Laws of 1989, to the Park Land Trust as created in Section 67-4241, Idaho Code.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 5 of this act shall be in full force and effect on and after its passage and approval.

Approved March 27, 1990.

CHAPTER 149
(S.B. No. 1529, As Amended)

AN ACT

RELATING TO SCHOOL DISTRICT ACCOUNTABILITY REPORT CARDS; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 45, TITLE 33, IDAHO CODE, TO PROVIDE FOR A SCHOOL DISTRICT ACCOUNTABILITY REPORT CARD, TO PROVIDE FOR THE CONTENTS OF THE REPORT CARD, TO PROVIDE FOR A TASK FORCE ON INSTRUCTIONAL IMPROVEMENT IN THE DEPARTMENT OF EDUCATION, AND TO PROVIDE REQUIREMENTS FOR SCHOOL DISTRICTS REGARDING SCHOOL DISTRICT ACCOUNTABILITY REPORT CARDS.

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 45, Title 33, Idaho Code, and to read as follows:

CHAPTER 45
SCHOOL ACCOUNTABILITY REPORT CARDS

33-4501. SCHOOL ACCOUNTABILITY REPORT CARD. In order to promote a model statewide standard of instructional accountability and conditions for teaching and learning, the superintendent of public instruction shall by October 30, 1990, develop and present to the state board of education for adoption a statewide model school accountability report card.

(1) The model school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(a) Student progress toward meeting reading, writing, arithmetic and other academic goals.

(b) Progress toward reducing drop-out rates.

(c) Estimated expenditures per student.

(d) Progress toward reducing class size and teaching loads.

(e) Reduction of teachers assigned outside their subject areas of competence.

(f) Currency of textbooks and other instructional materials.

(g) The availability of qualified personnel to provide counseling and other student support services.

(h) Qualifications and utilization of substitute teachers.

(i) Safety and adequacy of school facilities.

(j) An explanation of the teacher evaluation process.

(k) Classroom discipline and climate for learning.

(l) Teacher and staff training.

(m) Curriculum improvement.

(n) Quality of school instruction.

(o) Quality of school leadership.

(p) School goals and progress toward those goals.

(2) There is hereby created in the department of education a task force on instructional improvement which shall consist of not more than eleven (11) members. The superintendent of public instruction shall appoint the members of the task force on instructional improve-

ment. The members of the task force shall consist of practicing classroom teachers, school administrators, parents, school board members, classified employees, students and education research specialists and provided that four (4) members of the task force shall consist of practicing classroom teachers. In developing the statewide model school accountability report card, the superintendent of public instruction shall consult with the task force on instructional improvement. Members of the task force shall be compensated as provided in section 59-509(b), Idaho Code. The task force shall terminate upon the adoption of a statewide model accountability report card.

33-4502. SCHOOL DISTRICT REQUIREMENTS. The board of trustees of each school district, including a specially chartered district, maintaining an elementary or secondary school shall require each school to develop a school accountability report card by June 30, 1991 and implement the same by October 15, 1991.

(1) The school accountability report card may include, but is not limited to, the conditions listed in section 33-4501, Idaho Code. A school's accountability report card shall be developed with input from teachers, parents and patrons.

(2) Not less than every three (3) years, the board of trustees of each school district, including specially chartered districts, shall compare the categories of each school's accountability report card to the model school accountability report card adopted by the state board of education and shall disseminate a written assessment of the differences which shall be included with the next published school accountability report card. Variances among schools are expected and shall be permitted to account for local needs.

(3) The board of trustees of each school district, including specially chartered districts, shall require each school to annually issue, on or before October 15, a school accountability report card, publicize such report card and notify parents or guardians of each student that a copy will be provided upon request.

Approved March 27, 1990.

CHAPTER 150
(S.B. No. 1358)

AN ACT

RELATING TO THE IMMUNIZATION OF CHILDREN; AMENDING CHAPTER 11, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1118, IDAHO CODE, TO REQUIRE IMMUNIZATION STATEMENTS BY PARENTS OF CHILDREN ATTENDING DAY CARE FACILITIES AND TO PROVIDE EXEMPTIONS.

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

SECTION 1. That Chapter 11, 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 39-1118, Idaho Code, and to read as

follows:

39-1118. IMMUNIZATION REQUIRED. (1) Within fourteen (14) days of a child's initial attendance at any licensed day care facility, the parent or guardian shall provide a statement to the operator of the day care facility regarding the child's immunity to certain childhood diseases. This statement shall provide a certificate signed by a physician or a representative of a health district, that the child has received, or is in the process of receiving immunizations as specified by the board of health and welfare; or can effectively demonstrate, through verification in a form approved by the department of health and welfare, immunity gained through prior contraction of the disease.

Immunizations required and the manner and frequency of their administration shall be as prescribed by the state board of health and welfare and shall conform to recognized standard medical practices in the state. The state board of health and welfare shall promulgate appropriate rules and regulations for the enforcement of the required immunization program and specify reporting requirements of day care centers, pursuant to the provisions of chapter 52, title 67, Idaho Code.

(2) Any minor child whose parent or guardian has submitted to officials of a licensed day care facility a certificate signed by a physician licensed by the state board of medicine stating that the physical condition of the child is such that all or any of the required immunizations would endanger the life or health of the child shall be exempt from the provisions of this section. Any minor child whose parent or guardian has submitted a signed statement to officials of the day care facility stating their objections on religious or other grounds shall be exempt from the provisions of this section.

Approved March 27, 1990.

CHAPTER 151
(S.B. No. 1465)

AN ACT

RELATING TO GROUND WATER QUALITY; AMENDING SECTION 39-120, IDAHO CODE, TO REQUIRE THE CONCURRENT PREPARATION OF A GROUND WATER QUALITY PLAN AND A PLAN FOR DEVELOPING A GROUND WATER QUALITY MONITORING NETWORK; AND AMENDING SECTION 39-123, IDAHO CODE, TO CHANGE THE DATE UPON WHICH THE GROUND WATER QUALITY COUNCIL IS REQUIRED TO PREPARE A GROUND WATER QUALITY PLAN.

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

SECTION 1. That Section 39-120, Idaho Code, be, and the same is hereby amended 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~~ Develop a ground water monitoring plan, concurrently with the development of a ground water quality plan, 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.

SECTION 2. That Section 39-123, Idaho Code, be, and the same is hereby amended to read as follows:

39-123. COMPLETION OF GROUND WATER QUALITY PLAN. ~~(1)~~. Not later than June 1, 1990~~0~~1, 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.

Approved March 27, 1990.

CHAPTER 152
(S.B. No. 1393)

AN ACT

RELATING TO BOND REQUIREMENTS FOR MANUFACTURED HOME DEALERS AND MOTOR VEHICLE DEALERS; AMENDING SECTION 49-1608, IDAHO CODE, TO PROVIDE THAT ONLY ONE BOND IS REQUIRED FOR PARTIES ENGAGED IN SELLING MANUFACTURED HOMES AND MOTOR VEHICLES.

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

SECTION 1. 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, 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).

(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.

(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.

(4) The bond requirements of this section shall be satisfied if the applicant is a duly licensed manufactured home dealer in accordance with chapter 21, title 44, Idaho Code, and the bond required by section 44-2103, Idaho Code, otherwise meets the requirements of this section. The amount of the bond shall be in the amount as required in this section or that required in section 44-2103, Idaho Code, whichever is greater. The applicant shall furnish a certified copy of the bond as required in section 44-2103, Idaho Code, to the department.

Approved March 27, 1990.

CHAPTER 153
(S.B. No. 1401, As Amended)

AN ACT

RELATING TO SUPPORT DELINQUENCIES; AMENDING SECTION 67-7437, IDAHO CODE, TO ALLOW LOTTERY PRIZE DISBURSEMENT FOR AUTOMATIC WITHHOLDING AND SET-OFF OF ANY PRIZE CLAIM; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-203E, IDAHO CODE, TO ALLOW FOR AUTOMATIC WITHHOLDING AND SET-OFF OF ANY LOTTERY PRIZE CLAIM WHEN A SUPPORT DELINQUENCY EXISTS.

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

SECTION 1. 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 <u>or spousal</u> 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. <u>A prize shall also be subject to withholding and set-off to collect any support delinquency upon notification from the department of health and welfare pursuant to section 56-203E, Idaho Code.</u> 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 2. That Chapter 2, Title 56, 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 56-203E, Idaho Code, and to read as follows:

56-203E. LOTTERY PRIZE SET-OFF PROCEDURE FOR SUPPORT DEBT. (1) The Idaho state lottery shall withhold and set-off a prize of a lottery prize winner upon notification from the department of health and welfare to collect a support delinquency. The set-off or withholding

of a prize shall be completed only after the following conditions have been met:

(a) A delinquency exists, which shall be defined as any unpaid child or spousal support including public assistance, pursuant to a court order from this state or a court or administrative order of another state.

(b) The department of health and welfare, bureau of child support enforcement, shall forward to the Idaho state lottery the full name and social security number of the obligor and the amount of the delinquent child support. The Idaho state lottery shall notify the department of health and welfare of the amount of the prize withheld to satisfy the child support delinquency and the prize winner's address.

(c) Notice of the proposed set-off shall be sent by registered or certified mail to the prize winner at the address provided to the Idaho state lottery. Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday or state holidays as the 14th day) the prize winner may file a protest in writing requesting a hearing before the department of health and welfare. The hearing shall be held within thirty-five (35) days from the date of the mailing of the original notice. No issues at that hearing may be considered that have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or by mail to the prize winner within ten (10) days of the hearing.

(d) After the decision of the department of health and welfare is issued, or if the prize winner has failed to file a timely protest of the claim, the set-off procedure shall become final.

(2) The proceeds from the set-off shall be credited to an account designated by the department of health and welfare, and notice shall be given to the appropriate clerk of the district court.

Approved March 27, 1990.

CHAPTER 154
(S.B. No. 1415)

AN ACT

RELATING TO THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 28-9-312, IDAHO CODE, TO PROVIDE THAT A PURCHASE MONEY SECURITY INTEREST SHALL HAVE PRIORITY OVER A CONFLICTING SECURITY INTEREST IF IT IS PERFECTED WITHIN TWENTY-ONE DAYS OF THE DATE THE DEBTOR RECEIVES POSSESSION OF THE COLLATERAL.

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

SECTION 1. That Section 28-9-312, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-312. PRIORITIES AMONG CONFLICTING SECURITY INTEREST IN THE

SAME COLLATERAL. (1) The rules of priority stated in other sections of this part and in the following sections shall govern when applicable: section 28-4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section 28-9-103 on security interests related to other jurisdictions; section 28-9-114 on consignments.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three (3) months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six (6) months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if:

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the twenty-one (21) day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of section 28-9-304); and

(c) the holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ~~ten (10)~~ twenty-one (21) days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period ~~thereafater~~ thereafter when there is neither filing nor perfection.

(b) so long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under section 28-8-321 on securities, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Approved March 27, 1990.

CHAPTER 155
(S.B. No. 1444)

AN ACT

RELATING TO UNIFORM BUILDING CODE ENFORCEMENT FEES; AMENDING SECTIONS 39-4112 AND 39-4113, IDAHO CODE, TO CHANGE THE REFERENCE THEREIN TO THE UNIFORM BUILDING CODE FROM THE 1982 EDITION TO THE 1985 EDITION.

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

SECTION 1. That Section 39-4112, Idaho Code, be, and the same is hereby amended to read as follows:

39-4112. MAXIMUM PERMIT FEES. Building permit fees based on total valuation shall not exceed those given in table 3-A, Uniform Building Code, 198~~2~~5.

SECTION 2. That Section 39-4113, Idaho Code, be, and the same is hereby amended to read as follows:

39-4113. PLAN CHECKING -- MAXIMUM FEES. (1) Notwithstanding the provisions of section 302(b)~~4~~, Uniform Building Code, 198~~2~~5, the director shall establish a program for total plan checking and permit issue entirely within the safety inspection division of the department.

(2) Plan review fees shall be as required by section 304(b), Uniform Building Code, 198~~2~~5.

(3) Each manufacturer of recreational vehicles, commercial coaches and modular buildings shall submit the building plans for every model of such structure to the director for the purpose of review. The manufacturer must certify that each such building plan meets the appropriate construction and safety standards in force at that time before the model involved is produced.

Approved March 27, 1990.

CHAPTER 156
(S.B. No. 1461)

AN ACT

RELATING TO REPAIR OF MOTOR VEHICLES; AMENDING CHAPTER 13, TITLE 41, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 41-1328A, 41-1328B, 41-1328C AND 41-1328D, IDAHO CODE, TO PROVIDE A PURPOSE, TO PROVIDE DEFINITIONS, TO PROVIDE IDENTIFICATION OF PARTS AND TO PROVIDE DISCLOSURE OF USE OF CERTAIN PARTS.

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 NEW SECTIONS, to be known and designated as Sections 41-1328A, 41-1328B, 41-1328C and 14-1328D, Idaho Code, and to read as follows:

41-1328A. REPAIR OF MOTOR VEHICLES. The purpose of sections 41-1328A through 41-1328D, Idaho Code, is to regulate the use of aftermarket crash parts by requiring disclosure by the repair facility when any use is proposed of an aftermarket, nonoriginal equipment manufacturer's crash part, and by requiring that the manufacturers of such aftermarket crash parts identify their products.

41-1328B. DEFINITIONS. For the purposes of sections 41-1328A through 41-1328D, Idaho Code, the following definitions apply:

(1) "Aftermarket crash part" means a replacement part for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels.

(2) "Installer" means an individual who actually does the work of replacing or repairing parts of a motor vehicle.

(3) "Insurer" means an insurance company and any person authorized to represent the insurer with respect to a claim.

(4) "Nonoriginal equipment manufacturer (non-OEM) aftermarket crash part" means a replacement part not made for or by the manufacturer of the motor vehicle.

(5) "Repair facility" means any motor vehicle dealer, garage, body shop or other commercial entity which undertakes the repair or replacement of those parts that generally constitute the exterior of a motor vehicle.

41-1328C. IDENTIFICATION OF PARTS. Any aftermarket crash part supplied by a nonoriginal equipment manufacturer for use in this state shall have affixed thereto or inscribed thereon the logo or name of its manufacturer. Such manufacturer's logo or name shall be visible after installation whenever practicable.

41-1328D. USE OF PARTS -- DISCLOSURE. It shall be an unfair claim settlement practice for an insurer to specify the use of nonoriginal equipment manufacturer aftermarket crash parts in the repair of an insured's motor vehicle, or for a repair facility or installer to use

non-OEM aftermarket crash parts to repair a vehicle, if the consumer has not been advised in writing. In all instances where non-OEM aftermarket crash parts are intended for use by an insurer:

(1) The written estimate shall clearly identify each such part intended for use, and

(2) A disclosure document containing the following information in ten (10) point or larger type shall appear on or be attached to the insured's copy of the estimate:

> "This estimate has been prepared based on the use of crash parts supplied by a source other than the manufacturer of your motor vehicle. Warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle.".

Approved March 27, 1990.

CHAPTER 157
(S.B. No. 1463)

AN ACT

RELATING TO THE IDAHO WHEAT COMMISSIONERS RATE OF PAY; AMENDING SECTION 22-3306, IDAHO CODE, TO INCREASE THE COMPENSATION FOR COMMISSIONERS.

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

SECTION 1. That Section 22-3306, Idaho Code, be, and the same is hereby amended to read as follows:

22-3306. COMPENSATION OF MEMBERS. Members of the commission shall be compensated as provided by section 59-509(gh), Idaho Code.

Approved March 27, 1990.

CHAPTER 158
(S.B. No. 1335, As Amended)

AN ACT

RELATING TO CERTAIN ACCOUNTS RECEIVING HIGHWAY USER REVENUES; AMENDING SECTION 40-701, IDAHO CODE, TO PROVIDE THAT INTEREST EARNED SHALL BE PAID TO THE ACCOUNT; AMENDING SECTION 40-702, IDAHO CODE, TO PROVIDE THAT INTEREST EARNED SHALL BE PAID TO THE ACCOUNT; AMENDING SECTION 40-703, IDAHO CODE, TO PROVIDE THAT INTEREST EARNED SHALL BE PAID TO THE ACCOUNT; AND AMENDING SECTION 40-716, IDAHO CODE, TO PROVIDE THAT INTEREST EARNED SHALL BE PAID TO THE APPROPRIATE ACCOUNT OR SUBACCOUNT.

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 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.

(4) Interest earned on the investment of idle moneys in the highway distribution account shall be paid to the highway distribution account.

(5) All idle moneys in the dedicated highway trust or asset accounts or subaccounts established from highway user revenues, reimbursements, fees or permits shall be invested by the state treasurer

in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the various highway trust or asset accounts and subaccounts.

SECTION 2. That Section 40-702, Idaho Code, be, and the same is hereby amended to read as follows:

40-702. STATE HIGHWAY ACCOUNT -- ESTABLISHMENT. For the purpose of carrying out the provisions of this title, there is established in the dedicated fund of the state treasury an account to be known as the state highway account, which account shall include:

(1) All moneys received by the state treasurer for deposit to the state highway account.

(2) All fines, penalties and forfeitures incurred and collected for violations of the provisions of this title, except as otherwise provided.

(3) All donations to the state from any source for the construction and improvement of highways.

(4) All moneys received from local boards under joint contracts for the construction of state highways~~;--and~~.

(5) Other moneys which may be provided by law for the construction and improvement of state highways.

(6) Interest earned on the investment of idle moneys in the state highway account shall be paid to the state highway account.

SECTION 3. That Section 40-703, Idaho Code, be, and the same is hereby amended to read as follows:

40-703. ESTABLISHMENT OF LOCAL BRIDGE INSPECTION ACCOUNT -- ADMINISTRATION. In order to promote public safety at bridges on local public highways and to provide for the payment of the local matching share of federal funds available for periodic inspection of these bridges to comply with federal laws, there is established in the dedicated fund of the state treasury an account known as the "local bridge inspection account." The department is charged with the sole and exclusive administration of this account, and shall follow federal guidelines in making bridge inspections which are to be funded in part with federal funds. Interest earned on the investment of idle moneys in the local bridge inspection account shall be paid to the local bridge inspection account.

SECTION 4. That Section 40-716, Idaho Code, be, and the same is hereby amended to read as follows:

40-716. ESTABLISHMENT OF LOCAL HIGHWAY NEEDS ASSESSMENT ACCOUNT -- ADMINISTRATION. (1) There is established in the dedicated fund of the state treasury an account to be known as the "Local Highway Needs Assessment Account." Funds from this account shall be used to:

(a) Provide local highway needs information for evaluating the amount and distribution of federal payments in lieu of taxes;

(b) Assess the cost impact on the local highway system by exempt federal vehicles and by operations related to federal management

of public lands;

(c) Determine the cost responsibility of providing access to federally-owned land;

(d) Determine a coordinated local highway needs response to federal land regulations affecting local highways in Idaho;

(e) Provide local highway needs information that can be related to state highway needs; and

(f) Provide local highway needs information for federal performance monitoring of federally-aided local highway systems.

(2) The department is charged with the sole and exclusive administration of the account and shall follow federal guidelines in making the highway needs assessments which are funded in part with federal funds.

(3) Interest earned on the investment of idle moneys in the local highway needs assessment account shall be paid to the local highway needs assessment account.

Approved March 27, 1990.

CHAPTER 159
(S.B. No. 1336, As Amended)

AN ACT

RELATING TO SPECIAL PARKING PRIVILEGES FOR HANDICAPPED PERSONS; AMENDING SECTION 49-410, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF SPECIAL LICENSE PLATES FOR CERTAIN VEHICLES, TO PROVIDE FOR ISSUANCE OF A SPECIAL CARD, TO PROVIDE FOR DISTRIBUTION OF FEES FOR SPECIAL CARDS, TO PROVIDE FOR ISSUANCE OF BOTH CARDS AND LICENSE PLATES UNDER CERTAIN CONDITIONS, TO PROVIDE FOR USE OF UNEXPIRED CARDS FOR TEMPORARILY DISABLED PERSONS, TO PROVIDE FOR DISTRIBUTION OF FEES FOR TEMPORARY CARDS, AND TO STRIKE PROVISIONS FOR A PERMANENT CARD; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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~~ Any handicapped person as defined in section 49-109, Idaho Code, shall be eligible for the use of special license plates ~~in-lieu-of-any-other-license-plates-for-non-commercial--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~~ the international handicapped symbol, for any vehicle owned by such person, provided the vehicle does not weigh in excess of eight thousand (8,000) pounds and is not used in the furtherance of a business.

(~~3~~2) ~~Fees-for-special-license--plates~~ Registration and license plate fees for vehicles owned by the handicapped shall be as provided, respectively, in sections 49-402 and 49-450, 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 noncommercial 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~~5~~, Idaho Code. The use of the special card issued under the provisions of subsection (5) of this section, shall not exempt the owner of a motor vehicle from otherwise properly registering and licensing the motor vehicle.

(~~4~~3) 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. ~~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

(4) The department shall issue a special card bearing the international handicapped symbol and other information the department may require, to:

(a) Any qualified handicapped person who does not own a motor vehicle;

(b) Any qualified handicapped person who owns a motor vehicle, without regard to weight or use of the vehicle;

(c) Any business entity which is engaged in transportation of handicapped persons, which business shall not be required to submit a physician's certification. In addition to other application requirements, a business applicant shall sign a declaration that he is engaged in the transportation of handicapped persons. A business entity may include but not be limited to hospitals, nursing homes, federal, state and local governmental agencies and taxicabs.

(5) The fee for a special handicapped card shall be five dollars ($5.00) which shall be deposited in the state highway account established in section 40-702, Idaho Code. Each special card shall expire two (2) years from the date of issue and renewal of the card shall be made in the same manner as the original application.

(6) Any person or business issued a special card shall affix the special card to a motor vehicle in a conspicuous place designated by the department. The card shall bear distinguishing marks, letters or numerals indicating the vehicle is utilized by a permanently handicapped person. When the card is affixed to a motor vehicle and the motor vehicle is transporting a handicapped person, special parking privileges are granted as provided in subsection (9) of this section.

(~~2~~7) Application for special license plates ~~or~~, a special cards

~~for--the--handicapped,~~ or both as applicable and at the option of the applicant, shall be made upon a form furnished by the department and shall ~~be--accompanied--by~~ include a written certification ~~from~~ by a licensed physician verifying that the applicant's stated impairment qualifies as a handicap according to the provisions of section 49-109, Idaho Code. ~~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.~~

(5~~8~~) 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~~5) 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. The provisions of t~~T~~his 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~~9~~) 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~~ an unexpired card is affixed, special parking privileges are granted ~~temporarily~~ as provided in subsection (5~~9~~) 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~~. When the card is issued by the department the five dollars ($5.00) shall be deposited in the state highway account.

(~~7~~10) ~~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 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, 1990.

CHAPTER 160
(S.B. No.1353)

AN ACT
RELATING TO THE SPECIAL LEGISLATIVE COMMITTEE ON PERSONNEL MATTERS; AMENDING SECTION 67-455, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OF THE CHAIRMAN OF THE COMMITTEE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-455, Idaho Code, be, and the same is hereby amended to read as follows:

67-455. SPECIAL COMMITTEE ON PERSONNEL MATTERS. In order to maintain a degree of continuous oversight of personnel matters that affect state employees and officers, there is hereby established a special legislative committee on personnel matters.

The committee shall consist of three (3) members of the senate, two (2) from the majority party appointed by the president pro tempore, and one (1) from the minority party appointed by the minority leader, three (3) members of the house of representatives, two (2) from the majority party appointed by the speaker of the house, and one (1) from the minority party appointed by the minority leader. The chairman shall be appointed by the legislative council and must be a member of either the senate human resources committee or the house state affairs committee. The term for all appointments to the committee made prior to January 31, 1987, shall expire on January 31, 1987. Subsequent appointments to the committee shall be for a term of two (2) years and shall coincide with the legislative term of office as provided in section 67-402, Idaho Code; except the first term shall commence on February 1, 1987 and end on November 30, 1988. If a vacancy on the committee 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 committee shall have as a primary duty and responsibility the task of monitoring and reviewing all aspects of the state's personnel system, and in doing so, is authorized to attend all meetings of the personnel commission (except executive sessions of the commission), to receive and review all personnel commission rules and regulations, and to receive and review all personnel commission recommendations.

The committee shall have as a secondary duty and responsibility the task of monitoring and reviewing all aspects of the state's personal benefits package available to or for state employees, and in doing so, is authorized to attend all meetings of the public employee

retirement board (except executive sessions of the board), all meetings of the advisory committee formed by the administrator of the division of risk management to consider the various insurance programs available to state employees, and all meetings of the state board of examiners or its designee when considering a deferred compensation program available to state employees.

During any attendance at any meeting of an executive agency board, commission, committee, or activity, the committee on personnel matters shall act in the role of advisors only.

Notwithstanding the provisions of sections 67-2340 through 67-2347, Idaho Code, the committee may hold executive sessions to consider and hear complaints from any person.

The committee on personnel matters shall report to the president pro tempore 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 administration of the personnel system of this state.

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

Approved March 27, 1990.

CHAPTER 161
(S.B. No. 1368)

AN ACT

RELATING TO PAY FOR STATE EMPLOYEES; AMENDING SECTION 67-5309, IDAHO CODE, TO REQUIRE A RULE PROVIDING FOR SHIFT DIFFERENTIAL PAY PHASED IN AT THE RATES OF ONE AND ONE-HALF PERCENT IN FISCAL YEAR 1992, THREE PERCENT IN FISCAL YEAR 1993, AND FIVE PERCENT IN FISCAL YEAR 1994 AND THEREAFTER.

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 qualifica-

tions, 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 com-

mission 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.

(t) A rule providing for shift differential pay. Beginning the first full pay period in fiscal year 1992, the rate of such differential pay shall be one and one-half percent (1 1/2%) of the employee's hourly rate; beginning the first full pay period in fiscal year 1993, the differential pay rate shall be three percent (3%); and beginning the first full pay period of fiscal year 1994 and each fiscal year thereafter, the rate of differential pay shall be five percent (5%).

Approved March 27, 1990.

CHAPTER 162
(S.B. No. 1369)

AN ACT

RELATING TO STATE EMPLOYEES' PER DIEM AND MILEAGE RATE; AMENDING SECTION 67-2008, IDAHO CODE, TO PROVIDE AN INCREASE IN THE RATE OF ALLOWANCE TO STATE EMPLOYEES FOR PER DIEM AND TO PROVIDE THAT THE MILEAGE REIMBURSEMENT RATE COINCIDE WITH THE STANDARD MILEAGE RATE ALLOWED UNDER THE INTERNAL REVENUE CODE.

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

SECTION 1. That Section 67-2008, Idaho Code, be, and the same is hereby amended to read as follows:

67-2008. DETERMINATION OF RATE OF ALLOWANCE. (1) At its first meeting after the effective date of this act, and thereafter as it shall deem appropriate, the board of examiners shall by regulation fix a rate of allowance for per diem subsistence for officers, agents and all other employees of the state who are absent from their post of duty on official business, which shall be effective for the year in which such allowance is fixed, and shall fix a rate of allowance for mileage for official travel executed by privately owned means of conveyance, which rate of allowance shall be effective for the year in which it is fixed; provided, however, that the board shall fix no rate of per diem allowance which is higher than:

(a) A~~a~~ctual lodgings (maximum to be set by board of examiners) and ~~fifteen~~ twenty dollars ($~~15~~20.00) per day for travel within the state; and

(b) A~~a~~ctual lodgings (maximum to be set by board of examiners) and ~~twenty~~ thirty dollars ($~~2~~30.00) without the state; and ~~actual lodgings--(maximum-to-be-set-by-board-of-examiners),-and-the-board shall-fix-no~~

(c) A rate of mileage allowance which is no higher than ~~twenty-two--cents-(22¢)-per-mile,~~ the standard mileage rate for the business use of an automobile allowed under the internal revenue code for income tax purposes; and

(d) The mileage allowance for private aircraft travel shall be set by the board and shall be no higher than ~~twenty-two--cents (22¢)--per--mile~~ that allowed for automobile travel, calculated as if the travel had been by highway route.

(2) In fixing rates of allowance under this act, the board shall consider the prevailing cost of executing such travel, generally prevailing economic conditions, and the rates of allowance made applicable to similar travel by the federal government and private employers within the state.

(3) For a period where employees are to be absent from their post on official business for less than twenty-four (24) hours the board's regulations shall provide for partial days' subsistence rates.

Approved March 27, 1990.

CHAPTER 163
(S.B. No. 1392)

AN ACT

RELATING TO THE LICENSURE AND REGISTRATION OF BARBERS; AMENDING SECTION 54-501, IDAHO CODE, TO DELETE LANGUAGE STATING THAT IT SHALL BE UNLAWFUL TO SERVE OR ATTEMPT TO SERVE AS AN APPRENTICE UNDER A REGISTERED BARBER WITHOUT A CERTIFICATE OF REGISTRATION AS A REGISTERED APPRENTICE; REPEALING SECTIONS 54-503 AND 54-505, IDAHO CODE; AMENDING SECTION 54-506, IDAHO CODE, TO REVISE QUALIFICATIONS BEFORE A PERSON IS QUALIFIED TO RECEIVE A CERTIFICATE OF REGISTRATION TO PRACTICE BARBERING; AMENDING SECTION 54-507, IDAHO CODE, TO INCREASE THE MINIMUM GRADUATION REQUIREMENTS FROM A SCHOOL TEACHING THE ART OF SCIENCE OF BARBERING; AMENDING SECTION 54-510, IDAHO CODE, TO DELETE REFERENCE TO REGISTERED APPRENTICES AND TO PROVIDE FOR REGISTERED BARBERS; AMENDING SECTION 54-511, IDAHO CODE, TO DELETE REFERENCE TO A REGISTERED APPRENTICE BARBER; AMENDING SECTION 54-512, IDAHO CODE, TO DELETE LANGUAGE ALLOWING A PERSON TO APPLY FOR LICENSURE AS AN APPRENTICE BARBER; AMENDING SECTION 54-516, IDAHO CODE, TO DELETE REFERENCE TO UNLICENSED APPRENTICE BARBERS; AMENDING SECTION 54-518, IDAHO CODE, TO DELETE FEES FOR APPRENTICE BARBERS; AMENDING SECTION 54-519, IDAHO CODE, TO DELETE REFERENCE TO APPRENTICE BARBERS AND TO JOURNEYMAN BARBERS; AND AMENDING SECTION 54-524, IDAHO CODE, TO DELETE THE REQUIREMENT FOR CERTAIN MEDICAL TESTS FOR PERSONS APPLYING FOR LICENSURE.

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

SECTION 1. That Section 54-501, Idaho Code, be, and the same is hereby amended to read as follows:

54-501. REQUIREMENTS OF REGISTRATION AND BARBERSHOP LICENSE. After July 1, 1927, it shall be unlawful to practice, or attempt to practice, barbering without a certificate of registration as a registered barber issued pursuant to provisions of this act by the board of barber examiners.

~~After--July--1,--1927,-it-shall-be-unlawful-to-serve-or-attempt-to serve-as-an-apprentice-under-a-registered-barber-without-a-certificate of-registration-as-a-registered-apprentice-issued-by-the-board.~~

After July 1, 1957, it shall be unlawful to own or operate a barbershop until it is at all times under the direct supervision and management of a registered barber and unless a barbershop license is first obtained from the board for each barbershop owned and operated. The applicant for such license must furnish proof that the shop is located and equipped to meet the sanitary requirements and regulations of the board. The maintenance of a bona fide establishment with a permanent and definite location shall be prerequisite for the issuance of a barbershop license, the establishment of itinerant shops being prohibited. The holder of a barbershop license must notify the board in writing of any change of address and at the same time shall return said license, upon the fact of which such change shall be properly indorsed. A change of address by a licensee without such notice and indorsement shall operate to cancel the license.

SECTION 2. That Sections 54-503 and 54-505, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Section 54-506, Idaho Code, be, and the same is hereby amended to read as follows:

54-506. QUALIFICATIONS FOR CERTIFICATE OF REGISTRATION AS REGISTERED ~~APPRENTICE~~. A person is qualified to receive a certificate of registration ~~as a registered apprentice~~ to practice barbering:

1. Who has two (2) years of high school or an equivalent education as determined by an examination conducted by the board.

2. Who is at least sixteen and one-half (16 1/2) years of age.

3. Who is of good moral character and temperate habits.

4. Who has completed and graduated from a course consisting of at least ~~fifteen~~ seventeen hundred (~~15~~17~~00~~) hours within a period of ~~nine~~ ten and one-half (~~9~~10-1/2) months in a school of barbering approved by the board.

5. An applicant shall be required to submit to and successfully pass a barber's examination under the supervision of the board of barber examiners. An applicant for a certificate of registration to practice as ~~an apprentice~~ barber who fails to pass a satisfactory examination must complete a further course of three (3) months of not less than five hundred (500) hours in an approved school of barbering before he is entitled to take an examination again.

~~6.--It shall be unlawful to practice as an apprentice without a certificate of registered apprentice.~~

SECTION 4. That Section 54-507, Idaho Code, be, and the same is hereby amended to read as follows:

54-507. APPROVED BARBER COLLEGES -- REQUIREMENTS -- BOND. No school teaching the art or science of barbering shall be approved by the board nor shall it operate or be recognized as a school of barbering, unless the entrance requirements are equal to those which are required for apprentices under section 54-506, Idaho Code. An approved college may teach special courses, but as a prerequisite to graduation the college must give a course of instruction of not less than ~~fifteen~~ seventeen hundred (~~15~~17~~00~~) hours over a period of not less than ~~nine~~

ten and one-half (910-1/2) months and include in its course of instruction the following subjects:

Scientific fundamentals for barbering: hygiene; bacteriology; histology of the hair, skin, nails, muscles and nerves; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands and nails; massaging and manipulating the muscles of the upper body; hair cutting; shaving; and arranging, dressing, curling, waving, straightening, coloring, bleaching and tinting of the hair.

For the purpose of this chapter, a recognized approved barber school or college (hereinafter referred to as a college) shall be understood to be a college that has met with the provisions of this chapter, and has a valid unrevoked certificate issued by the board, to the effect that said college is approved by the state of Idaho.

No college in the state shall advertise or use any signs or terms to indicate that the college is approved, recognized, accredited, or certified, unless said college is approved by the board. Every college shall advertise as a college and make known to the public and customers that the work is being done by students.

All instructors in an approved college must be licensed in the state of Idaho as a barber instructor or a cosmetology instructor.

Every instructor in an approved college shall devote his or her entire time during class hours to that of instructing the students and shall not apply his time to that of private or public practice during the school or class hours.

School hours for the purpose of instruction in an approved college shall not begin before 8 a.m., or continue longer than 6 p.m., and shall be conducted for at least five (5) days during the week except Sunday and holidays.

The school day in an approved college shall not be divided into periods that may work to the detriment of the students. Each student shall be required to work or receive instruction in the college at least seven (7) hours each day. Credit will be allowed students for their actual time in attendance at the college, but not to exceed eight (8) hours per day.

A college furnishing satisfactory evidence that it is maintaining the requirements set forth in this chapter, whether located within or without the state, shall, upon the payment of the required fee, be issued a certificate to the effect that the college is approved by the board.

A certificate issued to a college must be renewed annually on July first of each year. Should a college fail or refuse to renew a certificate said college shall cease to operate if within the state of Idaho and be removed from the list of the approved colleges.

The board may cancel or refuse to renew a certificate issued to a college upon proof that said college has failed or refused to meet with the requirements for approved colleges set forth in this chapter.

One (1) instructor must be employed to each fifteen (15) students or fractional part thereof and one (1) barber instructor must be employed on a full-time basis in each school or college.

Every school or college approved by the board shall deliver to the board, a bond to the state of Idaho in a form approved by the board, and renew the same annually, in the sum of two thousand dollars

($2,000), executed by a corporate surety company duly authorized to do business in this state, conditioned that such school or college shall continue to give its courses of instruction, in accordance with the provision of this chapter, until it has completed all such courses for which students have enrolled, and conditioned that such school or college shall fully comply with all promises or representations made to enrolled students as an inducement to such students to enroll. Any student so enrolled who may be damaged by reason of the failure of such school or college to comply with such conditions, shall have a right of action in his or her own name, on such bonds, for such damage.

SECTION 5. That Section 54-510, Idaho Code, be, and the same is hereby amended to read as follows:

54-510. EXAMINATIONS. The board of barber examiners shall conduct examinations of applicants for certificates of registration to practice as registered ~~apprentices~~ barbers at such times and places as said board may determine.

The examination of applicants for certificates of registration as registered ~~apprentices~~ barbers shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually taught in schools of barbering approved by the board.

SECTION 6. That Section 54-511, Idaho Code, be, and the same is hereby amended to read as follows:

54-511. ISSUANCE OF CERTIFICATE. Whenever the provisions of this chapter have been complied with, the board shall issue a certificate of registration as a registered barber ~~or as a registered apprentice~~.

SECTION 7. That Section 54-512, Idaho Code, be, and the same is hereby amended to read as follows:

54-512. PERSONS HAVING PRACTICED BARBERING IN ANOTHER STATE OR COUNTRY. A person who is at least eighteen (18) years of age and of good moral character and temperate habits and who has completed two (2) years of high school or its equivalent as determined by the board, and either:

~~1-a.~~ Has a license or certificate of registration as a practicing barber from another state or country, which has substantially the same requirements for licensing or registering barbers as required by this chapter, or

~~2-a.~~ Who can prove by sworn affidavits that he has practiced as a licensed barber in another state or country for at least three (3) years immediately prior to making application in this state:

May be granted a license by the board to practice as a registered barber upon application and payment of the required fee. The board may require the applicant to submit to and successfully pass an examination. No such license may be issued except upon authorization by the board. It is unlawful for any person to practice as a registered barber without a certificate of registration.

~~1-b.--A person who is at least sixteen and one-half (16-1/2) years~~

~~of-age;~~

~~2-b;--Who-is-of-good-moral-character-and-temperate-habits;~~

~~3-b;--Who-has-completed-two-(2)-years-of-high-school-or-an-equivalent-education-as-determined-by-the-board;~~

~~4-b;--Who--has--a--certificate-of-registration-as-an-apprentice-in another-state-or-country,-which-has-substantially--the--same--requirements--for--licensing--or--registering-apprentices-as-required-by-this chapter,-provided,-however,-that-such-person-shall-not-have-failed-the Idaho-apprentice-barber-examination;~~

~~Shall-upon-the-payment-of-the-required-fee,-be--entitled--to--take the--examination--as-an-apprentice;-Upon-failure-to-pass-such-examination,-he-shall-be-required-to-take-a-three-(3)-months'-course--of--not less--than--five--hundred-(500)-hours-in-an-approved-school-of-barbers before-being-permitted-to-take-an-examination-again;--The--failure--to appear-for-any-examination-provided-for-in-this-chapter-shall-cause-an immediate--forfeiture-of-the-certificate-of-registration-as-an-apprentice-herein-provided-for;-It-is-unlawful-for-any-person-to-practice-as an-apprentice-without-a-certificate-of-registration;~~

SECTION 8. That Section 54-516, Idaho Code, be, and the same is hereby amended to read as follows:

54-516. REFUSAL, REVOCATION OR SUSPENSION OF CERTIFICATE AND LICENSE. The board of barber examiners may either refuse to issue or renew or may suspend or revoke any certificate of registration for any one (1) or combination of the following causes:

1. Conviction of a felony shown by a certified copy of the record of the court of conviction;

2. Gross malpractice or gross incompetency;

3. Failure to meet the sanitary and health requirements as promulgated for barbers under the provisions of this chapter;

4. Advertising by means of knowingly false or deceptive statements;

5. Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit-forming drugs;

6. Immoral or unprofessional conduct; and~~;~~

7. The commission of any of the offenses described in section 54-519, Idaho Code.

The board may suspend for not more than thirty (30) days or until compliance with the requirements, a barber shop license if the owner and operator fail to meet the sanitary requirements of the board or if either the owner or operator employs ~~unlicensed-apprentice-barbers-or~~ unlicensed barbers in the shop.

SECTION 9. That Section 54-518, Idaho Code, be, and the same is hereby amended to read as follows:

54-518. FEES. The fee for a certificate to operate an approved barber college within the state, shall be two hundred dollars ($200) per annum. The fee for the issuance of a certificate to an approved barber college located outside the state, shall be one hundred dollars ($100) per annum, or for any part of a year. All certification issued to colleges shall expire on June thirtieth of each year following the

date of issuance and may be renewed upon the payment of the proper fee. The fee for a certificate issued to a college located within the state shall not be prorated, except that a certificate may be issued for a period of not to exceed six (6) months for one hundred dollars ($100), but in any event certificates shall expire on June thirtieth following date of issuance.

The fee to be paid by an applicant to receive a certificate of registration to practice as a registered barber, shall be established by a board regulation not to exceed eighty dollars ($80.00). Should the applicant not qualify, the fee is not returnable. All applicants who qualify shall be issued a license upon the payment of a certificate fee of thirty dollars ($30.00). The annual fee for renewal of a license shall be thirty dollars ($30.00). The fee for reinstatement shall be as provided in section 67-2614, Idaho Code.

~~The fee to be paid by an applicant to determine his fitness to receive a certificate of registration as an apprentice shall be established by board regulation not to exceed eighty dollars ($80.00). Should the applicant fail in the examination the fee is not returnable. All applicants who pass shall be issued a license upon payment of thirty dollars ($30.00), the certificate fee.~~

The fee to be paid by an applicant for an original barbershop license shall be sixty dollars ($60.00); the fee for renewal of a barbershop license which must be renewed annually shall be thirty dollars ($30.00); the fee to be paid by an applicant required to take an examination to determine his fitness to receive a teacher's certificate shall be one hundred dollars ($100). Should the applicant for a teacher's certificate fail in the examination, the fee is not returnable. Teachers' certificates shall be renewable annually upon payment of a renewal fee of thirty dollars ($30.00).

The fee for student registration shall be twenty dollars ($20.00). The fee for a temporary permit issued by the board shall be fifteen dollars ($15.00). All fees shall be paid to the bureau of occupational licenses.

SECTION 10. That Section 54-519, Idaho Code, be, and the same is hereby amended to read as follows:

54-519. CERTAIN ACTS PROHIBITED. Each of the following constitutes a misdemeanor, punishable upon conviction by a fine of not less than twenty-five dollars ($25.00), nor more than two hundred dollars ($200):

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

2. Permitting any person in one's employ, supervision or control to practice as a ~~journeyman~~ barber ~~or as an apprentice~~ unless that person has a valid, unrevoked certificate of registration as a registered barber ~~or apprentice~~ or a temporary permit from the department or to practice cosmetology unless that person has a valid, unrevoked certificate of registration as a registered cosmetologist~~,~~;

3. Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation;

4. Practicing or attempting to practice by fraudulent misrepresentations;

5. The wilful failure to display a certificate of registration as required by section 54-514, Idaho Code; or

6. The use of any room or place for cutting or trimming the hair which is also used for residential or business purposes (except the sale of such commodities as are used in barber shops) unless a substantial partition of ceiling height separates the portion used for residential or business purposes.

SECTION 11. That Section 54-524, Idaho Code, be, and the same is hereby amended to read as follows:

54-524. ~~PHYSICAL-EXAMINATION-REQUIRED-OF-PRACTITIONERS~~--- INSPECTION RULES. ~~All-persons-licensed-and-practicing,-in-this-state,-under the-provisions-of-this-chapter,-shall-be-required-to--submit,--at--the time--of-original-licensing-a-report-of-freedom-from-contagious-tuberculosis,-as-shown-by-a-negative-tuberculin-skin--test--report--by--any health--care--practitioner--or--a--chest--x-ray--signed-by-a-physician licensed-to-practice-medicine.~~ Inspection of barbers and barber shops for the purpose of enforcing the provisions of this chapter shall be made by the bureau of occupational licensing. The board of barber examiners shall have authority to make reasonable rules for the administration of the provisions of this chapter and prescribe sanitary requirements for barber shops and barber schools, and the officers of said agency, or its agents, shall have authority to enter upon and to inspect any barber shop or barber school at any time during business hours. A copy of the rules adopted by the board shall be furnished by the said board to the owner and manager of each barber shop and barber school, and such copy shall be posted in a conspicuous place in such barber shop or barber school.

Approved March 27, 1990.

CHAPTER 164
(S.B. No. 1479)

AN ACT

RELATING TO DRILLING PERMITS; AMENDING SECTION 42-235, IDAHO CODE, TO INCREASE THE FEE STRUCTURE FOR DRILLING PERMITS.

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

SECTION 1. That Section 42-235, Idaho Code, be, and the same is hereby amended to read as follows:

42-235. DRILLING PERMITS. Prior to constructing or drilling any well, an owner shall obtain a permit from the director of the department of water resources, to protect the public health, safety and welfare and the environment and to prevent the waste or mixture of any water from a well. There shall be a ~~ten~~ thirty-five dollar ($~~10~~35.00) charge for the permit if the well is to be used for domestic or monitoring purposes. If the well is to be used for other than domestic or

monitoring purposes, the charge for the permit shall be ~~one~~ two hundred dollars ($~~1~~200). All moneys received pursuant to this section shall be credited to the water administration account. The director may provide a blanket drilling permit for site specific monitoring programs which will determine the quality, quantity, temperature, pressure or other attributes of aquifers. The application for a blanket permit shall be submitted by a licensed engineer or licensed geologist and shall describe the overall drilling program and all relevant technical features of the wells to the satisfaction of the director. Progress reports, completion and other data may be required as provided by rule and regulation. The fee for the blanket permit shall be fifty dollars ($50.00) plus an additional twenty-five dollars ($25.00) per well. A person violating any provision of this section shall be guilty of a misdemeanor.

Approved March 27, 1990.

CHAPTER 165
(S.B. No. 1493)

AN ACT

RELATING TO MANUFACTURED HOME DEALERS AND BROKERS; AMENDING SECTION 44-2102, IDAHO CODE, TO PROVIDE CONDITIONS FOR THE SALE OF USED UNITS; AND REPEALING SECTION 44-2102A, IDAHO CODE.

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

SECTION 1. That Section 44-2102, Idaho Code, be, and the same is hereby amended to read as follows:

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The director is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules and regulations, not inconsistent with the provisions of this chapter and the laws of the state of Idaho, as he shall consider necessary, to provide for the licensing and bonding of manufactured home dealers and brokers, manufacturers and service firms, the licensing of manufactured home salesmen, and the establishment of a mandatory statewide manufactured home "set up" code. The director shall also define and prohibit any practice which is found to be deceptive.

(2) ~~The director shall provide necessary rules and regulations providing that~~ A used units which ~~have~~ has been determined to be or declared by the owner to be real property under the provisions of section 63-307B, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed broker, but not a manufactured home dealer or manufactured home salesman. A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought

for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to chapter 20, title 54, Idaho Code, or by a licensed manufactured home dealer, broker, or manufactured home salesman, but ~~not a real estate broker or a real estate~~ with respect to a licensed manufactured home dealer, broker or salesman only to the extent such sale does not involve the purchase or sale of an interest in real estate.

SECTION 2. That Section 44-2102A, Idaho Code, be, and the same is hereby repealed.

Approved March 27, 1990.

CHAPTER 166
(S.B. No. 1494)

AN ACT

RELATING TO MOTOR VEHICLE EQUIPMENT; AMENDING SECTION 49-903, IDAHO CODE, TO PROVIDE THAT LIGHTED LAMPS ARE REQUIRED ON MOTOR VEHICLES BETWEEN THE HOURS OF SUNSET AND SUNRISE.

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

SECTION 1. That Section 49-903, Idaho Code, be, and the same is hereby amended to read as follows:

49-903. WHEN LIGHTED LAMPS ARE REQUIRED. Every vehicle upon a highway at any time from ~~a one-half (1/2) hour after~~ sunset to ~~one-half (1/2) hour before~~ sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred (500) feet ahead shall display lighted lamps and illuminating devices as here respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as stated herein.

Approved March 27, 1990.

CHAPTER 167
(H.B. No. 561)

AN ACT

RELATING TO THE IDAHO BUILDING CODE ADVISORY ACT; AMENDING SECTION 39-4113, IDAHO CODE, TO PROVIDE FOR REVIEW OF SCHOOL DISTRICT CONSTRUCTION PLANS; AND AMENDING SECTION 39-4116, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES SHALL REVIEW SCHOOL DISTRICT CONSTRUCTION PLANS.

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

SECTION 1. That Section 39-4113, Idaho Code, be, and the same is hereby amended to read as follows:

39-4113. PLAN CHECKING -- MAXIMUM FEES. (1) Notwithstanding the provisions of section 302(b)4, Uniform Building Code, 1982, the director shall establish a program for total plan checking and permit issue entirely within the safety inspection division of the department.

(2) Plan review fees shall be as required by section 304(b), Uniform Building Code, 1982.

(3) Each manufacturer of recreational vehicles, commercial coaches and modular buildings shall submit the building plans for every model of such structure to the director for the purpose of review. The manufacturer must certify that each such building plan meets the appropriate construction and safety standards in force at that time before the model involved is produced.

(4) Each school district shall submit to the department of labor and industrial services a set of working drawings and specifications for new school buildings and additions or alterations to existing buildings which are estimated to cost in excess of twenty-five thousand dollars ($25,000). The department will review the plans for compliance with the current editions of the codes specified in section 39-4109, Idaho Code. These plans must be approved before the school district may advertise for bids.

SECTION 2. That Section 39-4116, Idaho Code, be, and the same is hereby amended to read as follows:

39-4116. ENFORCEMENT -- ASSISTANCE. (1) Local governments may, effective July 1 of any year, by affirmative action by resolution or ordinance taken by the governing board of a local government, prior to December 31 of the previous year, comply with the codes enumerated in this chapter, and codes, rules and regulations promulgated pursuant to this chapter, and inspection and enforcement may be provided by the local government, or may be provided by the department if such local government opts to comply with the provisions of this chapter but not to provide inspection and enforcement, except that the department shall retain jurisdiction of inspection and enforcement of construction standards and set-up codes for manufactured homes and construction standards for recreational vehicles, and for inspection and enforcement of construction standards for modular buildings and commercial coaches, and for review of public school construction plans, whether or not a local government opts to comply with the other provisions of this chapter. Any decision to comply with the provisions of this chapter must be communicated to the director in writing, and compliance must be for an entire year commencing July 1. The minimum codes a local government must adopt in order to opt into this chapter are the latest editions of the Uniform Building Code and the Uniform Mechanical Code. The remaining codes enumerated in the act are optional as to whether or not the local government wishes to adopt them.

(2) All building code inspectors, including those of local governments which have opted to comply with the provisions of this chapter, shall be certified as provided by section 39-4108, Idaho Code.

(3) The department may contract to assist a local government in such matters as technical assistance, code interpretation, education, training, personnel, and information and dissemination of information and statistics.

(4) The department may conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose, it may cooperate and contract with educational institutions, local, state, regional or national building officials' organizations, and any other appropriate organization.

(5) Local governments who do not exercise their option may at any time of the year contract with the department to administer the building code enforcement program for them. The terms of such a contract shall be negotiated between the local unit of government and the director.

Approved March 27, 1990.

CHAPTER 168
(H.B. No. 676)

AN ACT

RELATING TO EXAMINATIONS TO SELL INSURANCE; AMENDING SECTION 41-1041, IDAHO CODE, TO REDUCE THE WAITING PERIOD FOR REEXAMINATION AFTER AN APPLICANT HAS FAILED TO PASS AN EXAMINATION FROM SIX MONTHS TO TWENTY-EIGHT DAYS AFTER THE APPLICANT'S LAST EXAMINATION.

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

SECTION 1. That Section 41-1041, Idaho Code, be, and the same is hereby amended to read as follows:

41-1041. CONDUCT OF EXAMINATION. (1) The director shall make any examination required under section 41-1038, Idaho Code, available to applicants from time to time with reasonable frequency, and at places in this state reasonably accessible to such applicants. The director shall make each such examination available at Boise on at least one (1) day of each week.

(2) The director may permit the applicant to take, on the same day and at the same place, all examinations required for the license or licenses for which his application has theretofore been completed and is then pending, and for which the examinations fees have been paid. This provision shall not apply as to examination for license as to variable annuity contracts.

(3) The director shall give, conduct and grade all examinations in a fair and impartial manner, and without unfair discrimination as between individuals examined.

(4) ~~The--director--may-require-a-reasonable-waiting-period-before reexamination-of-an-applicant-who-has-taken-and-failed-to-pass-a--previous--examination--covering--the-same-kind-or-kinds-of-insurance.~~ The

director shall require an applicant failing to pass an examination ~~after--two--(2)-successive-attempts~~ covering the same kind or kinds of insurance to wait for a period of ~~not-less-than-six-(6)-months~~ twenty-eight (28) days from the date the applicant last took the examination before reexamination.

Approved March 27, 1990.

CHAPTER 169
(H.B. No. 470)

AN ACT

RELATING TO SELF-FUNDED HEALTH CARE PLANS; AMENDING SECTION 41-4004, IDAHO CODE, TO DELETE THE REQUIREMENT THAT A SELF-FUNDED HEALTH CARE PLAN COVER NOT LESS THAN FIVE HUNDRED BENEFICIARIES BEFORE IT MAY QUALIFY FOR REGISTRATION WITH THE DIRECTOR OF THE DEPARTMENT OF INSURANCE.

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

SECTION 1. That Section 41-4004, Idaho Code, be, and the same is hereby amended to read as follows:

41-4004. QUALIFICATIONS FOR REGISTRATION. No self-funded plan shall register, and the director shall not register a self-funded plan, which is not qualified therefor as follows:

(1) ~~Must--cover--as--beneficiaries--not-less-than-an-aggregate-of five-hundred-(500)-individuals,-including-employees-of-the-employer-or employers-participating-in-the-plan-and-such-dependent-members-of--the families--of-such-employees-as-may,-under-the-plan,-also-be-beneficiaries.~~

~~(2)~~ Must require all contributions to be paid in advance and to be deposited in and disbursed from a trust fund duly created and existing under an adequate written irrevocable trust agreement between the employer or employers and the trustee.

(~~3~~2) Must have, or provide for, a trustworthy and responsible trustee, and for competent administration of the trust fund and plan.

(~~4~~3) Must require that all such employers must contribute to the trust fund, and that all contributions, if any, by employees shall be by regular periodic payroll deductions, except as to contributions made by an employee during his absence from such employment for such period as the plan may reasonably provide.

(~~5~~4) Must provide that the administrator or trustee on behalf of the trust fund, as the case may be, shall furnish to each employee-beneficiary of the plan a written statement or schedule adequately and clearly stating all benefits currently allowable under the plan, together with all applicable restrictions, limitations, and exclusions, and the procedure for filing a claim for benefits.

(~~6~~5) The trust fund must be actuarially sound; that is, assets and income of the trust fund must be adequate under reasonable esti-

mates for payment of all benefits promised to beneficiaries by the plan. In determining actuarial soundness the director shall also give due consideration to:

(a) Applicable stop-loss insurance provided or to be provided the plan by an insurer duly authorized to transact disability insurance in this state;

(b) Contracts with health care service corporations or health maintenance organizations authorized to conduct such operations in this state, and covering certain of the promised benefits;

(c) Other applicable insurance or guarantys; and

(d) Plan factors or provisions for prevention or reduction of adverse selection against the plan by those otherwise eligible to become beneficiaries.

(~~7~~6) Must otherwise be in compliance with this act.

Approved March 27, 1990.

CHAPTER 170
(H.B. No. 421)

AN ACT

RELATING TO PLATS AND VACATIONS; AMENDING SECTION 50-1301, IDAHO CODE, TO INCLUDE THE DEFINITION OF A PUBLIC LAND SURVEY CORNER; AND AMENDING SECTION 50-1304, IDAHO CODE, TO ELIMINATE REFERENCE TO GOVERNMENT CORNERS AND INSERT IN LIEU THEREOF PUBLIC LAND SURVEY CORNER.

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

SECTION 1. That Section 50-1301, Idaho Code, be, and the same is hereby amended to read as follows:

50-1301. DEFINITIONS. The following definitions shall apply to terms used in sections 50-1301 through 50-1333, Idaho Code.

1. Easement: A right of use, falling short of ownership, and usually for a certain stated purpose;

2. Owner: The proprietor of the land, (having legal title);

3. Plat: The drawing, map or plan of a subdivision, cemetery, townsite or other tract of land, or a replatting of such, including certifications, descriptions and approvals;

4. Private road: A road within a subdivision plat that is not dedicated to the public;

5. Public land survey corner: Any land survey corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government;

6. Sanitary restriction: The requirement that no building or shelter which will require a water supply facility or a sewage disposal facility for people using the premises where such building or shelter is located shall be erected until written approval is first

obtained from the state board of health by its administrator or his delegate approving plans and specifications either for public water and/or sewage facilities, or individual parcel water and/or sewage facilities;

~~6~~7. Street: A public street, road, thoroughfare, alley or highway; a right of way for public use;

~~7~~8. Subdivision: A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bona fide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of the above definition.

SECTION 2. That Section 50-1304, Idaho Code, be, and the same is hereby amended to read as follows:

50-1304. ESSENTIALS OF PLATS. All plats offered for record in any county shall be prepared in black opaque image upon stable base drafting film with a minimum base thickness of 0.003 inches, by either a photographic process using a silver image emulsion or by use of a black opaque drafting film ink, by mechanical or handwritten means. The drafting film and image thereon shall be waterproof, tear resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. If ink is used on drafting film, the ink surface shall be coated with a suitable substance to assure permanent legibility. The drafting film must be of a type which can be reproduced by either a photographic or diazo process. Plats shall be eighteen (18) inches by twenty-seven (27) inches in size, with a three (3) inch margin at the left end for binding and a one-half (1/2) inch margin on all other edges. No part of the drawing or certificates shall encroach upon the margins. Signatures may be in reproducible black ink. The sheet or sheets which contain the drawing or diagram representing the survey of the subdivision shall be drawn at a scale suitable to insure the clarity of all lines, bearings and dimensions. In the event that any subdivision is of such magnitude that the drawing or diagram cannot be placed on a single sheet, serially numbered sheets shall be prepared and match lines shall be indicated on the drawing or diagram with appropriate references to other sheets. The required dedications, acknowledgements and certifications shall appear on one (1) of the serially numbered sheets.

The plat shall show: (a) the streets and alleys, with widths and courses clearly shown; (b) each street named; (c) all lots numbered consecutively in each block, and each block lettered or numbered, provided, however, in a platted cemetery, that each block, section, district or division and each burial lot shall be designated by number or letter or name; (d) each and all lengths of the boundaries of each lot shall be shown, provided, however, in a platted cemetery, that lengths of the boundaries of each burial lot may be shown by appropriate legend; (e) the exterior boundaries shown by distance and bearing; (f) descriptions of survey monuments; (g) initial point and tie to at

least two (2) ~~government~~ public land survey corners, or in lieu of ~~government~~ public land survey corners, to two (2) monuments recognized by the city engineer or county engineer or surveyor; and also, if required by the city or county governing bodies, give coordinates based on the~~,~~ Idaho coordinate system; (h) the easements; and (i) basis of bearings.

Approved March 27, 1990.

CHAPTER 171
(H.B. No. 630)

AN ACT

RELATING TO DEALERS IN FARM PRODUCE; AMENDING SECTION 22-1303, IDAHO CODE, TO INCREASE THE APPLICATION FEES FOR COMMISSION MERCHANTS, DEALERS, BROKERS AND AGENTS.

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

SECTION 1. That Section 22-1303, Idaho Code, be, and the same is hereby amended to read as follows:

22-1303. LICENSE REQUIRED -- APPLICATION, ISSUANCE, FEES. No person shall act as a commission merchant, dealer, broker, or agent without having obtained a license as provided in this chapter. Every person, acting as a commission merchant, dealer, broker or agent as herein defined shall file an application with the director for a license to transact the business of commission merchant, dealer, broker and/or agent, and such application shall be accompanied by the license fee herein provided for each specified class of business. Separate applications shall be filed for each class of business.

Such application shall in each case state the class or classes of farm products the applicant proposes to handle, the full name of the person applying for such license, and if the applicant be a firm, exchange, association or corporation, the full name of each member of the firm, or the names of the officers of the exchange, association or corporation shall be given in the application. Such application shall further state the principal business address of the applicant in the state of Idaho and elsewhere, and the name or names of the person or persons authorized to receive and accept service of summons and legal notices of all kinds for the applicant within the state of Idaho. Such applicant shall further satisfy the director of his or its character, responsibility and good faith in seeking to carry on the business stated in the application.

In addition to the general requirements applicable to all classes of applications as in this section set forth, the following requirements shall apply to the class of application noted:

(a) Commission merchants: Each application shall include a schedule of commissions and charges for services, and such designated commissions and charges shall not be changed or varied for the license

period except by written contract between the parties.

(b) Agents: Each application shall include such information as the director may consider proper or necessary, and shall include the name and address of applicant, and the name and address of each commission merchant, dealer or broker represented or sought to be represented by said agent, and the written indorsement or nomination of such commission merchant, dealer or broker.

The director shall thereupon issue to such applicant a license entitling the applicant to conduct the business described in the application at the place named in the application until the 30th day of May next following, or until the same shall have been revoked for cause. The director may also issue to each agent a card or cards, which shall bear the signature of such agent and his principal, separate cards being required for each principal. Any agent shall show card or cards upon the request of any interested person.

Fraud or misrepresentation in making any application shall ipso facto work a revocation of any license granted thereunder. All indicia of the possession of a license shall be at all times the property of the state of Idaho, and each licensee shall be entitled to the possession thereof only for the duration of said license.

For filing the applications herein described, each applicant must pay a fee as follows:

(a) Commission merchants: ~~Fifty~~ One hundred dollars ($~~5~~100.00) for each year.

(b) Dealers: ~~Fifty~~ One hundred dollars ($~~5~~100.00) for each year.

(c) Brokers: ~~Fifty~~ One hundred dollars ($~~5~~100.00) for each year.

(d) Agents: ~~Fifteen~~ Twenty-five dollars ($~~1~~25.00) for each year.

Any person who shall have been licensed as a commission merchant shall, upon application, be licensed also as a dealer and as a broker as defined herein, without payment of further fees, and shall thereupon conform to the parts of this chapter regulating the business of a dealer and/or broker. Any person who has applied for and received a license as a dealer or broker in the manner and upon payment of the fee herein set forth may apply for and secure a license as a commission merchant in addition to the license issued to him as such dealer or broker, without payment of further fee and upon further complying with those parts of this chapter regulating the licensing of a commission merchant.

Approved March 27, 1990.

CHAPTER 172
(H.B. No. 826)

AN ACT

APPROPRIATING MONEYS FOR THE STATE INSURANCE FUND FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$3,388,700
Operating Expenditures	886,900
Capital Outlay	114,200
TOTAL	$4,389,800
FROM:	
State Insurance Fund Account	$4,389,800

Approved March 27, 1990.

CHAPTER 173
(H.B. No. 825)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$ 455,500	$ 93,700	$17,200	$ 407,600	$ 974,000
Idaho Commission for the Blind Account	562,800	306,500	23,200	631,100	1,523,600
Blind Commission Donations Account			5,000		5,000
Randolph Sheppard Account	26,400	46,800		83,000	156,200
Interagency Billing and Receipts Account		10,100	8,400	200	18,700
TOTAL	$1,044,700	$457,100	$53,800	$1,121,900	$2,677,500

Approved March 27, 1990.

CHAPTER 174
(H.B. No. 823)

AN ACT

APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 1991; 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, 1990, through June 30, 1991:

FROM:

General Account	$2,132,700
Adjutant General Receipts Account	267,600
Disaster Services Account	749,100
Federal and State Contracts Account	5,330,800
Federal Indirect Cost Account	47,600
Interagency Billing and Receipts Account	35,700
TOTAL	$8,563,500

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 1, Chapter 355, Laws of 1989, for the period July 1, 1990, through June 30, 1991.

Approved March 27, 1990.

CHAPTER 175
(H.B. No. 726)

AN ACT

RELATING TO FENDERS OR COVERS OVER WHEELS ON MOTOR VEHICLES; AMENDING SECTION 49-949, IDAHO CODE, TO PROVIDE AN EXCEPTION THAT MOTOR VEHICLES OPERATED ON HIGHWAYS OF THIS STATE MUST HAVE FENDERS OR COVERS OVER ALL WHEELS.

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

SECTION 1. That Section 49-949, Idaho Code, be, and the same is hereby amended to read as follows:

49-949. REQUIREMENT AS TO FENDER OR COVERS OVER ALL WHEELS ON MOTOR VEHICLES. (1) It shall be unlawful for any person to operate or move or any owner to permit to be operated or moved, any motor vehicle, truck, bus, semitrailer or trailer, upon any highway without having the vehicle equipped with fenders or covers which may include flaps or splash aprons, over and to the rear of wheels, as follows:

(a) On the rear wheels of every truck equipped with a body, bus, trailer or semitrailer the fenders or covers shall extend in full width from a point above and forward of the center of the tires over and to the rear of the wheels to a point that is not more than ten (10) inches above the surface of the highway when the vehicle is empty~~.~~;

(b) Behind the rear wheels of every truck not equipped with a body the fenders or covers shall extend downward in full width from a point not lower than halfway between the center of the wheels and the top of the tires on the wheels to a point that is not more than ten (10) inches above the surface of the highway when the vehicle is empty~~.~~;

(c) Behind all wheels of every motor vehicle other than trucks, buses, semitrailers, or trailers, the fenders or covers shall extend in full width from a point above and forward of the center of the tire over and to the rear of the wheel to a point that is not more than twenty (20) inches above the surface of the highway~~.~~;

(d) Fenders or covers are not required on any modified American-made pre-1935 vehicle, or any identifiable vintage or replica thereof that is titled as a later assembled vehicle or replica and is used for show and pleasure use when such vehicle is used and driven only during fair weather on well-maintained hard-surfaced roads.

(2) Fenders or covers, as used in subsection (1) of this section, shall be deemed to be of sufficient size and construction as to comply with those requirements if constructed as follows:

(a) When measured on the cross sections of the tread of the wheel or on the combined cross sections of the treads of multiple wheels, the fender or cover extends at least to each side of the width of the tire or of the combined width of the multiple tires, as the case may be; ~~and~~

(b) The fender or cover is constructed as to be capable at all times of arresting and deflecting dirt, mud, water, or other substance as may be picked up and carried by wheels~~.~~;

(c) For school buses if the body extension behind the rear wheels exceeds five (5) feet.

Approved March 27, 1990.

CHAPTER 176
(H.B. No. 593)

AN ACT

RELATING TO STREET RODS; AMENDING SECTION 49-120, AS AMENDED BY SECTION 11, CHAPTER 88, LAWS OF 1989, IDAHO CODE, TO DEFINE "STREET ROD"; AMENDING SECTION 49-408, IDAHO CODE, TO REDEFINE "STREET ROD", TO PROVIDE FOR STAGGERED REGISTRATION, TO PROVIDE FOR TRANSFER OF PLATES AND TO DELETE LANGUAGE RELATING TO A SAFETY INSPECTION LAW.

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

SECTION 1. That Section 49-120, as amended by Section 11, Chapter 88, Laws of 1989, Idaho Code, be, and the same is hereby amended to read as follows:

49-120. DEFINITIONS -- S.

(1) "Safety glazing materials" mean 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) "Secretary" means the secretary of transportation of the United States.

(~~5~~6) "Security agreement." (See section 28-9-105, Idaho Code)

(~~6~~7) "Security interest." (See section 28-1-201, Idaho Code)

(~~7~~8) "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.

(~~8~~9) "Semitrailer." (See "Trailer", section 49-121, Idaho Code)

(~~9~~10) "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.

(~~10~~11) "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.

(~~11~~12) "Signal." (See "Railroad sign", section 49-119, Idaho Code)

(~~12~~13) "Slow moving vehicle" means any vehicle not normally operated upon the highways.

(~~13~~14) "Snow tire." (See "Tires", section 49-121, Idaho Code)

(~~14~~15) "Sold." (See "Sell", "buy", and "purchase", this section)

(~~15~~16) "Solid rubber tire." (See "Tires", section 49-121, Idaho Code)

(~~16~~17) "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, 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.

(1~~7~~8) "Specially constructed vehicle." (See "Vehicle", section 49-123, Idaho Code)

(18~~9~~) "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.

(~~19~~20) "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.

(20~~1~~) "Stop" means the act of or complete cessation from movement.

(21~~2~~) "Stopping" means the act of any halting even momentarily of a vehicle.

(22~~3~~) "Street." (See "Highways", section 49-109, Idaho Code)

(24) "Street rod" means any pre-1949 vehicle which has had a significant drive train update from a more modern vehicle. Changes may include engine, transmission, rear axle, and other suspension components. The body will be, or resemble the same as the manufacturer's original issue after its first sale after manufacture.

(23~~5~~) "Studded tire." (See "Tires", section 49-121, Idaho Code)

(24~~6~~) "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.

(25~~7~~) "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.

(26~~8~~) "Suspension of 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 2. That Section 49-408, Idaho Code, be, and the same is hereby amended to read as follows:

49-408. STREET ROD. (1) Any ~~modernized~~ motor vehicle manufactured prior to the year 1949, or designed and manufactured to resemble such a vehicle and which has been certified as a street rod by ~~an inspector of~~ the United Street Rods of Idaho, may be registered as a street rod under the provisions of this section.

(2) Any street rod shall have all equipment in operating condition which was specifically required by law as a condition for its

first sale after manufacture. No law requiring any particular equipment or specifying any standards to be met by motor vehicles shall apply to street rods unless it so specifically states.

(3) Upon receipt of an application on a form prescribed by the department for special street rod automobile plates, accompanied by other documentation required in this section, the department shall issue to the applicant special street rod automobile plates. The registration certificate need not specify the weight of the street rod, and the plates issued shall bear no date but shall bear the inscription "Street Rod," "Idaho," a picture of a 1929 highway roadster, and the registration number issued for the street rod, and the plates shall be valid upon yearly renewal under section 49-402, Idaho Code, as long as the vehicle is in existence. The plates will be issued for the applicant's use only for the particular vehicle, and in the event of a transfer of title, the transferor ~~must surrender the plates for the transfer~~ may hold the plates and transfer them to another qualifying street rod.

(4) In addition to the annual operating fees prescribed in this chapter, a one (1) time fee for the plates shall be ten dollars ($10.00).

(5) ~~Applicants shall, along with the application for annual registration, provide satisfactory proof that the street rod and its owner are registered in the United Street Rods of Idaho, and satisfactory proof of passage of a safety inspection for the vehicle and possession of a valid national street rod association safety inspection sticker to be applied in the lower right hand corner of the windshield of the vehicle upon which the special plates are to be displayed. The inspection may be accomplished in accordance with a safety inspection form supplied by the national street rod association, by designated national street rod association inspectors.~~

~~(6)~~ The department has the power to revoke any registration issued under this section for cause shown for failure of the applicant to comply with the provisions of this section.

Approved March 27, 1990.

CHAPTER 177
(H.B. No. 671)

AN ACT

RELATING TO THE COMMISSION FOR THE BLIND; AMENDING CHAPTER 54, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-5414 AND 67-5415, IDAHO CODE, TO PROVIDE FOR THE REPORTING OF BLIND PERSONS, AND TO PROVIDE FOR MAINTENANCE OF A STATISTICAL REGISTER OF THE BLIND.

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

SECTION 1. That Chapter 54, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be

known and designated as Sections 67-5414 and 67-5415, Idaho Code, and to read as follows:

67-5414. REPORTS OF MEDICAL AUTHORITIES ESTABLISHING BLINDNESS. Any Idaho physician, optometrist, or other person who diagnoses a person as blind, as defined in section 67-5402(2), Idaho Code, shall, if the person consents, report within thirty (30) days the result of the examination to the administrator of the commission. Disclosure of this information will be limited to carrying out the provisions of this act or upon written permission of the blind person.

67-5415. STATISTICAL REGISTER OF BLIND -- MAINTENANCE BY ADMINISTRATOR. The administrator of the commission shall maintain a statistical register of the blind in the state which shall describe therein the condition, cause of blindness and capacity to benefit from agency services. The register shall be maintained on a current basis so as to give information which will aid in planning improved facilities and services to the blind and restoration and conservation of sight.

Approved March 27, 1990.

CHAPTER 178
(H.B. No. 634)

AN ACT

RELATING TO THE FILING OF PLATS FOR NEW SUBDIVISIONS; AMENDING CHAPTER 13, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1334, IDAHO CODE, TO PROVIDE FOR CERTIFICATION CONCERNING ABILITY TO SERVE FOR WATER SYSTEMS IN NEW SUBDIVISIONS.

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

SECTION 1. That Chapter 13, 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 50-1334, Idaho Code, and to read as follows:

50-1334. REVIEW OF WATER SYSTEMS ENCOMPASSED BY PLATS. Whenever any plat is subject to the terms and requirements of sections 50-1326 through 50-1329, Idaho Code, no person shall offer for recording, or cause to be recorded, a plat unless he or she shall have certified that at least one (1) of the following is the case:

(1) The individual lots described in the plat will not be served by any water system common to one (1) or more of the lots, but will be served by individual wells.

(2) All of the lots in the plat will be eligible to receive water service from an existing water system, be the water system municipal, a water district, a public utility subject to the regulation of the Idaho public utilities commission, or a mutual or nonprofit water company, and the existing water distribution system has agreed in writing

to serve all of the lots in the subdivision.

(3) If a new water system will come into being to serve the subdivision, that it has or will have sufficient contributed capital to allow the water system's wells, springboxes, reservoirs and mains to be constructed to provide service without further connection charges or fees to the landowners of the lots, except for connection of laterals, meters or other plant exclusively for the lot owner's own use.

Failure to comply with this section is a misdemeanor subject to the provisions of section 50-1329, Idaho Code. The certification must be filed or recorded as part of the plat document preserved for public inspection. Property owners in the area encompassed by the plat will be entitled to the benefits of the third provision of this section when that option is chosen.

Approved March 27, 1990.

CHAPTER 179
(H.B. No. 635)

AN ACT

RELATING TO THE TAXATION OF ILLEGAL DRUGS; AMENDING SECTION 63-4201, IDAHO CODE, TO CHANGE THE SHORT TITLE; AMENDING SECTION 63-4202, IDAHO CODE, TO ELIMINATE THE DISTINCTION BETWEEN MARIJUANA AND CONTROLLED SUBSTANCES, TO REDEFINE CONTROLLED SUBSTANCES, AND TO DELETE THE DEFINITION OF "DEALER"; AMENDING SECTION 63-4203, IDAHO CODE, TO PROVIDE THAT ILLEGAL DRUG TAXES ARE IMPOSED ON PERSONS POSSESSING CERTAIN QUANTITIES OF CONTROLLED SUBSTANCES, TO IMPOSE A TAX ON GROWING MARIJUANA PLANTS, AND TO PROVIDE THAT DRUG TAXES ARE NOT PROPERTY TAXES FOR THE PURPOSES OF THE IDAHO CONSTITUTION; AMENDING SECTION 63-4204, IDAHO CODE, TO CLARIFY ILLEGAL DRUG TAXES IMPOSED AND TO PROHIBIT PERSONS FROM POSSESSING CONTROLLED SUBSTANCES WITHOUT PAYMENT OF THE ILLEGAL DRUG TAX; AMENDING SECTION 63-4205, IDAHO CODE, TO REQUIRE PERSONS TO OBTAIN ILLEGAL DRUG TAX STAMPS WHEN ACQUIRING CONTROLLED SUBSTANCES, TO ELIMINATE REFERENCES TO MARIJUANA AND TO STRIKE AN ANONYMITY PROVISION; AMENDING CHAPTER 42, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-4206, IDAHO CODE, TO PROHIBIT DISCLOSURE AND USE OF INFORMATION ACQUIRED FROM PERSONS PURCHASING ILLEGAL DRUG TAX STAMPS OR SEEKING REDETERMINATION OF ASSESSMENTS, TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF AND EXCEPTIONS FROM THE REQUIREMENT OF CONFIDENTIALITY; AMENDING SECTION 63-4206, IDAHO CODE, TO REDESIGNATE AND TO IMPOSE A PENALTY ON PERSONS VIOLATING THE ILLEGAL DRUG TAX ACT, TO ELIMINATE THE DISTINCTION BETWEEN MARIJUANA AND CONTROLLED SUBSTANCES, TO IMPOSE PENALTIES AND STATUTE OF LIMITATIONS FOR POSSESSION OF CONTROLLED SUBSTANCES, AND TO STRIKE REFERENCE TO BURDEN OF PROOF; AMENDING SECTION 63-4207, IDAHO CODE, TO REDESIGNATE AND TO PROVIDE FOR JEOPARDY ASSESSMENTS OF ILLEGAL DRUG TAXES AND APPEALS THEREFROM, TO EXCEPT DRUG TAX LIENS FROM IDAHO HOMESTEAD EXEMPTIONS, TO IMPOSE BURDEN OF PROOF IN REDETERMINATIONS AND TO MAKE ADMINISTRATIVE TAX PROVISIONS APPLI-

CABLE; AMENDING SECTION 63-4208, IDAHO CODE, TO REDESIGNATE AND TO CORRECT A REFERENCE; AMENDING CHAPTER 42, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-4210, IDAHO CODE, TO EXEMPT LAWFULLY POSSESSED CONTROLLED SUBSTANCES FROM THE TAX; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-4201, Idaho Code, be, and the same is hereby amended to read as follows:

63-4201. SHORT TITLE. This chapter is known as the "Illegal Drug ~~Stamp~~ Tax Act."

SECTION 2. That Section 63-4202, Idaho Code, be, and the same is hereby amended to read as follows:

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.~~ possessed in the following quantities and in violation of Idaho law:

(a) More than forty-two and one-half (42 1/2) grams of marijuana; or

(b) One (1) or more growing marijuana plants; or

(c) Seven (7) or more grams of any other controlled substance sold by weight; or

(d) Ten (10) or more dosage units of any controlled substance which is not sold by weight.

~~(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.~~

(3) "Possess" or "possession" means, in addition to its ordinary meaning and tenses, to include hold, sell, manufacture, acquire, produce, purchase, ship, transport, transfer or import into Idaho.

SECTION 3. That Section 63-4203, Idaho Code, be, and the same is hereby amended to read as follows:

63-4203. ILLEGAL DRUG TAX IMPOSED ON ~~MARIJUANA-AND~~ POSSESSION OF CONTROLLED SUBSTANCES. (1) Every person who in violation of Idaho law possesses a controlled substance shall be liable for payment of an excise tax on all of the controlled substance possessed.

(2) ~~A~~ The tax ~~is~~ hereby imposed ~~on-marijuana-and-controlled-sub-~~

~~stances as defined under this chapter~~ is calculated 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 other controlled substance sold by weight, 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); and

(d) On a growing marijuana plant, seven hundred seventy-five dollars ($775) per plant. A credit of seven hundred seventy-five dollars ($775) shall be given for the payment of each illegal drug tax on a growing marijuana plant against payment of illegal drug taxes for possession of marijuana harvested from the growing marijuana plant, provided, no credit shall be given unless evidence of payment of illegal drug taxes on a growing marijuana plant is permanently affixed to the marijuana harvested from it.

(~~2~~3) For the purpose of calculating the illegal drug tax under this chapter, other than for growing marijuana plants, 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~~ a person'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.

(4) For the purposes of article VII of the Idaho constitution, the illegal drug taxes imposed in this chapter shall not be held or construed to be a tax on property.

SECTION 4. That Section 63-4204, Idaho Code, be, and the same is hereby amended to read as follows:

63-4204. STAMPS, EVIDENCING TAX PAID TO BE DISPLAYED, AND 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 the possession of which an illegal drug tax is imposed.

(2) ~~A dealer~~ In addition to any other prohibition against possession of a controlled substance by Idaho law, no person subject to a tax imposed in this chapter may ~~not~~ possess ~~any marijuana or~~ a 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.

SECTION 5. That Section 63-4205, Idaho Code, be, and the same is hereby amended to read as follows:

63-4205. STAMPS TO BE AFFIXED TO ~~MARIJUANA AND~~ CONTROLLED SUBSTANCES ~~---ANONYMITY PROVIDED--WHEN--PURCHASING--STAMPS~~. (1) When ~~a dealer~~ any person manufactures, purchases, acquires, possesses, transports, or imports into this state ~~marijuana--or~~ a controlled substances, subject to illegal drug taxes, he shall ~~permanently~~ obtain from the commission illegal drug tax stamps and 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 official indicia may be used more than once.

(2) Taxes imposed upon ~~marijuana or~~ possession of controlled substances by this chapter are due and payable immediately upon acquisition or possession in this state by ~~a dealer~~ the person acquiring or possessing such controlled substance.

(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.

SECTION 6. That Chapter 42, 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 63-4206, Idaho Code, and to read as follows:

63-4206. CONFIDENTIALITY OF STAMP PURCHASES AND REDETERMINATION -- IMMUNITY FROM PROSECUTION -- PENALTY FOR DISCLOSURE. (1) No person applying to purchase or purchasing illegal drug tax stamps is required to give his name, address, social security number or other identifying information.

(2) No commissioner, deputy, clerk, agent or employee of the commission, and no person formerly holding such a position, may divulge or make known to any person any information obtained from a person applying to purchase or purchasing illegal drug tax stamps or seeking a redetermination by the commission of an assessment for illegal drug taxes or penalties imposed in this chapter. Any person violating this provision shall be guilty of a felony and upon conviction shall forfeit his office or employment and shall be punished by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or by imprisonment for not more than five (5) years; provided, any information obtained from a person seeking a redetermination of an assessment for taxes or penalties may be used within the commission or in any action in court brought for the collection, remission, cancellation or refund, in whole or in part of the taxes or penalties. Provided further, the provisions of this section do not prohibit exchanges of information within the commission necessary for the processing of purchases of illegal drug tax stamps.

(3) Notwithstanding any other provision of Idaho law, no information obtained by the commission from a person applying to purchase or purchasing illegal drug tax stamps or seeking a redetermination by the commission of an assessment for illegal drug taxes or penalties imposed in this chapter, may be used against him in any criminal proceeding or for investigatory purposes leading to other evidence of a crime unless it is independently obtained; otherwise, nothing in this

chapter provides immunity of any kind to any person from criminal prosecution under Idaho law.

(4) The provisions of this section do not prohibit the commission from publishing statistics that do not disclose the identity of persons purchasing illegal drug stamps or the actual contents of particular applications, reports, forms or returns.

SECTION 7. That Section 63-4206, Idaho Code, be, and the same is hereby amended to read as follows:

63-420~~6~~7. CIVIL PENALTY -- CRIMINAL PENALTY -- STATUTE OF LIMITATIONS ---~~BURDEN-OF-PROOF~~. (1) Any ~~dealer~~ person 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~~ any person subject to the taxes imposed in this chapter distributing or possessing ~~marijuana--or~~ a 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~~ criminal offense and, upon conviction, is punishable to the same extent as possession of the controlled substance is punishable as set out in section 37-2732, Idaho Code.

(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~~ three (~~6~~3) years after the commission of ~~this~~ the 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.~~

SECTION 8. That Section 63-4207, Idaho Code, be, and the same is hereby amended to read as follows:

63-420~~7~~8. COMMISSION TO ADMINISTER TAX -- ~~NO-CRIMINAL-IMMUNITY FOR-DEALERS~~--- JEOPARDY ASSESSMENT -- INAPPLICABILITY OF HOMESTEAD EXEMPTION -- BURDEN OF PROOF -- 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.~~ (a) Upon the discovery of a controlled substance not bearing valid stamps or other official indicia required in this chapter, the commission shall make a jeopardy determination assessing the taxes and penalties against the person subject to the illegal drug taxes. The determination shall be made upon personal knowledge or information available to the commission. Written notice of the amount of the tax and penalty and demand for immediate payment shall be mailed, by certified or registered mail, to the last known address of, or served in person upon, the person subject to the illegal drug taxes and penalties. Upon giving notice and demand, collection procedures as provided

in sections 63-3050 through 63-3064 and 63-3065A, Idaho Code, may be instituted immediately.

(b) A person aggrieved by a jeopardy assessment may, within thirty (30) days after mailing or service of the notice of the jeopardy assessment, petition the commission for a redetermination of the assessment. Collection procedures shall not be stayed pending the redetermination unless a bond in double the amount of the assessment is filed with the commission. If a petition for redetermination is not filed within the thirty (30) day period, the jeopardy assessment becomes final.

(c) If a petition for redetermination is filed within the thirty (30) day period, the commission shall redetermine the petition and if requested shall give the petitioner a reasonable opportunity to be heard. The redetermination shall proceed in accordance with the procedures established for redetermining notices of deficiency determination under section 63-3045, Idaho Code. The commission shall mail, by certified mail, or personally serve the petitioner the redetermination decision. A decision redetermining a jeopardy assessment becomes final thirty (30) days after mailing or service of the decision. A person aggrieved by a redetermination by the state tax commission may seek review of that redetermination as provided in section 63-3049, Idaho Code, as limited by this provision.

(d) No property seized pursuant to a jeopardy assessment shall be sold until an assessment becomes final, provided, such property can be sold:

(i) If its owner consents;

(ii) If the expenses of maintenance of the property will gravely reduce the net proceeds of its sale; or

(iii) If the property is perishable.

(3) ~~Nothing--in--this-chapter-provides-immunity-of-any-kind-for-a dealer-from-criminal-prosecution-under-Idaho-law.~~ A homestead exemption provided in chapter 10, title 55, Idaho Code, shall not exempt real property from a lien for illegal drug taxes imposed in this chapter.

(4) Any taxes 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.

(~~4~~5) 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~~,~~ and 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.

SECTION 9. That Section 63-4208, Idaho Code, be, and the same is hereby amended to read as follows:

63-4208~~9~~. DISTRIBUTION OF TAX REVENUES. The revenues received from the taxes imposed by section 63-4203, Idaho Code, and any penal-

ties, 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~~2) 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.

SECTION 10. That Chapter 42, 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 63-4210, Idaho Code, and to read as follows:

63-4210. LAWFUL POSSESSION. Nothing in this chapter requires persons lawfully in possession of a controlled substance to pay the tax required under this chapter.

SECTION 11. An emergency existing therefore, 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, 1990.

CHAPTER 180
(H.B. No. 813)

AN ACT

AMENDING SECTION 1, CHAPTER 380, LAWS OF 1989, RELATING TO THE APPROPRIATION FOR THE REGULATORY BOARDS FOR FISCAL YEAR 1990; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 380, Laws of 1989, be, and the same is hereby amended to read as follows:

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~~ 120,900	$ 3,800	$ ~~302,500~~ 325,000
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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
L. BOARD OF OPTOMETRY:				
FROM:				
State Board of Optometry 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~~
	5,800			14,800
N. OUTFITTERS AND GUIDES BOARD:				
FROM:				
Outfitters and Guides Board Account	$ ~~122,200~~	$ ~~104,400~~	$ 4,800	$ 231,400
	126,600	100,000		
O. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Board of Veterinary Medicine Account	$ ~~16,500~~	$ ~~16,800~~		$ ~~33,300~~
	21,500	36,800		58,300
GRAND TOTAL	$~~2,021,900~~	$~~1,307,100~~	$108,400	$~~3,437,400~~
	2,033,800	1,345,200		3,487,400

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

Approved March 27, 1990.

CHAPTER 181
(H.B. No. 786)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-1101, IDAHO CODE, TO MODIFY PETITION REQUIREMENTS AND TO PROVIDE APPLICATION TO A PERSON OR PERSON PURCHASING LAND UNDER A WRITTEN CONTRACT; AMENDING SECTION 43-1101A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE REQUIREMENTS FOR EXCLUSION FROM AN IRRIGATION DISTRICT; AMENDING SECTION 43-1101B, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MODIFY REQUIREMENTS FOR CONTENTS OF A PETITION FOR EXCLUSION; AMENDING SECTION 43-1103, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROCEDURES REGARDING HEARINGS ON PETITIONS; AMENDING SECTION 43-1102, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT IN ANY CASE WHERE THE LAND IS EXCLUDED FROM AN IRRIGATION DISTRICT ON THE GROUNDS THAT IT IS TOO HIGH TO RECEIVE ANY BENEFIT FROM THE IRRIGATION WORKS OF THE DISTRICT WITHOUT PUMPING BY THE LANDOWNER, THE COST OF ALL SURVEYS SHALL BE BORNE BY THE IRRIGATION DISTRICT; AMENDING SECTION 43-1104, IDAHO

CODE, TO REDESIGNATE THE SECTION AND TO REVISE APPEAL PROCEDURES; AMENDING SECTION 43-1105, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE PROCEDURE FOR ALLOCATING COSTS FOR EXCLUDING LANDS FROM IRRIGATION DISTRICTS; AMENDING SECTION 43-1106, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE CATCH LINE; AMENDING SECTION 43-1107, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT LANDS RETAINED FOR DRAINAGE PURPOSES SHALL BE ENTITLED TO THE BENEFITS OF THE DRAINAGE SYSTEM OF THE IRRIGATION DISTRICT; AMENDING SECTION 43-1108, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE AN EXCLUSION PROCEDURE FOR RESIDENTIAL LAND NOT USING WATER RIGHTS OF THE DISTRICT; AMENDING SECTION 43-1109, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE THE TIME FOR A HEARING OF THE PROPOSED EXCLUSION; AMENDING SECTION 43-1110, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 43-1111, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE REQUIREMENTS FOR NOTICE CONTENTS; AMENDING SECTION 43-1112, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 43-1113, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE REQUIREMENTS FOR ORDERS OF EXCLUSION; AMENDING SECTION 43-1114, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE A GRAMMATICAL CORRECTION; AMENDING SECTION 43-1115, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT ORDER OR RESOLUTION OF EXCLUSION BE FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER OF EACH COUNTY WHEREIN ANY PORTION OF THE EXCLUDED LAND IS SITUATED; AMENDING SECTION 43-1116, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE CORRECT CITATIONS AND TO PROVIDE GRAMMATICAL CORRECTIONS; AMENDING SECTION 43-1117, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE EXCEPTIONS, TO PROVIDE THE EFFECT OF EXCLUDED LANDS ON OUTSTANDING OBLIGATIONS, TO PROVIDE FOR THE ENFORCEMENT OF MECHANISMS REGARDING THE EFFECT OF EXCLUDED LANDS ON OUTSTANDING OBLIGATIONS, AND TO PROVIDE PAYMENT REQUIREMENTS FOR LANDS EXCLUDED FROM IRRIGATION DISTRICTS; REPEALING SECTIONS 43-1118, 43-1119 AND 43-1120, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 43-1101, Idaho Code, be, and the same is hereby amended to read as follows:

43-1101. PETITION. Any person or persons owning land within any irrigation district and forming a part thereof may file with the board of directors of such irrigation district a petition in writing ~~praying for~~ requesting the exclusion of the land or lands owned by them and described in ~~such~~ the petition from ~~such~~ the irrigation district. As many parties owning separate tracts or parcels of lands in any irrigation district or who are united in interest to which the same state of facts apply, may unite in the same petition. The petition shall be ~~acknowledged~~ signed by all of the petitioners, but need not be acknowledged. A filing fee in the amount of five dollars ($5.00) ~~per~~ for each parcel of land described in the petition shall accompany the filing of each petition, plus an exclusion fee in the amount of twenty-five dollars ($25.00) for each lot containing less than one (1) acre which is in a subdivision as defined in section 50-1301, Idaho

Code, or an exclusion fee of fifty dollars ($50.00) for each acre or portion thereof in all other parcels of property, for which the district shall provide a suitable receipt evidencing payment. Any petition not accompanied by the required filing fee and exclusion fee shall be ~~summarily--rejected~~ returned to the petitioner. All other costs of the exclusion proceeding shall be assessed as provided in section 43-1105, Idaho Code.

A person or persons purchasing land under a written contract shall be deemed to be the owners of that land for purposes of this section.

SECTION 2. That Section 43-1101A, Idaho Code, be, and the same is hereby amended to read as follows:

43-110~~1A~~2. GROUNDS FOR EXCLUSION, CERTAIN LANDS MAY REMAIN IN THE DISTRICT FOR DRAINAGE PURPOSES. (a) The grounds and reasons for exclusion of lands from an irrigation district are listed as follows:

1. The lands are too high to be watered without pumping by the owners of the lands from water owned or controlled by the irrigation district;

2. The owners of the lands have installed a good and sufficient water system independent of the water system of such irrigation district for the irrigation of the lands because ~~of~~ the district does not ~~owning~~ a sufficient water right to furnish and adequate water supply ~~therefor~~ those lands;

3. The lands in their present condition are not agricultural ~~or farming~~ lands ~~and,-if-such-lands-are-served-by-a-community-ditch,-or-by-a-lateral-ditch-water--users'--association,--or--other--like irrigation--entity,-other-landowners-served-by-such-association-or irrigation-entity-will-not-be-injured--by--the--exclusion--of--the lands-described-in-the-petition~~; or

4. Prior to acquisition of the land by the petitioning owner, and without his knowledge or consent, the ditch or other transmission facility extending from the delivery point of the district to the lands has been rendered permanently incapable of carrying water to the lands, but this ground for exclusion shall only apply ~~until July-1,-1980~~ to parcels less than five (5) acres in size.

(b) If the lands sought to be excluded from an irrigation district under this section ~~43-1101A~~ or under sections 43-1110 through 43-1117, Idaho Code, are benefited by surface drainage facilities of the irrigation district pursuant to sections 43-306 to 43-312, Idaho Code, but otherwise would qualify for exclusion, the lands shall be excluded for purposes of irrigation but shall remain a part of the district for purposes of drainage and shall continue to be assessable for drainage, but shall not be assessed for irrigation water.

SECTION 3. That Section 43-1101B, Idaho Code, be, and the same is hereby amended to read as follows:

43-110~~1B~~3. CONTENTS OF PETITION -- SUPPORTING EVIDENCE -- REPRESENTATIONS, CERTIFICATION AND LIABILITY. A petition for exclusion shall set forth all of the following:

1. A description of the land of each petitioner for which ~~is-proposed-to-be-excluded~~ exclusion is requested;

2. The reasons why it is claimed the tract or tracts should be excluded and that, except for residential lands for which exclusion is requested under subsection (a)3 or (a)4 of section 43-1102, Idaho Code, the lands sought to be excluded are not benefited by the water rights, or by the irrigation in, or drainage by the district, or ~~from subterranean~~ by ground waters~~in~~ subject to recapture and use by the district~~;~~ and ~~3.--T~~the exclusion will be for the best interests (1) of the owner of the land proposed to be excluded and (2) of the other lands in the district.

3. The petition shall be accompanied by ~~the filing fee required by section 43-1101, Idaho Code, and by~~ such evidence of ownership of the land~~,~~ as is satisfactory to the board of directors of the district~~,~~ and, except for lands for which exclusion is requested under subsection (a)3 or (a)4 of section 43-1102, Idaho Code, by a deposit ~~or--bond~~ for costs in the amount established by the directors of the district as provided in section 43-1105, Idaho Code. The board of directors of the district shall return to the petitioner any petition not accompanied by both such proof of ownership and the filing and exclusion fees set by section 43-1101, Idaho Code, and no further action shall be required of the board with respect to such petition.

A petition for exclusion filed with an irrigation district constitutes representations to the district by the petitioner or petitioners that the facts stated in the petition are true and correct and that no mortgagee or other person holds a lien of record in the county where the land for which exclusion is requested is located, for which the lienholder's consent to the exclusion is required or that, if such consent is required, the consent has been granted by the lienholder. The petitioner shall be liable for any expenses or damages to lienholders or to other landowners or to the district resulting directly or indirectly from wrongful exclusion of lands by reason of untrue or incorrect statements in the petition.

SECTION 4. That Section 43-1103, Idaho Code, be, and the same is hereby amended to read as follows:

43-110~~3~~4. HEARING ON PETITION -- ORDER OF EXCLUSION. The board of directors of the irrigation district may conduct its own investigation of the facts alleged in the petition and, by resolution duly adopted, which may address the allegations of several petitions, accept the facts as alleged and determine that no hearing is required prior to granting the petition or petitions for exclusion. If the allegations are not thus accepted such petition must be heard by the board of directors of such irrigation district within ~~one-hundred-eighty~~ ninety (~~180~~90) days of filing of the petition. If no hearing is held within ~~one-hundred-eighty~~ ninety (~~180~~90) days, the land described in the petition is excluded from the district. ~~Upon the~~ If a hearing is ordered, the petitioner or petitioners must establish by competent evidence the allegations of the petition, and the chairman or presiding member of the board is hereby empowered to administer oaths for the purpose of ~~such~~ the hearing.

When (1) the board of directors accepts the facts as alleged without a hearing, or (2) the allegations of ~~such~~ the petition are established at a hearing, or (3) the land has been excluded by reason of

the board's failure to hold a hearing within ninety (90) days of filing of the petition, the board must make an order forthwith changing the boundaries of such district so as to exclude the lands described in ~~such~~ the petition which the proof has established to be entitled to exclusion, and thereafter the lands so excluded shall not form a part of ~~such~~ the irrigation district for any purpose except as ~~hereinafter~~ provided in subsection (b) of section 43-1102, Idaho Code: provided, however, that the lands so ordered excluded shall not be relieved of their obligation to pay their proportionate share ~~already-created--and~~ of any existing ~~of--any~~ bonded or contract indebtedness of ~~such~~ the irrigation district, and ~~such~~ the lands shall remain a part of ~~such~~ the irrigation district for the purpose of discharging ~~such~~ the existing bonded or contract indebtedness.

No hearing shall be held when, prior to the date set for the hearing, the board issues an order excluding the land described in the petition from the district.

When land is excluded from the district pursuant to a petition filed on or before December 1 in any calendar year, assessments against the land for any calendar year subsequent to the year in which the petition was filed shall not be valid and no lien for any such attempted assessment shall attach under section 43-706, Idaho Code.

SECTION 5. That Section 43-1102, Idaho Code, be, and the same is hereby amended to read as follows:

43-110~~2~~5. SURVEY OF LAND TO BE EXCLUDED. The board of directors may cause any survey to be made it deems necessary for the purpose of determining the change in the district by reason of an exclusion or proposed exclusion. In any case where the land is excluded on the ground that it is too high to receive any benefit from the irrigation works of said district without pumping by the landowner, the cost of all surveys shall be borne by the irrigation district. The board may not, however, require a survey when the land sought to be excluded lies entirely within a subdivision as defined in section 50-1301, Idaho Code. If the land described in the petition is described in accordance with the public survey or in accordance with a plat approved, filed and recorded as provided by law, the cost of survey shall be borne by the district.

SECTION 6. That Section 43-1104, Idaho Code, be, and the same is hereby amended to read as follows:

43-110~~4~~6. APPEAL. An appeal shall lie from the decision of the board of directors of such irrigation district denying the petition or any part thereof to the district court of the county where the lands described in the petition are located. ~~Such~~ The appeal to be taken in the same manner and within the same period of time as appeals are taken from decisions or orders of the board of county commissioners. ~~In-case-of~~ If an appeal~~,--and~~ results in an order of the district court excluding the lands described in the petition, or any of them, the time of segregation shall date from the ~~time~~ date of the hearing before the board of directors of the district.

SECTION 7. That Section 43-1105, Idaho Code, be, and the same is hereby amended to read as follows:

43-1105~~7~~. COSTS. The costs of excluding any land as provided in this chapter shall be borne by the petitioner or petitioners except in cases where:

(1) T~~t~~he lands excluded are found to be too high or not susceptible of irrigation from the water system of the district~~,--and-the~~ without pumping by the landowner; or

(2) The exclusion is requested under subsection (a)3 or (a)4 of section 43-1102, Idaho Code, and for the five (5) irrigation seasons preceding the filing of the petition (a) there has been no pipe, ditch or other delivery system between the land and the assigned delivery point on the district's irrigation system, and (b) the petitioner or previous owners of the land have paid the assessments of the district against that land. If the petitioner is required to pay the costs of exclusion proceedings, the board may require a ~~bond-for~~ deposit of the estimated costs before they will hear ~~any~~ the petition and the ninety (90) day period in which the petition must be heard as provided in section 43-1104, Idaho Code, shall not begin to run until the estimated costs have been deposited: provided, however, that, in case of an successful appeal by the petitioner, the costs taxed by the district to the petitioner or petitioners whose lands are excluded by the district court shall be ~~adjudged-and-taxed-against~~ borne by the irrigation district. If the actual costs of the exclusion proceedings are less than the amount deposited by the petitioner, the excess deposit shall be credited against any amounts which are to be paid by the petitioner prior to entry of the order of exclusion, and the balance, if any, shall be refunded to the petitioner within fourteen (14) days after the hearing; if the actual costs of the exclusion proceedings are more than the deposit, the difference shall be paid to the district by the petitioner within fourteen (14) days after receipt of a statement to that effect from the district, and the board shall not be required to enter an order of exclusion until the difference is paid.

SECTION 8. That Section 43-1106, Idaho Code, be, and the same is hereby amended to read as follows:

43-1106~~8~~. CHANGES TO BE FILED FOR RECORDE~~D~~. The decision and order of the board of directors or the district court, in case of appeal, excluding the petitioner's land and changing the boundaries of such irrigation district shall be filed for record in the recorder's office of the county or counties within which are situated the lands of such irrigation district.

SECTION 9. That Section 43-1107, Idaho Code, be, and the same is hereby amended to read as follows:

43-1107~~9~~. EFFECT OF EXCLUSION. An exclusion of land from any irrigation district shall not impair its existence, nor its rights, including those in its property or its obligations. The land excluded from an irrigation district shall not thereafter be entitled to receive water from the water rights or from the irrigation works and

system of the district and shall not thereafter be entitled to any of the benefits of the district and shall be deemed to have fully relinquished all such rights and benefits to the district, provided, that lands retained for drainage purposes shall be entitled to the benefits of the drainage system of the district.

SECTION 10. That Section 43-1108, Idaho Code, be, and the same is hereby amended to read as follows:

43-11~~1~~08. ~~NON-AGRICULTURAL~~ RESIDENTIAL LAND NOT USING WATER RIGHTS -- EXCLUSION -- PROCEDURE. The board of directors of an irrigation district may by resolution, or must, if petitioned by the owners of record of over fifty per cent (50%) of the number of lots in a platted subdivision, declare its proposal to exclude ~~any~~ from the district all lots or parcels of ~~non-agricultural~~ residential land in the district described in the petition which ~~has~~ have not received water from the water rights of the district or through the irrigation works and system of the district ~~or any lateral ditch in the district~~ during the period of five (5) years immediately preceding the adoption of ~~such~~ the resolution. ~~Contiguous l~~Lots or parcels of land in contiguous subdivisions may be included in the same resolution. Platted lots which theretofore received water through the same ditch operated by a lateral ditch water users' association may be included in the same resolution. If the board is petitioned by over fifty per cent (50%) of the lot owners of a subdivision, the board shall conduct the entire proceedings according to ~~chapter 11, title 43~~ sections 43-1110 through 43-1117, Idaho Code.

For purposes of this section, residential land shall mean land on which a house, mobile home, duplex, apartment house or other type of living quarters has been constructed or installed and has been occupied as living quarters by an owner or renter.

SECTION 11. That Section 43-1109, Idaho Code, be, and the same is hereby amended to read as follows:

43-11~~0~~9~~1~~1. RESOLUTION -- CONTENTS. The resolution proposing to exclude such lands shall:

(a) Describe each lot or parcel proposed to be excluded;

(b) Specify the period of time during which each such lot or parcel has not received water from the water rights or through the irrigation works and system of the district;

(c) Specify the name and address of each person in possession of each such lot or parcel and of each owner thereof as the ownership appears of record in the assessment rolls of the district and of each owner thereof as the ownership appears of record in the office of the county recorder of the county in which the land is situated and of each mortgagee and other lienholder whose mortgage or lien appears of record in the office of the county recorder of the county in which the land is situated; and,

(d) Fix the time and place for hearing of the proposed exclusion, which time shall be not less than twenty-eight (28) days from the ~~time~~ date of the adoption of the resolution.

The board may procure any survey which it deems necessary and any

title reports which it deems advisable to describe each lot or parcel proposed to be excluded and to determine the names of owners and lienholders of such lands.

SECTION 12. That Section 43-1110, Idaho Code, be, and the same is hereby amended to read as follows:

43-111~~0~~2. NOTICE. The secretary shall publish notice of such hearing for at least once a week for two (2) weeks before the date of such hearing in a newspaper published in the county in which the land proposed to be excluded is situated. If no newspaper is published in the county containing the land proposed to be excluded, notice shall be posted for the same length of time in at least three (3) public places in the district, one (1) of which notices shall be posted on the land proposed to be excluded. Notice of such hearing on such proposed exclusion shall be given by the secretary of the district by certified or registered mail to each person, firm and corporation named in the resolution.

SECTION 13. That Section 43-1111, Idaho Code, be, and the same is hereby amended to read as follows:

43-111~~1~~3. NOTICE -- CONTENTS. Such notice shall contain:

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

(b) A description of each lot or parcel proposed to be excluded;

(c) The reasons for the exclusion stated in the resolution of intention; and

(d) Notice to each person, firm and corporation interested in the proposed exclusion to appear at the district office at the date and time fixed, and file objections in writing showing cause, if any they may have, why the land or any part of it should not be excluded as proposed in the resolution of the board.

SECTION 14. That Section 43-1112, Idaho Code, be, and the same is hereby amended to read as follows:

43-111~~2~~4. HEARING. At the hearing on the proposed exclusion, the board of directors shall hear all of the objections presented to it in writing and all evidence introduced in support of the exclusion and in support of the objections to the exclusion.

SECTION 15. That Section 43-1113, Idaho Code, be, and the same is hereby amended to read as follows:

43-111~~3~~5. ORDER -- DETERMINATION. The board after the hearing on its proposal to exclude and the objections thereto shall order the exclusion of all or any part of the land described in the resolution when as to the land to be excluded, the board determines that:

(a) The ~~board--determines--that--the~~ land has not received water from the irrigation works and system of the district ~~or--any--lateral ditch--of-the-district~~ during the period of five (5) years immediately preceding the adoption of the resolution of the board declaring its proposal to exclude the land;

(b) The ~~board--determines-that-the~~ land will not be directly and presently benefited by the operations of the district;

(c) The ~~board-determines-that-the~~ ditch rights of other landowners in the same lateral ditch water users' association in the district will not be injured; and,

(d) The ~~board-deems-the~~ exclusion ~~to-be~~ is for the best interests of the owner of the land proposed to be excluded and of the district.

SECTION 16. That Section 43-1114, Idaho Code, be, and the same is hereby amended to read as follows:

43-11~~14~~6. BOARD -- ENTRY OF ORDER OF EXCLUSION. If the board determines from ~~such~~ the hearing that any lot or parcel included in the proceedings should be excluded from the district, the board shall make and enter an order of exclusion in its proceedings describing each lot or parcel being excluded from the district.

If any lot or parcel proposed to be excluded shall not be excluded by such order of exclusion, the board shall make and enter an order describing each lot or parcel included in the proceedings and not excluded from the district.

SECTION 17. That Section 43-1115, Idaho Code, be, and the same is hereby amended to read as follows:

43-11~~15~~7. ORDER -- ~~RECORDATION~~ FILING FOR RECORD. A copy of ~~such~~ the order or resolution of exclusion, certified by the president and secretary of the district, shall be filed for recorded in the office of the county recorder of each county wherein any portion of the land is situated.

SECTION 18. That Section 43-1116, Idaho Code, be, and the same is hereby amended to read as follows:

43-11~~16~~8. APPEALS -- PROCEDURE. An appeal shall lie from the resolution or the order of the board of directors excluding, and from the order of the board of directors not excluding, lands covered by proceedings under ~~this-act~~ sections 43-1110 through 43-1117, Idaho Code, or from any part of any such order. ~~Such~~ The appeal may be taken by any landowner in the district and by any person, firm or corporation having any interest in any tract of land included in any such order. ~~Such~~ The appeal shall be to the district court of the county where the lands involved in the appeal are located. ~~Such~~ The appeal shall be taken in the same manner and within the same period of time as appeals from the board of county commissioners.

SECTION 19. That Section 43-1117, Idaho Code, be, and the same is hereby amended to read as follows:

43-11~~17~~9. EXCLUSION -- LOSS OF WATER RIGHTS -- OBLIGATIONS OUTSTANDING -- EFFECT -- ENFORCEMENT -- PAYMENT -- CERTIFICATE. (1) Land excluded from any irrigation district shall not thereafter be entitled to receive water from the water rights or from the irrigation works and system of the district and, except as provided in subsection (b)

of section 43-1102, Idaho Code, shall not thereafter be entitled to any of the benefits of the district. An exclusion of land from any irrigation district shall not impair the water rights or irrigation works and system of the district nor its rights in or to its property or its obligations.

(2) Land excluded from a district shall be subject to assessment and be otherwise chargeable for the payment and discharge of all obligations outstanding at the time of the entry of the order or resolution excluding the land as fully as though the land had not been excluded.

(3) All provisions which could be used to compel the payment by excluded land of its portion of the outstanding obligations had the exclusion not occurred, may be used to compel the payment on the part of the land of the portion of the outstanding obligations of the district for which it is liable.

(4) When any lot or parcel of land shall be excluded from an irrigation district and there shall be paid to the district all of the debts and obligations of the district assessable, chargeable or allocable to the lot or tract excluded, the district may issue its certificate of full payment executed by the president and secretary of the district, and acknowledged so that the certificate may be recorded in the records of the county wherein the land is situate.

SECTION 20. That Sections 43-1118, 43-1119 and 43-1120, Idaho Code, be, and the same are hereby repealed.

SECTION 21. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 27, 1990.

CHAPTER 182
(H.B. No. 710)

AN ACT

RELATING TO LIVESTOCK DEALER LICENSING; AMENDING SECTION 25-3301, IDAHO CODE, TO STRIKE THE DEFINITION OF "DIRECTOR", TO REDEFINE "LIVESTOCK" AND "LIVESTOCK DEALER" AND TO ADD DEFINITIONS OF "REPRESENTATIVE OF A LICENSEE" AND "BOND EQUIVALENT"; AMENDING SECTION 25-3302, IDAHO CODE, TO STRIKE REFERENCE TO THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE; AMENDING CHAPTER 33, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3302A, IDAHO CODE, TO PROVIDE FOR REVIEW OF RECORDS; AMENDING SECTION 25-3303, IDAHO CODE, TO ADD A FEE FOR EACH REPRESENTATIVE OF A LICENSEE AND TO PROVIDE FOR DEPOSIT OF FEES IN THE STATE BRAND ACCOUNT; AMENDING SECTION 25-3304, IDAHO CODE, TO PROVIDE FOR IMPOSITION OF A CIVIL PENALTY ON ANY INDIVIDUAL OPERATING WITHOUT A LICENSE OR VIOLATING ANY OTHER PROVISIONS OF THE CHAPTER; REPEALING SECTION 25-3305, IDAHO CODE; AMENDING SECTION 25-3306, IDAHO CODE, TO PROHIBIT ACT-

ING AS A LIVESTOCK DEALER WITHOUT AN ADEQUATE SURETY BOND OR BOND EQUIVALENT; REPEALING SECTION 25-3307, IDAHO CODE; AMENDING SECTION 25-3309, IDAHO CODE, TO PROVIDE FOR A FINE OF UP TO FIVE THOUSAND DOLLARS AND TO ELIMINATE IMPRISONMENT FOR VIOLATIONS OF THE PROVISIONS OF THE CHAPTER; AMENDING CHAPTER 33, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3310, IDAHO CODE, TO PROVIDE FOR A BOND OR BOND EQUIVALENT TO BE FILED BY A LICENSE HOLDER AND TO PRESCRIBE THE AMOUNT OF THE BOND; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 25-3301, Idaho Code, be, and the same is hereby amended to read as follows:

25-3301. DEFINITIONS. As used in this chapter, the following terms have the following meanings:

(1) "Board" means the state brand board created in chapter 11, title 25, Idaho Code.

(2) ~~"Director" means the director of the department of agriculture, state of Idaho, or his appointee.~~ "Bond equivalent" means a letter of credit or trust fund agreement that complies with the packers and stockyards act of 1921, as amended, and regulations promulgated thereunder.

(~~4~~3) "Livestock" means cattle, swine or, bison, horses, mules, or asses.

(~~5~~4) "Livestock dealer" means any person who buys, receives or assembles livestock for ~~resale, either for~~ his own account for resale within ten (10) days from the date of purchase, or ~~that~~ for the account of another person. This term also includes both a person who pays and a person who does not pay the owner or auction market the full purchase price at the time of taking possession of the livestock.

(~~3~~5) "Person" means an individual, partnership, corporation, broker, order buyer, association or other legal entity.

(6) ~~"Livestock producer" means any person who sells only livestock which he has raised or which he has owned and had in his possession for a minimum of sixty (60) days.~~ "Representative of a licensee" means any full time employee, agent or other person who buys, receives, sells, or assembles livestock for resale on behalf of a licensed livestock dealer.

SECTION 2. That Section 25-3302, Idaho Code, be, and the same is hereby amended to read as follows:

25-3302. STATE BRAND BOARD -- ADDITIONAL DUTIES. The state brand board, in addition to other duties provided by law, shall administer the provisions of this chapter relating to livestock dealer licensing. The board shall meet annually, and more frequently if deemed necessary, for the purposes of administration of this chapter. Members of the board shall receive twenty-five dollars ($25.00) per day and actual expenses incurred while in the discharge of the duties imposed by this chapter.

~~The director of the department of agriculture shall have and exer-~~

~~cise--all--of--the--powers--herein-vested-in-the-board,-subject-to-the supervision-of-the-board.~~

The board shall exercise the following powers and duties:

(1) Promulgate such rules and regulations as deemed necessary to implement and supplement the provisions of this chapter and provide for its orderly administration, pursuant to the provisions of chapter 52, title 67, Idaho Code;

(2) Prescribe necessary information to be provided by applicants for licenses to determine if the requirements of this chapter have been met;

(3) Issue licenses to qualified applicants and collect appropriate fees;

(4) Revoke or suspend the license of, or refuse to issue a license to any person, licensee or applicant who violates any provision of this chapter; and

(5) Require the necessary record keeping by licensees and submission of written reports as warranted in order to carry out the provision and intent of this chapter.

SECTION 3. That Chapter 33, 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 25-3302A, Idaho Code, and to read as follows:

25-3302A. AUTHORIZATION FOR RECORDS REVIEW. Any employee of the board or any representative of the bureau of animal health of the Idaho department of agriculture is authorized to review, during normal business hours, the records and transactions of a licensee or representative of a licensee.

SECTION 4. That Section 25-3303, Idaho Code, be, and the same is hereby amended to read as follows:

25-3303. LICENSE REQUIRED. Any person doing business as a livestock dealer in the state of Idaho must secure an annual license from the board. A fee of forty dollars ($40.00) shall accompany any such application for initial issuance or renewal. In addition, a fee of fifteen dollars ($15.00) shall be paid for each authorized representative of a licensee. Such fees so received are not returnable and shall be deposited in the ~~livestock-dealers-licensing-account-created in-section-25-3305,-Idaho-Code~~ state brand account created in section 25-1161, Idaho Code. Upon determination that the applicant is qualified, the board shall issue a license to the applicant and all annual licenses shall terminate and become void each successive June 30th.

SECTION 5. That Section 25-3304, Idaho Code, be, and the same is hereby amended to read as follows:

25-3304. LICENSE REVOCATION OR SUSPENSION. In the event the board has reason to believe a licensee is guilty of violating any of the provisions of this chapter, including the rules and regulations promulgated hereunder, the board shall conduct a hearing to determine if the license shall be suspended or revoked. Hearings conducted pursuant

to this section shall comply with the provisions governing contested cases, chapter 52, title 67, Idaho Code.

Following the hearing, the board may (1) permanently revoke the license, (2) temporarily suspend the license, or (3) suspend the license for a definite time period, or (4) impose on the individual operating without a license or violating any other provision of this chapter a civil penalty of one hundred dollars ($100) per day.

SECTION 6. That Section 25-3305, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 25-3306, Idaho Code, be, and the same is hereby amended to read as follows:

25-3306. PROHIBITED ACTS. The following actions are prohibited:

(1) ~~Any person a~~Acting as a livestock dealer without an adequate surety bond or bond equivalent and a valid license issued by the board;

(2) Failure to maintain records as required by the board, especially the names and addresses of sellers and buyers of livestock;

(3) Failure to provide access to all records required of such licensee by the board;

(4) Buying or selling livestock under an assumed name or address. All livestock sales shall be evidenced by a written bona fide name and address of buyer and seller; and

(5) Violation of any valid rule, regulation or statute governing livestock disease control.

SECTION 8. That Section 25-3307, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 25-3309, Idaho Code, be, and the same is hereby amended to read as follows:

25-3309. PENALTY. To operate as a livestock dealer without a valid license, or otherwise violate the provisions of this chapter, shall be a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five ~~hundred~~ thousand dollars ($5,000) ~~or--by--imprisonment--for-not-less-than-thirty-(30)-days-nor more-than-one-(1)-year;-or-by-both-such-fine-and-imprisonment~~.

SECTION 10. That Chapter 33, 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 25-3310, Idaho Code, and to read as follows:

25-3310. BOND REQUIRED OF A LICENSE HOLDER. (1) Each applicant to whom a license to act as a livestock dealer is issued shall:

(a) File a bond of a surety company authorized to do business in this state; or

(b) File a copy of the bond or bond equivalent required by the United States under the provisions of the packers and stockyards act of 1921, as amended, and regulations promulgated thereunder;

or

(c) Approve the application by a person declaring to be a representative of the licensee by signature and include such representative under the bond or bond equivalent required pursuant to this section.

(2) The amount of the bond must be based on the applicant's annual volume of purchases, including purchases made by a representative of the licensee, according to a schedule adopted by the board; provided, however, that the bond shall be not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

(3) All bonds must be renewed or continued in force to cover dealer transactions during the period that the license is valid.

SECTION 11. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

SECTION 12. This act shall be in full force and effect on and after July 1, 1991.

Approved March 27, 1990.

CHAPTER 183
(H.B. No. 615)

AN ACT

RELATING TO THE LAW REGULATING BONDED WAREHOUSES; AMENDING SECTION 69-202, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 69-206, IDAHO CODE, TO REVISE REQUIREMENTS FOR FINANCIAL STATEMENTS; AMENDING SECTION 69-211, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE MAY COLLECT A FEE FOR PURPOSES OF PROVIDING EMPLOYEES TO OVERSEE THE CORRECTION OF A VIOLATION OF THE BONDED WAREHOUSE LAW; AMENDING SECTION 69-232, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE MAY COOPERATE WITH AND ENTER INTO AGREEMENTS WITH STATE, PROVINCIAL AND FEDERAL GOVERNMENTAL ENTITIES AND PRIVATE ASSOCIATIONS; AMENDING SECTION 69-251, IDAHO CODE, TO CORRECT A TYPOGRAPHICAL ERROR AND TO PROVIDE FOR THE PAYMENT OF A PURCHASE PRICE FOR AGRICULTURAL COMMODITIES; AMENDING SECTION 69-256, IDAHO CODE, TO PROVIDE FOR REMITTANCE OF ASSESSMENTS BY PRODUCERS; AMENDING SECTION 69-257, IDAHO CODE, TO PROVIDE FOR ASSESSMENTS UPON PRODUCERS AND FOR COLLECTION OF ASSESSMENTS; AMENDING SECTION 69-258, IDAHO CODE, TO PROVIDE FOR PAYMENT OF A PRODUCER'S ASSESSMENT; AMENDING SECTION 69-260, IDAHO CODE, TO PROVIDE FOR A BOND WHEN A LICENSEE DOES NOT HAVE THE ABILITY TO PAY A PRODUCER FOR COMMODITIES DELIVERED; AMENDING SECTION 69-262, IDAHO CODE, TO PROVIDE FOR THE PROCESSING OF

PRODUCER'S CLAIMS UPON THE FAILURE OF A WAREHOUSE; AND AMENDING SECTION 69-263, IDAHO CODE, TO PROVIDE THE EFFECT IF A PRODUCER FAILS TO FILE A CLAIM WITH THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE.

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

SECTION 1. That Section 69-202, Idaho Code, be, and the same is hereby amended to read as follows:

69-202. DEFINITIONS. As used in this chapter:

(1) "Agricultural commodity" means any grain, dry peas, dry beans, leguminous or other small seeds and feeds (not including minerals).

(2) "Commodity dealer or dealer" means any person who solicits, contracts for, negotiates the consignment or purchase, or obtains from an Idaho producer or producers, title, possession or control of any agricultural commodity through his place of business located in the state of Idaho or through his place of business located outside the state of Idaho for the purposes of sale or resale or who buys, during a calendar year, at least ten thousand dollars ($10,000) worth of agricultural commodities from an Idaho producer or producers of the commodities. Commodity dealer or dealer shall not mean any person who purchases agricultural commodities for his own use as seed or feed.

(3) "Contract" means a written agreement between two (2) or more parties for the sale of an agricultural commodity stipulating the terms and conditions of performance of the parties and includes but is not limited to, those contracts commonly referred to as credit sales, deferred payment, deferred or price later contracts.

(4) "Department" means the Idaho department of agriculture.

(5) "Depositor" means any person who deposits an agricultural commodity in an Idaho state licensed warehouse for storage, handling, processing, reconditioning or shipment, or who is the owner or legal holder of a negotiable warehouse receipt, outstanding scale weight ticket, nonnegotiable warehouse receipt or other evidence of such deposit, or any person whose agricultural commodity has been sold to or is under control of a warehouseman for selling, processing, reconditioning or handling whether or not such agricultural commodity is within the warehouse~~;-or-any-producer-whose-agricultural-commodity-has been-sold-to-a-dealer-through-the-dealer's-place-of--business--located in--the--state--of-Idaho;-or-any-producer-whose-agricultural-commodity has-been-sold-to-or-is-under-the-control-of-a-dealer,-which-dealer-has negotiated-the-sale-of-the-commodity-or-has-control-of--the--commodity in-the-state-of-Idaho~~.

(6) "Director" means the director of the department of agriculture.

(7) "Failure" means:

(a) An inability to financially satisfy claimants in accordance with this chapter and the time limits provided for in it;

(b) A public declaration of insolvency;

(c) A revocation of license and the leaving of an outstanding indebtedness to a depositor;

(d) A failure to redeliver any commodity to a depositor or to pay

depositors for commodities purchased by a licensee in the ordinary course of business and where a bona fide dispute does not exist between the licensee and the depositor;

(e) A failure to make application for license renewal within sixty (60) days after the annual license renewal date; or

(f) A denial of the application for a license renewal.

(8) "Historical depositor" means any person who, in the normal course of business operation has consistently made deposits in the same warehouse of commodities produced on the same land. In addition, anyone purchasing or leasing that particular land directly from the original depositor or receiving that particular land by devise, descent, bequest or gift directly from the historical depositor shall also be considered an historical depositor with regard to the commodities produced on that land.

(9) "Person" means any individual, firm, association, corporation or partnership.

(10) "Producer" means any person who is the owner, tenant or operator of land who has an interest in and receives all or part of the proceeds from the sale of agricultural commodities produced on that land.

(11) "Public warehouse" or "warehouse" means any elevator, mill, warehouse, subterminal commodity warehouse, public warehouse or other structure or facility in which agricultural commodities are received for storage, shipment, processing, reconditioning or handling.

(12) "Receipt" means a warehouse receipt.

(13) "Revocation" means the permanent removal of a warehouse license following a hearing on violations of this chapter by the hearing officer or director.

(14) "Scale weight ticket" means a load slip or other evidence, other than a receipt, given to a depositor by a warehouseman licensed under the provisions of this chapter, upon initial delivery of the commodity to the warehouse.

(15) "Subterminal warehouse" means any warehouse at which an intermediate function is performed in which agricultural commodities are customarily received from dealers rather than producers and where the commodities are accumulated prior to shipment.

(16) "Suspension" means the temporary removal of a warehouse license by the department pending a hearing for violations of this chapter. Correction of the violations prior to a hearing may result in the reinstatement of a license without a hearing.

(17) "Termination" means the expiration of a warehouse license due to failure to meet minimum licensing requirements, failure to renew a warehouse license or as requested by the licensee, unless a complaint has been filed against the licensee alleging a violation of any provision of this chapter.

(18) "Warehouse receipt" means every receipt, whether negotiable or nonnegotiable, issued by a warehouseman, except scale weight tickets.

(19) "Warehouseman" means a person operating or controlling a public warehouse.

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 shall submit to the department an audited or reviewed financial statement prepared by an independent certified public accountant or licensed public accountant showing that the licensee has and does maintain current assets equal to or greater than current liabilities, 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;

(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;

(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 69-211, Idaho Code, be, and the same is hereby amended to read as follows:

69-211. FEES OF DEPARTMENT. (1) The department shall charge, assess, and cause to be collected an annual fee for each warehouse license or renewal thereof, according to the following schedule:

For each original application --

Capacity in Hundredweight	Rate
0 to 50,000	$100.00
50,001 to 100,000	200.00
100,001 to 250,000	300.00
250,001 to 500,000	400.00
500,001 to 750,000	500.00
Over 750,000	600.00

For each renewal application --

Capacity in Hundredweight	Rate
0 to 50,000	$ 30.00
50,001 to 100,000	60.00
100,001 to 250,000	90.00
250,001 to 500,000	120.00
500,001 to 750,000	150.00
Over 750,000	180.00

(2) The department shall assess and collect a fee of fifty dollars ($50.00) for each inspection of a warehouse or station which is done for the purpose of amending a warehouse license.

(3) The department ~~shall~~ may assess and collect a fee of one hundred and fifty dollars ($150) per day or fraction thereof for maintaining an employee of the department at a warehouse to oversee the correction of a violation of this chapter.

(4) Upon approval by the department, a warehouseman may operate two (2) or more warehouses under a single warehouse license.

(5) All fees shall be deposited into the state treasury and credited to the general account.

SECTION 4. That Section 69-232, Idaho Code, be, and the same is hereby amended to read as follows:

69-232. COOPERATION WITH GOVERNMENTAL AGENCIES AND PRIVATE ASSOCIATIONS. ~~In the administration of the provisions of this chapter--the department--may--cooperate--with--and--seek--assistance from any city, county, state, or federal agency within--or--outside--the--state.~~ The director may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this chapter and the United States warehouse act (7 U.S.C.A. section 241, et seq.). Notwithstanding any other provisions of this chapter, such agreements may also relate to a joint program for licensing, bonding and inspecting stations. Such a program should be designed to avoid duplication of effort on the part of the licens-

ing authority and requirements for operation, and promote more efficient enforcement of the provisions of this chapter and comparable provisions of the laws of the states of Oregon, Washington, Montana, Wyoming, Utah and Nevada and the province of British Columbia, Canada.

SECTION 5. That Section 69-251, Idaho Code, be, and the same is hereby amended to read as follows:

69-251. PAYMENT OF PURCHASE PRICE. A person required to be licensed to do business as a warehouseman under the provisions of this chapter shall pay the purchase price to the owner ~~of~~ or his agent for agricultural ~~products~~ commodities upon delivery or demand by the owner or agent, but not later than thirty (30) days after delivery by the owner or agent unless otherwise agreed to by the parties. As used in this section, "delivery" means the transfer of title to and possession of agricultural ~~products~~ commodities by the owner or agent to the warehouseman or to another person in accordance with the agreement of the owner or agent and the warehouseman. As used in this section, "payment" means the actual payment or tender of payment by the warehouseman to the owner or agent of the agreed purchase price.

SECTION 6. That Section 69-256, Idaho Code, be, and the same is hereby amended to read as follows:

69-256. CREATION OF INDEMNITY ACCOUNT -- USES. (1) There is hereby established within the dedicated fund an account to be known as the commodity indemnity account. The commodity indemnity account shall consist of assessments remitted by ~~depositors~~ producers pursuant to the provisions of this chapter and any interest or earnings on the account balance.

(2) All assessments shall be paid to the department and shall be deposited in the commodity indemnity account. The state treasurer shall be the custodian of the commodity indemnity account. Disbursements shall be on authorization of the director. No appropriation is required for disbursements from this account.

(3) The commodity indemnity account shall be used exclusively for purposes of paying claimants pursuant to this chapter, and paying necessary expenses of administering the commodity indemnity account, provided however, that up to one-half (1/2) of the interest accumulated by the account may be paid to the department and to the state treasurer to defray costs of administering the warehouse and dealer indemnity program and the commodity indemnity account. The state of Idaho shall not be liable for any claims presented against the account.

SECTION 7. 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~~ producer 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, the rate of the

assessment shall be established by rules promulgated by the department. The ~~depositor's~~ producer's annual assessment shall not exceed two-tenths of one per cent (.2%) of the total value, as determined at the time of first sale, of the commodities.

SECTION 8. 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~~ producer's assessment provided, that warehousemen and/or commodity dealers shall be responsible for the collection of ~~depositor's~~ the producer's assessment payments and the transmission of same to the department.

(2) The requirement that a surety bond or other security 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 for 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 9. That Section 69-260, Idaho Code, be, and the same is hereby amended to read as follows:

69-260. FINANCIAL DIFFICULTIES -- ADDITIONAL BOND OR SECURITY REQUIRED. The department may, when it has reason to believe that a licensee does not have the ability to pay ~~depositors~~ producers 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 10. 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(7), 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~~ producers 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~~ producers 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~~ producer's pro rata share of available commodities and the deficiency shall be considered as a claim of the ~~depositor~~ producer. 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 11. That Section 69-263, Idaho Code, be, and the same is hereby amended to read as follows:

69-263. FAILURE TO FILE -- LOSS OF CLAIM ON ACCOUNT. If a ~~depositor~~ producer creditor, after notification, refuses or neglects to file in the office of the director his verified claim against a warehouseman or dealer as requested by the director within sixty (60) days from the date of the request, the director shall thereupon be relieved of responsibility for taking action with respect to such claim later asserted and no such claim shall be paid from the commodity indemnity

account.

Approved March 27, 1990.

CHAPTER 184
(H.B. No. 614)

AN ACT

RELATING TO THE LAW REGULATING COMMODITY DEALERS; AMENDING SECTION 69-502, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 69-503, IDAHO CODE, TO PROVIDE LICENSE REQUIREMENTS FOR PERSONS PURCHASING AGRICULTURAL COMMODITIES AND TO REVISE FINANCIAL STATEMENT REQUIREMENTS; AMENDING SECTION 69-506, IDAHO CODE, TO PROVIDE BONDING REQUIREMENTS FOR PERSONS PURCHASING AGRICULTURAL COMMODITIES; AMENDING SECTION 69-510, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF A PURCHASE PRICE FOR AGRICULTURAL COMMODITIES BY COMMODITY DEALERS; AMENDING SECTION 69-511, IDAHO CODE, TO PROVIDE FOR THE INSPECTION OF PREMISE, BOOKS AND RECORDS OF COMMODITY DEALERS PERTAINING TO AGRICULTURAL COMMODITIES; AMENDING SECTION 69-514, IDAHO CODE, TO PROVIDE FOR CREDIT SALE CONTRACTS OF AGRICULTURAL COMMODITIES WITH COMMODITY DEALERS; AMENDING SECTION 69-520, IDAHO CODE, TO PROVIDE THAT DRAWING A CHECK, DRAFT OR OTHER ORDER WITH INSUFFICIENT FUNDS WHEN PURCHASING AN AGRICULTURAL COMMODITY IS A VIOLATION; AMENDING SECTION 69-521, IDAHO CODE, TO REVISE REQUIREMENTS FOR FINANCIAL STATEMENTS; AMENDING SECTION 69-522, IDAHO CODE, TO CORRECT A TYPOGRAPHICAL ERROR; AND AMENDING CHAPTER 5, TITLE 69, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 69-526, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE MAY COOPERATE WITH AND ENTER INTO COOPERATIVE AGREEMENTS.

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

SECTION 1. That Section 69-502, Idaho Code, be, and the same is hereby amended to read as follows:

69-502. DEFINITIONS. As used in this chapter, except as otherwise specified:

(1) "Agricultural ~~product~~ commodity" means any grain, dry peas, dry beans, leguminous or other small seeds.

(2) "Commodity dealer or dealer" means any person who solicits, contracts for, ~~any agricultural product from a producer~~ or negotiates the consignment or purchase, or obtains from an Idaho producer or producers, title, possession, or control of any agricultural ~~product, or receives~~ commodity through his place of business located in the state of Idaho or through his place of business located outside the state of Idaho for the purpose of sale~~,~~ or 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~~ commodities from ~~the~~ an Idaho producer or producers of the commodity~~ies~~. Commodity dealer or dealer

shall not mean any person who purchases agricultural ~~products~~ commodities for his own use as seed or feed.

(3) "Credit-sale contract" means a contract for the sale of an agricultural ~~product~~ commodity pursuant to which the sale price is to be paid at a date subsequent to the delivery of the agricultural ~~product~~ commodity to the buyer and includes, but is not limited to, those contracts commonly referred to as deferred payment contracts, deferred pricing contracts and price-later contracts.

(4) "Department" means the department of agriculture of the state of Idaho.

(5) "Director" means the director of the department of agriculture.

(6) "Person" means any individual, firm, association, partnership or corporation.

(7) "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~~ commodities produced on that land.

(8) "Public warehouse or warehouse" means any elevator, mill, warehouse, subterminal commodity warehouse, public warehouse or other structure or facility in which agricultural ~~products~~ commodities are received for storage, shipment, processing, reconditioning or handling.

(9) "Suspension" means the temporary removal of a commodity dealer license by the department pending a hearing for violations of the provisions of this chapter. Correction of the violations prior to a hearing may result in the reinstatement of a license without a hearing.

(10) "Revocation" means the permanent removal of a commodity dealer license following a hearing on violations of the provisions of this chapter by the hearing officer or director.

(11) "Termination" means the expiration of a commodity dealer license due to failure to meet minimum licensing requirements, failure to renew a commodity dealer license or as requested by the licensee according to the terms of section 69-504 (4), Idaho Code.

SECTION 2. That Section 69-503, Idaho Code, be, and the same is hereby amended to read as follows:

69-503. LICENSE REQUIREMENTS -- FINANCIAL RESPONSIBILITY. (1) A person shall not engage in the business of a commodity dealer in this state without having obtained a license issued by the department.

(2) The type of license required shall be determined as follows:

(a) A class 1 license is required if the commodity dealer purchases ~~any~~ agricultural ~~products~~ commodities by credit-sale contract or if the value of the agricultural ~~products~~ commodities purchased by the commodity dealer from producers during the previous twelve (12) month period exceeds two hundred and fifty thousand dollars ($250,000), or if the value of the agricultural ~~products~~ commodities expected to be purchased by the commodity dealer from the producers during the succeeding twelve (12) month period will exceed two hundred and fifty thousand dollars ($250,000). Any other commodity dealer may elect to be licensed as a class 1 com-

modity dealer.

(b) A class 2 license is required for any commodity dealer if the value of the agricultural ~~products~~ commodities purchased by the commodity dealer from producers during the previous twelve (12) month period exceeds ten thousand dollars ($10,000) and is less than two hundred and fifty thousand dollars ($250,000), and if the value of the agricultural ~~products~~ commodities expected to be purchased by the commodity dealer from producers during the succeeding twelve (12) month period will be more than ten thousand dollars ($10,000) but less than two hundred and fifty thousand dollars ($250,000). A class 2 licensee whose purchases from producers exceed two hundred and fifty thousand dollars ($250,000) in value during any twelve (12) month shall immediately apply for a class 1 license. If a class 1 license is denied, the person shall immediately cease doing business as a commodity dealer.

(3) An application for a license to engage in business as a commodity dealer shall be filed with the department and shall be on a form prescribed by the department. A separate license is required for each location at which records are maintained for transactions of the commodity dealer.

(4) A license application shall include the following:

(a) The name of the applicant;

(b) The names of the officers and directors if the applicant is a corporation;

(c) The names of the partners if the applicant is a partnership;

(d) The location of the principal place of business; and

(e) Any other reasonable information the department finds necessary to carry out the provisions and purposes of this chapter.

(5) A license applicant shall further provide a sufficient and valid bond as specified in section 69-506, Idaho Code.

(6) A license applicant shall further provide a complete financial statement setting forth the applicant's assets, liabilities and net worth. This financial statement ~~must~~ shall be prepared by an independent certified public accountant or a licensed public accountant according to generally accepted accounting principles. The commodity dealer shall have and maintain current assets equal to or greater than current liabilities. Assets shall be shown at original cost less depreciation. Upon written request filed with the department, the director may allow asset valuations in accordance with a competent appraisal.

(7) In order to receive and retain a commodity dealer's license the following additional conditions must be satisfied:

(a) For a class 1 license a commodity dealer 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 class 1 commodity dealer 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.

(b) For a class 2 license a commodity dealer shall have and maintain a net worth of at least twenty-five thousand dollars

($25,000) 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 class 2 commodity dealer if the person has a net worth of less than ten thousand dollars ($10,000). 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 department may require additional information or verification regarding the financial resources of the applicant and the applicant's ability to pay producers for agricultural ~~products~~ commodities purchased from them.

SECTION 3. That Section 69-506, Idaho Code, be, and the same is hereby amended to read as follows:

69-506. BONDING REQUIREMENTS -- CANCELLATION -- CERTIFICATE OF DEPOSIT IN LIEU OF BOND. Except as provided in chapter 2, title 69, Idaho Code, an applicant for a license to operate as a commodity dealer shall, before a license will be issued, file with the department a bond payable to the state of Idaho with a corporate surety approved by the department with the condition that the applicant will pay the purchase price of any agricultural ~~product~~ commodity to the seller. The aggregate annual liability of the surety shall in no event exceed the sum of the bond.

The bond for each class 1 license shall be in the sum of twenty-five thousand dollars ($25,000). The bond for each class 2 license shall be in the sum of fifteen thousand dollars ($15,000). A surety shall notify the commodity dealer and the department by certified mail at least sixty (60) days prior to the cancellation of a bond issued under the provisions of this chapter. The liability of the surety shall cover purchases made by the commodity dealer during the time the bond is in force. A commodity dealer's bond filed with this department shall be continuous until cancelled by the surety upon sixty (60) days' notice. The director reserves the right to waive the sixty (60) day cancellation period.

Any person required to submit a bond to the department in accordance with this chapter, may at his option give to the department a certificate of deposit payable to the director as trustee in lieu of the bond required herein. The principal amount of the certificate shall be the same as that required for a surety bond pursuant to this chapter. Accrued interest upon the certificate of deposit shall be payable to the purchaser of the certificate. The certificate shall remain on file with the department until it is released, cancelled or discharged by the director. The provisions of this chapter that apply to a bond required pursuant to this chapter apply to each certificate of deposit given in lieu of such bond.

SECTION 4. That Section 69-510, Idaho Code, be, and the same is hereby amended to read as follows:

69-510. PAYMENT OF PURCHASE PRICE. A person required to be licensed as a commodity dealer under the provisions of this chapter shall pay the purchase price to the owner or his agent for agricul-

tural ~~products~~ commodities upon delivery or demand by the owner or agent, but not later than thirty (30) days after delivery by the owner or agent unless otherwise agreed to by the parties. As used in this section, "delivery" means the transfer of title to and possession of agricultural ~~products~~ commodities by the owner or agent to the commodity dealer or to another person in accordance with the agreement of the owner or agent and the commodity dealer. As used in this section, "payment" means the actual payment or tender of payment by the commodity dealer to the owner or agent of the agreed purchase price.

SECTION 5. That Section 69-511, Idaho Code, be, and the same is hereby amended to read as follows:

69-511. INSPECTION OF PREMISES, BOOKS AND RECORDS. The department may inspect the premises used by any commodity dealer in the conduct of his business at any reasonable time. The books, accounts, records and papers of every such commodity dealer which pertain to agricultural ~~product~~ commodity purchases shall have bills of lading or other documents covering the agricultural ~~products~~ commodities in his possession, and shall present them to any law enforcement officer or to a person designated as a law enforcement officer. A commodity dealer licensed in this state who does not have a place of business within the state shall, upon the request of the director, make available and furnish to the department at any reasonable time and place the department may set, all books, accounts, records and papers relating to agricultural ~~product~~ commodity transactions within the state of Idaho. Where there is good cause to believe that a person is doing business as a commodity dealer in the state of Idaho without a license, the department may inspect the books, papers and records of the person which pertain to agricultural ~~product~~ commodity purchases.

SECTION 6. That Section 69-514, Idaho Code, be, and the same is hereby amended to read as follows:

69-514. CREDIT-SALE CONTRACTS. (1) A commodity dealer who purchases agricultural ~~products~~ commodities by credit-sale contracts shall maintain books, records and other documents as required by the department to establish compliance with the provisions of this section.

(2) In addition to other information as may be required, a credit-sale contract shall contain or make provision for all of the following:

(a) The seller's name and address;

(b) The conditions of delivery;

(c) The amount and kind of agricultural ~~products~~ commodities delivered;

(d) The price per unit or basis of value; and

(e) The date payment is to be made.

(3) Title to all agricultural ~~products~~ commodities sold by a contract is in the purchasing dealer as of the time the contract is signed, unless the contract provides otherwise. The contract must be signed by all parties and executed in duplicate. One (1) copy shall be retained by the commodity dealer and one (1) copy shall be delivered to the seller. Upon revocation or termination of a commodity dealer's

license, the payment date for all credit-sale contracts shall be advanced to a date not later than thirty (30) days following the effective date of the revocation or termination and the purchase price for all agricultural ~~products~~ commodities without a price shall be determined as of the effective date of revocation or termination in accordance with all other provisions of the contract. However, if the business of the commodity dealer is sold to another licensed commodity dealer, credit-sale contracts may be assigned to the purchaser of the business.

SECTION 7. That Section 69-520, Idaho Code, be, and the same is hereby amended to read as follows:

69-520. DRAWING CHECKS INSUFFICIENTLY COVERED A VIOLATION. Any person engaged in business as a commodity dealer, as defined in this chapter, who shall make, draw, utter or deliver any check, draft or order for the payment of money upon any bank or other depository in payment to the seller of the purchase price of any agricultural ~~product~~ commodity or any part thereof upon obtaining possession or control thereof, when at the time of such making, drawing, uttering or delivery the maker or drawer has not sufficient funds in or credit with such bank or other depository for the payment of such check, draft or order in full upon its presentation, shall be in violation of the provisions of this chapter. The word "credit" as used herein shall mean an arrangement or understanding with the bank or depository for the payment of such check, draft or order.

SECTION 8. 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 shall submit an audited or reviewed financial statement prepared by an independent certified public accountant or licensed 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 shall be prepared in conformity with generally accepted accounting principles and shall include, but not be limited to, a reviewed financial statement prepared by an independent certified public accountant, a statement of current assets and current liabilities, and a statement of net worth.

SECTION 9. That Section 69-522, Idaho Code, be, and the same is hereby amended to read as follows:

69-522. ACTION ON BOND BY PERSONS INJURED. Any producer injured

by the breach of any obligation for which a bond is written, under the provisions of section 69-506, Idaho Code, shall be entitled to sue on the bond in his own name in a court of competent jurisdiction to recover the damages he may have sustained by such breach, or may petition the director to fix the amount of his damages. The director may thereupon make demand upon the commodity dealer and his surety for payment of such damages and in the event such damages are not promptly paid the director may commence ~~on~~ an action on the bond to enforce payment of such damages. The liability of the surety upon the bond required to be given by a commodity dealer as provided by section 69-506, Idaho Code, for any one (1) annual licensing period shall be limited to the amount specified in the bond, and in case of recoveries had by two (2) or more persons for violation of the conditions of such bond in excess of the amount of the bond, such recovery shall be prorated and the total recovery as against the surety for any one (1) annual licensing period shall not exceed the amount of the bond. Any person who sues and obtains a judgment against the commodity dealer or his surety for payment of such damages under this section shall be entitled to recover a reasonable attorney's fee.

SECTION 10. That Chapter 5, 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 69-526, Idaho Code, and to read as follows:

69-526. COOPERATION WITH GOVERNMENTAL AGENCIES AND PRIVATE ASSOCIATIONS. The director may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this chapter and the United States warehouse act (7 U.S.C.A. section 241, et seq.). Notwithstanding any other provisions of this chapter, such agreements may also relate to a joint program for licensing, bonding and inspecting stations. Such a program should be designed to avoid duplication of effort on the part of the licensing authority and requirements for operation, and promote more efficient enforcement of the provisions of this chapter and comparable provisions of the laws of the states of Oregon, Washington, Montana, Wyoming, Utah and Nevada and the province of British Columbia, Canada.

Approved March 27, 1990.

CHAPTER 185
(H.B. No. 555)

AN ACT

RELATING TO THE RIGHTS AND OBLIGATIONS OF OWNERS OF REAL PROPERTY; AMENDING SECTION 55-307, IDAHO CODE, TO PROVIDE FOR STATEWIDE UNIFORMITY IN THE TERMS OF LEASES FOR PRIVATE RESIDENTIAL PROPERTY BY PROHIBITING A LOCAL GOVERNMENTAL UNIT FROM CONTROLLING THE AMOUNT OF RENT THAT MAY BE CHARGED FOR LEASING PRIVATE RESIDENTIAL PROPERTY.

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

SECTION 1. That Section 55-307, Idaho Code, be, and the same is hereby amended to read as follows:

55-307. CHANGE IN TERMS OF LEASE -- NOTICE. (1) In all leases of lands or tenements, or of any interest therein from month to month, the landlord may, upon giving notice in writing at least fifteen (15) days before the expiration of the month, change the terms of the lease, to take effect at the expiration of the month. The notice, when served upon the tenant, shall of itself operate and be effectual to create and establish, as a part of the lease, the terms, rent and conditions specified in the notice, if the tenant shall continue to hold the premises after the expiration of the month.

(2) A local governmental unit shall not enact, maintain, or enforce an ordinance or resolution that would have the effect of controlling the amount of rent charged for leasing private residential property. This provision does not impair the right of any local governmental unit to manage and control residential property in which the local governmental unit has a property interest.

Approved March 27, 1990.

CHAPTER 186
(H.B. No. 827)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1991; 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, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$4,747,200
Operating Expenditures	512,500
Capital Outlay	36,700
Trustee and Benefit Payments	500,000
TOTAL	$5,796,400
FROM:	
General Account	$2,923,200
Interagency Billing and Receipts Account	2,873,200
TOTAL	$5,796,400

SECTION 2. There is hereby appropriated to the Attorney General the following amount, to be expended for designated programs according

to designated expense classes from the listed accounts for the period July 1, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. STATE LEGAL SERVICES:					
FROM:					
General Account	$1,885,800	$335,700	$36,700	$500,000	$2,758,200
Interagency Billing and Receipts Account	2,861,400	11,800			2,873,200
TOTAL	$4,747,200	$347,500	$36,700	$500,000	$5,631,400
II. SPECIAL SERVICES LITIGATION:					
FROM:					
General Account		$165,000			$ 165,000
GRAND TOTAL	$4,747,200	$512,500	$36,700	$500,000	$5,796,400

SECTION 3. It is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 2, may be used at the discretion of the Attorney General to assist in defraying expenses relating to or resulting from the discharge of the Attorney General's official duties. Such moneys shall be accounted for solely on the itemized certificate of the Attorney General and shall be exempted from the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 4. There is hereby reappropriated to the Attorney General any unexpended and unencumbered balances of all General Account appropriations made to the Attorney General for the Special Services Litigation Program for the period July 1, 1989, through June 30, 1990, to be expended for the Special Services Litigation Program for the period July 1, 1990, through June 30, 1991.

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, reappropriated by Section 5, Chapter 122, Laws of 1988, and reappropriated by Section 5, Chapter 222, Laws of 1989, to be expended for the Reserved Water Rights Technical Studies Program for the period July 1, 1990, through June 30, 1991.

Approved March 29, 1990.

CHAPTER 187
(S.B. No. 1516)

AN ACT

RELATING TO LEASES OF STATE-OWNED RECREATIONAL COTTAGE SITE AND HOMESITE LANDS; AMENDING CHAPTER 3, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-310A, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSES, TO PROVIDE THAT SINGLE FAMILY, RECREATIONAL COTTAGE SITE AND HOMESITE LEASES SHALL NOT BE SUBJECT TO THE CONFLICT APPLICATION AND AUCTION PROVISIONS OF SECTIONS 58-307 AND 58-310, IDAHO CODE, AND TO PROVIDE THAT SINGLE FAMILY, RECREATIONAL COTTAGE SITE AND HOMESITE LEASES SHALL GENERATE MARKET RENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 3, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-310A, Idaho Code, and to read as follows:

58-310A. LEGISLATIVE FINDINGS AND PURPOSES -- LEASES OF SINGLE FAMILY, RECREATIONAL COTTAGE SITES AND HOMESITES NOT SUBJECT TO CONFLICT APPLICATION AND AUCTION PROVISIONS. (1) The legislature of the state of Idaho finds:

(a) That from time to time single family, recreational cottage site and homesite leases have been the target of conflict applications to lease said premises and property;

(b) That single family, recreational cottage sites and homesites have typically been held by the same family, sometimes for as long as fifty (50) years;

(c) That conflict applications for a lease require the state board of land commissioners to hold an auction between the applicants and award the lease to the highest bidder;

(d) That existing statutes allow the board no discretion in rejecting applications, and only limited discretion in rejecting bids, notably for collusion or similar irregularities in the bidding process;

(e) That, in the case of single family, recreational cottage site and homesite leases, the conflict application and auction procedure have caused considerable consternation and dismay to the existing lessee at the prospect of losing a long-time lease;

(f) That, although conflict applications have been filed from time to time, the board has never held a conflict auction or realized any direct revenue from such applications;

(g) That section 8, article IX, of the constitution of the state of Idaho provides that the board manage state endowment lands 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;

(h) That maximum long-term financial returns to the institutions to which granted are best obtained through stable leases at market

rent.

(2) It is hereby declared that leases for single family, recreational cottage sites and homesites shall not be subject to the conflict application and auction provisions of sections 58-307 and 58-310, Idaho Code. The board shall reject any and all pending and future conflict applications filed under sections 58-307 and 58-310, Idaho Code, for single family, recreational cottage site and homesite leases.

(3) In the absence of the conflict application and auction procedure in the single family, recreational cottage site and homesite lease, and lease renewal process, the board shall insure that each leased lot generates market rent throughout the duration of the lease.

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, 1990.

CHAPTER 188
(S.B. No. 1579)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-438, IDAHO CODE, TO PROVIDE ADDITIONAL ENUMERATED OCCUPATIONAL DISEASES, AND TO PROVIDE A PROPER CODE REFERENCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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, handl-

ing 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_2).

(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.

(13) Acquired immunodeficiency syndrome (AIDS), AIDS related complexes (ARC), other manifestations of human immunodeficiency virus (HIV) infections, and hepatitis B virus (HBV) infections in any occupation involving exposure to human blood or body fluids.

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(~~17~~8)(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 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, 1990.

CHAPTER 189
(S.B. No. 1526)

AN ACT

RELATING TO PASSENGER TRAINS; AMENDING CHAPTER 60, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-6015, IDAHO CODE, TO PROHIBIT THE OPEN DISCHARGE OF HUMAN WASTE FROM PASSENGER TRAINS UPON THE RIGHT-OF-WAY OVER WHICH IT OPERATES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 60, 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 18-6015, Idaho Code, and to read as follows:

18-6015. PROHIBITION ON DISPOSAL OF HUMAN BODY WASTE FROM PASSENGER TRAINS. (1) As used in this section:

(a) "Human body waste" means excrement, feces or other waste material discharged from the human body.

(b) "Passenger train" means any train operated by a railroad company or corporation or operated by an entity created by federal law, for the primary purpose of transporting passengers.

(c) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, association, state, state or federal agency or entity, city, commission, or political subdivision of a state.

(2) No person operating or controlling any passenger train through or within this state may knowingly and openly place, throw, release, discharge, or deposit human body waste from a passenger train upon the right-of-way over which it operates.

(3) Any person who violates any provision of this section is guilty of a misdemeanor.

(4) The department of health and welfare and the public health districts shall enforce the provisions of this section.

SECTION 2. This act shall be in full force and effect on and after August 1, 1990.

Approved March 29, 1990.

CHAPTER 190
(H.B. No. 712)

AN ACT

RELATING TO GRADING AND PACKING OF POTATOES; AMENDING SECTION 22-910, IDAHO CODE, TO PROVIDE DEFINITIONS FOR VARIOUS TYPES OF SAMPLING, TO PROVIDE FOR TRAINING AND APPROVAL OF SUPERVISED SAMPLERS, TO PROVIDE FOR REGISTERS OF APPROVED SAMPLERS, TO PROVIDE FOR DISCLO-

SURE OF SAMPLING METHODS, TO PROVIDE PENALTIES, AND TO CORRECT CODIFIED ERRORS.

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

SECTION 1. That Section 22-910, Idaho Code, be, and the same is hereby amended to read as follows:

22-910. DEFINITION OF TERMS. As used in these standards:

1. "Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissue such as slimy soft rot, leak, or wet breakdown following freezing or sunscald.

2. "Diameter" means the greatest dimension at right angles to the longitudinal axis. The long axis shall be used without regard to the position of the stem (rhisome).

3. "Fairly well shaped" means that the appearance of the individual potato or the general appearance of the potatoes in the container is not materially injured by pointed, dumbbell-shaped or otherwise ill-formed potatoes.

4. "Free from damage" means free from any injury or defect which materially injures the appearance of the individual potato or the general appearance of the potatoes in the container, or which cannot be removed without a loss of more than ~~5~~ five percent (5%) of the total weight of the potato including peel covering defective area. Loss of outer skin (epidermis) shall not be considered as damage unless the skinned surface is materially affected by very dark discoloration. Any one (1) of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one (1) defect shall be considered as damage~~.~~:

(a) Second growth or growth cracks which have developed to such an extent as to materially injure the appearance of the individual potato or the general appearance of the potatoes in the container.

(b) Air cracks which are deep, or shallow air cracks which materially injure the ~~the~~ appearance of the individual potato or the general appearance of the potatoes in the container.

(c) Shriveling, when the potato is more than moderately shriveled, spongy, or flabby.

(d) Sprouting when more than ~~10~~ ten percent (10%) of the potatoes have sprouts over three-fourths (3/4) of an inch long.

(e) Surface scab which covers an area of more than ~~5~~ five percent (5%) of the surface of the potato in the aggregate.

(f) Pitted scab which affects the appearance of the potato to a greater extent than the amount of surface scab permitted or causes a loss of more than five percent (5%) of the total weight of the potato including peel covering defective area.

(g) Rhizoctonia when the general appearance of the potatoes in the container is materially injured or when individual potatoes are badly infected.

(h) Dirt when the general appearance of the potatoes in the container is more than slightly dirty or stained, or when individual potatoes are badly caked with dirt or badly stained; or other foreign matter which materially affects the appearance of the potatoes.

5. "Free from serious damage" means free from any injury or defect which seriously injures the appearance of the individual potato or the general appearance of the potatoes in the container, or which cannot be removed without a loss of more than ~~10~~ ten percent (10%) of the total weight of the potato including peel covering defective area. Any one (1) of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one (1) defect shall be considered as serious damage:

(a) Dirt when the general appearance of the potatoes in the container is seriously affected by tubers badly caked with dirt; or other foreign matter which seriously affects the appearance of the potatoes.

(b) Cuts when both ends are clipped or when more than an estimated one-third (1/3) of the potato is cut away from one (1) end or when the remaining portion of the clipped potato weighs less than four (4) ounces.

Other cuts which seriously affect the appearance of the individual potato or which cannot be removed without a loss of more than ~~10~~ ten percent (10%) of the total weight of the potato including peel covering defective area.

(c) Shri~~veling wh~~en the potato is excessively shriveled, spongy, or flabby.

(d) Surface scab which covers an area of more than ~~50~~ fifty percent (50%) of the surface of the potato in the aggregate.

(e) Pitted scab which affects the appearance of the potato to a greater extent than the amount of surface scab permitted or causes a loss of more than ~~10~~ ten percent (10%) of the total weight of the potato including peel covering defective area.

6. "Sampling" means the procedure used to take a representative sample from a lot:

(a) Random sampling: The process of selecting a sample from a lot whereby each unit in the lot has an equal chance of being chosen.

(b) Sample portion: A randomly selected portion of the potatoes taken from the lot which when composited with other portions will represent the quality of the lot.

7. "Recognized types of sampling procedures" mean:

(a) Official sampling: The sampler is a trained and licensed employee of the federal/state inspection service. The federal/state inspection service or the Idaho department of agriculture assumes full responsibility for employees in this position, ensuring that proper sampling methods and procedures, sample identity and security are maintained.

(b) Supervised sampling: The sampler is not an employee of the federal/state inspection service nor the Idaho department of agriculture. Sampling methods and procedures, sample identity and security are randomly checked and supervised by the federal/state inspection service. Before a sampler can be employed as a supervised sampler, the sampler shall be trained and approved by the federal/state inspection service.

Federal/state inspection service registers shall contain the names of trained and approved samplers used for this type of sampling. Worksheets and certificates or computer printouts from this type of sampling shall show supervised sampling.

8. "Submitted samples" mean samples that are drawn, marked and controlled by the applicant requesting inspection and submitted to the inspection service for grading results. Work sheets and certificates or computer printouts from this type of sampling shall show "submitted sample."

9. Any handler of potatoes requesting grade or quality inspections from the federal/state inspection service using sampling methods other than official sampling shall notify all financially interested parties.

10. Any processor, packer or shipper of potatoes who uses other than the official sampling as defined in this chapter, shall notify the grower of this fact. The penalties for any deviation in sampling procedures or for tampering with a sample or altering a certificate are provided in section 22-912, Idaho Code.

Approved March 29, 1990.

CHAPTER 191
(H.B. No. 603)

AN ACT

RELATING TO HAZARDOUS MATERIALS AND HAZARDOUS WASTE ENFORCEMENT; AMENDING SECTION 49-2209, IDAHO CODE, TO AUTHORIZE POLITICAL SUBDIVISIONS INCLUDING CITIES, COUNTIES AND FIRE PROTECTION DISTRICTS TO RECOVER COSTS INVOLVED IN CLEANUP OF HAZARDOUS MATERIAL OR HAZARDOUS WASTE DISCHARGE.

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

SECTION 1. That Section 49-2209, Idaho Code, be, and the same is hereby amended to read as follows:

49-2209. CIVIL REMEDIES. The remedies specified in this section are cumulative and nonexclusive.

(1) Monetary penalties.

(a) Any person who makes a materially false statement or representation in any application, label, manifest, record, report, permit, endorsement or other document filed, maintained, or used for the purpose of complying with the provisions of this chapter shall be liable for a civil penalty not less than fifty dollars ($50.00) nor to exceed ten thousand dollars ($10,000) for each separate violation.

(b) Any person who violates this chapter or any permit, standard, regulation, condition, or requirement issued or promulgated pursuant to this chapter shall be liable for a civil penalty not less than fifty dollars ($50.00) nor to exceed ten thousand dollars ($10,000) for each separate violation.

(c) The imposition or computation of monetary penalties shall take into account the seriousness of the violation and good faith efforts to comply with the law.

(2) Assessment of costs. Any person who violates any of the provisions of this chapter or any permit, standard, regulation, condition, or requirement issued or promulgated pursuant to this chapter may be assessed for:

(a) The state's cost for any nonroutine investigations, inspections, monitoring, or surveys which lead to evidence of the violation;

(b) The state's costs, and the costs of any political subdivision including city, county and fire protection districts, including the reasonable value of attorneys' services, for preparing and litigating the case;

(c) The state's cost, and the costs of any political subdivision including city, county and fire protection districts, for impounding, storing, and disposing of contaminated property and for the cleanup of a hazardous material or hazardous waste discharge;

(d) Compensation for damages to publicly held resources including, but not limited to land, water, recreational uses, wildlife, fish and aquatic life to restore the resource to its highest immediately previous uses. Any such suit for damages to publicly held resources may be brought only by the attorney general or prosecuting attorney for the county in which the violation occurred;

(e) Compensation for damages to privately held resources including, but not limited to livestock, land, water, or other personal property, and compensation for court costs allowed by law, reasonable attorney's fees for trial preparation and trial of the case, and all other reasonable costs of trial preparation and trial of the case;

(3) Payment to hazardous materials/hazardous waste transportation enforcement account. Moneys recovered pursuant to subsections (1) and (2) (a), (c) and (d) of this section shall be paid into the hazardous material/hazardous waste transportation enforcement account created in section 49-2205, Idaho Code. Moneys recovered under subsection (2)(b) of this section shall not be paid into this account but shall be paid to those who rendered services and incurred costs in litigating the case.

(4) Restraining orders, injunctions and other relief. Any person who violates any provision of this chapter or any permit, standard, regulation, or requirement issued or promulgated pursuant to this chapter shall be subject to injunctive relief or other relief deemed appropriate. Upon a showing to the court that a violation is causing an imminent hazard to the public health, the public safety, or to the environment, the attorney general or prosecuting attorney need not allege or prove at any stage of the proceeding that long term irreparable damage will occur should the injunction or order not be issued or that the remedy at law is inadequate.

Approved March 29, 1990.

CHAPTER 192
(H.B. No. 495)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1208, IDAHO CODE, TO ELIMINATE REFERENCE TO THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING SECTION 54-1209, IDAHO CODE, TO UPDATE THE NAME OF AN ORGANIZATION; AMENDING SECTION 54-1212, IDAHO CODE, TO REQUIRE THE PASSAGE OF A FUNDAMENTALS OF ENGINEERING EXAMINATION PRIOR TO ASSIGNMENT TO THE EXAMINATION AS A PROFESSIONAL ENGINEER AND TO REQUIRE THE PASSAGE OF A FUNDAMENTALS OF LAND SURVEYING EXAMINATION PRIOR TO ASSIGNMENT TO THE PROFESSIONAL LAND SURVEYOR EXAMINATION; AMENDING SECTION 54-1213, IDAHO CODE, TO INCREASE THE MAXIMUM REGISTRATION FEE FOR PROFESSIONAL ENGINEERS OR PROFESSIONAL LAND SURVEYORS AND TO STRIKE REFERENCE TO JOINT STOCK ASSOCIATIONS; AMENDING SECTION 54-1214, IDAHO CODE, TO ALLOW FOR A MINIMUM OF EIGHT HOURS EXAMINATION IN THE PRINCIPLES AND PRACTICE OF ENGINEERING AND TO ALLOW FOR A MINIMUM OF EIGHT HOURS EXAMINATION IN THE PRINCIPLES AND PRACTICE OF LAND SURVEYING AND TO INCREASE THE MAXIMUM FEE FOR REEXAMINATION AS A PROFESSIONAL ENGINEER OR PROFESSIONAL LAND SURVEYOR; AMENDING SECTION 54-1216, IDAHO CODE, TO PROVIDE FOR CERTIFICATE AND REGISTRATION RENEWALS TO BECOME DUE ON THE LAST DAY OF THE MONTH IN WHICH A REGISTRANT OR CERTIFICATE HOLDER WAS BORN AND TO STRIKE REFERENCE TO JOINT STOCK ASSOCIATIONS; AMENDING SECTION 54-1217, IDAHO CODE, TO ELIMINATE A REFERENCE TO FEES; AMENDING SECTION 54-1219, IDAHO CODE, TO INCREASE THE MAXIMUM ALLOWABLE FEE FOR COMITY CERTIFICATION AND TO CLARIFY THAT THE BOARD PREPARES AND ADMINISTERS THE PROFESSIONAL LAND SURVEYOR EXAMINATION; AMENDING SECTION 54-1223, IDAHO CODE, TO ELIMINATE THE REFERENCE TO TEMPORARY PERMITS FOR THE PRACTICE OF PROFESSIONAL LAND SURVEYING AND TO ELIMINATE A REFERENCE TO AN EFFECTIVE DATE; AND AMENDING SECTION 54-1235, IDAHO CODE, TO CLARIFY AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-1208, Idaho Code, be, and the same is hereby amended to read as follows:

54-1208. BOARD -- POWERS. (1) The board shall have the power to adopt and amend all by-laws, rules of professional responsibility and rules of procedure, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the administration of the act and the regulation of proceedings before the board. These actions by the board shall be binding upon persons registered under this act and shall be applicable to corporations holding a certificate of authorization as provided in section 54-1235, Idaho Code. It shall adopt and have an official seal which shall be affixed to each certificate issued. It shall have power to ~~authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest, and to~~ provide an office, office equipment and facilities and such books and records as

may be reasonably necessary for the proper performance of its duties.

(2) In carrying into effect the provisions of this act, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents, or other pertinent data in any disciplinary matters or in any case wherever a violation of this act is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena as herein provided, the board may apply to any court of any jurisdiction to enforce compliance with same.

(3) The board is hereby authorized in the name of the state to apply for relief by injunction in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of this act or to restrain any violation thereof. Venue for all such actions shall be in the district court of the fourth judicial district, Ada county, Idaho.

(4) The board may subject an applicant for registration to such examination as it deems necessary to determine qualifications.

(5) Any action, claim or demand to recover money damages from the board or its employees which any person is legally entitled to recover as compensation for the negligent or otherwise wrongful act or omission of the board or its employees, when acting within the course and scope of their employment, shall be governed by the Idaho tort claims act, chapter 9, title 6, Idaho Code. For purposes of this section, the term "employees" shall include, in addition to those persons listed in section 6-902(4), Idaho Code, special assignment members and other independent contractors while acting within the course and scope of their board related work.

(6) The board may appoint arbitration review committees to review and recommend arbitration of disputes between professional engineers or disputes between professional land surveyors. Each committee shall consist of no fewer than three (3) individuals currently licensed as professional engineers on engineering disputes, and as professional land surveyors on land surveying disputes. The committee members shall be reimbursed as provided for board members in section 54-1205, Idaho Code. Further, each committee member shall be protected from any action or other legal proceedings for damages as provided for board members in section 54-1208(5), Idaho Code.

SECTION 2. That Section 54-1209, Idaho Code, be, and the same is hereby amended to read as follows:

54-1209. RECEIPTS AND DISBURSEMENTS. The secretary of the board, or assistants thereto as may be designated by 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 "professional engineers' and professional land surveyors' account." Such moneys 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 "professional engineers' and professional land surveyors' account" are hereby specifically appropriated for the use of the board. The secretary of the board shall be bonded to the state of Idaho in the time, form and manner prescribed in chapter 8, title 59,

Idaho Code. The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided for in section 54-1205, 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 from this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this act, including the expenses of the board's delegates to annual conventions of, and membership dues to, the National Council of Examiners for Engineering ~~Examiners~~ and Surveying and any of its subdivisions. Under no circumstances shall the total amount of expenditures approved by the board in payment of the expenses and compensation provided for in this act exceed the accumulated amount of the examination, registration and renewal fees collected as herein provided. All warrants on said "professional engineers' and professional land surveyors' account" shall be drawn by the state auditor on vouchers by the board and the state board of examiners.

SECTION 3. That Section 54-1212, Idaho Code, be, and the same is hereby amended to read as follows:

54-1212. GENERAL REQUIREMENTS FOR EXAMINATION AND LICENSE. Except as herein otherwise expressly provided, no license as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, shall be issued until an applicant has successfully passed an examination given by or under the supervision of the board, nor shall a license ~~as~~ a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, be issued to an applicant having habits or character that would justify revocation or suspension of certificate, as provided in section 54-1220, Idaho Code. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for assignment to an examination:

(1) As a professional engineer:

(a) Graduation from an approved engineering curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record of an additional four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant is competent to practice professional engineering (in counting years of experience, the board, at its discretion, may give credit, not in excess of one (1) year, for satisfactory graduate study in engineering); or

(b) Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record of eight (8) years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the

applicant is competent to practice professional engineering.
(2) As a professional land surveyor:
(a) Graduation from a school or college in an approved four (4) year surveying curriculum, passage of an examination on the fundamentals of land surveying acceptable to the board, and in addition, a specific record of at least four (4) years of combined office and field experience in land surveying work, after graduation, with a minimum of two (2) years of progressive experience in responsible charge of surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying; or
(b) Two (2) years of approved formal education in a school or college above high school level with at least sixty (60) semester hours, or the equivalent, passed, passage of an examination on the fundamentals of land surveying acceptable to the board, and in addition, a specific record of at least six (6) years of combined office and field experience in land surveying work, with a minimum of two (2) years of progressive experience in responsible charge of surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying; or
(c) Evidence that the applicant possesses knowledge and skill, satisfactory to the board, similar to that attained upon completion of an approved college curriculum, passage of an examination on the fundamentals of land surveying acceptable to the board, and evidence of a specific record of at least eight (8) years of combined office and field experience in land surveying work with a minimum of three (3) years of progressive experience in responsible charge of surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying.
(3) As an engineer-in-training:
(a) Graduation from an approved engineering curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to enroll as an engineer-in-training; or
(b) Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum and a specific record of four (4) years or more of progressive experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to enroll as an engineer-in-training.
(4) As a land surveyor-in-training:
(a) Graduation from a college or school in an approved surveying curriculum and evidence that the applicant is competent to be enrolled as a land surveyor-in-training; or
(b) Has at least two (2) years of formal education in an approved school or college above high school level in an approved curriculum with at least sixty (60) semester hours, or the equivalent, passed, and in addition, a specific record of at least three (3) years of combined office and field experience in land surveying work of a character satisfactory to the board that the applicant

is competent to be enrolled as a land surveyor-in-training; or

(c) Possesses knowledge and skill, satisfactory to the board, similar to that attained upon completion of an approved college curriculum and evidence of a specific record of at least four (4) years experience of combined office and field experience of a character satisfactory to the board that the applicant is competent to be enrolled as a land surveyor-in-training.

In considering the combined education and experience qualifications of applicants, the board shall consider engineering teaching, land surveying teaching, each year of satisfactory completion of undergraduate college education, advanced degrees in engineering and advanced degrees in land surveying in establishing the applicants' minimum composite knowledge and skill. Graduation in a curriculum other than engineering or surveying from a college or university of recognized standing may be considered as equivalent to two (2) years of experience as set out in ~~this~~ subsections ~~subdivisions~~ (1)(b) and (2)(b) of this section: provided, however, that no applicant shall receive credit for more than four (4) years of experience because of undergraduate educational qualifications.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, shall not be deemed to be the practice of engineering, but if such experience, in the opinion of the board, has involved responsible supervision of a character that will tend to expand the engineering knowledge and skill of the applicant the board may in its discretion give such credit therefor as it may deem proper.

Any person having the necessary qualifications prescribed in this act to entitle him to registration shall be eligible for such registration although he may not be practicing his profession at the time of making his application.

SECTION 4. That Section 54-1213, Idaho Code, be, and the same is hereby amended to read as follows:

54-1213. APPLICATIONS AND REGISTRATION FEES. Applications for registration as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, shall be on forms prescribed and furnished by the board. The application shall be made under oath, and shall show the applicant's education and a detailed summary of his technical and engineering or land surveying experience. An applicant for registration as a professional engineer or professional land surveyor shall furnish not less than five (5) references, of whom three (3) or more should be registered professional engineers or professional land surveyors, as applicable, having personal knowledge of the applicant's engineering or land surveying experience. An applicant for certification as an engineer-in-training or land surveyor-in-training shall furnish three (3) character references. Applications for certification of corporations ~~and joint stock associations~~ shall be made in accordance with section 54-1235, Idaho Code.

The maximum registration fee for professional engineers or professional land surveyors licensed by an eight (8) hour examination shall be one hundred ~~twenty~~ fifty dollars ($1~~2~~50), of which a fee not to

exceed one hundred thirty dollars ($1~~0~~30), shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.

The maximum registration fee for a professional engineer licensed by a sixteen (16) hour examination shall be two hundred seventy dollars ($270), of which a fee not to exceed two hundred fifty dollars ($250) shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00) shall be paid prior to issuance of the certificate.

The maximum certification fee for an applicant who seeks a certificate as an engineer-in-training or land surveyor-in-training shall be seventy-five dollars ($75.00), of which a fee not to exceed fifty-five dollars ($55.00), shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.

The maximum certification fee for corporations ~~or--joint--stock associations~~ shall be two hundred twenty dollars ($220), of which a fee not to exceed two hundred dollars ($200), shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.

Separate application fees shall accompany all applications for each of the four (4) classes of examinations: professional land surveyor, engineer-in-training, land surveyor-in-training and professional engineer.

The amount of the registration fee or certificate fee shall be fixed by the board prior to June 30th of any year and shall continue in force until changed. Said fees shall not be subject to change except at the beginning of each fiscal year.

Should the board deny the issuance of a certificate of registration or authorization to any applicant, the fee deposited shall be retained as an application fee.

SECTION 5. That Section 54-1214, Idaho Code, be, and the same is hereby amended to read as follows:

54-1214. EXAMINATIONS. (1) Examinations will be held at such times and places as the board directs. The board shall determine the acceptable grade on examinations.

(2) Written examinations will be given in two (2) sections and may be taken only after the applicant has met the other minimum requirements as given in section 54-1212, Idaho Code, and has been approved by the board for admission to the examinations as follows:

(a) Engineering Fundamentals -- The examination consists of an eight (8) hour test period on the fundamentals of engineering. Passing this examination qualifies the examinee for an engineer-in-training certificate, provided he has met all other requirements of certification required by this act.

(b) Principles and Practice of Engineering -- The examination consists of a minimum of an eight (8) hour test period on applied engineering. Passing this examination qualifies the examinee for registration as a professional engineer, provided he has met the other requirements for registration required by this act.

(c) Land Surveying Fundamentals -- The examination consists of an

eight (8) hour test period on the basic disciplines of land surveying. Passing this examination qualifies the examinee for a land surveyor-in-training certificate, provided he has met all other requirements for certification required by this act.

(d) Principles and Practice of Land Surveying -- The examination consists of ~~two (2) four (4) hour parts~~ a minimum of an eight (8) hour test period on the applied ~~disciplines--of~~ land surveying. Passing ~~these--parts~~ this examination qualifies the examinee for registration as a professional land surveyor, provided he has met the other requirements for registration required by this act.

(3) A candidate failing all or part of the ~~first~~ examination ~~of a section~~ may apply for reexamination ~~of both parts of the section~~, which may be granted upon payment of an additional fee of not to exceed a maximum of one hundred thirty dollars ($10~~3~~0) if the examination is for registration as a professional engineer or professional land surveyor by use of an eight (8) hour examination and not to exceed a maximum of two hundred fifty dollars ($250) if the examination is for registration as a professional engineer by use of a sixteen (16) hour examination, and not to exceed fifty-five dollars ($55.00) if the examination is for certification as an engineer-in-training or land surveyor-in-training. Before readmission for a section of the examination, in the event of a second failure, the examinee shall be required to appear before the board to submit evidence of having acquired the necessary additional knowledge to warrant assignment of the applicant to the third examination in a section.

(4) The board may prepare and adopt specifications for the written examinations in engineering and land surveying. They shall be published in brochure form and be available to any person interested in being registered as a professional engineer or as a professional land surveyor.

SECTION 6. That Section 54-1216, Idaho Code, be, and the same is hereby amended to read as follows:

54-1216. EXPIRATIONS AND RENEWALS -- FEES. Following issuance or renewal of c~~C~~ertificates of registration for professional engineers and land surveyors, ~~and certificates of authorization for corporations shall~~ expireation shall be on the last day of the month ~~of July--following--their issuance or renewal~~ during which the registrant was born and shall become invalid on that date unless renewed. Certificates of authorization for corporations shall expire on the last day of the month of July following issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered and every corporation certified under this chapter, of the date of the expiration of said certificate of registration or certificate of authorization and the amount of the fee that shall be required for its renewal. Not later than June 30, 1991, the secretary of the board shall notify every person registered under this chapter, of the date of the expiration of said certificate of registration and the amount of the fee that shall be required for its renewal for a one (1) year period plus an additional amount prorated on an annual basis for the number of months beginning with August, 1992, through and including the month in which

the registrant was born. Thereafter, s~~S~~uch notice shall be mailed to the last known address of the registrant or corporation at least one (1) month in advance of the date of the expiration of said certificate or authorization. Renewal may be effected at any time during the month in which the registrant was born or during the month of July in the case of corporations, by the payment of a renewal fee to be fixed by the board at not less than three dollars ($3.00) nor more than seventy-five dollars ($75.00). The failure on the part of any registrant or certificate holder to renew his or its certificate annually in the month in which they were born or in the month of July in the case of corporations, as required above shall not deprive such person or corporation ~~or joint stock association~~ of the right of renewal, but the fee to be paid for the renewal of a certificate after the month ~~of July~~ in which it is due shall be increased twenty percent (20%) for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the renewal fee for each year delinquent, but in no event more than one hundred fifty dollars ($150).

Following issuance or renewal of c~~C~~ertificates of enrollment for engineers-in-training and land surveyors-in-training, ~~shall~~ expire~~ation~~ shall be on the last day of the month ~~of July following their issuance or renewal~~ during which the certificate holder was born. The notification to holders of certificates of enrollment shall be processed as prescribed above for registrants except that the annual renewal fee shall not be less than two dollars ($2.00) nor more than fifteen dollars ($15.00). The failure on the part of any holder of a certificate of enrollment to effect renewal shall not invalidate his status as an engineer-in-training or land surveyor-in-training, but his name shall, after ninety (90) days, be removed from the board's current mailing list.

SECTION 7. That Section 54-1217, Idaho Code, be, and the same is hereby amended to read as follows:

54-1217. PRACTITIONERS AT TIME ACT BECOMES EFFECTIVE ---~~FEE~~. Professional engineers and land surveyors with a current certificate of registration and engineers-in-training or land surveyors-in-training with a current enrollment card, will continue under their existing certificates or enrollments, as appropriate.

SECTION 8. That Section 54-1219, Idaho Code, be, and the same is hereby amended to read as follows:

54-1219. COMITY CERTIFICATION -- FEE. The board, upon application therefor and the payment of a fee of not to exceed a maximum of one hundred ~~twenty-five~~ fifty dollars ($1~~2~~50), may issue a certificate of registration as a professional engineer or professional land surveyor to any person who holds a certificate of registration issued to the applicant by the proper authority of any state, territory or possession of the United States, the District of Columbia, or of a foreign country, provided that the requirements for the indicated registration under which said certificate of registration was issued, were of a standard not lower than those specified in the applicable registration

act in effect in this state at the time such certificate was issued, provided that a professional land surveyor applicant must successfully pass ~~the section of the~~ a land surveying examination as prepared and administered by the board, and provided such state, territory, possession or country will license or issue certificates of registration, without examination and upon substantially the same condition, to applicants holding licenses or certificates of registration issued by the board under this act.

SECTION 9. That Section 54-1223, Idaho Code, be, and the same is hereby amended to read as follows:

54-1223. SAVING CLAUSE -- EXEMPTIONS. This act shall not be construed to prevent or to affect:

(1) Other Professions or Trades. The practice of any other profession or trade for which a license is required under any law of this state or the United States.

(2) Temporary Permits.

(a) Professional Engineer -- The practice of professional engineering ~~or professional land surveying~~ by a person not a resident of and having no established place of business in this state, when such practice does not exceed in the aggregate more than thirty (30) days in any calendar year and provided such person is duly licensed or registered to practice such profession in a state in which the requirements and qualifications for obtaining a certificate of registration or license are not lower than those specified in this act for obtaining the license required for such work, upon examination, and provided further that such nonresident shall file with the board, on or before entering the state for commencing such work, a statement to be filed with the board, accompanied by a filing fee not to exceed one hundred dollars ($100), giving his name, residence, the number of his license or certificate of registration and by what authority issued, and the place and nature of the work on which he will be engaged in this state and, upon the completion of the work, an exit statement of the time engaged in such work within the state shall be filed with the board; provided, however, no right to practice engineering shall accrue to such applicant with respect to any other work not set forth in said permit;

(b) Professional Land Surveyor -- The practice of land surveying under a temporary permit by a person registered as a professional land surveyor in another state is not considered to be in the best interests of the public, and therefore, shall not be granted.

(3) Employees and Subordinates. The work of an employee or a subordinate of a person holding a certificate of registration under this act, or an employee of a person practicing lawfully under paragraph (2) of this section, provided such work does not include final engineering design or land surveying decisions and is done under the direct responsibility, checking, and supervision of, and verified by, a person holding a certificate of registration under this act or a person practicing lawfully under paragraph (2) of this section.

(4) Any individual teaching upper division engineering subjects that are classified as engineering design for any college or univer-

sity in this state as of ~~the effective date of this act~~ July 1, 1988, and any such individual employed after ~~the effective date of this act~~ July 1, 1988, for a period of three (3) years from the date of employment with any college or university in this state.

(5) Individuals or Firms Doing Work for Themselves. An individual doing surveying work for himself or herself, or through a firm, partnership or corporation, on property owned or leased by the individual, firm, partnership or corporation, or in which the individual, firm, partnership or corporation has an interest, estate or possessory right and which affects exclusively the property or interests of the individual, firm, partnership or corporation; provided, that all land surveying maps, plats or plans filed with any county recorder's office in the state of Idaho for the purpose of illustrating or defining boundaries of property ownership, shall be made and certified by a registered, professional land surveyor as provided in this chapter.

(6) Mining Claim Location. An individual doing survey work for himself or herself, or through a firm, partnership or corporation with respect to the location, amendment, or relocation of a mining claim.

SECTION 10. That Section 54-1235, Idaho Code, be, and the same is hereby amended to read as follows:

54-1235. PRACTICE BY CORPORATIONS. (1) The practice of or offer to practice professional engineering or professional land surveying, as defined in section 54-1202, Idaho Code, by individual registered, professional engineers or individual registered, professional land surveyors, through a corporation, or by a corporation through individual registered, professional engineers or individual registered, professional land surveyors, as employees, or officers, is permitted subject to the provisions of this chapter, provided that all personnel of such corporation, who act in its behalf as professional engineers or professional land surveyors in this state are registered as provided by this chapter, or are persons lawfully practicing under the exemptions enumerated in section 54-1223, Idaho Code, and further provided that said corporation, except utilities regulated by the Idaho public utilities commission, has been issued a certificate of authorization by the board as provided by this chapter. No corporation shall be relieved of responsibility for the conduct or acts of its employees or officers by reason of its compliance with the provisions of this chapter, nor shall any individual practicing professional engineering or professional land surveying as defined in section 54-1202, Idaho Code, be relieved of responsibility for engineering or land surveying services performed by reason of his employment or relationship with such corporation. All final drawings, specifications, plats, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or professional land surveying as defined in section 54-1202, Idaho Code, which shall have been prepared or approved for the use of or for delivery to any person or for public record within this state shall be dated and bear the signature and seal of the professional engineer or professional land surveyor who prepared or approved them.

(2) A corporation organized pursuant to this section may provide or offer to provide allied professional services as defined in section

30-1303, Idaho Code, in connection with the providing of engineering or land surveying services, by persons licensed in allied professions acting as employees or officers, provided such persons are duly licensed or otherwise legally authorized to render such allied professional services within this state.

(3) A corporation desiring a certificate of authorization for engineering, for land surveying, or for both, shall file with the board a description of the engineering or land surveying service to be offered or practiced in the state, an application upon a form to be prescribed by the board and the designation required by the following paragraph, accompanied by the application fee.

(4) Such corporation shall file with the board a designation of an individual or individuals duly registered and certified to practice professional engineering or professional land surveying in this state who shall be in responsible charge of the practice of professional engineering or land surveying, as applicable, by said corporation in this state. In the event there shall be a change in the individual or individuals in responsible charge, such changes shall be designated in writing and filed with the board within thirty (30) days after the effective date of such change.

If all requirements of this chapter are met, the board shall issue to such corporation a certificate of authorization for professional engineering, for land surveying, or for both; provided, however, the board may refuse to issue a certificate if any facts exist which would entitle the board to suspend or revoke an existing certificate.

A professional engineer or professional land surveyor who renders occasional, part-time or consulting engineering or land surveying services to or for a firm may not be designated as the person in responsible charge for the professional activities of the firm.

(5) ~~Effective one (1) year from the date of this act, t~~The secretary of state shall not issue a certificate of incorporation or a certificate of registration as a foreign corporation authorized to do business in this state to a firm which includes, among objects for which it is established, any of the words "engineer," "engineering," "land surveyor," "land surveying," or any modification or derivation thereof, unless the board shall have issued for said applicant a certificate of authorization or a letter indicating the eligibility of said applicant to receive such certificate. The firm applying shall supply such certificate or letter from the board with its application for incorporation or registration with the secretary of state.

Approved March 29, 1990.

CHAPTER 193
(S.B. No. 1617)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1991; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND TRANSFERRING FUNDS FROM THE GENERAL ACCOUNT TO THE REVOLVING DEVELOPMENT ACCOUNT.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Water Resources not exceed the following amount for the designated expense classes from the listed accounts for the period July 1, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$ 6,012,500
Operating Expenditures	2,510,500
Capital Outlay	380,400
Trustee and Benefit Payments	2,599,000
TOTAL	$11,502,400
FROM:	
General Account	$ 5,826,100
Watermaster Service Account	219,300
Federal Indirect Support Account	202,600
Miscellaneous Federal Account	460,400
Federal Energy Account	1,448,500
Water Pollution Control Account	239,000
Water Resources Adjudication Account	3,106,500
TOTAL	$11,502,400

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT & SUPPORT SERVICES:					
FROM:					
General Account	$ 489,900	$ 276,500	$ 60,900	$1,067,800	$ 1,895,100
Federal Indirect Support Account	122,800	79,800			202,600
TOTAL	$ 612,700	$ 356,300	$ 60,900	$1,067,800	$ 2,097,700
II. RESOURCES ANALYSIS:					
FROM:					
General Account	$1,011,200	$ 238,500	$ 3,800	$ 400,500	$ 1,654,000
Miscellaneous Federal Account	258,100	74,000			332,100
Water Pollution Control Account	60,300	16,200	52,500	110,000	239,000
TOTAL	$1,329,600	$ 328,700	$ 56,300	$ 510,500	$ 2,225,100
III. ENERGY RESOURCES:					
FROM:					
General Account	$ 107,900	$ 27,600			$ 135,500
Federal Energy Account	707,000	741,500			1,448,500
TOTAL	$ 814,900	$ 769,100			$ 1,584,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. SNAKE BASIN ADJUDICATIONS:					
FROM:					
Water Resources Adjudication Account	$1,275,700	$ 612,900	$197,200	$1,020,700	$ 3,106,500
V. WATER MANAGEMENT:					
FROM:					
General Account	$1,685,700	$ 389,800	$ 66,000		$ 2,141,500
Watermaster Service Account	186,900	32,400			219,300
Miscellaneous Federal Account	107,000	21,300			128,300
TOTAL	$1,979,600	$ 443,500	$ 66,000		$ 2,489,100
GRAND TOTAL	$6,012,500	$2,510,500	$380,400	$2,599,000	$11,502,400

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 276, Laws of 1989, to be used for nonrecurring expenditures only, for the period July 1, 1990, through June 30, 1991.

SECTION 4. Of the moneys appropriated to the Management and Support Services Program for trustee and benefit payments in Section 2 of this act, the State Auditor shall transfer $250,000 from the General Account to the Revolving Development Account.

Approved March 29, 1990.

CHAPTER 194
(S.B. No. 1621)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$ 5,670,000
Operating Expenditures	6,237,100

Capital Outlay	772,300
Trustee & Benefit Payments	7,072,400
TOTAL	$19,751,800
FROM:	
General Account	$ 2,945,000
Interagency Billing and Receipts Account	10,065,400
Permanent Building Account	5,698,500
Federal Surplus Property Revolving Account	383,200
Risk Retention Account	359,600
Employee Group Insurance Account	300,100
TOTAL	$19,751,800

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 105,900	$ 117,200	$353,000		$ 576,100
Interagency Billing and Receipts Account	482,500	280,500		$ 27,400	790,400
TOTAL	$ 588,400	$ 397,700	$353,000	$ 27,400	$ 1,366,500
II. GENERAL SERVICES:					
FROM:					
General Account	$ 378,900	$ 65,300			$ 444,200
Interagency Billing and Receipts Account	1,009,700	544,400	215,700		1,769,800
TOTAL	$1,388,600	$ 609,700	$215,700		$ 2,214,000
III. PUBLIC WORKS:					
FROM:					
General Account				$1,475,700	$ 1,475,700
Interagency Billing and Receipts Account	$ 885,800	$2,719,400	$ 10,200	1,019,300	4,634,700
Permanent Building Account	781,200	355,300	12,000	4,550,000	5,698,500
TOTAL	$1,667,000	$3,074,700	$ 22,200	$7,045,000	$11,808,900
IV. PURCHASING:					
FROM:					
General Account	$ 310,100	$ 125,000	$ 13,900		$ 449,000
Interagency Billing and Receipts Account	1,073,500	1,629,500	167,500		2,870,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Surplus Property Revolving Account	236,700	146,500			383,200
TOTAL	$1,620,300	$1,901,000	$181,400		$ 3,702,700
V. INSURANCE MANAGEMENT:					
FROM:					
Employee Group Insurance Account	$ 172,100	$ 128,000			$ 300,100
Risk Retention Account	233,600	126,000			359,600
TOTAL	$ 405,700	$ 254,000			$ 659,700
GRAND TOTAL	$5,670,000	$6,237,100	$772,300	$7,072,400	$19,751,800

Approved March 29, 1990.

CHAPTER 195
(S.B. No. 1622)

AN ACT

APPROPRIATING MONEYS FOR THE PERSONNEL COMMISSION FOR FISCAL YEAR 1991.

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 accounts for the period July 1, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$1,332,900
Operating Expenditures	332,100
Capital Outlay	2,300
TOTAL	$1,667,300
FROM:	
Personnel Commission Account	$1,657,300
Interagency Billing and Receipts Account	10,000
TOTAL	$1,667,300

Approved March 29, 1990.

CHAPTER 196
(S.B. No. 1374)

AN ACT

RELATING TO THE PUBLIC DEPOSITORY LAW; REPEALING SECTION 57-112, IDAHO CODE, TO DELETE THE REQUIREMENT THAT THE COUNTY AUDITOR, TREASURER AND DEPUTIES DISCLOSE THEIR PERSONAL INDEBTEDNESS TO PUBLIC DEPOSITORIES TO THE BOARD OF COUNTY COMMISSIONERS.

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

SECTION 1. That Section 57-112, Idaho Code, be, and the same is hereby repealed.

Approved March 29, 1990.

CHAPTER 197
(S.B. No. 1337, As Amended, As Amended in the House)

AN ACT

RELATING TO REGISTRATION OF TRAILERS; AMENDING SECTION 49-402A, IDAHO CODE, TO PROVIDE FOR ONE YEAR, FIVE YEAR OR TEN YEAR REGISTRATION PERIODS FOR UTILITY TRAILERS AND TO PROVIDE REGISTRATION FEES; AMENDING SECTION 49-434, IDAHO CODE, TO PROVIDE FOR ANNUAL LICENSE FEES FOR TRAILERS, SEMITRAILERS AND RENTAL UTILITY TRAILERS, TO PROVIDE FOR ISSUANCE OF A SEMIPERMANENT FIVE-YEAR LICENSE PLATE WITH RENEWAL AND PAYMENT OF FEES ANNUALLY AND TO PROVIDE FOR DISPOSITION OF UNRENEWED, UNEXPIRED PLATES; AMENDING SECTION 49-443, IDAHO CODE, TO PROVIDE FOR THE DESIGN OF LICENSE PLATES ON TRAILERS REGISTERED FOR A FIVE YEAR OR TEN YEAR PERIOD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-402A, Idaho Code, be, and the same is hereby amended to read as follows:

49-402A. UTILITY TRAILERS -- REGISTRATION, FEES AND TRANSFERS. (1) The department shall register a utility trailer for a period of one (1) year for a fee of five dollars ($5.00).

(2) The department ~~shall~~ may register a utility trailer for a five (5) year period or for a ten (10) year period, and shall issue a license plate with the ~~month and~~ year of expiration designated by a validation sticker. Five (5) year registrations shall cost twenty dollars ($20.00) and ten (10) year registrations shall cost thirty dollars ($30.00).

~~(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 2. 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, which are issued for five (5) or ten (10) years~~.--These--plates~~ and license plates for trailers, rental utility trailers and semitrailers registered under the provisions of section 49-434, Idaho Code, which are issued for five (5) years 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 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."

(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.

(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.

(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.

(9<u>10</u>) 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 3. 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.	311.88	515.40

(2) There shall be paid on all commercial vehicles, irrespective of body type, 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~~. An annual license fee of eight dollars ($8.00) shall be required for each rental utility trailer having a maximum laden or gross weight of up to two thousand (2,000) pounds, or fifteen dollars ($15.00) for each rental utility trailer having a maximum laden or gross weight in excess of two thousand (2,000) pounds. For a fee of ~~seventy-five~~ fifteen dollars ($~~7~~15.00) per year for each trailer or semitrailer, or a fee of eight dollars ($8.00) or fifteen dollars ($15.00) per year, as applicable, for each rental utility trailer, the department may issue a trailer, rental utility trailer or semitrailer license plate that shall remain valid for a period of ~~fifteen~~ five (~~15~~) years. The license plate shall become void if the owner's interest in the trailer, rental utility trailer or semitrailer changes during the ~~fifteen~~ five (~~15~~) year period. If the owner fails to enter the licensed trailer, rental utility trailer or semitrailer on the annual renewal application during the ~~fifteen~~ five (~~15~~) year period, the registration record shall be ~~carried forward for one (1) year and then the record shall be~~ purged. Any unrenewed, unexpired plate shall be returned to the department if it is not entered on the renewal application.

(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.

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, 1990.

CHAPTER 198
(S.B. No. 1417)

AN ACT

RELATING TO THE FINANCIAL MANAGEMENT OF SCHOOL DISTRICTS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-509A, IDAHO CODE, TO AUTHORIZE APPOINTMENT OF ASSISTANT TREASURERS OF SCHOOL DISTRICTS; AMENDING SECTION 33-701, IDAHO CODE, TO SPECIFY THE METHOD OF DRAWING WARRANTS AGAINST THE FUNDS OF SCHOOL DISTRICTS AND TO CORRECT NOMENCLATURE; AND AMENDING CHAPTER 7, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-705, IDAHO CODE, TO REQUIRE THE CREATION OF ACTIVITY FUNDS AND TO PRO-

VIDE PROCEDURES FOR CONTROLLING AND ACCOUNTING FOR FUND BALANCES.

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 33-509A, Idaho Code, and to read as follows:

33-509A. ASSISTANT TREASURERS. A board of trustees of a school district may elect one (1) or more assistant treasurers who shall have such duties as the board of trustees may prescribe. Assistant treasurers shall be subject to the control, supervision and direction of the treasurer of the district. An assistant treasurer may perform the statutory duties prescribed by law for the treasurer to the extent authorized by the board of trustees.

SECTION 2. 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. Warrants shall be signed by the treasurer of the district and countersigned by the chairman or vice chairman of the board of trustees.

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 or assistant 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~~ the 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~~ the school district. One (1) copy of ~~such~~ the annual statement of financial condition and report shall be retained in the office of the clerk of the board of school trustees, where the same shall be open at all times to examination and inspection by any person;

6. To cause to be made each year, a full and complete audit of all of the financial transactions of the district, and of the activity or student body funds, except that in elementary school districts such audit shall be made at intervals of not more than two (2) years. Any audit shall be made by and under the direction of the board of trustees by an independent auditor, in accordance with generally accepted auditing standards and procedures.

The auditor shall be employed on written contract.

One (1) copy of the report of the audit shall be filed with the legislative auditor, and one (1) copy shall be filed with the state department of education, after its acceptance by the board of

trustees, but not later than October 15;

7. To file annually with the state department of education such financial and statistical reports as said state superintendent of public instruction may require;

8. To order and have destroyed any canceled check or warrant, or any form of claim or voucher which has been paid, at any time after five (5) years from the date the same was canceled and paid;

9. To review the school district budget periodically and make appropriate budget adjustments to reflect the availability of funds and the requirements of the school district. Revenue derived from maintenance and operation levies made pursuant to section 33-802 2, Idaho Code, shall be excluded from budget adjustments as provided in this paragraph. Any person or persons proposing a budget adjustment under this section shall notify in writing each member of the board of trustees one (1) week prior to the meeting at which such proposal will be made. Prior to the final vote on such a proposal, notice shall be posted and published once, as prescribed in section 33-402, Idaho Code. A budget adjustment shall not be approved unless voted affirmatively by sixty percent (60%) of the members of the board of trustees. Such amended budgets shall be submitted to the state 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.

SECTION 3. That Chapter 7, 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 33-705, Idaho Code, and to read as follows:

33-705. ACTIVITY FUNDS. 1. The board of trustees of each school district, including specially chartered districts, shall create a fund or funds for the purpose of controlling and accounting for the receipts, deposits, expenditures, assets, liabilities and fund balances arising from the following transactions:

(a) Admission charges for interscholastic activities.

(b) The sale of yearbooks and annuals.

(c) Student fee collections which are used to provide more than one (1) activity or benefit to all of the students of a school or school building.

2. For each fund created the board of trustees shall promulgate policies:

(a) Describing with reasonable certainty the nature and type of expenditures which may be made therefrom.

(b) Setting forth the requirements for the expenditures and withdrawal of such moneys.

3. The treasurer of the district shall provide accounting procedures for the receipt, deposit, expenditure and withdrawal of such moneys and procedures for monthly reporting to the board of trustees of the transactions, assets, liabilities and fund balance for each such fund.

4. For other activity or student funds including, but not limited to, custodial funds, the board of trustees may create a separate fund or funds and promulgate policies to provide for accounting and control thereof.

5. Nothing in this section limits the power of the board of trustees of any school district from promulgating policies or imposing further controls, requirements, accounting and reporting procedures with respect to any funds or moneys of the district or moneys which it holds as custodian for the students.

6. Disbursements from any of the funds created under this section shall be made by regular bank check signed by the treasurer or assistant treasurer of the district and countersigned by the chairman or vice chairman of the board of trustees or other employee of the district designated by the board of trustees.

Approved March 29, 1990.

CHAPTER 199
(S.B. No. 1469, As Amended in the House)

AN ACT

RELATING TO THE DUTIES OF THE WHEAT COMMISSION; AMENDING SECTION 22-3315, IDAHO CODE, TO PROVIDE AUTHORITY FOR THE ASSESSMENT OF A LATE PAYMENT PENALTY ON ALL PAST DUE ACCOUNTS AND TO PROVIDE FOR RECOVERY OF COSTS.

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

SECTION 1. That Section 22-3315, Idaho Code, be, and the same is hereby amended to read as follows:

22-3315. IMPOSITION OF TAX AND PROVISION FOR LATE FEES. (1) From and after the first day of July, 1974, there is hereby levied and imposed a tax of one cent (1¢) per bushel on all wheat grown in the state of Idaho or given to Idaho growers under a crop reduction program, and sold or contracted through commercial channels, and each and every crop grown or wheat given to growers under a crop reduction program thereafter. The tax shall be due on wheat given to growers under a crop reduction program and sold or contracted through commercial channels, regardless of any deduction of the tax on this same wheat prior to it being given to the grower. The tax shall be due on or before the time when such wheat is first sold or contracted in the commercial channels and shall be paid at such time or times as the commission may, by rule or regulation, prescribe, as hereinafter provided, but not later than the 15th day of the month next succeeding the three (3) month period in which such wheat is sold or contracted in commercial channels. The commission shall designate the quarters (three (3) month periods) for the purpose of collection of this tax.

(2) The tax shall be levied and assessed to the grower at the time of delivery for sale and shall be deducted by the first purchaser

from the price paid to the grower at the time of sale or in case of a lienholder who may possess such wheat under his lien, the tax shall be deducted by the lienholder from the proceeds of the claim secured by such lien at the time the wheat is pledged or mortgaged. The tax shall be deducted as provided in this section whether the wheat is stored in this or any other state. The commission may, however, permit any federal corporation, such as the Commodity Credit Corporation, to waive its responsibility for the collection of the tax, provided the amount of the tax is one dollar ($1.00) or less.

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

(4) Any person or firm who makes payment to the commission at a date later than that prescribed in this section may be subject to a late payment penalty as set forth by the commission by rule and regulation. Such penalty shall not exceed the rate of fifteen percent (15%) per annum on the amount due. In addition to the above penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in this section.

Approved March 29, 1990.

CHAPTER 200
(S.B. No. 1576)

AN ACT

RELATING TO THE EMERGENCY COMMUNICATIONS ACT; AMENDING SECTION 31-4801, IDAHO CODE, TO DELETE REFERENCE TO COUNTY-WIDE SYSTEMS; AMENDING SECTION 31-4802, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 31-4803, IDAHO CODE, TO PROVIDE FOR 911 SERVICE AREAS OF LESS THAN COUNTY-WIDE EXTENT; AMENDING SECTION 31-4804, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 31-4806, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 31-4808, IDAHO CODE, TO PROVIDE FOR TERMINATION OF 911 SERVICE AREAS OF LESS THAN COUNTY-WIDE EXTENT; AND AMENDING SECTION 31-4809, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 31-4801, Idaho Code, be, and the same is hereby amended to read as follows:

31-4801. PURPOSE. The legislature recognizes that providing consolidated ~~county-wide~~ emergency communications systems is vital in enhancing the public health, safety, and welfare of the residents of the state of Idaho. The legislature further finds that there is an obvious need for providing a means to finance the initiation, maintenance, and enhancement of consolidated emergency communications systems.

SECTION 2. That Section 31-4802, Idaho Code, be, and the same is hereby amended to read as follows:

31-4802. DEFINITIONS. As used in this chapter:

(1) "Administrator" means the person, officer or agency designated to operate a consolidated emergency communication system, and to receive funds for such an operation.

(2) "~~c~~Consolidated emergency communications system" means facilities, equipment and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service.

(3) "Governing board" means the board of county commissioners of the county or the city council if the 911 service area is a city, or both the board of county commissioners and the city council if the 911 service area includes both city and county residents but not the entire county.

(4) "911 service area" means an area other than a whole county in which area the residents have voted to establish a consolidated emergency communications system.

SECTION 3. 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. The service area may be county-wide, or any part or parts of the county, and may include or exclude a city or cities. If the board of county commissioners has adopted a resolution stating that the county is unable to establish a county-wide consolidated emergency communications system, or if the voters reject a county-wide consolidated 911 system, then a 911 service area may be established by action of any city or cities within the county. The service area shall be described in the ordinance of creation. The ordinance shall further provide for an election on the question as provided in subsection (2) of this section. The ordinance of creation shall define the governing board, designate the administrator, and the agency to service the 911 calls. The costs of the election ordered by the county shall be a proper charge against the county current expense fund. The costs of the election for a 911 service area shall be a proper charge against the city or cities initiating the election.

(2) The voters of any county or 911 service area 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 or of the 911 service area 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~~ a 911 system is to be financed in whole or in part by a telephone line user fee, the governing board shall submit the question to the electors of the county or 911 service area in substantially the following form:

"Shall the governing ~~bBoard 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 an ~~consolidated~~ emergency ~~communication~~ telephone 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 4. That Section 31-4804, Idaho Code, be, and the same is hereby amended to read as follows:

31-4804. TELEPHONE LINE USER FEE. The telephone line user fee provided pursuant to the provisions of this chapter shall be a uniform amount not to exceed one dollar ($1.00) per month per exchange access line, trunk line, network access register, or equivalent, and such fee shall be used exclusively to finance the initiation, maintenance, or enhancement of a consolidated emergency communications system within the boundaries of one (1) county or 911 service area. The fee shall be collected from customers on a monthly basis by all telecommunications entities which provide local telephone line service within the county, or 911 service area, and may be listed as a separate item on customers' monthly bills. The telephone companies shall remit such fee to the county treasurer's office or the administrator for the 911 service area. From every remittance to the governing body made on or before the date when the same becomes due, the telephone company required to remit the same shall be entitled to deduct and retain three-fourths of one percent (.75%) of the collected amount as the cost of administration for collecting the charge. Local exchange companies will be allowed to list the surcharge as a separate item on the telephone subscriber's bill, and shall have no obligation to take any legal action to enforce the collection of any charge, nor be held liable for such uncollected amounts.

SECTION 5. That Section 31-4806, Idaho Code, be, and the same is hereby amended to read as follows:

31-4806. AUTHORIZATION FOR ~~COUNTY-COMMISSIONERS~~ GOVERNING BOARD TO APPOINT OFFICIAL TO SUPERVISE EMERGENCY COMMUNICATIONS SERVICE IN THE ABSENCE OF JOINT POWERS AGREEMENT. Whenever the electors approve imposing the telephone line user fee as provided in this chapter, but in the absence of an agreement to form a joint powers board or

administrator as provided in this chapter, the governing board ~~of county-commissioners~~ is hereby authorized to appoint an official or administrator to maintain and govern a consolidated emergency communications system.

SECTION 6. That Section 31-4808, Idaho Code, be, and the same is hereby amended to read as follows:

31-4808. TERMINATION. (1) Any county or joint powers board having adopted and established an emergency communications system as provided in this chapter may terminate the same for good cause.

(2) If, after the formation of any 911 service area of less than county-wide extent, the voters of the county approve 911 service for the entire county, the newly formed county-wide 911 service area shall assume all of the assets and liabilities of all 911 service areas existing in that county at the time of formation of the county-wide system. Existing 911 service areas shall have two (2) years from the date of the county-wide election to merge into the county-wide consolidated emergency communications system.

SECTION 7. That Section 31-4809, Idaho Code, be, and the same is hereby amended to read as follows:

31-4809. FUND AND APPROPRIATIONS. The county treasurer of each county or the administrator for a 911 service area in which an emergency communications system has been established pursuant to this chapter shall establish a fund to be designated the emergency communications fund in which all fees collected pursuant to this chapter shall be deposited and such fund shall be used exclusively for the purposes of this chapter. The moneys collected and the interest earned in this fund shall be appropriated by the county commissioners, or governing board, for expenses incurred by the emergency communications system as set forth in an annual budget prepared by the joint powers board, or in their absence, the county commissioners and incorporated into the annual county budget.

Approved March 29, 1990.

CHAPTER 201
(S.B. No. 1553)

AN ACT

RELATING TO THE IMPOSITION OF FINES BY CITIES; AMENDING SECTION 50-302, IDAHO CODE, TO PROVIDE FOR AN INCREASED PENALTY FOR CERTAIN OFFENSES.

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

SECTION 1. That Section 50-302, Idaho Code, be, and the same is hereby amended to read as follows:

50-302. PROMOTION OF GENERAL WELFARE -- PRESCRIBING PENALTIES. (1) Cities shall make all such ordinances, by-laws, rules, regulations and resolutions not inconsistent with the laws of the state of Idaho as may be expedient, in addition to the special powers in this act granted, to maintain the peace, good government and welfare of the corporation and its trade, commerce and industry. Cities may enforce all ordinances by fine or incarceration; provided, however, except as provided in subsection (2) of this section, that the maximum punishment of any offense shall be by fine of not more than three hundred dollars ($300) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

(2) Any city which is participating in a federally mandated program, wherein penalties or enforcement remedies are required by the terms of participation in the program, may enforce such requirements by ordinance, to include a criminal or civil monetary penalty not to exceed one thousand dollars ($1,000), or imprisonment for criminal offenses not to exceed six (6) months, or to include both a fine and imprisonment for criminal offenses.

Approved March 29, 1990.

CHAPTER 202
(S.B. No. 1623)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1991; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Correction not exceed the following amount for the period July 1, 1990, through June 30, 1991:

FROM:	
General Account	$32,280,900
Interagency Billing and Receipts Account	542,500
Probation and Parole Receipts Account	618,000
Penitentiary Income Account	925,600
Job Training Partnership Account	172,300
On the Job Training Account	74,100
TOTAL	$34,613,400

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND INSTITUTIONAL SUPPORT:					
FROM:					
General Account	$ 3,681,100	$2,342,700	$ 462,600	$786,100	$ 7,272,500
Job Training Partnership Account	164,000	8,300			172,300
On the Job Training Account	62,300	11,800			74,100
Probation and Parole Receipts Account	31,800	6,600			38,400
TOTAL	$ 3,939,200	$2,369,400	$ 462,600	$786,100	$ 7,557,300
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ 6,233,900	$1,241,400	$509,200		$ 7,984,500
Penitentiary Income Account		925,600			925,600
Interagency Billing and Receipts Account	44,400	95,000			139,400
TOTAL	$ 6,278,300	$2,262,000	$ 509,200		$ 9,049,500
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Account	$ 2,394,200	$ 803,200	$ 49,400	$ 48,700	$ 3,295,500
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Account	$ 1,117,100	$ 556,200	$ 78,400		$ 1,751,700
Interagency Billing and Receipts Account	16,900	38,000			54,900
TOTAL	$ 1,134,000	$ 594,200	$ 78,400		$ 1,806,600
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ 1,248,600	$ 429,600	$ 24,900		$ 1,703,100
Interagency Billing and Receipts Account	21,700	37,400			59,100
TOTAL	$ 1,270,300	$ 467,000	$ 24,900		$ 1,762,200
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Account	$ 3,374,200	$ 996,600			$ 4,370,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
G. ST. ANTHONY WORK CAMP:					
FROM:					
General Account	$ 908,200	$ 275,500	$ 50,000		$ 1,233,700
Interagency Billing and Receipts Account		160,000			160,000
TOTAL	$ 908,200	$ 435,500	$ 50,000		$ 1,393,700
H. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Account	$ 3,602,300	$ 583,500	$ 279,400		$ 4,465,200
Probation and Parole Receipts Account	523,200	56,400			579,600
Interagency Billing and Receipts Account		129,100			129,100
TOTAL	$ 4,125,500	$ 769,000	$ 279,400		$ 5,173,900
I. PAROLE COMMISSION:					
FROM:					
General Account	$ 141,100	$ 61,100	$ 1,700		$ 203,900
GRAND TOTAL	$23,565,000	$8,758,000	$1,455,600	$834,800	$34,613,400

SECTION 3. There is hereby reappropriated to the Department of Correction any unexpended and unencumbered balances of all General Account appropriations made to the Department of Correction for the period July 1, 1989, through June 30, 1990, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

Approved March 29, 1990.

CHAPTER 203
(S.B. No. 1382)

AN ACT

RELATING TO INVESTMENT BOARD POWERS; AMENDING SECTION 57-722, IDAHO CODE, TO EXPAND INVESTMENT AUTHORITY TO INCLUDE SECURITIES LENDING AND THE SALE OF COVERED CALL OPTIONS, AND TO DELETE OBSOLETE LANGUAGE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 57-722, Idaho Code, be, and the same is hereby amended to read as follows:

57-722. INVESTMENT POWERS OF INVESTMENT MANAGER(S) -- LIMITATIONS. The board or its investment manager(s) may, and they are hereby authorized to, invest the permanent endowment funds of the state of Idaho in the following manner and in the following investments or securities and none others:

(1) ~~For a period of two (2) years following the effective date of this act, March 25, 1969, not more than fifty per cent (50%) of the endowment funds as now invested can be reinvested otherwise than in United States treasury bills, United States treasury notes, or other United States governmental debt instruments.~~

~~(2)~~ United States, state, county, city, or school district bonds or state warrants.

(~~3~~2) ~~(a)~~ Bonds, notes, or other obligations of the United States or any agency or instrumentality thereof.

(~~b~~3) Money market mutual funds whose assets are limited to obligations of the United States or any agency or instrumentality thereof.

(4) Bonds, notes, or other obligations of the state of Idaho and its political subdivisions, or bonds, notes, and other obligations of other states and their political subdivisions, provided such bonds, notes or other obligations or the issuing agency for other than the state of Idaho and its political subdivisions have, at the time of their purchase, an AAA rating or higher by a commonly known rating service.

(5) Bonds, debentures or notes of any corporation organized, controlled and operating within the United States which have, at the time of their purchase, an A rating or higher by a commonly known rating service. Nothing in this subsection shall apply to the provisions of subsection (6) ~~immediately following~~ of this section.

(6) Corporate obligations designated as corporate convertible debt securities which have, at the time of their purchase, a BBB rating or higher by a commonly known rating service, so long as the right of conversion is not exercised.

(7) Obligations secured by mortgages constituting a first lien upon real property in the state of Idaho which are fully insured or guaranteed as to the payment of the principal by the government of the United States or any agency thereof.

(8) Time certificates of deposit and savings accounts.

(9) Commercial paper, which at the time of purchase, is rated Prime 1 by Moody's Investors Service Incorporated or is rated A-1 or higher by Standard and Poor's Corporation.

(10) Loans of securities owned by the fund through any state or federally regulated institution. Such securities lending agreements shall require the borrower to provide and maintain collateral (cash or securities which are authorized investments for the board) at least equal in value to the value of securities loaned. Income derived from the lending of securities shall be distributed as provided by section 57-724, Idaho Code.

(11) Sales (writing) and repurchase of call options provided the fund owns the securities on which the option is written. Net realized capital gains or losses from the sale and repurchase of call options shall be accounted for in accordance with the capital gains provisions of section 57-724, Idaho Code.

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

Approved March 29, 1990.

CHAPTER 204
(S.B. No. 1528)

AN ACT

RELATING TO SCHOOL DISTRICT ALTERNATIVE HIGH SCHOOLS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1002C, IDAHO CODE, TO PROVIDE THAT AN ALTERNATIVE HIGH SCHOOL SUMMER PROGRAM SHALL BE INCLUDED IN THE EDUCATIONAL SUPPORT PROGRAM.

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 33-1002C, Idaho Code, and to read as follows:

33-1002C. ALTERNATIVE HIGH SCHOOL SUMMER SCHOOL PROGRAM SUPPORT UNITS. Alternative high schools approved by the state board of education may establish a summer school program of nine (9) weeks which shall be included in the educational support units calculated as provided in section 33-1002, Idaho Code. The average daily attendance divided by forty (40) shall determine the number of allowable support units which shall be included in the alternative high school support units calculated for the school district for the succeeding school term.

Approved March 29, 1990.

CHAPTER 205
(S.B. No. 1559)

AN ACT

RELATING TO SECURED TRANSACTIONS UNDER THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 28-9-105, IDAHO CODE, TO DEFINE "PHOTOGRAPHIC RECORD"; AMENDING SECTION 28-9-403, IDAHO CODE, TO PROVIDE A CERTAIN FILING FEE IF THE FINANCING STATEMENT IS TYPED OR MACHINE

PRINTED ON THE STANDARD FORM; AMENDING SECTION 28-9-407, IDAHO CODE, TO STRIKE SPECIFIED FEES COLLECTED BY THE FILING OFFICER FOR CERTAIN CERTIFICATES AND TO PROVIDE THAT INFORMATION ON THE CERTIFICATE SHALL BE PROVIDED BY ADMINISTRATIVE RULE, AND TO PROVIDE THAT A FEE SCHEDULE FOR SERVICES NOT ELSEWHERE SPECIFIED SHALL BE ESTABLISHED BY ADMINISTRATIVE RULE; AND PROVIDING AN EFFECTIVE DATE FOR SECTION 3 OF THE ACT.

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

SECTION 1. That Section 28-9-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-105. DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this chapter unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the chapter dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) "Document" means document of title as defined in the general definitions of chapter 1 (section 28-1-201), and a receipt of the kind described in subsection (2) of section 28-7-201;

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (section 28-9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also include standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

(i) "Instrument" means a negotiable instrument (defined in sec-

tion 28-3-104), or a certificated security (defined in section 28-8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) "Security agreement" means an agreement which creates or provides for a security interest;

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;

(n) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service;

(o) "Photographic record" means images of documents stored in digital form on a medium which will not permit alteration of the image, as well as images of documents produced by a photochemical process on film.

(2) Other definitions applying to this chapter and the sections in which they appear are:

"Account."	Section 28-9-106.
"Attach."	Section 28-9-203.
"Construction mortgage."	Section 28-9-313(1).
"Consumer goods."	Section 28-9-109(1).
"Equipment."	Section 28-9-109(2).
"Farm products."	Section 28-9-109(3).
"Fixture."	Section 28-9-313(1).
"Fixture filing."	Section 28-9-313(1).
"General intangibles."	Section 28-9-106.
"Inventory."	Section 28-9-109(4).
"Lien creditor."	Section 28-9-301(3).
"Proceeds."	Section 28-9-306(1).
"Purchase money security interest."	Section 28-9-107.
"United States."	Section 28-9-103.

(3) The following definitions in other chapters apply to this chapter:

"Check."	Section 28-3-104.
"Contract for sale."	Section 28-2-106.
"Holder in due course."	Section 28-3-302.
"Note."	Section 28-3-104.
"Sale."	Section 28-2-106.

(4) In addition chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 2. That Section 28-9-403, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-403. WHAT CONSTITUTES FILING -- DURATION OF FILING -- EFFECT OF LAPSED FILING -- DUTIES OF FILING OFFICER. (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this chapter.

(2) Except as provided in subsection (6) a filed financing statement is effective for a period of five (5) years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five (5) year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty (60) days or until expiration of the five (5) year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six (6) months prior to the expiration of the five (5) year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 28-9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five (5) years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one (1) year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five (5) years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

(4) A filing officer shall mark each statement with a file number

and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement, or the filing officer shall file one (1) copy of the statement in a file arranged by the name of the debtor and a second copy in a file arranged by document number.

(5) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be two dollars ($2.00) if the statement is ~~in~~ typed or machine printed on the standard form prescribed by the secretary of state and otherwise shall be three dollars ($3.00), plus in each case, if the financing statement is subject to subsection (5) of section 28-9-402, the regular recording fee with respect to a mortgage. The uniform fee for filing a mortgage as a financing statement pursuant to subsection (6) of section 28-9-402, shall be three dollars ($3.00) in addition to the regular recording fee charged for recording the mortgage. The uniform fee for each name more than one (1) required to be indexed shall be two dollars ($2.00). The secured party may at his option show a trade name for any person and an extra uniform indexing fee of two dollars ($2.00) shall be paid with respect thereto. A uniform fee of one dollar ($1.00) shall be charged for each page attached to the financing statement.

The secretary of state shall, by duly adopted administrative rule, establish a fee schedule for filing and indexing and other matters relating to filing as are described in this subsection (5) for financing statements for farm products and for public access to the secretary of state's files which are open to public inspection as required by subsection (4) of this section. A secured party shall provide an itemization of fees paid by that secured party for filing, searches or other matters relating to filing of financing statements for farm products security interests relating to that debtor.

(6) If the debtor is a transmitting utility (subsection (5) of section 28-9-401), and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 28-9-402, remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a 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 is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

SECTION 3. That Section 28-9-407, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-407. INFORMATION FROM FILING OFFICER. (1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. ~~The uniform fee for such a certificate shall be six dollars ($6.00) if the request is in the standard form prescribed by the secretary of state and otherwise shall be seven dollars ($7.00). For an additional uniform fee of six dollars ($6.00), the person making the request for information may in addition request copies of any or all financing statements and statements of assignment, with all attachments thereto, which may or may not be on file.~~ The secretary of state may provide by administrative rule for the certificate to include information on notices filed pursuant to section 45-308, Idaho Code, as well as on either or both types of financing statements described in section 28-9-402.

(3) The secretary of state shall develop and implement a central filing system containing the information filed with his office pursuant to section 28-9-402(9). Under this system the secretary shall record the date and time of filing and compile the information into a master list organized according to farm products. The list shall be organized within each farm product category in alphabetical order according to the last name of the borrower (or, in the case of borrowers doing business other than as individuals, the first word in the name of such borrower). The list shall be further organized according to and contain information required by federal law and regulation. The secretary of state shall, by duly adopted administrative rule, designate the categories of farm products to be used in compiling the master list. The secretary of state may establish and maintain, pursuant to duly adopted administrative rule, a separate system for filing of financing statements and search, retrieval and dissemination of information relating to financing statements for farm products, and require separate search requests for such information pursuant to a fee schedule to be established in such administrative rule.

(4) The secretary of state shall maintain a list of all buyers of farm products, commission merchants, and selling agents who register with the secretary of state indicating an interest in receiving the lists described in subsection (5) of this section.

(5) The secretary of state shall distribute complete master lists for each farm product category at least quarterly to each buyer, commission merchant and selling agent registered under subsection (4) of this section and distribute either complete lists or cumulative supplements, which supplements shall be issued not less frequently than semimonthly, of financing statements for farm products filed subse-

quent to the last date of filing for financing statements on the last preceding quarterly master list, which the buyer, commission merchant or selling agent has requested. The date of receipt for lists and supplements shall be the third calendar day following the date of mailing by the secretary of state, or in the event the mail is not delivered on that day, the first day thereafter on which mail is delivered.

(6) Upon the request of any person the secretary of state shall provide, within twenty-four (24) hours, an oral confirmation of the filing of the form described in section 28-9-402(9) followed by a written confirmation.

(7) Upon request of any person, the filing officer shall furnish copies of particular filed financing statements or statements of assignment at a uniform cost of one dollar ($1.00) per page if the requestor provides the filing officer with the file numbers of the statement to be copied.

(8) The secretary of state shall, by administrative rule, establish a fee schedule for ~~registration-and-listing--of--buyers--of--farm products;--commission--merchants;--and-selling-agents-of-farm-products and-for-distribution-of-master-lists-and-supplements-of--master--lists and--information--and--oral-confirmation-of-filing-as-required-by~~ services for which provision is made in this section and for which a fee is not specified elsewhere in this section ~~28-9-407~~.

SECTION 4. Section 3 of this act shall be in full force and effect on and after January 1, 1991.

Approved March 29, 1990.

CHAPTER 206
(S.B. No. 1573)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE BUDGET RESERVE ACCOUNT; AMENDING SECTION 57-814, IDAHO CODE, TO PROVIDE FOR INVESTMENT AND DISPOSITION OF INTEREST EARNINGS; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated $38,000,000 from the General Account to the Budget Reserve Account.

SECTION 2. That Section 57-814, Idaho Code, be, and the same is hereby amended to read as follows:

57-814. BUDGET RESERVE ACCOUNT. There is hereby created in the agency asset fund the budget reserve account, to which shall be deposited such appropriations as may be made by law. Interest earnings from the investment of moneys in this account shall be credited to the permanent building account subject to the provisions of section 67-1210,

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 29, 1990.

CHAPTER 207
(H.B. No. 536)

AN ACT

RELATING TO STATUTES GOVERNING ABORTION; REPEALING SECTIONS 18-613 THROUGH 18-615, IDAHO CODE, RELATING TO STATUTES TO BECOME EFFECTIVE UPON THE OCCURRENCE OF CERTAIN EVENTS AS DETERMINED BY PROCLAMATION OF THE GOVERNOR.

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

SECTION 1. That Sections 18-613 through 18-615, Idaho Code, be, and the same are hereby repealed.

Approved March 30, 1990.

CHAPTER 208
(H.B. No. 513, As Amended)

AN ACT

RELATING TO THE DUTIES OF THE CHILDREN'S TRUST ACCOUNT BOARD; AMENDING SECTION 39-6002, IDAHO CODE, TO PROVIDE FOR EMPLOYMENT AND COMPENSATION OF A PART-TIME ADMINISTRATOR; AND AMENDING SECTION 39-6003, IDAHO CODE, TO PROVIDE FOR COMMUNITY BASED PREVENTION, TRAINING AND INVESTIGATION PROGRAMS DEVOTED TO SOLVING THE PROBLEM OF CHILD ABUSE AND FOR AN ANNUAL REPORT TO THE GOVERNOR AND TO THE LEGISLATURE.

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

SECTION 1. That Section 39-6002, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Contract with public or private nonprofit organizations,

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

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

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

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

(e) Employ and shall fix the compensation of a part-time administrator who shall be designated as the executive director of the board and who shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

SECTION 2. That Section 39-6003, Idaho Code, be, and the same is hereby amended to read as follows:

39-6003. CRITERIA FOR PROGRAMS. (1) Programs contracted for ~~under this--chapter~~ with moneys received pursuant to section 63-3067A, Idaho Code, are intended to provide prevention services. "Prevention services" mean any community-based educational or service program designed to prevent or alleviate child abuse or neglect. "Prevention services" shall not include direct treatment programs.

(2) Programs contracted for with moneys appropriated by the legislature may provide training for community-based, multidisciplinary child abuse investigation teams, and community-based programs to provide for the development of local interview centers for reported victims of child abuse, including the purchase of necessary interview equipment. Moneys appropriated by the legislature also may be used for a part-time administrator pursuant to subsection (e) of section 39-6002, Idaho Code.

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

(4) The children's trust account board shall prepare a report on its activities annually, and deliver that report to the governor and legislature each January 15th.

Approved April 3, 1990.

CHAPTER 209
(H.B. No. 687)

AN ACT

RELATING TO STATE PARKS AND STATE FORESTS; AMENDING SECTION 58-503, IDAHO CODE, TO PROVIDE FOR DEPARTMENT OF PARKS AND RECREATION USE OF REVENUES GENERATED FROM LANDS TRANSFERRED TO THE DEPARTMENT OF PARKS AND RECREATION; AMENDING SECTION 58-505, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS SHALL HAVE THE AUTHORITY TO TRANSFER CERTAIN DESCRIBED LANDS 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 58-503, Idaho Code, be, and the same is hereby amended to read as follows:

58-503. DISPOSITION OF REVENUES FROM LANDS. All revenues derived from lands now owned or later acquired under the provision of this act shall be segregated by the state treasurer for the use of the state board of land commissioners in the acquisition, management, development and use of such lands until all obligations incurred have been paid in full. Thereafter, fifty per cent (50%) of all net profits accruing from the administration of such lands shall be applicable for such purposes as the legislature may prescribe, and fifty per cent (50%) shall be paid into the school fund of the county in which lands are located. Provided, however, that revenues generated from such lands that are subsequently transferred to the department of parks and recreation shall remain with the department of parks and recreation.

SECTION 2. That Section 58-505, Idaho Code, be, and the same is hereby amended to read as follows:

58-505. AUTHORITY TO SELL, LEASE, TRANSFER OR EXCHANGE LANDS OR PRODUCTS. The state board of land commissioners shall have full power and authority to sell, exchange or lease lands under its jurisdiction and/or exchange products of lands obtained under the provisions of this act for other forest or park lands when in its judgment it is advantageous to the state to do so in the highest orderly development and management of state forests and state parks: provided, however, said sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into. The board shall have full power and authority to transfer to the department of parks and recreation lands acquired under the provisions of this chapter that are suitable for park or other purposes provided for in sections 67-4240 through 67-4244, 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 April 3, 1990.

CHAPTER 210
(H.B. No. 817)

AN ACT

RELATING TO RITUALIZED ABUSE OF A CHILD; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1506A, IDAHO CODE, TO PROVIDE A FELONY OFFENSE FOR SPECIFIED ABUSE OF A CHILD AS PART OF A RITUAL, TO PROVIDE EXCLUSIONS, TO PROVIDE PENALTIES AND TO PROVIDE A DEFINITION; AMENDING CHAPTER 50, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5003, IDAHO CODE, TO PROVIDE A DEFINITION OF CANNIBALISM AND TO PROVIDE A PENALTY; AMENDING SECTION 19-402, IDAHO CODE, TO PROVIDE THAT PROSECUTION FOR RITUALIZED ABUSE OF A CHILD MUST COMMENCE WITHIN A TIME CERTAIN; AND AMENDING SECTION 19-3024A, IDAHO CODE, TO PROVIDE THAT A CHILD WITNESS TO RITUALIZED ABUSE MAY PRESENT TESTIMONY BY AN ALTERNATE PROCEDURE.

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

SECTION 1. That Chapter 15, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-1506A, Idaho Code, and to read as follows:

18-1506A. RITUALIZED ABUSE OF A CHILD -- EXCLUSIONS -- PENALTIES -- DEFINITION. (1) A person is guilty of a felony when he commits any of the following acts with, upon, or in the presence of a child as part of a ceremony, rite or any similar observance:

(a) Actually or in simulation, tortures, mutilates or sacrifices any warm-blooded animal or human being;

(b) Forces ingestion, injection or other application of any narcotic, drug, hallucinogen or anaesthetic for the purpose of dulling sensitivity, cognition, recollection of, or resistance to any criminal activity;

(c) Forces ingestion, or external application, of human or animal urine, feces, flesh, blood, bones, body secretions, nonprescribed drugs or chemical compounds;

(d) Involves the child in a mock, unauthorized or unlawful marriage ceremony with another person or representation of any force or diety, followed by sexual contact with the child;

(e) Places a living child into a coffin or open grave containing a human corpse or remains;

(f) Threatens death or serious harm to a child, his parents, family, pets or friends which instills a well-founded fear in the child that the threat will be carried out; or

(g) Unlawfully dissects, mutilates, or incinerates a human corpse.

(2) The provisions of this section shall not be construed to apply to:

(a) Lawful agricultural, animal husbandry, food preparation or wild game hunting and fishing practices and specifically the branding or identification of livestock;

(b) The lawful medical practice of circumcision or any ceremony related thereto; or

(c) Any state or federally approved, licensed or funded research project.

(3) The penalty upon conviction of a first offense shall be imprisonment in the state prison for a term of not to exceed fifteen (15) years. Upon conviction of a second or subsequent offense, the penalty shall be for a term not more than life imprisonment.

(4) For the purposes of this section, "child" means any person under eighteen (18) years of age.

SECTION 2. That Chapter 50, 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 18-5003, Idaho Code, and to read as follows:

18-5003. CANNIBALISM DEFINED -- PUNISHMENT. (1) Any person who wilfully ingests the flesh or blood of a human being is guilty of cannibalism.

(2) It shall be an affirmative defense to a violation of the provisions of this section that the action was taken under extreme life-threatening conditions as the only apparent means of survival.

(3) Cannibalism is punishable by imprisonment in the state prison not exceeding fourteen (14) years.

SECTION 3. 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. 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.

(3) A prosecution under section 18-1506A, Idaho Code, must be commenced within three (3) years after the date of initial disclosure by the victim.

SECTION 4. That Section 19-3024A, Idaho Code, be, and the same is hereby amended 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, 18-1506A, 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 or ritualized abuse committed on or with the minor.

(b) The impact on the minor of one or more of the factors enumerated 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 ritualized abuse, 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 April 3, 1990.

CHAPTER 211
(S.B. No. 1525)

AN ACT

RELATING TO PAID FIREMEN; AMENDING SECTION 72-1429F, IDAHO CODE, TO STRIKE REFERENCE TO RETIREMENT BENEFITS ALLOWABLE TO FIREMEN HIRED BETWEEN JULY 1, 1978, AND OCTOBER 1, 1980; AMENDING SECTION 72-1429H, IDAHO CODE, TO STRIKE REFERENCE TO DEATH BENEFITS ALLOWABLE TO FIREMEN HIRED BETWEEN JULY 1, 1978, AND OCTOBER 1, 1980; AMENDING SECTION 72-1429L, IDAHO CODE, TO STRIKE REFERENCE TO DEATH BENEFITS ALLOWABLE TO FIREMEN HIRED BETWEEN JULY 1, 1978, AND OCTOBER 1, 1980; AMENDING SECTION 72-1429M, IDAHO CODE, TO STRIKE REFERENCE TO DEATH BENEFITS ALLOWABLE TO FIREMEN HIRED

BETWEEN JULY 1, 1978, AND OCTOBER 1, 1980, AND AN OBSOLETE REFERENCE; AMENDING SECTION 72-1430, IDAHO CODE, TO STRIKE REFERENCE TO RETIREMENT BENEFITS ALLOWABLE TO FIREMEN HIRED BETWEEN JULY 1, 1978, AND OCTOBER 1, 1980; AMENDING SECTION 72-1430H, IDAHO CODE, TO STRIKE REFERENCE TO RETIREMENT BENEFITS ALLOWABLE TO FIREMEN HIRED BETWEEN JULY 1, 1978, AND OCTOBER 1, 1980; AND AMENDING SECTION 72-1432B, IDAHO CODE, TO STRIKE REFERENCE TO COST OF LIVING ADJUSTMENTS AND RETIREMENT OR DISABILITY ADJUSTMENTS FOR FIREMEN HIRED AFTER JULY 1, 1978; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-1429F, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429F. PENSION PAYMENT -- RETIREMENT OF INCAPACITATED FIREMEN FOR NONSERVICE. (1) Any paid fireman with not less than five (5) years' active service as defined in subsection (H) of section 72-1402, Idaho Code, as a paid fireman who shall become totally incapacitated by reason of a personal injury or disease occurring as the result of causes arising outside the course of his employment by the city or fire district, shall, so long as he remains totally incapacitated be paid a monthly sum equal to: (a) two percent (2%) of the average paid fireman's salary or wage, as defined in section 72-1411, Idaho Code, in this state for each year's active service, if the incapacitated fireman is an Option I fireman; or (b) a monthly sum equal to two percent (2%) of the said fireman's average monthly salary or wage, as defined in section 72-1411, Idaho Code, for each year's active service based on his average final compensation, as defined in section 72-1432A, Idaho Code, if the incapacitated fireman is an Option II fireman ~~hired prior to July 1, 1978; or, (c) one and one half percent (1 1/2%) of the said fireman's average monthly salary or wage for each year's active service, as defined in section 72-1411, Idaho Code, based on his average final compensation, as defined in section 72-1432A, Idaho Code, if the incapacitated fireman is an Option II fireman hired after July 1, 1978~~. "Totally incapacitated" as used in this section means the inability to perform work in any remunerative employment. It is not necessary for a person to be absolutely helpless or entirely unable to do anything worthy of compensation to be considered totally incapacitated. If the person is so incapacitated that substantially all the avenues of gainful employment are reasonably closed to him, his condition is within the meaning of "totally incapacitated." In evaluating whether a person is totally incapacitated, the medical factor of permanent impairment and nonmedical factors such as age, sex, education, economic and social environment, and training and usable skills shall be considered.

(2) In the event said fireman has twenty-one (21) or more years' service, and has otherwise met the requirements of section 72-1430, Idaho Code, if applicable, the monthly sum shall be the same amount as would be payable in the case of voluntary retirement.

(3) The monthly benefits provided for in this section shall vary annually according to the cost of living adjustment as set forth in section 72-1432B, Idaho Code.

(4) Upon application of a fire fighter or his or her department head for a nonservice disability retirement, and prior to said retirement, a medical examination of said fire fighter shall be given by a medical committee, consisting of a physician named by the public employee retirement system board, a physician named by the fire fighter claiming benefits, and a third physician designated by the first two (2) physicians so named. If the medical committee, by a majority opinion certifies in writing, that the fire fighter is mentally or physically totally incapacitated the board may approve such application for retirement as provided herein.

(5) All paid firemen~~,-irrespective--of--date--of--hire,~~ who are receiving nonservice disability benefits shall be subject to the provisions of sections 72-1432C and 72-1434, Idaho Code.

SECTION 2. That Section 72-1429H, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429H. DEATH BENEFITS -- SPOUSE AND CHILDREN OF FIREMAN KILLED IN PERFORMANCE OF DUTY. (1) In the event a paid fireman is killed or sustained injury from which death results, while in performance of his duty and leaves surviving him a spouse or a spouse with child or children, the spouse, during his or her lifetime and so long as he or she does not remarry, shall be paid from the public employee retirement account the same pension the deceased fireman would have been entitled to had the deceased fireman retired as of the date of death, but in no event less than a monthly sum equal to: (a) sixty-five percent (65%) of the average paid fireman's salary or wage in this ~~state~~, if the deceased fireman was an Option I fireman; or, (b) sixty-five percent (65%) of the deceased fireman's average monthly salary or wage, based on his average final compensation, if the deceased fireman was an Option II fireman ~~hired-prior-to-July-1,-1978;-or--(c)--fifty--percent (50%)--of-the-deceased-fireman's-average-monthly-salary-or-wage,-based on-his-average-final-compensation,-if--the--deceased--fireman--was--an Option--II--fireman--hired-after-July-1,-1978~~. If the surviving spouse should die, the full retirement pay shall be paid to the surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased fireman shall have died without leaving a surviving spouse and leaving surviving a child or children, said surviving child or children shall be entitled to be paid from the public employee retirement account the same pension the deceased fireman would have been entitled to had the deceased fireman retired as of the date of death, until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) The monthly benefits provided for in this section shall vary annually according to the cost of living adjustment as set forth in section 72-1432B, Idaho Code.

(3) Those benefits payable under the provisions of subsection (1), or under the provisions of section 72-1429G, Idaho Code, which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 3. That Section 72-1429L, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429L. DEATH BENEFITS -- WIDOW AND CHILDREN OF FIREMAN DYING FROM CAUSES UNCONNECTED WITH DUTIES BUT DURING SERVICE AFTER FIVE YEARS. (1) In the event a paid fireman who shall have died from causes unconnected with said fireman's official duties, but during the period of said fireman's service, leaves surviving a spouse or a spouse with child or children, and who shall have completed less than twenty (20) years, but more than five (5) years of active service as defined in subsection (H) of section 72-1402, Idaho Code, as a paid fireman, said spouse, during the spouse's lifetime and so long as said spouse does not remarry, shall be paid from the account a monthly sum equal to: (a) two percent (2%) of the average paid fireman's salary or wage in this state, if the deceased fireman was an Option I fireman, for each year's active service; or, (b) two percent (2%) of said fireman's average monthly salary or wage, based on his average final compensation, if the deceased fireman was an Option II fireman ~~hired prior to July 1, 1978~~, for each year's active service~~; or, (c) one and one-half percent (1 1/2%) of said fireman's average monthly salary or wage, based on his average final compensation, if the deceased fireman was an Option II fireman hired after July 1, 1978, for each year's active service~~. The monthly sum for Option I benefits shall vary annually, according to the determination of the average paid fire fighter's salary or wage in this state as set forth in section 72-1411, Idaho Code. If said surviving spouse dies said monthly sum shall be paid to the surviving child or children until they reach the age ~~of~~ eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased fireman shall have died without leaving a surviving spouse and leaving surviving a child or children, said surviving child or children shall be entitled to receive said monthly sum until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) In the event a paid fireman who shall have ~~dired~~ died from causes unconnected with said fireman's official duties, but during the period of said fireman's service, leaves surviving a spouse or a spouse with child or children, and who shall have completed less than twenty-five (25) years, but more than twenty (20) years of active service as defined in subsection (H) of section 72-1402, Idaho Code, as a paid fireman, said spouse, during his or her lifetime and so long as said spouse does not remarry, shall be paid from the account a monthly sum equal to the sum the fireman would have received under the provisions of section 72-1430, Idaho Code, had said fireman retired as of the date of his death, and for the purposes of this section, said fireman shall be deemed to have retired as of the date of death. The monthly retirement sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1432B, Idaho Code, and if said spouse dies said monthly sum shall be paid to the surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first, provided, however, that if said deceased fireman shall have died without leaving a surviving spouse and leaving surviving a child or children, said surviving child or children shall be entitled to receive said monthly

sum until they reach the age of eighteen (18) years or shall marry, whichever occurs first.

(3) Those benefits payable under the provisions of subsections (1) and (2) of this section which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 4. That Section 72-1429M, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429M. DEATH BENEFITS -- SPOUSE AND CHILDREN OF FIREMAN DYING FROM CAUSES UNCONNECTED WITH DUTIES BUT DURING SERVICE AFTER TWENTY-FIVE YEARS. (1) In the event a paid fireman who shall have died from causes unconnected with said fireman's official duties, but during the period of said fireman's service, and left surviving a spouse or a spouse with child or children, and who shall have completed twenty-five (25) years' active service as defined in subsection (H) of section 72-1402, Idaho Code, as a paid fireman, said spouse, during his or her lifetime and so long as he or she does not remarry, shall be paid from the account a monthly sum equal to: (a) sixty-five percent (65%) of the average paid fireman's salary or wage in this state, if the deceased fireman was an Option I fireman; or, (b) sixty-five percent (65%) of said fireman's average monthly salary or wage, based on his average final compensation, if the deceased fireman was an Option II fireman ~~hired prior to July 1, 1978; or, (c) fifty percent (50%) of the deceased fireman's average monthly salary or wage, based on his average final compensation, if the deceased fireman was an Option II fireman hired after July 1, 1978~~. The monthly sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1432B, Idaho Code, and if he or she dies said monthly sum shall be paid to the surviving child or children until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased fireman shall have died without leaving a surviving spouse and leaving a child or children, said surviving child or children shall be entitled to receive the pension which said fireman was entitled until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) Those benefits payable under the provisions of subsection (1)~~, or under the provisions of section 72-1430G, Idaho Code,~~ which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 5. That Section 72-1430, Idaho Code, be, and the same is hereby amended to read as follows:

72-1430. VOLUNTARY RETIREMENT -- YEARS OF SERVICE DETERMINE PENSION BENEFIT. (1) Any ~~paid~~ Option I fireman, ~~hired prior to July 1, 1978, who selected Option I~~ as provided in section 72-1432, Idaho Code, who has had the contributions remitted as provided in sections 72-1411 and 72-1412, Idaho Code, for the same number of years as he claims for service as a paid fireman in Idaho, may at his option

retire, and upon retirement shall be paid from the public employee retirement account a monthly sum during the remainder of his life equal to:

(a) after twenty (20) years of service and contributions, forty percent (40%) of the average paid fireman's salary or wage; or

(b) after twenty-one (21) years of service and contributions, forty-five percent (45%) of the average paid fireman's salary or wage; or

(c) after twenty-two (22) years of service and contributions, fifty percent (50%) of the average paid fireman's salary or wage; or

(d) after twenty-three (23) years of service and contributions, fifty-five percent (55%) of the average paid fireman's salary or wage; or

(e) after twenty-four (24) years of service and contributions, sixty percent (60%) of the average paid fireman's salary or wage; or

(f) after twenty-five (25) years of service and contributions, sixty-five percent (65%) of the average paid fireman's salary or wage.

All benefit payments to Option I firemen shall be based on the average paid fireman's salary or wage in this state as defined in section 72-1411, Idaho Code. Option I monthly benefit payments shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1432B, Idaho Code.

(2) Any ~~paid~~ Option II fireman, ~~hired prior to July 1, 1978, who selected Option II~~ as provided in section 72-1432, Idaho Code, who has had the contributions remitted as provided in sections 72-1411 and 72-1412, Idaho Code, for the same number of years as he claims for service as a paid fireman in Idaho, may at his option retire, and upon retirement shall be paid from the public employee retirement account a monthly sum during the remainder of his life equal to:

(a) after twenty (20) years of service and contributions, forty percent (40%) of his average salary or wage; or

(b) after twenty-one (21) years of service and contributions, forty-five percent (45%) of his average salary or wage; or

(c) after twenty-two (22) years of service and contributions, fifty percent (50%) of his average salary or wage; or

(d) after twenty-three (23) years of service and contributions, fifty-five percent (55%) of his average salary or wage; or

(e) after twenty-four (24) years of service and contributions, sixty percent (60%) of his average salary or wage; or

(f) after twenty-five (25) years of service and contributions, sixty-five percent (65%) of his average salary or wage.

All benefit payments to Option II firemen shall be based on his average final compensation as defined in section 72-1432A, Idaho Code. Option II monthly benefit payments shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1432B, Idaho Code.

~~(3) Any paid fireman hired after July 1, 1978, who has attained the age and years of active service as set out in this subsection, may at his option retire, and in the event of such retirement he shall be paid from the public employee retirement account a monthly sum during~~

~~the-remainder-of-his-life-equal-to:~~

~~(a)--after-twenty-(20)-years-of-service-and--an--attained--age--of fifty-(50),-forty-percent-(40%)-of-his-average-salary-or-wage;-or~~

~~(b)--after-twenty-one-(21)-years-of-service-and-an-attained-age-of fifty-one--(51),-forty-five-percent-(45%)-of-his-average-salary-or wage;-or~~

~~(c)--after-twenty-two-(22)-years-of-service-and-an-attained-age-of fifty-two-(52),-fifty-percent-(50%)-of-his-average-salary-or-wage; or~~

~~(d)--after-twenty-three-(23)-years-of-service-and-an-attained--age of--fifty-three-(53),-fifty-five-percent-(55%)-of-his-average-salary-or-wage;-or~~

~~(e)--after-twenty-four-(24)-years-of-service-and-an--attained--age of--fifty-four--(54),-sixty-percent-(60%)-of-his-average-salary-or wage;-or~~

~~(f)--after-twenty-five-(25)-years-of-service-and-an--attained--age of-fifty-five-(55),-sixty-five-percent-(65%)-of-his-average-salary or-wage;-or~~

~~(g)--after--thirty--(30)--years--of-service-and-an-attained-age-of sixty-(60),-seventy-percent-(70%)-of-his-average-salary-or-wage.~~

~~All-benefit-payments-to-firemen-hired-after-July-1,-1978,-shall-be based--on--his--average--final--compensation--as--defined--in--section 72-1432A,-Idaho-Code.-All-such-benefits-shall-vary-annually--according to--the-determination-of-the-cost-of-living-adjustment-as-set-forth-in section-72-1432B,-Idaho-Code.~~

SECTION 6. That Section 72-1430H, Idaho Code, be, and the same is hereby amended to read as follows:

72-1430H. PENSION PAYMENT -- RETIREMENT OF FIREMAN INCAPACITATED IN THE PERFORMANCE OF DUTY. (1) Any paid fireman incapacitated by injury in the performance of duty, or by illness attributable wholly or partially to service as a paid fireman, shall be retired so long as such disability shall continue in a degree which prevents efficient service, limited to a maximum of two (2) years, and during such disability shall be paid from the public employee retirement account the monthly retirement sum to which he would be entitled if he elected to retire, but in no event less than a monthly sum equal to: (a) sixty-five percent (65%) of the average paid fireman's salary or wage in this state if the incapacitated fireman is an Option I fireman; or, (b) sixty-five percent (65%) of the said fireman's average monthly salary or wage, based on his average final compensation, if the incapacitated fireman is an Option II fireman ~~hired-prior-to-July-1,-1978; or,-(c)-fifty-percent-(50%)-of-the-said-fireman's-average-monthly-salary-or-wage,-based-on-his-average-final-compensation,-if-the-incapacitated-fireman-is-an-Option-II-fireman-hired-after-July--1,--1978.~~ The monthly sum shall vary annually according to the cost of living adjustment as set forth in section 72-1432B, Idaho Code.

Upon application of a firefighter or his or her department head for a service disability retirement, and prior to said retirement, a medical examination of said firefighter shall be given by a medical committee consisting of a physician named by the public employee retirement system board, a physician named by the firefighter claiming

benefits, and a third physician designated by the first two (2) physicians so named. If the medical committee, by a majority opinion certifies in writing, that: (1) the firefighter is physically incapacitated for the efficient performance of the duties as a paid firefighter, as defined under the provisions of subsection (G), section 72-1402, Idaho Code, in the service of the city or fire district, (2) such incapacity is likely to be permanent, (3) the member should be retired, and (4) there is medical evidence of probative value including reports of clinical findings (such as the individual's medical history, physical status examinations), laboratory findings, diagnosis and treatment prescribed and response to such treatment, the public employee retirement system board may approve such application for retirement as provided herein.

If the disabled fireman is still retired at the conclusion of the two (2) year period, the public employee retirement system board shall determine whether the disability renders the disabled fireman totally incapacitated. "Totally incapacitated" as used in this section means the inability to perform work in any remunerative employment. It is not necessary for a person to be absolutely helpless or entirely unable to do anything worthy of compensation to be considered totally incapacitated. If the person is so incapacitated that substantially all the avenues of gainful employment are reasonably closed to him, his condition is within the meaning of "totally incapacitated." In evaluating whether a person is totally incapacitated, the medical factor of permanent impairment and nonmedical factors such as age, sex, education, economic and social environment, and training and usable skills shall be considered. If the disabled fireman ~~is~~ totally incapacitated, then payments shall continue at the rate prescribed in this section during the period of total incapacity. A medical committee may be summoned to determine total incapacity as provided above.

(2) If the disabled fireman is less than totally incapacitated at the end of the two (2) year period, but has a disability which reduces his presumed ability to engage in gainful activity, payments shall be made to the disabled fireman during the period of his disability as hereinafter provided. The board shall determine the percentage of disability suffered by the disabled fireman as compared to the whole man. A medical committee, comprised as prescribed in this section, may be summoned to determine the percentage of disability suffered by the disabled fireman. The disabled fireman shall receive a disability benefit equal to the percentage that his disability bears to a totally incapacitated person.

(3) The public employee retirement system board shall provide and maintain disability benefits for all paid firemen who are hired for the first time after October 1, 1980. The benefits provided shall be at least equal to those provided to an Option II fireman ~~who was hired after July 1, 1978~~. The benefits shall be maintained only until a paid fireman is eligible for disability retirement under the provisions of chapter 13, title 59, Idaho Code. The costs for such benefits shall be paid from the appropriation made by section 59-1357(1)(b), Idaho Code.

SECTION 7. That Section 72-1432B, Idaho Code, be, and the same is hereby amended to read as follows:

72-1432B. COST OF LIVING ADJUSTMENT. In addition to the monthly sums provided for under this chapter, any retired fireman or his or her surviving spouse, child, or children drawing benefits shall be entitled to receive adjustments to such benefits, calculated on the percentage of increase or decrease in the average paid firefighter's salary or wage, in this state, as computed under the terms of section 72-1411, Idaho Code. ~~Commencing July 1, 1978, in any one (1) year the cost of living adjustment in monthly sums provided in this chapter shall not exceed a three percent (3%) per annum increase or decrease. Commencing July 1, 1978, in any one (1) year the retirement or disability benefits received by a fireman or his or her survivors shall not increase or decrease by more than three percent (3%) per annum, notwithstanding any other provision of law.~~

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 April 3, 1990.

CHAPTER 212
(H.B. No. 903, As Amended in the Senate)

AN ACT

RELATING TO MINIMUM WAGES; AMENDING SECTION 44-1502, IDAHO CODE, AS AMENDED BY H.B. 596, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO CLARIFY THE APPLICATION OF THE FORTY HOUR WORKWEEK; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 44-1502, Idaho Code, as amended by H.B. 596, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

44-1502. MINIMUM WAGES AND OVERTIME PAY. (1) Except as hereinafter otherwise provided, no employer shall pay to any of his employees any wages computed at a rate of less than three dollars and eighty cents ($3.80) commencing April 1, 1990, and four dollars and twenty-five cents ($4.25) commencing April 1, 1991, per hour for employment.

(2) In determining the wage of a tipped employee, the amount paid such employee by an employer shall be deemed to be increased on account of tips actually received by the employee but not by an amount in excess of twenty-five percent (25%) of the applicable minimum wage, as set forth in subsection (1) of this section. In the event a dispute arises between the employee and the employer with respect to the amount of tips actually received by the employee, it shall be the employer's burden to demonstrate the amount of tips actually received by the employee. Any portion of tips paid to an employee, which is shared with other employees under a tip pooling or similar arrange-

ment, shall not be deemed, for the purpose of this section, to be tips actually received by the employee.

(3) Except as hereinafter otherwise provided in the case of overtime pay only and subject to the same exemptions and/or exceptions for overtime as provided now or hereafter under the federal fair labor standards act; i.e., those employers not exempted or excepted by the overtime provisions of the federal fair labor standards act shall pay overtime as provided in this section, no employer shall employ any employee longer than forty (40) hours in a workweek consisting of seven (7) consecutive twenty-four (24) hour periods unless such employee receives compensation for employment in excess of forty (40) hours at a rate of not less than one and one-half (1 1/2) times the employee's regular rate of pay.

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, 1990.

Approved April 5, 1990.

CHAPTER 213
(H.B. No. 860)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING CHAPTER 3, TITLE 9, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 9-337 THROUGH 9-348, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE A RIGHT TO EXAMINE PUBLIC RECORDS AND A FEE FOR COPYING PUBLIC RECORDS, TO PROVIDE PROCEDURES IN RESPONSE TO A REQUEST FOR EXAMINATION OF A PUBLIC RECORD, TO PROVIDE RECORDS EXEMPT FROM DISCLOSURE, TO REQUIRE EXEMPT AND NONEXEMPT PUBLIC RECORDS TO BE SEPARATED, TO PROVIDE PROCEDURES FOR INSPECTION OF RECORDS BY A PERSON ABOUT HIMSELF, TO PROVIDE PROCEEDINGS TO ENFORCE THE RIGHT TO EXAMINE OR RECEIVE A COPY OF A PUBLIC RECORD, TO PROVIDE FOR AN ORDER OF THE COURT AND COSTS, TO PROVIDE A CIVIL PENALTY, TO PROVIDE IMMUNITY, TO PROVIDE AGENCY GUIDELINES, AND TO PROVIDE SEVERABILITY; REPEALING SECTIONS 9-301, 9-302 AND 59-1009, IDAHO CODE; AMENDING SECTIONS 1-2103, 2-210, 6-1001, 6-1008, 6-1010, 15-5-602, 16-1513, 16-1623, 16-1811, 16-1816, 19-1112, 20-213A, 20-226, 22-609, 22-1215, 22-1313, 23-515, 25-2727, 26-1111, 26-1112, 26-2224, 28-46-106, 28-46-304, 30-1450, 31-874, 31-A3502, 33-1211, 36-2114, 37-334f, 37-2743, 38-712, 39-111, 39-257, 39-259A, 39-270, 39-606, 39-610, 39-1210, 39-1310, 39-1393, 39-4411, 39-4412 AND 39-5211, IDAHO CODE, TO PROVIDE PROCEDURES FOR ACCESS TO PUBLIC RECORDS; AMENDING SECTIONS 39-5203 AND 39-5205, IDAHO CODE, AS ENACTED BY CHAPTER 286, LAWS OF 1982, TO REDESIGNATE THE SECTIONS AND PROVIDE PROCEDURES FOR ACCESS TO PUBLIC RECORDS; AMENDING SECTIONS 39-5403, 39-5818, 39-6208, 40-2004, 41-227, 41-272, 41-902, 41-904, 41-1049, 41-1440, 41-3311, 41-3802, 41-3811, 41-4312, 42-4010, 47-319, 47-1314, 47-1506, 47-1515, 48-612, 48-801, 49-321, 49-1311,

49-1313, 49-1314, 54-204, 54-918, 54-934, 54-1210, 54-1806A, 54-1820, 54-1837, 54-1913, 54-2052, 54-3404, 56-221, 56-231, 57-112, 57-133B, 57-911, 58-126, 58-1005, 59-1325A, 66-348, 67-2345, 67-2726, 67-2743E, 67-4708, 67-5009, 67-5768, 67-7410, 67-7421, 67-7436, 67-7437, 67-7441, 67-7445, 69-250, 69-515, 72-603, 72-926, 72-1007, 72-1342 AND 72-1374, IDAHO CODE, TO PROVIDE PROCEDURES FOR ACCESS TO PUBLIC RECORDS; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Chapter 3, Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 9-337 through 9-348, Idaho Code, and to read as follows:

9-337. DEFINITIONS. As used in sections 9-337 through 9-347, Idaho Code:

(1) "Copy" means transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means so long as the public record is not altered or damaged.

(2) "Custodian" means the person having personal custody and control of the public records in question. If no such designation is made by the public agency, then custodian means any public official having custody of, control of, or authorized access to public records and includes all delegates of such officials, employees or representatives.

(3) "Inspect" means the right to listen, view and make notes of public records as long as the public record is not altered or damaged.

(4) "Investigatory record" means information with respect to an identifiable person, group of persons or entities compiled by a public agency pursuant to its statutory authority in the course of investigating a specific act, omission, failure to act, or other conduct which the public agency has regulatory authority or law enforcement authority over.

(5) "Law enforcement agency" means any state or local agency given law enforcement powers or which has authority to investigate, enforce, prosecute or punish violations of state or federal criminal statutes, ordinances or regulations.

(6) "Local agency" means a county, city, school district, municipal corporation, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.

(7) "Person" means any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity.

(8) "Public agency" means any state or local agency as defined in this section.

(9) "Public official" means any state, county, local district or governmental official or employee, whether elected, appointed or hired.

(10) "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of

the public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(11) "State agency" means every state officer, department, division, bureau, commission and board or any committee of a state agency including those in the legislative or judicial branch, except the state militia.

(12) "Writing" includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

9-338. PUBLIC RECORDS -- RIGHT TO EXAMINE. (1) Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.

(2) The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by the public agency or using equipment designated by the custodian.

(3) Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.

(4) The custodian shall make no inquiry of any person who applies for a public record, except that the person may be required to make a written request and provide a mailing address and telephone number.

(5) The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.

(6) Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.

(7) Examination of public records under the authority of this section must be conducted during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public agency having custody of such records, out of funds provided in advance by the person examining such records, at other than regular office or working hours.

(8) A public agency or public official may establish a copying fee schedule. The fee may not exceed the actual cost to the agency of copying the record if another fee is not otherwise provided by law. The actual cost shall not include any administrative or labor costs resulting from locating and providing a copy of the public record. For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record informa-

tion, a public agency or public official may charge a fee, uniform to all persons that does not exceed the sum of the following:

(a) The agency's direct cost of copying the information in that form;

(b) The standard cost, if any, for selling the same information in the form of a publication.

The custodian may require advance payment of the cost of copying. Any money received by the public agency shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund.

(9) A public agency shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.

(10) Nothing contained herein shall prevent a public agency from disclosing statistical information that is not descriptive of an identifiable person or persons.

9-339. RESPONSE TO REQUEST FOR EXAMINATION OF PUBLIC RECORDS. (1) A public agency shall either grant or deny a person's request to examine or copy public records within three (3) working days of the date of the receipt of the request for examination or copying. If it is determined by employees of the public agency that a longer period of time is needed to locate or retrieve the public records, the public agency shall so notify in writing the person requesting to examine or copy the records and shall provide the public records to the person no later than ten (10) working days following the person's request.

(2) If the public agency fails to respond, the request shall be deemed to be denied within ten (10) working days following the request.

(3) If the public agency denies the person's request for examination or copying the public records or denies in part and grants in part the person's request for examination and copying of the public records, the person legally responsible for administering the public agency or that person's designee shall notify the person in writing of the denial or partial denial of the request for the public record.

(4) The notice of denial or partial denial shall state that the attorney for the public agency has reviewed the request or shall state that the public agency has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. The notice of denial or partial denial also shall indicate the statutory authority for the denial and indicate clearly the person's right to appeal the denial or partial denial and the time periods for doing so. .

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this sec-

tion mean information, including a formula, pattern, compilation, program, computer program, device, method, technique or process that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(3) Records, maps or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public.

(4) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(5) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

(6) Records relating to the appraisal of real property, timber, or mineral rights prior to its acquisition, sale or lease by a public agency.

(7) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(8) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(9) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(10) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(11) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records.

(12) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and

instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(13) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active employee financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(14) Any personal records, other than names and addresses, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(15) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position.

(16) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(17) Records that identify the method by which the Idaho state tax commission selects tax returns for audit review.

(18) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax.

(19) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(20) Employment security information and unemployment insurance

benefit information, except that all interested parties may agree to waive the exemption.

(21) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(22) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(23) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study.

(24) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

(25) Records of the department of health and welfare or a public health district that identifies a person infected with a reportable disease.

(26) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code.

(28) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies.

(29) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision making.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(31) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the legislative auditor prior to release of the related final audit and all other records or materials in the possession of the office of the legislative auditor that would otherwise be confidential or exempt from disclosure.

(32) The records, finding, determinations and decision of any prelitigation screening panel formed under chapter 10, title 6, Idaho Code.

(33) Board of professional discipline reprimands by informal admonition pursuant to subsection (6)(f) of section 54-1806A, Idaho Code.

(34) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(35) Information, records, including names and addresses of victims, or investigations of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interefere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(36) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant, including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

9-341. EXEMPT AND NONEXEMPT PUBLIC RECORDS TO BE SEPARATED. If any public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public agency shall, upon receipt of a request for disclosure, separate the exempt and nonexempt material and make the nonexempt material available for examination provided that a denial of a request to copy nonexempt material in a public record shall not be based upon the fact that such nonexempt material is contained in the same public record as the exempt material.

9-342. ACCESS TO RECORDS ABOUT AN INDIVIDUAL BY AN INDIVIDUAL. (1) A person may inspect and copy the records of a public agency pertaining to that person, even if the record is otherwise exempt from public disclosure.

(2) An individual may request in writing an amendment of any record pertaining to that person. Within ten (10) days of the receipt of the request, the public agency shall either:

(a) Make any correction of any portion of the record which the individual establishes is not accurate, relevant, or complete; or

(b) Inform the individual in writing of the refusal to amend in accordance with the request and the reasons for the refusal, and indicate clearly the person's right to appeal the refusal and the time period for doing so. The procedures for appealing a refusal to amend shall be the same as those set forth in sections 9-343 and 9-344, Idaho Code, and the court may award reasonable costs and attorney fees to the prevailing party or parties, if it finds that the request for amendment or refusal to amend was frivolously pursued.

(3) The right to inspect and amend records pertaining to oneself does not include the right to review otherwise exempt investigatory records of a public agency if the investigation is ongoing, information that is compiled in reasonable anticipation of a civil action or proceeding which is not otherwise discoverable or the information relates to adoption records or information which is otherwise exempt from disclosure by statute.

9-343. PROCEEDINGS TO ENFORCE RIGHT TO EXAMINE OR TO RECEIVE A COPY OF RECORDS -- RETENTION OF DISPUTED RECORDS. (1) The sole remedy for a person aggrieved by the denial of a request for disclosure is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel the public agency to make the information available for public inspection in accordance with the provisions of this act. The petition contesting the public agency's decision shall be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency. The time for responsive pleadings and for hearings in such proceedings shall be set by the court at the earliest possible time, or in no event beyond twenty-eight (28) calendar days from the date of filing.

(2) The public agency shall keep all documents or records in question until the end of the appeal period, until a decision has been rendered on the petition, or as otherwise statutorily provided, whichever is longer.

9-344. ORDER OF THE COURT -- COURT COSTS AND ATTORNEY FEES. (1) Whenever it appears that certain public records are being improperly withheld from a member of the public, the court shall order the public official charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the pleadings filed by the parties and such oral arguments and additional evidence as the court may allow. The court may examine the record in camera in its discretion.

(2) If the court finds that the public official's decision to refuse disclosure is not justified, it shall order the public official to make the requested disclosure. If the court determines that the public official was justified in refusing to make the requested record available, he shall return the item to the public official without

disclosing its content and shall enter an order supporting the decision refusing disclosure. In any such action, the court shall award reasonable costs and attorney fees to the prevailing party or parties, if it finds that the request or refusal to provide records was frivolously pursued.

9-345. ADDITIONAL PENALTY. If the court finds that a public official has deliberately and in bad faith improperly refused a legitimate request for inspection or copying, a civil penalty shall be assessed against the public official in an amount not to exceed one thousand dollars ($1,000), which shall be paid into the general account.

9-346. IMMUNITY. No public agency, public official, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record governed by the provisions of this chapter if the public agency, public official or custodian acted in good faith in attempting to comply with the provisions of this chapter.

9-347. AGENCY GUIDELINES. By January 1, 1991, every state agency shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the state agency, the custodian, and the physical location of such documents.

9-348. 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.

SECTION 2. That Sections 9-301, 9-302 and 59-1009, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Section 1-2103, Idaho Code, be, and the same is hereby amended to read as follows:

1-2103. REMOVAL, DISCIPLINING, OR RETIREMENT OF JUDGES OR JUSTICES -- PROCEDURE. A justice of the Supreme Court or judge of any district court, in accordance with the procedure prescribed in this section, may be disciplined or removed for wilful misconduct in office or wilful and persistent failure to perform his duties or habitual intemperance or conduct prejudicial to the administration of justice that brings judicial office into disrepute, or he may be retired for disability seriously interfering with the performance of his duties, which is, or is likely to become of a permanent character. The judicial council may, after such investigation as the council deems necessary, order a hearing to be held before it concerning the removal, discipline or retirement of a justice or a judge, or the council may in its discretion request the Supreme Court to appoint three (3) special masters, who shall be justices or judges, to hear and take evidence in any such matters, and to report their findings to the council. If, after hearing, or after considering the record and the findings and report of the masters, the council finds good cause therefor,

it shall recommend to the Supreme Court the removal, discipline or retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline or retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired pursuant to other provisions of law. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order.

All papers filed with and the proceedings before the judicial council or masters appointed by the Supreme Court, pursuant to this section, shall be ~~confidential~~ subject to disclosure according to chapter 3, title 9, Idaho Code, provided, however, that if allegations against a judge are made public by the complainant, judge or third persons, the judicial council may, in its discretion, comment on the existence, nature, and status of any investigation. The filing of papers with and the giving of testimony before the council or the masters shall be privileged; but no other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the council in the Supreme Court continues privileged and upon such filing loses its confidential character and (b) a writing which was privileged prior to its filing with the council or the masters does not lose such privilege by such filing. The judicial council shall by rule provide for procedures under this section, including the exercise of requisite process and subpoena powers. A justice or judge who is a member of the council or Supreme Court shall not participate in any proceedings involving his own removal, discipline or retirement.

This section is alternative to, and cumulative with, the removal of justices and judges by impeachment, and the original supervisory control of members of the judicial system by the Supreme Court.

SECTION 4. That Section 2-210, Idaho Code, be, and the same is hereby amended to read as follows:

2-210. NAMES PLACED IN QUALIFIED JURY WHEEL -- DRAWING PANELS -- NOTICE TO PERSONS DRAWN -- SUMMONING ADDITIONAL PETIT JURORS -- NAMES DRAWN TO BE PUBLIC -- EXCEPTION. (1) The jury commission shall maintain a qualified jury wheel and shall place therein the names or identifying numbers of all prospective jurors drawn from the master jury wheel who are not disqualified under section 2-209, Idaho Code.

(2) The court or any other state or county official having authority to conduct a trial or hearing with a jury within the county may direct the jury commission to draw and assign to that court or official the number of qualified jurors he deems necessary for one (1) or more jury panels or as required by law for a grand jury. Upon receipt of the direction and in a manner prescribed by the court, the jury commission shall publicly draw at random from the qualified jury wheel the number of qualified jurors specified. The qualified jurors drawn for jury service shall be assigned at random by the clerk to each jury panel in a manner prescribed by the court.

(3) If a grand, petit, or other jury is ordered to be drawn, the clerk thereafter shall cause each person drawn for jury service to be served with a summons either personally or by first class mail or certified mail, return receipt requested, addressed to him at his usual residence, business, or post-office address, requiring him to report for jury service at a specified time and place.

(4) If there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the court may require the sheriff to summon a sufficient number of petit jurors selected at random by the clerk from the qualified jury wheel in a manner prescribed by the court.

(5) The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors shall be made available to the public ~~unless the court determines in any instance that this information in the interest of justice should~~ and shall be ~~kept confidential or its use limited in whole or in part~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 5. That Section 6-1001, Idaho Code, be, and the same is hereby amended to read as follows:

6-1001. HEARING PANEL FOR PRELITIGATION CONSIDERATION OF MEDICAL MALPRACTICE CLAIMS -- PROCEDURE. The Idaho state board of medicine, in alleged malpractice cases involving claims for damages against physicians and surgeons practicing in the state of Idaho or against licensed acute care general hospitals operating in the state of Idaho, is directed to cooperate in providing a hearing panel in the nature of a special civil grand jury and procedure for prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide hospital or medical care in the state of Idaho, which proceedings shall be informal and nonbinding, but nonetheless compulsory as a condition precedent to litigation. Proceedings conducted or maintained under the authority of this act shall at all times be ~~confidential, privileged and immune from civil process and evidence of them or results, findings or determinations thereof shall be inadmissible in any civil or other action or proceeding by, against or between the parties thereto or any witness therein~~ subject to disclosure according to chapter 3, title 9, Idaho Code. Formal rules of evidence shall not apply and all such proceedings shall be expeditious and informal.

SECTION 6. That Section 6-1008, Idaho Code, be, and the same is hereby amended to read as follows:

6-1008. CONFIDENTIALITY OF PROCEEDINGS. Neither party shall be entitled, except upon special order of the panel, to attend and participate in the proceedings which shall be ~~confidential~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and closed to public observation at all times, except during the giving of his or her own testimony or presentation of argument of his or her position, whether by counsel or personally; nor shall there be cross-examination, rebuttal or other customary formalities of civil trials and

court proceedings. The panel itself may, however, initiate requests for special or supplemental participation, in particular respects and of some or all parties; and communications between the panel and the parties, excepting only the parties' own testimony on the merits of the dispute, shall be fully disclosed to all other parties.

SECTION 7. That Section 6-1010, Idaho Code, be, and the same is hereby amended to read as follows:

6-1010. FEES FOR PANEL MEMBERS. The Idaho state board of medicine shall provide, by uniform policy of the board, for the payment of fees and expenses of members of panels, such payment to be made from the state board of medicine fund created in section 54-1809, Idaho Code. Panel members shall serve upon the sworn commitment that all related matters shall be ~~held confidential~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and privileged.

SECTION 8. That Section 15-5-602, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-602. BOARD STRUCTURE -- POWERS AND DUTIES. (a) Any board of community guardian which is created within a county or counties in a judicial district shall operate under the laws of the state of Idaho, including the Idaho guardianship, conservatorship and trust laws.

(b) A board of community guardian shall consist of not fewer than seven (7) or more than eleven (11) members who are representatives of community interests involving persons needing guardians or conservators as defined by chapter 5, title 15, Idaho Code.

(1) The terms of the members of the board shall be for two (2) years and shall be staggered. A number of members equaling or most closely exceeding one-half (1/2) shall initially be appointed for one (1) year. Any vacancy created by resignation or expiration of term shall be filled in the same manner as the original appointment;

(2) No person shall be appointed for more than four (4) successive terms or eight (8) successive years on the board;

(3) The board shall meet not less than once each quarter;

(4) No person shall be a member of a board who is also an employee of~~:~~ the district court or the clerk of the district court;

(5) A board member having previously provided or currently providing services to a ward shall disclose such to the board and abstain from any decision or action taken concerning that particular ward;

(6) Board members and officers shall serve without pay;

(7) Each board shall elect its own chairman and other officers.

(c) A board, in those instances when no family member or other qualified person has volunteered to serve, shall solicit, locate, and obtain individuals or corporations to serve as private or corporate guardians or individuals for whom guardians are required to be appointed under the guardianship and conservatorship laws of the state of Idaho.

(1) When neither the board nor the district court can find a per-

son or corporation to act as guardian, the board shall petition the court to be appointed guardian, and the court may appoint the board upon being satisfied that no qualified person or corporation is available to act.

(2) The board may serve as guardian of the person or conservator of the property of an incapacitated person; however, the board shall serve only as the guardian of last resort and only until a qualified guardian can be found to substitute for the board, at which time a joint petition for substitution shall be filed in the guardianship proceedings.

(d) The board shall have all the powers and duties where applicable by court order, as provided under section 15-5-312 of this code and/or sections 15-5-408 and 15-5-424 of this code and in addition thereto shall:

(1) Locate and recommend to the court, where necessary, that a visitor be appointed as provided in section 15-5-503 of this code;

(2) Have access to all confidential records, including abuse registry reports that may be maintained by state or private agencies or institutions, which records concern a person for whom the board acts as guardian. ~~However, in no case shall t~~The name of the person reporting the alleged abuse ~~be disclosed~~ shall be subject to disclosure according to chapter 3, title 9, Idaho Code;

(3) Review and monitor the services provided by public and private agencies to any incapacitated person for whom the board acts as guardian and determine the continued need for those services;

(4) Assess a fee for services developed pursuant to this part;

(5) Have the power, subject to the approval of the board of county commissioners, to adopt such rules as are necessary to carry out the duties and responsibilities of the board.

(e) When a board serves as guardian or conservator, it shall be compensated as other guardians or conservators pursuant to Idaho law. If, at the time the board is appointed as guardian, the incapacitated person for whom the board is to act has no funds, the court may waive the payment of fees.

(f) There is created a lien, enforceable only upon the termination of a guardianship or conservatorship, for all fees which were incurred throughout the duration of the services and which were not paid prior to the termination. The court may postpone or arrange for gradual repayment of the fees if the court finds that the immediate repayment would create a hardship on the person.

(g) No member of a board of community guardian, any employees, or any visitor appointed at the request of such board pursuant to section 15-5-303 of this code, shall be liable for civil damages by reason of authorizing medical treatment or surgery for the person for whom the board is appointed, if the board member, employee or visitor, after medical consultation with the person's physician, acts in good faith, is not negligent, and acts within the limits established for the guardian by the court. No such person shall be liable, by reason of his authorization, for injury to the person for whom the guardianship has been appointed which injury results from the negligence or other acts of a third person, if the court has authorized the giving of medical consent by the board or the individual members of the board. No such person shall be liable in the performance of acts done in good

faith within the scope of his authority as long as the act is not of a wanton or grossly negligent nature. The board of community guardian shall be deemed to be a governmental entity for the purposes of application of the Idaho tort claims act.

SECTION 9. That Section 16-1513, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) The claim of paternity may be registered prior to the birth of the child, but must be registered prior to the date of any termination proceeding, or proceeding wherein the child is placed with an agency licensed to provide adoption services. The claim of paternity shall be signed by the registrant and shall include his name and address, the name and last address of the mother, and either the birthdate of the child or the probable month and year of the expected birth of the child. The vital statistics unit of the department of health and welfare shall maintain a ~~confidential~~ registry for this purpose which shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

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

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

(5) If personal service cannot be obtained, then service by publication, notifying the father of the requirement to register his claim of paternity with the vital statistics unit of the department of

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

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

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

(8) Identities of putative fathers can only be released~~,--whether in-or-out-of-state,-to-the-department-of-health-and-welfare,-organizational--units--for--social--services--and--child--support-enforcement, licensed-private-adoption-agencies,-or-attorneys-involved-in-adoptions of-the-children-related-to-the-registrant~~ pursuant to procedures contained in chapter 3, title 9, Idaho Code.

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

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

SECTION 10. 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 title 39, 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~~ shall be subject to disclosure according to chapter 3, title 9, Idaho Code, 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 con-

cerning 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 11. That Section 16-1811, Idaho Code, be, and the same is hereby amended to read as follows:

16-1811. APPREHENSION AND RELEASE OF CHILDREN -- DETENTION. 1. A peace officer may take a child into custody, or a private citizen may detain a child until the child can be delivered forthwith into the custody of a peace officer, without order of the court:

(a) When he has reasonable cause to believe that the child has committed an act which would be a felony if committed by an adult; or

(b) When in the presence of a peace officer or private citizen the child has violated any local, state or federal law or municipal ordinance; or

(c) When there are reasonable grounds to believe the child has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the child pending transportation arrangements.

A peace officer may take a child into custody at any time upon a written order or warrant signed by the judge or other magistrate in the judge's absence when there is reasonable cause to believe the child has committed an act which would be a misdemeanor if committed by an adult where such misdemeanor was committed out of the presence of the officer. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the child is taken into custody. When an officer takes a child into custody, he shall notify the parent, guardian or custodian of the child as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the child into custody that it is contrary to the welfare of society or the child, such child shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the child to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the child as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the child.

2. When a child is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the child will be placed until the next hearing. Sta-

tus offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include but are not limited to the following:

(a) Parents of the child;

(b) Relatives of the child;

(c) Foster care;

(d) Group care;

(e) A juvenile detention facility; or

(f) Community-based diversion programs.

3. The person in charge of a detention facility shall give immediate notice to the court that the child is in his custody.

4. No child shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

5. As soon as a child is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.

6. A law enforcement agency may fingerprint and photograph a child taken into custody for an offense. If the court finds a child's detention for an offense to be unlawful, the court shall order the fingerprints and photographs of the child taken pursuant to that detention expunged, unless the court, after a hearing, orders otherwise.

7. Peace officers' records of children shall be kept separate from records of adults and shall ~~not~~ be ~~open-to-public-inspection~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 12. That Section 16-1816, Idaho Code, be, and the same is hereby amended to read as follows:

16-1816. RECORDS -- PRIVILEGED INFORMATION. The court shall maintain records of all cases brought before it. In proceedings under this act the following records shall not be withheld from public inspection, except on court order, which order must be made in writing in each case: the court docket, petitions, complaints, information, motions and other papers filed in any case; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court. These records shall be open to inspection ~~by-the-parties-and-their-attorneys,-by--an institution--or--agency--to--which--custody-of-a-child-has-been-transferred,-by-an-individual-who-has-been-appointed-guardian-with--consent of--the-court,-by-persons-having-a-legitimate-interest-in-the-proceedings;-and,-pursuant-to-rule-or-special-order-of-the-court,-by--persons conducting--pertinent--research-studies,-and-by-persons,-institutions, and-agencies-having-a-legitimate-interest-in-the--protection,--welfare or--treatment--of-the-child.-Reports-of-social-and-clinical-studies-or examinations-made-pursuant-to-this-act-shall-be-withheld--from--public inspection~~ according to chapter 3, title 9, Idaho Code, except that facts contained in such reports shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment

of the child. All information obtained and social records prepared in the discharge of official duty by an employee of the court shall ~~not be disclosed directly or indirectly to anyone other than the court or others entitled under this act to receive such information, unless and until otherwise ordered by the court~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

The victim of misconduct shall always be entitled to the name of the child involved, the name of the child's parents or guardian, and their addresses and telephone numbers, if available in the records of the court.

SECTION 13. That Section 19-1112, Idaho Code, be, and the same is hereby amended to read as follows:

19-1112. PROCEEDINGS TO BE SECRET. Every member of the grand jury must keep secret whatever he himself, or any other grand juror may have said, or in what manner he or any other grand juror may have voted on a matter before them; and such matters shall be subject to disclosure according to chapter 3, title 9, Idaho Code, but may, however, be required by any court to disclose the testimony of a witness examined before the grand jury, for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before them by any person, upon a charge against such person for perjury in giving his testimony, or upon trial therefor.

SECTION 14. That Section 20-213A, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(b) Votes of individual members in arriving at the parole decisions shall ~~not be made public~~ subject to disclosure according to chapter 3, title 9, Idaho Code, provided that the commission shall maintain a record of the votes of the individual members as required in subsection (2) of this section.

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

(3) Nothing contained in this section shall prevent any person

from obtaining the results of any parole action by the commission ~~without--reference--to--the--manner-in-which-any-member-voted~~, and the commission shall make such information public information.

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

SECTION 15. That Section 20-226, Idaho Code, be, and the same is hereby amended to read as follows:

20-226. RECORDS OF PRISONERS ~~---RULES-AND-REGULATIONS-FOR-PRIVACY OF--RECORDS~~. The state board of correction shall cause a complete record to be kept of every prisoner committed to its custody. Such record shall be organized in accordance with the most modern method of filing and indexing so that there will always be immediately available a complete history on each prisoner. ~~The-board-may-make-rules-as-to the-privacy-of-such-records-and-their-use-by--others--than--the--state board--of--correction--and-its-staff.~~ Such records shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 16. That Section 22-609, Idaho Code, be, and the same is hereby amended to read as follows:

22-609. REPORTS -- PAYMENT OF INSPECTION FEES. (1) Each person made responsible by this act for the payment of inspection fees for commercial fertilizers sold in this state shall file a report with the department on December 31st and June 30th of each year showing the number of tons of such commercial fertilizer sold during the six (6) calendar months immediately preceding the date the report is due. The department may accept sales records or other records accurately reflecting the tonnage sold in verifying such reports. The proper inspection fee shall be remitted with the report.

(2) Inspection fees which are due and owing and have not been remitted to the department within thirty (30) days following the due date shall have a late-collection fee of ten per cent (10%), but not less than five dollars ($5.00), added to the amount due when payment is finally made. The assessment of this late-collection fee shall not prevent the department from taking any other action as provided for in this act.

(3) The individual report required by subsection (1) hereof shall not be ~~open-for-public-inspection~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and it shall be a misdemeanor for any person to divulge any information given in such report which would reveal the business operation of the person making the report; Provided, that nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of a person as provided for in sections 22-611 and 22-615, Idaho Code, or in any action, suit, or proceeding instituted under the authority of this act, including any civil action for collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the director of the department.

SECTION 17. That Section 22-1215, Idaho Code, be, and the same is hereby amended to read as follows:

22-1215. ACCESS TO RECORDS. All papers, records, correspondence, communications and proceedings of the Idaho potato commission shall be ~~open-and-public-except-as-provided-otherwise-by--law--and--except--for trade--and--commercial--information--provided-to-the-commission-on-the basis-that-the-information-remain-confidential;-records-of--complaints to--and--investigations--by--the-commission;-and-records-pertaining-to pending-litigation-involving--the--commission~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 18. That Section 22-1313, Idaho Code, be, and the same is hereby amended to read as follows:

22-1313. REPORT OF SALES BY COMMISSION MERCHANTS -- REMITTANCES TO CONSIGNOR -- CERTIFICATE OF DEPARTMENT. When requested by his consignor, a commission merchant shall before the close of the next business day following the sale of any farm products consigned to him transmit or deliver to the owner or consignor of the farm products a true written report of such sale, showing the amount sold, and the selling price. Remittance in full of the amount realized from such sales, including all collections, overcharges and damages, less the agreed commission and other charges, together with a complete account of sales, shall be made to the consignor within ten (10) days after receipt of the moneys by the commission merchant, unless otherwise agreed in writing. The account of sales must contain an itemized statement to the producer which shall show the charge per package for packing and selling any agricultural products. The statement must show the time and place where the ~~eare~~ car was sold, the name of the buyer, the buyer's address, the gross sum which was paid for each shipment, and the expenses in handling same.

Every commission merchant shall retain a copy of all records covering each transaction, for a period of one (1) year from the date thereof, which copy shall at all times be available for, and open to, the ~~confidential~~ inspection of the director and the consignor or authorized representative of either. These records shall be subject to disclosure according to chapter 3, title 9, Idaho Code. In the event of any dispute or disagreement between a consignor and a commission merchant arising at the time of delivery as to condition, quality, grade, pack, quantity, or weight of any lot, shipment or consignment of farm products, the department shall furnish upon the payment of a reasonable fee therefor by the requesting party a certificate establishing the condition, quality, grade, pack, quantity, or weight of such lot, shipment or consignment. Such certificate shall be prima facie evidence in all courts of this state as to the recitals thereof. The burden of proof shall be upon the commission merchant to prove the correctness of his accounting as to any transaction which may be questioned.

SECTION 19. That Section 23-515, Idaho Code, be, and the same is hereby amended to read as follows:

23-515. INSPECTION AND EXAMINATION OF RECORDS OF PERMITS AND SALES. The records of the dispensary with respect to permits and sales thereunder shall not be ~~open--for--public--inspection;--but--shall--be available--for--examination--by--all--federal,-state,-county,-and-city prosecuting-and-peace-officers-and-agents-of-the-department-of--public welfare;--and-subject-to-production-in-any-court-upon-subpoena~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 20. That Section 25-2727, Idaho Code, be, and the same is hereby amended to read as follows:

25-2727. PUBLICATIONS. The director shall publish at least annually, in such forms as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label; provided, however, that the information concerning production and use of commercial feeds shall not disclose the operations of any person and the information shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 21. That Section 26-1111, Idaho Code, be, and the same is hereby amended to read as follows:

26-1111. RECORDS NOT PUBLIC. The department of finance shall keep proper books and records of all regulatory acts, matters and things done by it under the provisions of this act, as records of its office, but the same shall not be ~~subject-to--inspection--by--any--person--or agency--except--as--provided--in--this-act.--The-fiscal-records-of-the department-of-finance-shall-be-available-for-public-inspection~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 22. That Section 26-1112, Idaho Code, be, and the same is hereby amended to read as follows:

26-1112. PENALTY FOR DISCLOSURE OF CONFIDENTIAL INFORMATION. Neither the department of finance, its director nor its employees shall disclose to any person or agency any fact or information obtained in the course of business of the department under this act, except in the following cases:

(1) When by the terms of this act or chapter 3, title 9, Idaho Code, it is made the duty of the department to make public records and publish the same.

(2) When the department is required by law to take special action regarding the affairs of any bank.

(3) When called as a witness in any criminal proceeding or trial in a court of justice, provided that the court must review such information in chambers to determine the necessity of disclosing such information.

(4) When in the case of an insolvent bank it is necessary or advisable, in the discretion of the director, for the good of the public or of the depositors.

(5) When, in the discretion of the department, it is advisable to disclose any such information to a state or federal bank supervisory agency.

Any person violating the provisions of this section shall be guilty of a felony and conviction shall subject the offender to a forfeiture of his office or employment.

SECTION 23. That Section 26-2224, Idaho Code, be, and the same is hereby amended to read as follows:

26-2224. FORM OF APPLICATION. Every applicant for such permit shall file in the department of finance an application in form to be prescribed by the director setting forth:

(1) The name of the applicant if an individual; if the applicant is a corporation a list of its officers and directors and their addresses. If the applicant is a partnership, then a list of the members of said partnership and their addresses must be filed with the application. Every partnership in its application for a permit shall designate and appoint one (1) or more of its members, and every corporation in its application for a permit shall designate and appoint one (1) or more of its officers or employees who shall submit to the examination hereinafter required. No permit shall be issued to any partnership or corporation unless and until the persons and officers so designated by the partnership or corporation shall submit to and pass the examination required by this act.

(2) The location of the principal office or place of business of the applicant.

(3) Other names, if any, by which the applicant conducts, engages in or solicits business.

(4) The names of all persons and organizations with which the applicant is affiliated in such business, and the location of the principal office or place of business of each such affiliation.

(5) A complete description of the business to be conducted, or plan of operation contemplated, by the applicant in this state.

(6) A list of all papers and filings used by the applicant which must accompany the application and be identified as exhibits by number.

(7) A financial statement showing the applicant to have a financial net worth of not less than two thousand five hundred dollars ($2,500) for each place of business for which a permit is sought, which statement shall be ~~confidential and not disclosed to the public~~ subject to disclosure according to chapter 3, title 9, Idaho Code. The financial statement shall specify assets and liabilities, providing detailed reference to each item listed to inform the director of the nature and extent of such assets and liabilities. This financial statement shall be signed by the applicant or its proper agent. The net worth shall not include any notes, accounts, bills, and judgments held for collection by the applicant nor shall it include good will or other assets the value of which is speculative and not susceptible to prompt liquidation.

(8) Such other information concerning the applicant's business as the director may reasonably require. Such application shall be executed and verified by the applicant or applicants personally, or by

the president or secretary where the applicant is an association or corporation.

SECTION 24. That Section 28-46-106, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-106. INVESTIGATORY POWERS. (1) If the administrator has cause to believe that a person has engaged in conduct or committed an act that is subject to action by the administrator, he may make an investigation to determine whether the person has engaged in the conduct or committed the act. To the extent necessary for this purpose, he may administer oaths or affirmations, and, upon his own motion or upon request of any party, subpoena witnesses, compel their attendance, adduce evidence, and require the production of, or testimony as to, any matter relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(2) If the person's records are located outside this state, the person at his option shall make them available to the administrator at a convenient location within this state or pay the reasonable and necessary expenses for the administrator or his representative to examine them where they are located. The administrator may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

(3) Upon application by the administrator showing failure without lawful excuse to obey a subpoena or to give testimony, and upon reasonable notice to all persons affected thereby, the court shall grant an order compelling compliance.

(4) ~~The administrator may not make public t~~The name or identity of a person whose acts or conduct ~~he~~ the administrator investigates pursuant to this section or the facts disclosed in the investigation shall be subject to disclosure according to chapter 3, title 9, Idaho Code, but this subsection does not apply to disclosures in actions or enforcement proceedings pursuant to this act.

SECTION 25. That Section 28-46-304, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-304. RECORDS -- ANNUAL REPORTS. (1) Every licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the licensee is complying with the provisions of this act. The recordkeeping system of a licensee shall be sufficient if he makes the required information reasonably available. The records need not be kept in the place of business where regulated consumer loans are made, if the administrator is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than two (2) years after making the final entry relating to the loan, but in the case of an open-end account, the two (2) years is measured from the date of each entry.

(2) On or before May 31 of each year, every licensee shall file

with the administrator a composite annual report for the prior calendar year in the form prescribed by the administrator relating to all regulated consumer loans made by him. Information contained in annual reports shall be ~~confidential~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and may be published only in composite form.

SECTION 26. That Section 30-1450, Idaho Code, be, and the same is hereby amended to read as follows:

30-1450. ~~DISCLOSURE--OR~~ IMPROPER USE OF CERTAIN FILED INFORMATION PROHIBITED. It is unlawful for the director or any of his officers or employees to use for personal benefit any information which is filed with or obtained by the director and which is not made public. No provision of this act authorizes the director or any of his officers or employees to disclose any such information or the fact that any investigation is being made except among themselves or when necessary or appropriate in a proceeding or investigation under this act provided, however, that such information or fact shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 27. That Section 31-874, Idaho Code, be, and the same is hereby amended to read as follows:

31-874. ~~CONFIDENTIALITY----~~PROCEEDINGS AND RECORDS OF MEDICAL INDIGENTS. All proceedings and records related to medical indigency pursuant to the provisions of section 31-873, Idaho Code, and chapters 34 and 35, title 31, Idaho Code, shall be ~~confidential and not subject to disclosure or to the~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and shall not be subject to the provisions of sections 67-2340 through 67-2347, Idaho Code. ~~All--records--containing patient--identification--shall--be-used-only-by-county-officials-for-a determination-of-medical-indigency.-Any-person-who-wilfully--or--maliciously--discloses-the-content-of-any-record-or-the-nature-of-any-proceedings-as-described-herein-to-any-third-party,-except-pursuant-to--a written--authorization--by-the-person-who-is-the-subject-of-the-record or-proceeding-or-by-his-or-her-guardian-or-conservator,-or--as--otherwise--authorized-by-law-or-order-of-a-court-of-competent-jurisdiction, shall-be-guilty-of-a-misdemeanor.~~

SECTION 28. That Section 31-A3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-A3502. ADVISORY PANEL FOR PRELITIGATION CONSIDERATION OF INDIGENT RESOURCE ELIGIBILITY CLAIMS -- PROCEDURE. The counties in the state of Idaho and the health providers furnishing care to eligible medically indigent persons, as defined in section 31-3502, Idaho Code, are directed to cooperate in providing an advisory panel in the nature of a special civil grand jury and procedure for prelitigation consideration of claims arising out of contested resource availability of persons applying for indigent relief under the provisions of chapter 35, title 31, Idaho Code, which proceedings shall be informal and nonbinding, but nevertheless compulsory as a condition precedent to

litigation. Proceedings conducted or maintained under the authority of this chapter shall ~~at all times~~ be ~~confidential, privileged and immune from civil process in regard for the privacy of the applicants being reviewed~~ subject to disclosure according to chapter 3, title 9, Idaho Code. Formal rules of evidence shall not apply and all such proceedings shall be expeditious and informal. The panel, thus created, will render opinions where the resource eligibility of applicants, as herein described, has been contested.

SECTION 29. That Section 33-1211, Idaho Code, be, and the same is hereby amended to read as follows:

33-1211. PRIVILEGED COMMUNICATION OR PUBLICATION. Any publication or communication made by any member of the state board of education, or by any person delegated by the said state board to hold or conduct any hearing, or by any certification officer of the state board of education, in the proper discharge of any official duty imposed under sections 33-1208, 33-1209, or 33-1210, Idaho Code, shall be ~~privileged~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 30. That Section 36-2114, Idaho Code, be, and the same is hereby amended to read as follows:

36-2114. REVOCATION OR SUSPENSION OF LICENSE -- REVIEW OF DENIAL OF LICENSE -- PROCEDURE. (a) Proceedings for the revocation or suspension of a license issued hereunder may be taken upon information and recommendation of any person. All accusations must be made in writing and signed by a person familiar therewith and submitted to the board. Thereupon, the board, acting as a board, or through its secretary, shall make a preliminary investigation of all facts in connection with such charge. The board in its discretion may either decide to take no further action and the results of such investigation shall ~~remain confidential~~ be subject to disclosure according to chapter 3, title 9, Idaho Code, or the board may decide to initiate proceedings to suspend or revoke the license of the outfitter or guide against whom a complaint has been filed, in which case the board shall set a time and place for hearing as provided in section 67-5209, Idaho Code. Notice of such hearing shall be given to the licensee against whom accusations have been filed not later than sixty (60) days after the filing of such accusations. If, after full, fair and impartial hearing, the majority of the board shall find the accused has committed the violations alleged, the board may suspend the license for a period not to exceed one (1) year, or the board may order the license revoked. The board shall forthwith suspend or revoke such license in accordance with and pursuant to its order under the procedure established by sections 67-5209 through 67-5214, Idaho Code.

(b) Any applicant aggrieved by a denial of his application in whole or in part for an outfitter's or guide's license by the board shall have twenty (20) days from the day of receiving such notice of denial in which to submit a written request for a hearing before the board to review such action. Upon receipt of such request, the board shall hold a hearing as provided in sections 67-5209 through 67-5214, Idaho Code.

SECTION 31. That Section 37-334f, Idaho Code, be, and the same is hereby amended to read as follows:

37-334f. REGISTRATION REQUIREMENTS FOR FOOD PRODUCTS MADE TO RESEMBLE DAIRY PRODUCTS. (1) Before any food product resembling a dairy product is sold in the state of Idaho, the manufacturer or distributor of such product shall register that product with the Idaho department of agriculture.

(2) Application for a registered product shall be in the form prescribed by the Idaho department of agriculture and shall include the ingredients of the product and the proposed label or labels for the product. The director of the Idaho department of agriculture shall grant registration if the product meets the requirements of the act and rules and regulations adopted pursuant thereto.

(3) The original application shall be accompanied by a fee of fifty dollars ($50.00). An amended application and an accompanying fee of fifty dollars ($50.00) shall be required whenever a label change is made.

(4) If the product is sold in different sizes, utilizing the same label, only one registration is required.

(5) No food product resembling dairy products shall be sold unless it has a current registration on file with the Idaho department of agriculture.

(6) All product registration information made pursuant to this section shall be ~~kept confidential by the department and its agents and employees and is not subject to disclosure except as follows:~~

~~(a) Upon written permission by the licensee;~~

~~(b) In actions or administrative proceedings commenced under the provisions of the act;~~

~~(c) When required by subpoena or court order~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 32. That Section 37-2743, Idaho Code, be, and the same is hereby amended to read as follows:

37-2743. COOPERATIVE ARRANGEMENTS ~~AND CONFIDENTIALITY~~. (a) The director of the department of law enforcement shall cooperate with federal and other state agencies in discharging his responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he may:

(1) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(2) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(3) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state and local law enforcement purposes. ~~He shall not furnish t~~The name or identity of a patient or research subject whose identity could not be obtained under subsection (c) of this section shall be subject to disclosure according to chapter 3, title 9, Idaho Code;

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substance may be extracted;

(5) Enter into agreements with other states to coordinate and facilitate the enforcement of this act; and

(6) Require law enforcement agencies to report such information regarding traffic in controlled substances and abuse of controlled substances as he deems necessary to enforce this act. Such reports shall be on forms supplied by the director of the department of law enforcement and shall include, but not be limited to, the following information: Names, ages, sex, race, and residences of individuals involved in violations of this act; the contraband confiscated, showing the kind, location, quantity, date, and place where seized; the circumstances surrounding the arrests and a report of the disposition of charges.

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this act, including results of inspections and investigations conducted by the bureau may be relied and acted upon by the board in the exercise of its regulatory functions under this act.

(c) A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the director, nor may he be compelled in any state or local civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential and as such the name or identity of the patient or research subject is subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 33. That Section 38-712, Idaho Code, be, and the same is hereby amended to read as follows:

38-712. ~~CONFIDENTIAL~~ INFORMATION, CORRESPONDENCE AND DATA -- DUTY TO GUARD. It shall be the duty of all officers and employees of the forest, wildlife and range experiment station, appointed or assigned, to guard carefully all confidential information accumulated in the progress of their work and such information shall be subject to disclosure according to chapter 3, title 9, Idaho Code; and to consider as property of the forest, wildlife and range experiment station all correspondence, notes, illustrations and data of any kind accumulated by them in the execution of the work of the experiment station delegated to them.

SECTION 34. That Section 39-111, Idaho Code, be, and the same is hereby amended to read as follows:

39-111. REPORTS CONTAINING INFORMATION WHICH ADVERSELY AFFECT COMPETITIVE POSITIONS TO BE HELD CONFIDENTIAL. Any records or other information furnished to the board, director or a designated hearing officer concerning one or more air or water pollution sources, which records or information, as certified by the owner or operator, relate to production or sales figures or to processes or production unique to the owner or operator or which tend to affect adversely the competi-

tive position of such owner or operator, shall be only for the confidential use of the board, director and hearing officer in the administration of this act, ~~unless the board after hearing determines the claim of uniqueness or of adverse effect upon the competitive position of the owner or operator is unwarranted, or unless such owner or operator shall expressly agree to their publication or availability to the general public or unless the disclosure of such information is required for the prosecution of a violation of this act or a rule, regulation, permit or order promulgated thereunder~~ shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 35. That Section 39-257, Idaho Code, be, and the same is hereby amended to read as follows:

39-257. MARRIAGE OF NATURAL PARENTS OF PERSON BORN IN IDAHO -- JUDICIAL DETERMINATION OF PARENTAGE OF PERSON BORN IN IDAHO -- NEW BIRTH CERTIFICATES -- PROCEDURE. When a person born in Idaho has been legitimated by the subsequent marriage of said person's natural parents and immediately assumes or is assigned a name other than is shown on the recorded birth certificate, the birth certificate of such person may be replaced by a new and conventional certificate (prepared and filed by the state registrar), reflecting the name so assumed or assigned, upon proper application therefor filed by such legitimated person or the parents or one of them, but no one else. Such application shall be in writing and shall be accompanied by a copy of the relevant marriage certificate (if there was one issued and regardless of where it was issued), certified by the issuer or recorder of the same, and, in any event, an affidavit of each of the spouses, factually indicating such parentage, the time and place of the marriage, the identity of the child concerned and the child named in the original birth certificate and giving the assumed or assigned name of the child, which instruments shall be filed of record along with the old birth certificate, but separate from any replacement issued hereunder (which shall be filed separately).

When a person born in Idaho has had said person's natural parentage finally determined by a court of competent jurisdiction, in this or any other state of the United States, the state registrar may prepare and file a new and conventional birth certificate for that person, reflecting the name(s) of the parent(s) and the child's new name, if applicable, upon application made by that person or either or both of the persons adjudged to be the natural parent(s), or that person's guardian, but no one else. This application shall be accompanied by a certified copy of the court decree in question and an affidavit of one (1) person factually indicating that the decree involves the same person that the original birth certificate involved. These instruments shall be filed of record along with the old birth certificate, but separate from any replacement issued hereunder (which shall be filed separately).

It shall be the duty of each clerk of court in the state of Idaho to file with the state registrar certified copies of each final decree of paternity determination made by that court within fifteen (15) days after each of such decrees becomes final. Such certified copies of such decrees and all other instruments mentioned in this section,

except any replacement certificate, ~~are confidential---and shall not be revealed to any person other than the registrant, if--of--age,--the parents--or the duly appointed legal representative of any of them, or upon court order issued in the interest of justice~~ shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 36. That Section 39-259A, Idaho Code, be, and the same is hereby amended to read as follows:

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

(b) The state registrar of vital statistics shall establish and maintain a ~~confidential~~ list of qualified birthparents who have presented a consent regarding the release of identifying information about themselves. Any consent by a qualified birthparent shall be accompanied by the birthparent's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Any consent shall also indicate whether the qualified birthparent desires release of his identifying information if a match occurs after his death. The qualified birthparent may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed birthparent. The registrar shall maintain a ~~closed~~ record of such list and accompanying information, except as provided in accordance with the provisions of section 39-258(h), and subsections (b), (c) and (d) of section 39-259, Idaho Code. Any birthparent who, in terminating his parental rights, used an alias and this alias is listed in the original sealed birth certificate, may also file a consent with the registry. A birthparent shall not be matched with a qualified adult adoptee without the consent of the other birthparent unless:

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

(2) The other birthparent is deceased; or

(3) The other birthparent is unable to be located by the department of health and welfare or by a licensed child placement agency

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

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

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

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

(f) When a match is made and both the adopted person and the birthparent or parents, submit to the state registrar a notarized

request for a copy of the original birth record of the adopted person, the state registrar shall issue such copy, marked "NOT FOR OFFICIAL USE", at the usual cost of certificate copies.

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

(h) Except upon order of a court of record of this state and notwithstanding any other provision of law, the information acquired by the registry shall not be ~~disclosed--under--its--public--records--law, sunshine-or-freedom-of-information-legislation,-rules-or-practice~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

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

SECTION 37. That Section 39-270, Idaho Code, be, and the same is hereby amended to read as follows:

39-270. DISCLOSURE OF INFORMATION. (a) Certificates and records in the custody of the state registrar shall be open to inspection subject to the provisions of this chapter ~~and--the--regulations--of--the board,--the--provisions--of-section-9-302,-Idaho-Code,-to-the-contrary notwithstanding;~~ and it shall be unlawful for any state or local official or employee under this chapter to disclose any data contained in the records, except as authorized by this chapter and ~~the-regulations of-the-board~~ chapter 3, title 9, Idaho Code.

(b) A complete copy, or any part of a certificate, may be issued to any applicant who can show direct and tangible interest in the record for which he applies. A complete copy, or any part of a certificate, shall be issued upon request to a state, federal or local public agency for child support enforcement purposes pursuant to chapters 10, 11 and 12, title 7, Idaho Code, and sections 16-1622, 16-1815, 32-710A, and 56-203, Idaho Code, or for the purpose of investigation of fraud related to benefit payments. Subject to such provisions as the board may prescribe, data contained on records may be used by federal, state or municipal agencies for the purpose of verification of data.

(c) ~~Under-such-regulations-as-the-board-may-prescribe~~ As provided in chapter 3, title 9, Idaho Code, data contained on records may be used for research, public health or statistical purposes. No lists of registration shall be compiled for public use.

(d) The manner of keeping local records and the use thereof shall be prescribed by the board, in keeping with the provisions of this section.

(e) When one hundred (100) years have elapsed after the date of

birth, or fifty (50) years have elapsed after the date of death, stillbirth, marriage or divorce, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with ~~regulations--promulgated--by--the--board--to-provide-for-the-continued-safekeeping-of-the records~~ chapter 3, title 9, Idaho Code.

SECTION 38. That Section 39-606, Idaho Code, be, and the same is hereby amended to read as follows:

39-606. REPORTS----~~OBSERVANCE-OF-SECRECY~~. Reports to the director of the department of health and welfare of the existence of diseases included in this chapter shall be made by the name of the patient being treated for such disease. It is the intent of this chapter to observe all possible secrecy for the benefit of the sufferer so long as the said sufferer conforms to the requirements of this chapter. Confidential disease reports containing patient identification reported under this section shall only be used by public health officials who must conduct investigations and shall be subject to disclosure according to chapter 3, title 9, Idaho Code. Any person who willfully or maliciously discloses the content of any confidential public health record, as described herein to any third party, except pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator, or as otherwise authorized by law, shall be guilty of a misdemeanor.

SECTION 39. That Section 39-610, Idaho Code, be, and the same is hereby amended to read as follows:

39-610. DISCLOSURE OF AIDS REPORTING INFORMATION. (1) No ~~c~~Confidential public health record as described in section 39-606, Idaho Code, shall be ~~disclosed~~ subject to disclosure according to chapter 3, title 9, Idaho Code, shall not be discoverable, ~~or~~ and shall not be compelled to be produced in any civil or administrative hearing.

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

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

(4) Nothing in this chapter imposes liability or criminal sanction for disclosure or nondisclosure of the results of a blood test to detect HIV virus in accordance with any reporting requirements of the department of health and welfare.

SECTION 40. That Section 39-1210, Idaho Code, be, and the same is hereby amended to read as follows:

39-1210. STANDARDS FOR CHILDREN'S AGENCIES AND CHILDREN'S INSTITUTIONS -- BOARD TO IMPLEMENT AND ENFORCE. The board of health and welfare shall have the power and it shall be its duty to promulgate appropriate rules and regulations necessary to implement and enforce the following standards for licensing children's agencies and children's institutions:

1. Assure the organizational stability of the agency, which may require incorporation under the laws of Idaho.

2. Require from the policy-making authority of the agency the promulgation of a statement setting forth the agency's purposes and objectives and describing the character and extent of the services which it offers and maintains, and the geographical area to be served.

3. Require evidence of income and resources sufficient to maintain facilities and personnel necessary to achieve its purposes and objectives and to maintain its services.

4. Assure such record-keeping and reporting as may be deemed necessary to the agency's services and to the department's licensing responsibility.

5. Assure the safety and physical care of children for whom the agency assumes or accepts responsibility.

6. Establish the legal status of each child accepted for care and the legal authority and responsibility of the agency for him.

7. Require a statement of intake policy which shall set forth criteria for accepting children for care or service in relation to the agency's purposes and facilities.

8. Provide through observation and collateral inquiry for studies of homes into which children may be placed sufficient to enable a judgment determining the adequacy of the homes in relation to the needs of the children~~,~~; and

9. In the case of an institution specializing in maternity care to unmarried mothers:

(a) Assure social services on behalf of both the mother and infant~~,~~; and

(b) Assure protection of the legal rights and rights to confidential treatment of minor unmarried mothers and their children which shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 41. That Section 39-1310, Idaho Code, be, and the same is hereby amended to read as follows:

39-1310. INFORMATION ~~CONFIDENTIAL~~. Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this law, ~~shall not be disclosed publicly in such a manner as to~~ which would identify individual residents or patients of facilities or agencies as defined shall be subject to disclosure according to chapter 3, title 9, Idaho Code, except in a proceeding involving the question of licensure. Public disclosure of information obtained by the licensing agency for the purposes of this act shall be governed by ~~rules and regulations adopted by the board~~ chapter 3, title 9, Idaho Code. Nothing in this act, however, shall be construed, nor shall any rule or regulation be promulgated under this section, as to impair, restrict or alter the confidentiality and privilege

afforded the physician and patient communications, including without limitation, documentation thereof in records of facilities or agencies as defined, or communications to and with nurses or other assisting persons or entities, nor shall this act be construed to amend by implication such physician-patient communication privilege as provided elsewhere in this code, including without limitation section 9-203(4), Idaho Code, which shall remain inviolate.

SECTION 42. That Section 39-1393, Idaho Code, be, and the same is hereby amended to read as follows:

39-1393. NOTIFICATION OF DISCIPLINARY ACTION IMPOSED UPON PHYSICIAN ---~~CONFIDENTIALITY OF~~ INFORMATION. The medical staff of any licensed acute care hospital in this state shall promptly notify the board of medicine of all disciplinary actions and revocations or reductions of privileges imposed upon any physicians and surgeons licensed to practice medicine and surgery in Idaho, as respects his or her practice in or as a member of the medical staff of such hospital, including voluntary or involuntary reduction in medical staff privileges or submission to monitoring by the medical staff of the physicians' physical condition or delivery of medical services, which notice shall be given at the close of proceedings and shall generally advise of the nature of and the grounds for such action and resulting disposition. Disciplinary action based solely on compliance with hospital medical records requirements shall not be reportable. No person, hospital, corporation, firm or other entity or association shall be civilly or otherwise liable for providing notification required by this act, and such immunity shall likewise pertain to the provision of additional files, records and information in such cases as requested by the board of medicine or as such hospital may in its discretion elect to provide on its own initiative. Such materials provided the board shall be ~~confidential~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and available only to the board and its staff unless and until the board otherwise so orders or such matter becomes the subject of formal proceedings by or before the board or authorized by it.

SECTION 43. That Section 39-4411, Idaho Code, be, and the same is hereby amended to read as follows:

39-4411. RECORDS -- REPORTING -- MONITORING. (1) Pursuant to the provisions of section 39-4405, Idaho Code, the board shall adopt, and amend as necessary, such rules and regulations relating to records, reporting, and monitoring as may be needed to achieve the purposes of this chapter. These rules may include, but shall not be limited to, prescribing procedures and requirements for:

(a) The establishment, maintenance, and format of records and reports;

(b) The submittal of records and reports;

(c) The taking of samples and the performing of tests and of analyses;

(d) The use of approved monitoring methods and techniques;

(e) The installation, calibration, use, and maintenance of moni-

toring equipment; and

(f) The provision of relevant information to the department.

(2) Sixty (60) days after promulgation of the criteria and lists specified under section 39-4407, Idaho Code, and the rules and regulations required under section 39-4405, Idaho Code, and subsection (1) of this section, the generation, transportation, treatment, storage, or disposal of a hazardous waste in this state by any person without reporting such activity to the department as required by the regulations issued pursuant to subsection (1) of this section shall be unlawful.

(3) Information obtained by the department or by agents, contractors, or other representatives of the department, under any provisions of this chapter, shall be available to the public, unless the ~~director certifies such information must be kept confidential. The director may make such certification upon a showing, to the satisfaction of the director, that the~~ information, or parts thereof, if made public, would divulge methods, processes, or activities constituting trade secrets, in which case the information shall be subject to disclosure according to chapter 3, title 9, Idaho Code. Nothing in this subsection shall be construed as limiting the disclosure of information by the department to any officer, employee, or authorized representative of the state or the United States, as necessary to carry out the provisions of this chapter or the provisions of RCRA. The provisions of this section shall not limit the department's authority to release confidential information during an emergency involving hazardous waste, if the director determines that release of the information is necessary to safeguard the public interest.

(4) Each generator shall, at the discretion of the director, no later than thirty (30) days after the end of each calendar quarter submit a written report to the department including the following information:

(a) The types and quantities of hazardous wastes generated;

(b) The types and quantities of such wastes shipped for treatment and disposal by landfilling or other means of disposal;

(c) The types and quantities of such wastes remaining in storage at the end of the reporting period;

(d) Whether such wastes are destined for disposal or treatment in this state or whether such wastes are destined for disposal or treatment outside this state.

(5) The operator of each hazardous waste disposal facility or site in the state shall, no later than thirty (30) days after the end of each calendar quarter, submit a written report to the department providing information on the types and quantities of wastes received which were generated in Idaho, and information on the types and quantities of wastes received which were generated in other states.

(6) Prior to December 31 of each year the department shall submit a report to the governor and the legislature detailing the types and quantities of hazardous wastes generated in this state, the types and quantities of such wastes shipped for treatment and disposal by landfilling or other means of disposal, the types and quantities of such wastes remaining in storage at the end of the most recent reporting period and the types and quantities of hazardous waste generated outside this state and shipped into this state for storage or dis-

posal.

SECTION 44. That Section 39-4412, Idaho Code, be, and the same is hereby amended to read as follows:

39-4412. INSPECTIONS -- RIGHT OF ENTRY. (1) All inspections and searches conducted under the authority of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and article I, section 17, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless administrative searches of private property in the absence of either consent from the property owner or occupier or exigent circumstances such as a public health or environmental emergency.

(2) For the purposes of developing or enforcing any provision of this chapter or any rule or regulation authorized by this chapter, any duly authorized state employee or representative may, upon presentation of appropriate credentials, at any reasonable time:

(a) Enter upon any private or public property where hazardous wastes are or have been generated, transported, treated, stored, or disposed of to inspect and to secure samples of such wastes, their containers, and their labels;

(b) Enter into any aircraft, vehicle, vessel, rail car, trailer, van, or other means of conveyance where hazardous wastes are or have been contained to inspect and to secure samples of such wastes, their containers, and their labels;

(c) Enter any private or public property, or means of conveyance, where records, reports, information or test results relating to the generation, transportation, treatment, storage, or disposal of hazardous wastes exist to inspect and copy such documents.

(3) Upon request by an authorized agent of a property owner or facility operator, the department shall provide the property owner or facility operator with a receipt for samples taken and a copy of sample analysis. Duplicate samples shall similarly be provided upon request if the requesting party agrees to have the samples analyzed and to share the results of the analysis with the department.

(4) The right of entry of a duly authorized state employee or representative shall not be subject to the waiver of any potential tort liability of the facility owner or operator. The right of entry of a duly authorized state or health district employee shall not be subject to any confidentiality requirements other than those specified in section 39-4411(3), Idaho Code, and chapter 3, title 9, Idaho Code. The right of entry of a private contractor working in a representative capacity for the department may, however, be made subject to additional confidentiality requirements so long as those requirements do not interfere unreasonably with the development of information by the department or the transmission of information from the contractor to the department or the United States environmental protection agency.

(5) Any magistrate or district court judge is authorized to issue an administrative search warrant upon a request from the director describing reasonable cause for issuance of the warrant or the existence of a reasonable program of inspection.

SECTION 45. That Section 39-5211, Idaho Code, be, and the same is hereby amended to read as follows:

39-5211. QUALIFICATIONS OF APPLICANTS. To qualify for grants under the provisions of this chapter, an applicant must:

(1) Propose to operate and provide an eligible project;

(2) Be a private, nonprofit corporation of the state of Idaho, or a public entity of the state of Idaho;

(3) Provide matching moneys equal to twenty-five percent (25%) of the amount of the grant. The applicant may contribute to or provide the required local matching funds. The value of in-kind contributions and volunteer labor from the community may be computed and included as part of the local matching requirement;

(4) Require persons employed by or volunteering services to the project to maintain the confidentiality of any information that would identify individuals served by the project; such information identifying individuals served by the project shall be subject to disclosure according to chapter 3, title 9, Idaho Code;

(5) Require victims to reimburse the project monetarily or through volunteer efforts for services provided as they are able to do so. Minimum reimbursement may be established by the council, with a sliding scale of reimbursement based on the victim's ability to pay;

(6) Provide a policy of nondiscrimination in its admissions and provision of services on the basis of race, religion, gender, color, age, marital status, national origin or ancestry.

SECTION 46. That Section 39-5203, Idaho Code, as enacted by Chapter 286, Laws of 1982, be, and the same is hereby amended to read as follows:

39-5~~2~~303. REPORTING CASES OF ABUSE, EXPLOITATION OR NEGLECT OF THE ELDERLY. (1) Any person having reasonable cause to believe that an elderly person has been abused, abandoned, neglected or exploited, or who observes the elderly person being subjected to conditions or circumstances which would reasonably result in abuse, neglect, exploitation or abandonment shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the department.

(2) Any person who makes any report pursuant to this chapter, or who testifies in any administrative or judicial proceeding arising from such report, or who is authorized to provide supportive or emergency services pursuant to the provisions of this chapter, shall be immune from any civil or criminal liability on account of such report, testimony or provision of services, except that such immunity shall not extend to perjury, reports made in bad faith or with malicious purpose nor, in the case of provision of services, in the presence of gross negligence under the existing circumstances.

(3) Upon receiving a report that an elderly person allegedly is being, or has been, abused, neglected, exploited or abandoned, the director of the department shall cause a prompt and thorough evaluation of the report to be made. If the director determines that the report is unsubstantiated and that no other law has been violated, he shall order all records relating to the report expunged and such

report shall be subject to disclosure according to chapter 3, title 9, Idaho Code. If the director determines the report to be valid, he shall order that an appropriate plan of emergency and supportive services be drawn, in a manner consistent with the provisions of this chapter and any other applicable provision of law, to assist the elderly person in the most expedient way possible.

(4) If the department engages in a plan of supportive services for the elderly person, said plan shall provide for services that are least restrictive of personal freedom and encourage client self-determination and continuity of care.

(5) Neither the original report nor any subsequent evaluation shall be deemed a public record. The name of the person making the original report or any person mentioned in such report shall not be disclosed unless the person making the original report specifically requests such disclosure or unless the disclosure is made pursuant to a court order or hearing.

SECTION 47. That Section 39-5205, Idaho Code, as enacted by Chapter 286, Laws of 1982, be, and the same is hereby amended to read as follows:

39-5~~2~~305. ACCESS TO RECORDS. Any person, department, agency or commission authorized to carry out the duties enumerated in this chapter shall have access to all relevant records, ~~except--that--records which-are-confidential-to-an-elderly-person~~ which shall be subject to disclosure according to chapter 3, title 9, Idaho Code, and shall only be divulged with the written consent of that person or his legal representative. No medical records of any elderly person may be divulged for any purpose without the express written consent of such person or his or her court-appointed guardian or conservator, or pursuant to other proper judicial process.

SECTION 48. That Section 39-5403, Idaho Code, be, and the same is hereby amended to read as follows:

39-5403. CONSENT -- FILING AND NOTICE REQUIREMENTS. (1) Artificial insemination shall not be performed upon a woman without her prior written request and consent and the prior written request and consent of her husband.

(2) Whenever a child is born who may have been conceived by artificial insemination, a copy of the request and consent required under subsection (1) of this section shall be filed by the physician who performs the artificial insemination with the state registrar of vital statistics. The state board of health and welfare shall have the authority to promulgate rules and regulations and to prescribe methods and forms of reporting, ~~storage,-retrieval,-confidentiality~~ and fees to carry out the provisions of this act. Storage, retrieval and confidentiality of records shall be governed by chapter 3, title 9, Idaho Code.

(3) The information filed under subsection (2) of this section shall be sealed by the state registrar and may be opened only upon an order of a court of competent jurisdiction, except that ~~under-such regulations-as-the-state-board-of-health--and--welfare--may--prescribe~~

pursuant to chapter 3, title 9, Idaho Code, data contained in such records may be used for research and statistical purposes.

(4) If the physician who performs the artificial insemination does not deliver the child conceived as a result of the artificial insemination, it is the duty of the mother and her husband to give that physician notice of the child's birth. The physician who performs the artificial insemination shall not be liable for noncompliance with subsection (2) of this section if the noncompliance is a result of the failure of the mother and her husband to notify the physician of the birth.

SECTION 49. That Section 39-5818, Idaho Code, be, and the same is hereby amended to read as follows:

39-5818. INFORMATION OBTAINED -- PUBLIC RECORD -- ~~CONFIDENTIALITY~~. (1) Except as provided in subsection (2) of this section, information obtained by the department under the provisions of this chapter shall be deemed to be a public record.

(2) A person regulated under the provisions of this chapter may designate a record, site license application, other information, or a portion of a record, site license application, or other information furnished to or obtained by the department or its agents, as being only for the ~~confidential~~ use of the department and the panel. ~~The department--shall--notify-the-regulated-person-of-a-request-for-public records,-the-scope-of-which-includes-information-designated-as--confidential.--The--person--regulated--under-the-provisions-of-this-chapter shall-have-thirty-(30)-days-after-the-receipt-of-the-notice-to--demonstrate-to-the-director-that-the-information-designated-as-confidential should--not--be-disclosed-because-the-information-is-a-trade-secret-or secret-process,-or-is-production,-commercial,-or-financial-information the-disclosure-of-which-would-jeopardize-the-competitive--position--of the--person-from-whom-the-information-was-obtained,-and-make-available information-not-otherwise-publicly-available.-The-director-shall-grant the-request-for-the-information-unless-the-person-regulated-under--the provisions--of--this--chapter-has-made-a-satisfactory-demonstration-to the-director-that-the-information-should-not-be-disclosed.-If-there-is a-dispute-between-the-person-requesting-the-information,-the-board--of health--and--welfare--shall--make--the--decision--to-grant-or-deny-the request.-When-the-board-of-health-and--welfare--makes--a--decision--to grant--a-request,-the-board's-rationale-for-granting-the-request-shall be-made-in-writing,-the-decision-to-grant-the-request-shall-be-in-compliance-with-existing-law-or-rules-and-regulations-promulgated--pursuant-thereto,-and-the-information-shall-not-be-released-until-three-(3) days--have--elapsed-after-the-board's-written-opinion-has-been-issued.~~ The material shall then be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 50. That Section 39-6208, Idaho Code, be, and the same is hereby amended to read as follows:

39-6208. RECORDS -- REPORTING -- MONITORING. (1) The board shall adopt, and amend as necessary, such rules and regulations relating to records, reporting, and monitoring as may be needed to achieve the

purposes of this chapter. These rules may include, but shall not be limited to, prescribing procedures and requirements for:

(a) The establishment, maintenance, and format of records and reports;

(b) The submittal of records and reports;

(c) The taking of samples and the performing of tests and of analyses;

(d) The use of approved monitoring methods and techniques;

(e) The installation, calibration, use, and maintenance of monitoring equipment; and

(f) The provision of relevant information to the department.

(2) Information obtained by the department or by agents, contractors, or other representatives of the department, under any provisions of this chapter, shall be available to the public, unless the director certifies such information must be kept confidential. The director may make such certification upon a showing, to the satisfaction of the director, that the information, or parts thereof, if made public, would divulge methods, processes, or activities constituting trade secrets. ~~Nothing in this subsection shall be construed as limiting the disclosure of information by the department to any officer, employee, or authorized representative of the state or the United States, as necessary to carry out the provisions of this chapter or the provisions of TSCA. The provisions of this section shall not limit the department's authority to release confidential information during any emergency involving PCB waste, if the director determines that release of the information is necessary to safeguard the public interest.~~ In this instance the information shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 51. That Section 40-2004, Idaho Code, be, and the same is hereby amended to read as follows:

40-2004. RELOCATION EXPENSE -- COMPENSATION OPTIONS -- LIMIT OF COMPENSATION FOR BUSINESS OR FARM RELOCATIONS. (1) As a part of the cost of any public program or project, any agency using any funds for public purposes may compensate a displaced person for his actual and reasonable expense in moving himself, family, business or farm operation, including moving personal property, and for any actual direct losses of tangible personal property as the result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the agency, and for actual reasonable expenses in searching for a replacement business or farm. However, the compensation authorized by this section for actual and reasonable moving expenses, actual direct losses of tangible personal property, and expenses in searching for a replacement farm or business shall be limited to relocating a displaced person, family, business or farm operation within a reasonable distance from the location previously occupied and from which the displaced person has been required to move.

(2) Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section may receive a

moving expense allowance, determined according to regulations and schedules established by the agency, not to exceed three hundred dollars ($300), and in addition a dislocation allowance of two hundred dollars ($200).

(3) Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that the payment shall not be less than two thousand five hundred dollars ($2,500) nor more than ten thousand dollars ($10,000). In the case of a business, no payment shall be made under this subsection unless the agency is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one (1) other establishment not being acquired which is engaged in the same or similar business. In addition to the other requirements of this chapter, to be eligible for the payment authorized by this subsection the business or farm operation must make its financial statements, accounting records, and state income tax returns available to the agency for audit for confidential use in determining the payment or payments authorized by this subsection. Such financial statements, accounting records and state income tax returns shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(4) If any agency determines that property, contiguous with property acquired, owned or occupied by an individual, family, business or farm operation, has been damaged as the result of a public program or project, it may offer the individual, family, business or farm operation the same compensation as it might offer to a displaced person under subsections (1), (2) or (3) of this section and under sections 40-2005 and 40-2007, Idaho Code.

SECTION 52. That Section 41-227, Idaho Code, be, and the same is hereby amended to read as follows:

41-227. EXAMINATION REPORT. (1) The director or his examiner shall make a full and true written report of every examination made by him under this chapter, and shall verify the report by his oath.

(2) The report shall comprise only facts appearing upon the books, papers, records or documents of the person being examined, or ascertained from testimony of individuals under oath concerning the affairs of such person, together with such conclusions and recommendations as may reasonably be warranted from such facts.

(3) The director shall furnish a copy of the report to the person examined not less than twenty (20) days prior to filing the report in his office, and may, in his discretion, also furnish a copy thereof to each member of an insurer's board of directors. If such person so requests in writing within such twenty (20) day period, the director shall grant a hearing as to the report and shall not file the report until after the hearing and after such modifications have been made therein as the director deems proper. Prior to the hearing and prior to the modifications the report shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(4) The report when so verified and filed shall be admissible in evidence in any action or proceeding brought by the director against the person examined, or against its officers, employees or agents, and shall be presumptive evidence of the material facts stated therein. The director or his examiners may at any time testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished or filed in the department.

(5) ~~The director may withhold from public inspection any examination or investigation report for so long as he deems such withholding to be necessary for the protection of the person examined or investigated against unwarranted injury or to be in the public interest.~~ After the examination report has been filed, as hereinabove provided, the director may publish the report or the results of the examination as contained therein in one or more newspapers in this state.

SECTION 53. That Section 41-272, Idaho Code, be, and the same is hereby amended to read as follows:

41-272. EVIDENCE. (1) The state fire marshal, authorized agency and insurance company described in section 41-270, Idaho Code, who receives any information furnished pursuant to sections 41-250, 41-258 or 41-271, Idaho Code, shall hold the information ~~in confidence~~ and ~~not release the information, except to another authorized agency or insurance company at interest, until such time as its release is required pursuant to a criminal or civil proceeding~~ the information shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(2) Any authorized agency referred to in section 41-270, Idaho Code, or their personnel, may be required to testify in any litigation in which the insurance company at interest is named as a party, if such testimony is not otherwise privileged by law.

SECTION 54. That Section 41-902, Idaho Code, be, and the same is hereby amended to read as follows:

41-902. WRITTEN AGREEMENT -- MAINTENANCE OF RECORDS. (1) No person may act as an administrator without a written agreement between such person as administrator and an authorized insurer. Such written agreement shall be retained as part of the official records of both the insurer and the administrator for the duration of the agreement and for six (6) years thereafter.

(2) A copy of the agreement shall be filed with the director ~~for his confidential records~~ and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(3) The written agreement shall contain provisions which include the requirements of sections 41-904 through 41-911, Idaho Code, except as those requirements do not apply to the functions performed by the administrator.

(4) If a policy is issued to a trustee or trustees, a copy of the trust agreement and any amendments to such agreement shall be furnished to the insurer by the administrator and shall be retained as

part of the official records of both the insurer and the administrator for the duration of the policy and for six (6) years thereafter.

SECTION 55. That Section 41-904, Idaho Code, be, and the same is hereby amended to read as follows:

41-904. MAINTENANCE OF RECORDS -- ACCESS ~~---CONFIDENTIALITY~~. (1) Every administrator shall maintain at such administrator's principal administrative office for the duration of the written agreement required by section 41-902, Idaho Code, and for six (6) years thereafter, adequate books and records of all transactions among such administrator, insurers and insured persons. Such books and records shall be maintained in accordance with prudent standards of insurance record keeping.

(2) The director shall have access to books and records maintained by the administrator for the purpose of examination, audit and inspection. Any trade secrets contained in such books and records, including the identity and addresses of policyholders and certificate holders, shall be ~~confidential;--except--the--director--may--use--such information--in--any--proceedings-instituted-against-the-administrator~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

(3) The insurer shall retain the right of continuing access to books and records maintained by the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and administrator on the proprietary rights of the parties in such books and records.

SECTION 56. That Section 41-1049, Idaho Code, be, and the same is hereby amended to read as follows:

41-1049. TERMINATION OF APPOINTMENT. (1) Subject to the agent's contract rights, if any, an insurer may terminate an agent appointment at any time. The insurer shall promptly give written notice of such termination and the date thereof to the director, and to the agent where reasonably possible.

(2) As part of the notice of termination given the director, the insurer shall file with the director a statement of the facts relative to such termination or noncontinuance and the cause thereof. Any information, document, record or statement so disclosed or furnished to the director shall be ~~deemed-as-absolutely-privileged-communication and--shall--not--be-admissible-as-evidence-in-any-court-action-or-proceeding~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 57. That Section 41-1440, Idaho Code, be, and the same is hereby amended to read as follows:

41-1440. HEARINGS. (1) Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by an insurer or rating organization may himself or by his authorized representative make written request of the insurer or rating organization to review the manner in which the rate, plan, system, or rule has

been applied with respect to insurance afforded him. If the request is not granted within thirty (30) days after it is made, the requestor may treat it as rejected. Any person aggrieved by the refusal of an insurer or rating organization to grant the review requested, or by the failure or refusal to grant all or part of the relief requested, may file a written complaint and request for hearing with the director, specifying the grounds relied upon. If the director has already disposed of the issue as raised by a similar complaint, he may deny the hearing. If the director believes that probable cause for the complaint does not exist or that the complaint is not made in good faith, he shall deny the hearing. Otherwise, and if he also finds that the complaint charges a violation of this chapter and that the complainant would be aggrieved if the violation is proven, he shall proceed as provided in subsection (2), of this section.

(2) If after examination of an insurer, rating organization, advisory organization, or group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, or upon the basis of other information, or upon sufficient complaint as provided in subsection (1), of this section, the director has good cause to believe that such insurer, organization, group or association, or any rate, rating plan or rating system made or used by any such insurer or rating organization, does not comply with the requirements and standards of this chapter applicable to it, he shall, unless he has good cause to believe such noncompliance is wilful, give notice in writing to such insurer, organization, group or association stating therein in what manner and to what extent noncompliance is alleged to exist and specifying therein a reasonable time, not less than ten (10) days thereafter, in which the noncompliance may be corrected. Notices under this section shall be ~~confidential as between the director and the parties~~ subject to disclosure according to chapter 3, title 9, Idaho Code, unless a hearing is held under subsection (3), of this section.

(3) If the director has good cause to believe that such noncompliance is wilful, or if within the period prescribed by the director in the notice required by subsection (2), of this section, the insurer, organization, group or association does not make such changes as may be necessary to correct the noncompliance specified by the director or establish to the satisfaction of the director that such specified noncompliance does not exist, then the director may hold a public hearing in connection therewith; and within a reasonable period of time, which shall be not less than ten (10) days before the date of such hearing, he shall mail written notice specifying the matters to be considered at such hearing to such insurer, organization, group or association. If no notice has been given as provided in subsection (2), of this section, the notice shall state in what manner and to what extent noncompliance is alleged to exist. The hearing shall not consider any subject not specified in the notice required by subsection (2), of this section.

(4) If after a hearing pursuant to subsection (3) the director finds:

(a) That any rate, rating plan or rating system violates the applicable provisions of this chapter, he may issue an order to the insurer, or rating organization, group or association which

has been the subject of the hearing specifying in what respects such violation exists and requiring compliance within a reasonable time thereafter.

(b) That an insurer, rating organization, advisory organization, or a group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, is in violation of the applicable provisions of this chapter other than the provisions dealing with rates, rating plans or rating systems, he may issue an order to such insurer, organization, group or association which has been the subject of the hearing specifying in what respects such violation exists and requiring compliance within a reasonable time thereafter.

(c) That any such violation by an insurer or rating organization which has been the subject of hearing was wilful, he may suspend or revoke, in whole or in part, the certificate of authority of such insurer or the license of such rating organization with respect to the class of insurance which has been a subject of the hearing.

(d) That any rating organization has wilfully engaged in any fraudulent or dishonest act or practice, he may suspend or revoke, in whole or in part, the license of such organization in addition to any other penalty provided in this chapter.

(5) Except as otherwise provided in this chapter, all proceedings in connection with the denial, suspension or revocation of a license or certificate of authority shall be conducted in accordance with the provisions of chapters 2 and 3 of this ~~code~~ title and the director shall have all the powers granted to him therein.

SECTION 58. That Section 41-3311, Idaho Code, be, and the same is hereby amended to read as follows:

41-3311. ~~CONFIDENTIALITY OF~~ HEARINGS. In all proceedings and judicial reviews thereof under sections 41-3309 and 41-3310, Idaho Code, all records of the insurer, other documents, and all insurance department files and court records and papers, so far as they pertain to or are a part of the record of the proceedings, shall be ~~and remain confidential except as is necessary to obtain compliance therewith, unless and until the district court, after hearing arguments from the parties in chambers, shall order otherwise, or unless the insurer requests that the matter be made public. Until such court order, all papers filed with the clerk of the district court shall be held by him in a confidential file~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 59. That Section 41-3802, Idaho Code, be, and the same is hereby amended to read as follows:

41-3802. ACQUISITION OF CONTROL OF A DOMESTIC INSURER. (1) No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly

(or by conversion or by exercise of any right to acquire) be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, such person has filed with the director and has sent to such insurer, a statement containing the information required by this section and such offer, request, invitation, agreement or acquisition has been approved by the director in the manner hereinafter prescribed.

(2) The statement to be filed with the director hereunder shall be made under oath or affirmation and shall contain the following information:

(a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (1) of this section is to be effected (hereinafter called acquiring party), and

1. If such person is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years;

2. If such person is not an individual, a report of the nature of its business operations during the past five (5) years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by paragraph 1 of this subsection.

3. For individuals and directors and executive officers of corporations, the information from time to time specified by the director on the "biographical affidavit" of the department of insurance.

(b) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration, provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall ~~remain confidential, if the person filing such statement so requests~~ be subject to disclosure according to chapter 3, title 9, Idaho Code.

(c) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five (5) fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than ninety (90) days prior to the filing of the statement.

(d) Any plans or proposals which each acquiring party may have to

liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(e) The number of shares of any security referred to in subsection (1) of this section which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (1) of this section, and a statement as to the method by which the fairness of the proposal was arrived at.

(f) The amount of each class of any security referred to in subsection (1) of this section which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(g) A full description of any contracts, arrangements or understandings with respect to any security referred to in subsection (1) of this section in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

(h) A description of the purchase of any security referred to in subsection (1) of this section during the twelve (12) calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor.

(i) A description of any recommendations to purchase any security referred to in subsection (1) of this section made during the twelve (12) calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of such acquiring party.

(j) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (1) of this section, and, if distributed, of additional soliciting material relating thereto.

(k) The term of any agreement, contract or understanding made with any broker-dealer as to solicitation of securities referred to in subsection (1) of this section for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

(l) Such additional information as the director may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders and security holders of the insurer or in the public interest.

(3) If any offer, request, invitation, agreement or acquisition referred to in subsection (1) of this section is proposed to be made by means of a registration statement under the securities act of 1933 or in circumstances requiring the disclosure of similar information under the securities exchange act of 1934, or under a state law requiring similar registration or disclosure, the person required to

file the statement referred to in subsection (1) of this section may utilize such documents in furnishing the information called for by that statement.

SECTION 60. That Section 41-3811, Idaho Code, be, and the same is hereby amended to read as follows:

41-3811. ~~CONFIDENTIAL~~ COMMUNICATIONS. Every report made pursuant to this chapter, including every report of examination or investigation, and any duly authenticated copy thereof in the possession of any person subject to the provisions of this chapter, shall be ~~a-confidential--communication,-shall-not-be-subject-to-subpoena-and-shall-not-be made-public-by-the-director-without-the-prior-written-consent--of--the insurer,--unless-the-director-determines-that-the-interests-of-policyholders,-stockholders-or-the-public-will-be-served-by-the--publication thereof,--in-which-event-he-may-make-a-public-record-or-publish-all-or any-part-thereof-in-such-manner-as-he-may-deem-appropriate~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 61. That Section 41-4312, Idaho Code, be, and the same is hereby amended to read as follows:

41-4312. PREVENTION OF INSOLVENCIES. To aid in the detection and prevention of insurer insolvencies or impairments:

(1) It shall be the duty of the director:

(a) To notify the insurance commissioners of all the other jurisdictions in which the company is licensed as an insurer when he takes any of the following actions against a member insurer:

(i) Revocation of license;

(ii) Suspension of license;

(iii) Makes any formal order that such company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders.

Such notice shall be mailed to all insurance commissioners within thirty (30) days following the action taken or the date on which such action occurs.

(b) To report to the board of directors when he has taken any of the actions set forth in (a) of this paragraph or has received a report from any other commissioner indicating that any such action has been taken in another state. Such report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

(c) To report to the board of directors when he has reasonable cause to believe from any examination, whether completed or in process, of any member company that such company may be an impaired or insolvent insurer.

(d) To furnish to the board of directors the NAIC Early Warning Tests developed by the National Association of Insurance Commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. Such report and the information contained therein shall be

~~kept-confidential-by-the-board-of-directors~~ subject to disclosure according to chapter 3, title 9, Idaho Code, until such time as made public by the director or other lawful authority.

(2) The director may seek the advice and recommendations of the board of directors concerning any matter affecting his duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this state.

(3) The board of directors may, upon majority vote, make reports and recommendations to the director upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall not be ~~considered-public-documents~~ subject to disclosure according to chapter 3, title 9, Idaho Code;

(4) It shall be the duty of the board of directors, upon majority vote, to notify the director of any information indicating any member insurer may be an impaired or insolvent insurer.

(5) The board of directors may, upon majority vote, request that the director order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within thirty (30) days of the receipt of such request, the director shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the director designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the director from complying with subsection (1) of this section. The director shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the director ~~but--it--shall-not-be-open-to-public-inspection-prior-to-the release-of-the-examination-report-to-the-public~~ and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(6) The board of directors may, upon majority vote, make recommendations to the director for the detection and prevention of insurer insolvencies.

(7) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the director containing such information as it may have in its possession bearing on the history and causes of such insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of a particular insurer, and may adopt by reference any report prepared by such other associations.

SECTION 62. That Section 42-4010, Idaho Code, be, and the same is hereby amended to read as follows:

42-4010. POWERS AND DUTIES -- PENALTIES. (a) The water resource board may adopt, amend, or rescind reasonable rules, regulations, and

construction standards necessary to the administration of this chapter in accordance with chapter 52, title 67, Idaho Code.

(b) The board may require that owners or operators of wells or injection wells keep or cause to be kept well logs, core records, and drilling histories of such wells or injection wells. It may require that copies of such logs, records, and/or histories be filed with the director within a reasonable time after well completion. It may further require such other geologic, geochemical, or engineering plans, reports, or records as necessary for the administration of this act. Any reports, logs, records, or histories filed with the director shall not be available for public inspection subject to disclosure according to chapter 3, title 9, Idaho Code, and shall be kept as confidential by the director for a period of one (1) year from well completion, provided however, that the director may use any such reports, logs, records, or histories in any action in any court to enforce the provisions of this act or any order or regulation adopted hereunder.

(c) The director may enter onto private land at any time to inspect any well or geothermal resource development project to determine if such well or project is being constructed, operated, or maintained according to any applicable permits or to determine if the construction, operation, or maintenance of such well or project may involve a threat to life or property or an unreasonable risk to subsurface, surface, or atmospheric resources.

(d) If the director finds that any person is constructing, operating or maintaining any well or injection well not in accordance with any applicable permit or in a fashion so as to involve an unreasonable risk of, or so as to cause, damage to life or property or subsurface, surface, or atmospheric resources, the director may issue an order to such person to correct or to stop such practices as are found to be improper and to mitigate any injury of any sort caused by such practices.

(e) The director may enforce any provision of this chapter or any order or regulation issued or adopted pursuant hereto by an appropriate action in the district court. The director may bring an action in the district court to have enjoined any threatened noncompliance with any provision of this chapter, regulations, or orders of the director, or any threatened harm to life, property, or surface, subsurface, or atmospheric resources which would be caused by such noncompliance. It shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in this chapter, and to prosecute actions or proceedings for the enforcement of any criminal provisions of this chapter. The attorney general may delegate the authority and duty under this section to prosecute criminal actions to the prosecuting attorney of the county in which such a criminal action may arise.

(f) Any willful violation of or failure to comply with any provision of this chapter, or regulation adopted or order issued pursuant to the chapter, shall be a misdemeanor punishable by a fine of up to ten thousand dollars ($10,000) for each offense or a sentence of up to six (6) months in a county jail or both; each day of a continuing violation shall be a separate offense under this subdivision. A responsible or principal executive officer of any corporate person may be liable under this subdivision if such corporate person is not in

compliance with any provision of this chapter or with any valid order or regulation adopted pursuant hereto.

(g) The director shall undertake such studies, investigations, or research programs as necessary for the proper administration of this chapter and in order to develop experience in and understanding of the entire field of geothermal resource exploration and development in both its technical and regulatory aspects. The director and board shall cooperate with other Idaho state agencies, the state institutions of higher learning, agencies of other states, and agencies of the federal government in the preparation of such investigations, studies, or research projects. The director and board may cooperate with the scientists at the Idaho national engineering laboratory in their research, development, engineering and demonstration of geothermal projects.

(h) The director may enter into cooperative agreements and memoranda of understanding with agencies of other states for the purpose of the administration of geothermal areas which are partially in Idaho and partially in one or more other states.

SECTION 63. That Section 47-319, Idaho Code, be, and the same is hereby amended to read as follows:

47-319. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (a) This act shall apply to all lands located in the state, however owned, including any lands owned or administered by any government or any agency or political subdivision thereof, over which the state under its police power, has jurisdiction.

(b) The commission is authorized and it is its duty to prevent waste of oil and gas and to protect correlative rights, and otherwise to administer and enforce this act. It has jurisdiction over all persons and property necessary for that purpose. In the event of a conflict, the duty to prevent waste is paramount.

(c) The commission is authorized to make such investigations as it deems proper to determine whether action by the commission in discharging its duties is necessary.

(d) Without limiting its general authority, the commission shall have the specific authority:

To require:

(1) identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;

(2) the taking and preservation of samples and the making and filing with the commission of true and correct copies of well logs and directional surveys both in form and content as prescribed by the commission; provided, however, that logs of exploratory or wildcat wells marked confidential shall be ~~kept confidential --- for twelve (12) months after date prescribed for the -- filing -- thereof, if -- the -- operator -- so -- requests~~ subject to disclosure according to chapter 3, title 9, Idaho Code. And provided further, that after four (4) months from the effective date of this act, the commission may require the owner of a well theretofore drilled for oil or gas to file within four (4) months of such order a true and correct copy of the log or logs of such well;

(3) the drilling, casing, operation and plugging of wells in such manner as to prevent (a) the escape of oil or gas out of one (1) pool into another, (b) the detrimental intrusion of water into an oil or gas pool that is avoidable by efficient operations, (c) the pollution of fresh water supplies by oil, gas, or salt water, (d) blow-outs, cavings, seepages, and fires, and (e) waste as hereinabove defined;
(4) the taking of tests of oil or gas wells;
(5) the furnishing of a reasonable performance bond with good and sufficient surety, conditioned upon the performance of the duty to comply with the requirements of this law and the regulations of the commission with respect to the drilling, maintaining, operating and plugging of each well drilled for oil or gas;
(6) that the production from wells be separated into gaseous and liquid hydrocarbons, and that each be measured by means and upon standards that may be prescribed by the commission;
(7) that wells not be operated with inefficient gas-oil or water-oil ratios, and to fix these ratios, and to limit production from wells with inefficient gas-oil or water-oil ratios;
(8) metering or other measuring of oil, gas, or product;
(9) that every person who produces oil or gas in the state keep and maintain for a period of five (5) years complete and accurate records of the quantities thereof, which records, or certified copies thereof, shall be available for examination by the commission or its agents at all reasonable times within said period, and that every such person file with the commission such reasonable reports as it may prescribe with respect to such oil or gas production;
(10) the filing of reports of plats with the commission that it may prescribe.
To regulate:
(1) the drilling and plugging of wells and all other operations for the production of oil or gas;
(2) the shooting and treatment of ~~walls~~ wells;
(3) the spacing or locating of wells;
(4) operations to increase ultimate recovery, such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into a producing formation; and
(5) the disposal of salt water and oil-field wastes. To classify and reclassify pools as oil, gas, or condensate pools, or wells as oil, gas, or condensate wells. To make and enforce rules, regulations, and orders reasonably necessary to prevent waste, protect correlative rights, to govern the practice and procedure before the commission, and otherwise to administer this act.

SECTION 64. That Section 47-1314, Idaho Code, be, and the same is hereby amended to read as follows:

47-1314. DISTURBED LANDS TO BE RESTORED -- NOTICE AND RESTORATION OF PLACER OR DREDGE EXPLORATION OPERATIONS. (a) Any person conducting a placer or dredge mining operation shall, within one (1) year of permanent cessation of operations as to the whole or any part of the permit area, commence restoration of disturbed lands in the permit area

or in any portion thereof as to which operations are permanently ceased. In accordance with a permit approved for the operation under section 47-1317, Idaho Code, surfaces shall be returned to a contour reasonably comparable to that contour existing prior to disturbance, topsoil shall be replaced where deemed appropriate by the board, and vegetation shall be planted reasonably comparable to that vegetation existing prior to disturbance. Any disturbed natural watercourse shall be restored to a configuration and pool structure conducive to good fish and wildlife habitat and recreational use.

(b) Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment shall, within seven (7) days of commencing exploration, notify the director by certified mail of the name and address of the person, and the location, anticipated size, and method of exploration. ~~The director shall treat s~~Such notice ~~as confidential~~ shall be subject to disclosure according to chapter 3, title 9, Idaho Code. Any placer or dredge exploration operation which causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, shall be considered a placer or dredge mining operation. Lands disturbed by any placer or dredge exploration operation which causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, shall be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation.

SECTION 65. That Section 47-1506, Idaho Code, be, and the same is hereby amended to read as follows:

47-1506. OPERATOR -- DUTIES PRIOR TO OPERATION -- SUBMISSION OF MAPS AND PLANS. (a) Any operator desiring to conduct surface mining operations within the state of Idaho for the purpose of immediate or ultimate sale of the minerals in either the natural or processed state, shall submit to the board prior to commencing such surface mining operations the following:

(1) A map of the mine panel on which said operator desires to conduct surface mining operations, which sets forth with respect to said panel the following:

(i) The location of existing roads and anticipated access and main haulage roads planned to be constructed in conducting the surface mining operations.

(ii) The approximate boundaries of the lands to be utilized in the process of surface mining operations.

(iii) The approximate location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.

(iv) The name and address of the person to whom notices, orders, and other information required to be given to the operator pursuant to this act may be sent.

(v) The drainage adjacent to the area where the surface is being utilized by surface mining operations.

(vi) The approximate boundaries of the lands that will become affected lands as a result of surface mining operations during the year immediately following the date that a reclamation plan is approved as to said panel, together with

the number of acres included within said boundaries.

(2) Diagrams showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds on said panel.

(3) A reclamation plan setting forth the action which said operator intends to take to comply with the provisions of this act as to the surface mining operations conducted on such mine panel.

(b) No operator shall commence surface mining operations on any mine panel without first having a reclamation plan approved by the state board of land commissioners.

(c) Any operator desiring to conduct exploration operations within the state of Idaho using motorized earth-moving equipment in order to locate minerals for immediate or ultimate sale in either the natural or the processed state shall notify the board by certified mail as soon after beginning exploration operations as possible and in any event within seven (7) days after beginning exploration operations. The letter shall include the following:

(1) The name and address of the operator;

(2) The location of the operation and the starting date and estimated completion date;

(3) The anticipated size of the operation, and the general method of operation.

The letter shall be ~~treated as confidential and disclosure may only be made under section 47-1515~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 66. That Section 47-1515, Idaho Code, be, and the same is hereby amended to read as follows:

47-1515. INFORMATION ~~CONFIDENTIAL~~. Any information supplied by an operator to the board, the director, or the department of lands, and designated by such operator as confidential, shall not be ~~disclosed by the board, the director or department employees to any person other than the board, director or employees of the department without the express written permission of the operator supplying such information; provided, however, that this shall not be construed to prohibit the board from using all information available to it in any administrative hearing or judicial proceedings brought under this act~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 67. That Section 48-612, Idaho Code, be, and the same is hereby amended to read as follows:

48-612. ADDITIONAL POWERS OF ATTORNEY GENERAL. To accomplish the objectives and to carry out the duties prescribed by this act, the attorney general, in addition to other powers conferred upon him by this act, may issue subpoenas to any person and conduct hearings in aid of any investigation or inquiry; provided that none of the powers conferred by this act shall be used for the purpose of compelling any natural person to furnish testimony or evidence which might tend to incriminate him or subject him to a penalty or forfeiture; and provided further that information obtained pursuant to the powers conferred by this act shall not be ~~made public or disclosed by the attorney general or his employees beyond the extent necessary for law~~

~~enforcement purposes in the public interest~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 68. That Section 48-801, Idaho Code, be, and the same is hereby amended to read as follows:

48-801. DEFINITIONS. As used in this chapter unless the context requires otherwise:

(1) "Improper means" include theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

(2) "Misappropriation" means:

(a) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(b) Disclosure or use of a trade secret of another without express or implied consent by a person who:

(A) Used improper means to acquire knowledge of the trade secret; or

(B) At the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was:

(i) Derived from or through a person who had utilized improper means to acquire it;

(ii) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(iii) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(C) Before a material change of his position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

(3) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(4) "Computer program" means information which is capable of causing a computer to perform logical operation(s) and:

(a) Is contained on any media or in any format;

(b) Is capable of being input, directly or indirectly, into a computer; and

(c) Has prominently displayed a notice of copyright, or other proprietary or confidential marking, either within or on the media containing the information.

(5) "Trade secret" means information, including a formula, pattern, compilation, program, computer program, device, method, technique, or process, that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Trade secrets as defined in this subsection are subject to disclosure by a public agency

according to chapter 3, title 9, Idaho Code.

SECTION 69. 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 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 license has been suspended or revoked by the department and after each name note the reasons for the action.

(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 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 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~~ be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 70. That Section 49-1311, Idaho Code, be, and the same is hereby amended to read as follows:

49-1311. ACCIDENT REPORTS ~~CONFIDENTIAL----EXCEPTIONS~~. All accident reports made by garages shall be without prejudice to the individual reporting and shall be subject to disclosure according to chapter 3, title 9, Idaho Code, and shall be ~~for the confidential use of the department or other governmental agencies having use for the records~~ used for accident prevention purposes. ~~The department may, however, disclose the identity of a person involved in an accident when the identity is not otherwise known or when a person denies his presence at the scene of the accident. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident.~~

SECTION 71. That Section 49-1313, Idaho Code, be, and the same is hereby amended to read as follows:

49-1313. ANY INCORPORATED CITY MAY REQUIRE ACCIDENT REPORTS. Any incorporated city may by ordinance require that the driver of a vehi-

cle involved in an accident also file with a designated city department a report of an accident or a copy of any report required to be filed with the department. All such reports shall be ~~for the confidential use of the city department and subject to the provisions of section 49-1311~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 72. 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 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 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 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~~ shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 73. That Section 54-204, Idaho Code, be, and the same is hereby amended to read as follows:

54-204. POWERS AND DUTIES. A. The Idaho state board of accountancy, in addition to the other powers and duties set forth in this act, shall have the following powers and duties:

(1) To prescribe, promulgate, establish and amend rules and regulations to carry into effect the provisions of this act, and to promulgate and amend rules of professional conduct appropriate to establish and maintain a high standard of integrity, professional competence, public responsibility and dignity in the profession of public accountancy. Such rules and regulations shall be adopted in accordance with the Administrative Procedure Act, chapter 52, title 67, Idaho Code.

(2) To provide and conduct examinations of applicants for certificates, at least annually, at such times and places as circumstances and applications may warrant. To prescribe rules and regulations for the method of examination for certificates and licenses to practice as certified public accountants. Such examination may include, but is not to be limited to, any of the following subject matter: theory of accounts, practical accounting,

auditing, commercial law, and professional ethics. Proper notice of time and place for such examination shall be given and selected pursuant to rules and regulations adopted by the board.

(3) To issue certificates of qualification and/or licenses to practice as certified public accountants or public accountants to such applicants as may be qualified by reciprocity or by examination.

(4) To charge and collect from all applicants, certificate holders, and licensees such fees as are provided by this act and prescribed by rules and regulations of the board.

(5) To receive complaints, cause the same to be investigated, instigate proceedings, and conduct hearings or proceedings pursuant to section 54-217, Idaho Code.

(6) To authorize by written agreement the bureau of occupational licenses as agent to act in its interest.

(7) To review and act upon actions taken by the advisory committee.

All hearings, investigations or proceedings conducted by the board shall, unless otherwise requested by the concerned party, be ~~confidential and closed to the public~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

All rules and regulations shall be filed in the office of the secretary of state and also the office of the board, and shall be open to public inspection.

B. The public accountants' advisory committee, in addition to other powers and duties set forth in this act, and subject to approval by the board, shall have the following powers and duties:

(1) To prescribe, promulgate, establish and amend rules and regulations to carry into effect the provisions of this act, and to promulgate and amend rules of professional conduct appropriate to establish and maintain a high standard of integrity, professional competence, public responsibility and dignity by those persons licensed as public accountants. Such rules and regulations shall be adopted in accordance with the Administrative Procedure Act, chapter 52, title 67, Idaho Code.

(2) To recommend for licensing as a public accountant such applicants as may be qualified pursuant to the act.

(3) To receive complaints, cause the same to be investigated, instigate proceedings, and conduct hearings or proceedings pursuant to chapter 2, title 54, Idaho Code.

(4) To provide and conduct examinations of applicants for licensure as public accountants as required by chapter 2, title 54, Idaho Code.

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

All rules and regulations shall be filed in the office of the secretary of state, the office of the board and shall be open to public inspection.

SECTION 74. That Section 54-918, Idaho Code, be, and the same is hereby amended to read as follows:

54-918. EXAMINATIONS -- CERTIFICATE OF QUALIFICATION. At least

once in each calendar year at times and places fixed by the board, the board or its agent shall conduct separate examinations in general dentistry and in dental hygiene. Examinations shall be written or clinical, or both, and of such duration and character, and upon such subjects in dentistry and dental hygiene as the board shall determine will thoroughly test the fitness and ability of the applicant to practice dentistry or dental hygiene, as the case may be. In addition, the board will conduct examinations to assess the fitness of candidates for the licensure as a dental specialist as the request for specialty licensure arises. The board or its agent will grade the examinations, and its grades shall be final and not subject to review. It shall report and record the names of applicants who pass and of those who fail the examination. Upon the candidates request, the board will issue to each passing applicant in dentistry, who is qualified for Idaho licensure, a certificate of qualification to practice dentistry, and to each passing applicant in dental hygiene, who is qualified for Idaho licensure, a certificate of qualification to practice dental hygiene within the state of Idaho, and to each passing applicant in a dental specialty, who is qualified for Idaho licensure, a certificate of qualification to practice a dental specialty within the state of Idaho.

Prior to an examination, or by general regulation, the board shall determine the relative weight of the written and of the clinical examination, the passing grade, not exceeding seventy per cent (70%), for each subject, section, or part of the examination and the general average passing grade, not exceeding seventy-five per cent (75%). The board may recognize a certificate granted by the national board of dentistry in lieu of such examination or subject to additional examination as the board may require.

Applicants who fail the examination shall be notified thereof in writing by the board or its agent, which shall also record the fact of failure and the date and means of notification.

Written questions and answers of applicants shall ~~not be deemed public records,--nor--subject--to--inspection~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and shall be destroyed by the board after the period of one (1) year following the examination.

SECTION 75. That Section 54-934, Idaho Code, be, and the same is hereby amended to read as follows:

54-934. PEER REVIEW COMMITTEES -- IMMUNITY FROM LIABILITY -- CONFIDENTIALITY OF RECORDS. (1) The state board of dentistry or the Idaho state dental association or both may establish one or more peer review committees pursuant to this section, for the purpose of:

(a) Determining the relevancy of a dentist's usual and reasonable fees or treatment procedure to the terms of a contract;

(b) Assessing the quality of services rendered; or

(c) Evaluating claims against dentists or engaging in underwriting decisions in connection with professional liability insurance coverage for dentists.

(2) The board or the associations, any one (1) of which has established a peer review committee pursuant to law, any committee member or any staff member of either the board or of the associations

assisting a peer review committee, and any witness or consultant appearing before or presenting information to a peer review committee shall be immune from liability in any civil action brought as a result of a peer review investigation or proceeding conducted by a peer review committee, if the board, association, committee or staff member, witness or consultant, acts in good faith within the scope of the function of the committee, has made a reasonable effort to obtain the facts of the matter as to which the board or association or he acts, in the reasonable belief that the action taken is warranted by the facts.

(3) Any entity, organization or person acting without malice in making any report or other information available to a peer review committee, or who assists in the origination, investigation or preparation of that information, or assists a committee in carrying out any of its duties or functions, shall be immune from civil liability for any such actions.

(4) Any communications or information relating to peer committee investigations or proceedings as provided by law, and the proceedings and records of the committee related to them, shall be ~~held in confidence~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and shall not be subject to discovery or introduced into evidence in any civil action against a dentist arising out of matters which are the subject of evaluation and review by the committee. ~~No person who was in attendance at a meeting of the committee shall be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during that meeting of the committee, or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or any members or consultants to the committee. However, information, documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil action merely because they were presented during proceedings of the committee, and any documents or records which have been presented to the committee by any witness shall be returned to the witness, if requested by him, with copies of them to be retained by the committee, at its discretion. Any person who testifies before the committee cannot be asked about his testimony before that committee or opinions formed by him as a result of those hearings.~~

SECTION 76. That Section 54-1210, Idaho Code, be, and the same is hereby amended to read as follows:

54-1210. RECORDS AND REPORTS. (1) The board shall keep a record of its proceedings and a register of all applications for registration, which register shall show: the name, age and last known address of each applicant; the date of the application; the place of business of such applicant; his education, experience and other qualifications; type of examination required; whether or not the applicant was rejected; whether or not a certificate of registration was granted; the dates of the action of the board; and any other information as may be deemed necessary by the board.

(2) The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof,

duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(3) Annually the board shall submit to the governor a report of its transactions of the preceding year, and shall also transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

(4) Board records and papers of the following class are ~~of a confidential nature and are not public records--examination material for examinations not yet given; file records of--examination--results--and problem--solutions; letters of inquiry and reference concerning applicants; board inquiry forms concerning applicants; investigation--files where--any--investigation is still pending; and all other materials of like confidential nature~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 77. That Section 54-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806A. MEDICAL DISCIPLINARY ENFORCEMENT. The board of medicine is authorized to create a board of professional discipline and to delegate to it its role and authority in the enforcement and supervision of professional disciplinary enforcement under this chapter and particularly under sections 54-1810 and 54-1814, Idaho Code, including without limitation the power to make rules and regulations and to provide forms and procedures therefor, to the full extent that the board of medicine is authorized or empowered to act; such board of professional discipline, however, shall not act or be authorized to act in connection with licensing of applicants, except as respects proceedings for reinstatement following voluntary surrender of license while under investigation or prosecution for conduct allegedly improper, or following restriction, suspension or revocation of license in the state of Idaho or under any other duly constituted medical licensing authority of any other state or territory of the United States or of any other nation. By its order therefor, the state board of medicine shall provide as follows respecting a board of professional discipline created under this ~~act~~ chapter:

(1) Membership. Said board shall consist of five (5) members appointed by the board of medicine. Initially, it shall consist of two (2) members licensed to practice medicine and surgery in the state of Idaho, whose terms shall expire midnight, June 30, 1979; and two (2) members licensed to practice medicine and surgery in the state of Idaho, whose terms shall expire midnight, June 30, 1978, and one (1) member who is an adult Idaho citizen of good character and reputation who shall not be licensed to practice medicine and surgery in the state of Idaho, whose term shall expire midnight June 30, 1977. Subsequent terms of all members appointed shall be for three (3) years so that there shall be a rotation of membership of a portion of the said board, each year; provided, the board of medicine may, in its discretion, reappoint members and may but need not appoint members of the board of medicine itself to any or all of the positions of membership upon said board initially and/or from time to time as vacancies occur. Subsequent appointees to the board shall have the qualifications

required of the original appointees.

(2) Chairman. The board of medicine shall designate one (1) member of the board of professional discipline as its chairman, and he shall serve and function in that capacity for one (1) year or until his successor is duly appointed, whichever is later.

(3) Quorum. Three (3) members shall constitute a quorum though no meeting of said board shall be held without reasonable prior notice of at least three (3) days to all members, which notice may be given by the chairman or any three (3) members. Notice may be waived unanimously; otherwise, it shall be in writing and state the time, place and purpose of the meeting.

(4) Compensation. Members shall be compensated as provided by section 59-509(b), Idaho Code, from the state board of medicine fund for expenses incurred in the course of serving on said board or acting on its behalf.

(5) Conflicts and Disqualification. Members shall disqualify themselves and, on motion of any interested party may, on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service.

(6) Additional Powers of Board of Professional Discipline. In addition to its other powers, the board of professional discipline shall be empowered and authorized:

(a) To initiate or commence proceedings, studies or investigations on its own motion and initiative or to proceed on the request or complaint of any person, whether formally or informally stated and whether or not verified; provided, it may impose reasonable requirements respecting the form, content and sufficiency of complaints invoking its jurisdiction.

(b) To investigate or inquire into misconduct or unprofessional behavior, whether real, apparent or merely suspected; and take such action with respect thereto as it deems best in the interest of the public and justice.

(c) To retain and appoint staff to administer, process and assist in the work assigned it under this ~~act~~ chapter or by the board of medicine, including, as deemed appropriate, legal counsel to assist in presentation of matters before it and/or to advise it on matters of law.

(d) To appoint hearing committees to take evidence, conduct hearings and make recommended findings and conclusions to it in any matter or proceeding assigned to the committee, which hearing committees shall be of such number and size as the disciplinary board directs composed of licensed physicians resident and licensed to practice medicine and surgery in Idaho, who shall serve without pay and for such term as the board may specify, not to exceed one (1) year or during the pendency of any matters referred to it, whichever is longer. Proceedings before such committees, and before said board, except as otherwise provided or may be inconsistent with the clear intent or conflicting specific provisions of this act, shall be as provided by the Administrative Procedures Act, chapter 52, title 67, Idaho Code; provided, there shall be no hearings de novo on appellate review as a matter of right.

(e) To make findings respecting matters coming before it or

before any hearing committee or authorized hearing officer acting on its behalf, and to make conclusions and enter orders dispositive of such proceedings, including, without limitation, disciplinary orders as provided in and by the Idaho Code respecting misconduct or other grounds for discipline respecting any licensed physician and surgeon licensed to practice medicine and surgery in the state of Idaho, which authority shall, for good cause shown, include the power to suspend, restrict, condition, limit or revoke the license or present or future right or privilege to practice medicine of any physician, surgeon or other person licensed or purporting to be qualified or authorized to practice medicine and surgery in the state of Idaho.

(f) To ~~privately and confidentially~~ reprimand by informal admonition any licensed physician and surgeon respecting any matter it finds is minor misconduct. Such reprimand shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(g) To accept the resignation and surrender of license of any physician and surgeon under investigation or prosecution who tenders the same, and to impose terms and conditions in connection therewith as it may deem appropriate in the best interest of the public and of justice.

(h) To order, for good cause, nondisciplinary suspension or transfer to inactive status of any licensed physician and surgeon incapacitated by illness, senility, disability, or addiction to drugs, intoxicants or other chemical or like substances, and to provide terms and conditions therefor, including provisions and conditions controlling reinstatement and any request therefor; provided, this subparagraph shall not be construed to amend or repeal specific legislation expressly dealing with disabled physicians whether heretofore or hereafter enacted by the legislature of the state of Idaho but rather shall be construed as complementary thereto.

(i) To provide by order in general and/or in particular for reciprocal discipline in cases involving the discipline of a licensed physician and surgeon disciplined in any other jurisdiction, provided that such licensee or applicant shall be entitled on due motion and notice to appear and show cause why such order should not apply in his or her case.

(j) To provide for and conduct informal proceedings and to provide rules and practices to encourage fair and expeditious disposition of business, complaints and matters properly coming before it.

(7) Substitution of Board of Professional Discipline in Matters of Discipline and Self-Policing. From and after the effective date of the board of medicine creating and establishing the board of professional discipline, references in the laws of the state of Idaho, including the Medical Practices Act, this ~~act~~ chapter and the Idaho Code in general, to the board shall, when concerned with matters of self-policing or professional discipline within the medical profession, be deemed and construed to be references to the board of professional discipline.

(8) ~~Confidentiality~~ Openness. Except as specifically otherwise ordered in the interest of justice or the public health, hearings and

proceedings before the board of professional discipline shall be open in all cases in which the board has determined that there is probable cause to proceed to formal hearing; provided, as respects ~~private--and confidential~~ reprimands for minor misconduct, proceedings shall be ~~closed and confidential~~ subject to disclosure according to chapter 3, title 9, Idaho Code, unless the respondent physician in writing rejects the reprimand within ten (10) days of the order providing therefor, in which cases said matters shall promptly be set for hearing and such proceedings and hearings thereafter shall be public and open unless, as hereinabove authorized, the board for good cause otherwise orders and directs. Determination that there is probable cause to proceed may be made informally by the chairman and also by written expression of a majority of the members of the board of professional discipline. The determination that there is not probable cause to proceed shall be made in writing and a copy forwarded to such person whose complaint may have initiated or commenced the proceedings, which person shall have standing to request en banc review of such determination by the entire committee which shall have jurisdiction to reverse or affirm such determination as in its discretion it deems in the interest of justice and the public health.

(9) Voluntary Restriction of Licensure. A physician may request in writing to the board of professional discipline a restriction of his license to practice medicine and the board is authorized to grant such request and, if it deems it appropriate to do so, it is granted the authority in such cases to attach conditions to the licensure of the physician to practice medicine within specified limitations. The board is also authorized in such cases thereafter to waive the commencement of proceedings under this act or other provisions of the Medical Practice Act if in the interest of justice it determines that such voluntary proceedings have rendered the same unnecessary. Removal of a voluntary restriction on or suspension of licensure to practice medicine shall be subject to the procedures for reinstatement elsewhere in this act, in the Medical Practice Act or by rule and regulation of the board of professional discipline provided; also, such reinstatements may be subject to further conditions specially imposed in the individual case as a condition of the order entered therein.

(10) Adjudication of Discipline or Exoneration. At the conclusion of the proceedings the board of professional discipline shall make a determination of the merits and, if grounds therefor are found to exist, may issue its order:

(a) Revoking the respondent physician's license to practice medicine.

(b) Suspending or restricting the respondent physician's license to practice medicine.

(c) Imposing conditions or probation upon the respondent physician and requiring rehabilitation planning, commitment and conditions upon such respondent physician's licensure; and,

If grounds for any of the foregoing are not found to exist, the board shall enter its order so stating and dismissing the proceedings and shall provide the respondent and, if there be one, the complainant or petitioner in the proceedings a true copy thereof.

(11) Temporary Suspension or Restriction Pending Final Order. The board of professional discipline may temporarily suspend

or restrict the license of any physician or enter an appropriate order of temporary probation, ex parte, on its own motion or on verified petition of any person, pending further or final order, without prior hearing, simultaneously with or at any time after the institution of proceedings under this ~~act~~ chapter or the Medical Practice Act, but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician in his capacity as such and for reasons set forth by petition, affidavit, or other verified showing, or determined by it in reliance upon other reliable proof, is causing great harm to the public or to any patient or group of patients, or is imminently likely to cause such harm, for which reason he or she and his or her license to practice medicine should be immediately suspended or restricted or he or she should be specially controlled, suspended in or restricted from the practice of medicine. In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings. Thereafter the physician may, for good cause, request dissolution or amendment of any such temporary order by petition filed with the board of professional discipline, which petition shall be set for prompt hearing before said board or, if necessary and if requested by the affected respondent physician in the interest of early consideration, before a designated hearing officer or special committee appointed by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its report and recommendations. The board, consistent with due process, shall rule on such petition for dissolution or amendment with the least amount of delay reasonably possible. Neither the record of the proceeding nor any order entered therein may be used against the respondent physician in any other legal proceeding except upon judicial review as provided elsewhere herein.

(12) Judicial Review. All final decisions by the board of professional discipline shall be subject to judicial review pursuant to the procedures of the administrative procedures act, chapter 52, title 67, Idaho Code.

(13) Protected Action and Communication. There shall be no liability on the part of and no action for damages against:

(a) Any member of the board of professional discipline or the staff or officials thereof for any action undertaken or performed within the scope of the functions of said board or this ~~act~~ chapter; or

(b) Any person providing information or testimony to the said board or its staff or officials.

SECTION 78. That Section 54-1820, Idaho Code, be, and the same is hereby amended to read as follows:

54-1820. ACCESS TO RECORDS. All papers, records, correspondence, communications and proceedings of the Idaho state board of medicine shall be open and public except as otherwise provided ~~by statute; provided, however, the following shall be confidential and not be subject, directly or indirectly, to subpoena or discovery proceedings~~

~~from-the-board-of-medicine:~~

~~(1)--Information-provided-to-or-obtained-by-the-board-for--evaluation--of--applications--for--licensure--or-registration-including-test forms-and-questions-which-are-made-available-to-the-board-on-the-basis that-such-information-shall-be-confidential.~~

~~(2)--Information-provided-to-or-obtained-by-the-board-in--investigation-of-reports-or-complaints-of-misconduct-or-unprofessional-behavior.~~

~~Nothing--herein-shall-prohibit-the-board-of-medicine-from-disclosing-information-obtained-by-it-to-law-enforcement-agencies~~ in chapter 3, title 9, Idaho Code.

SECTION 79. That Section 54-1837, Idaho Code, be, and the same is hereby amended to read as follows:

54-1837. PROCEEDINGS. (a) The board may proceed against a physician under this act by serving upon such physician at least fifteen (15) days' notice of a time and place fixed for a hearing, together with copies of the examining committee's report and diagnosis. Such notice and reports shall be served upon the physician either personally or by registered or certified mail with return receipt requested.

(b) At said hearing the physician shall have the right to be present, to be represented by counsel, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the board.

(c) At the conclusion of the hearing, the board shall make a determination of the merits and, if grounds therefor are found to exist, may issue an order imposing one or more of the following:

(1) Make a recommendation that the physician submit to the care, counseling, or treatment by physicians acceptable to the board; or

(2) Suspend or restrict the license of the physician to practice medicine for the duration of his impairment; or

(3) Revoke the license of the physician to practice medicine; and if grounds are not found to exist, the board shall enter its order so stating, shall dismiss the proceedings and shall provide the respondent a true copy thereof.

(d) The board may temporarily suspend or restrict the license of any physician or enter an appropriate order of temporary probation, ex parte, on its own motion or on petition of the examining committee, pending further or final order without prior hearing, simultaneously with or at any time after the institution of proceedings for a hearing under this section, but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician, in his capacity as such and for reasons set forth by petition, affidavit, or other verified showing, is causing great harm to the public, or to any patient or group of patients, or is likely to cause such harm and therefore should be immediately suspended, restricted or specially controlled in or from the practice of medicine.

(1) In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings.

(2) In cases of extreme emergency the board may enter said temporary order under this section without prior referral to or recommendation from the examining committee.

(3) In cases in which the examining committee first determines that such temporary suspension, restriction or probation of such physician is necessary and in the public interest pending the final conclusion of proceedings or further order, it shall so recommend to the board, and the board, if it finds that the evidence in support of such determination and recommendation is clear and convincing and that the physician's continuation in the practice would constitute an imminent danger to public health and safety or pose a threat or menace of the kind hereinabove specified, may, in its discretion, enter an order in keeping with the recommendation of the examining committee or provide such modifications, conditions or orders as it deems appropriate.

(4) The physician may, for good cause, request dissolution or amendment of any such temporary order by petition filed with the board, which petition shall be set for prompt hearing before the board or, if necessary and on request of the physician in the interest of early consideration, before a hearing officer or special committee designated by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its report and recommendation. The board, consistent with due process, shall rule with the least amount of delay reasonably possible.

(e) Neither the record of the proceeding nor any order entered against a physician may be used against him in any other legal proceeding except upon judicial review as provided herein, it being the intent and purpose of this act that all evidence, testimony, showings and proceedings are ~~privileged and confidential and~~ subject to disclosure according to chapter 3, title 9, Idaho Code, but not to be used in criminal or civil proceedings concerning the subject physician.

SECTION 80. That Section 54-1913, Idaho Code, be, and the same is hereby amended to read as follows:

54-1913. RECORDS, LISTS AND INFORMATION. The board shall maintain at its office in Boise City, Idaho, open to public inspection during office hours, a complete, indexed record of all applications, licenses issued, licenses renewed and all revocations, cancelations and suspensions of licenses, and shall furnish a certified copy of any license issued, upon receipt of the sum of fifty (50¢), which certified copy shall be received in all courts and elsewhere as evidence of the facts stated therein. All financial information submitted by applicants is ~~confidential and not available to anyone outside the department except on court order~~ subject to disclosure according to chapter 3, title 9, Idaho Code. Upon the issuance, renewal, revocation, cancelation and/or suspension of a license hereunder, the board shall forthwith furnish the department of administration and the department of finance and insurance with a record thereof.

Whenever funds are available for the purpose, the board shall publish a list of the names and addresses of contractors registered under this act and of the licenses issued, suspended or revoked and such

further information with respect to this act and its administration as the board deems proper. The board may furnish the lists to such public works and building departments, public officials or public bodies, and other persons interested in or allied with the building and construction industry in this or any other state as deemed advisable, and at such intervals as deemed necessary, whenever funds therefor are available. Copies of the lists may also be furnished by the board upon request to any firm or individual upon payment of a reasonable fee fixed by the board.

Whenever funds are available for the purpose, the board may publish and disseminate to licensees of the board and to public officials or other persons interested in or allied with the building and construction industry, such information with relation to the administration and enforcement of this act as deemed necessary to carry out its purposes.

SECTION 81. That Section 54-2052, Idaho Code, be, and the same is hereby amended to read as follows:

54-2052. RECORDS -- DISCLOSURE TO PUBLIC. Records kept in the office of the commission under authority of this chapter and chapter 18, title 55, Idaho Code, shall be open to public inspection under ~~such rules and regulations as shall be prescribed by the commission, except that the commission may refuse to make public, unless ordered to do so by a court:~~

~~A. Real estate brokers' and real estate salesmen's examinations;~~

~~B. Investigative reports and comparable materials prepared, obtained or compiled by the staff of the commission while investigating possible violations of this chapter or chapter 18, title 55, Idaho Code;~~

~~C. The criminal records of licensees or applicants for licenses;~~

~~D. Credit reports submitted by license applicants pursuant to section 54-2029, Idaho Code;~~

~~E. Reports of audits of brokers' trust accounts~~ as provided in chapter 3, title 9, Idaho Code.

SECTION 82. That Section 54-3404, Idaho Code, be, and the same is hereby amended to read as follows:

54-3404. COUNSELOR LICENSING BOARD -- POWERS. The board shall have the following powers:

(1) To regulate the practice of licensed counselors and licensed professional counselors in the state of Idaho.

(2) To pass upon the qualifications and fitness of applicants for licenses.

(3) To adopt and from time to time revise such rules and regulations as may be necessary to carry into effect the provisions of this chapter. Such rules and regulations shall include, but not be limited to, the American Personnel and Guidance Association code of ethics for licensed counselors in the state and shall be adopted in compliance with chapter 52, title 67, Idaho Code.

(4) To review the practice of counselors licensed under this chapter and charged with a violation of the provisions of this chap-

ter. This review may include the notes of the counselor and other materials related to the practice. The review will remain ~~confidential~~ subject to disclosure according to chapter 3, title 9, Idaho Code, unless the written consent of the client is received by the board.

(5) To establish a peer review system whereby each licensed counselor's practice may be reviewed to ensure continuing practice in an appropriate and ethical manner.

(6) To examine for, deny, approve, issue, revoke, suspend and renew the licenses of counselor applicants pursuant to this chapter, and to conduct hearings in connection therewith.

(7) To conduct hearings to suspend or revoke licenses for violations of the law and rules and regulations adopted pursuant to this chapter and cause the prosecution and enjoinder of all such violations.

(8) In any proceeding before the board authorized by this chapter, the board or its designee may administer oaths or affirmations to witnesses appearing before it.

(9) To authorize, by written agreement, the chief of the bureau of occupational licenses as agent to act in its interest.

SECTION 83. That Section 56-221, Idaho Code, be, and the same is hereby amended to read as follows:

56-221. CONFIDENTIAL CHARACTER OF PUBLIC ASSISTANCE RECORDS. The rule-making power of the state department shall include the power to establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the state department. Wherever, under provisions of law, names and addresses of recipients of public assistance are furnished to or held by any state or county official, ~~such state or county official shall be required to adopt regulations necessary to prevent the publication of lists thereof or their use for purposes not directly connected with the administration of public assistance~~ the names and addresses shall be subject to disclosure according to chapter 3, title 9, Idaho Code; but ~~such safeguards~~ any exemption from disclosure shall not prevent the furnishing to a state or local law enforcement officer, upon his written request, with the current address of any AFDC recipient if the officer furnishes the state department with such recipient's name and social security account number and proof that such recipient is a convicted fugitive felon or an indicted fugitive felon, or a person for whom a fugitive warrant has been issued, and that the location or apprehension of such felon or person is within the officer's official duties, and that the request is made in the proper exercise of those duties.

SECTION 84. That Section 56-231, Idaho Code, be, and the same is hereby amended to read as follows:

56-231. PUBLIC ASSISTANCE IN LOCATING AND DETERMINING THE FINANCIAL RESOURCES OF PARENTS AND OTHER PERSONS LIABLE FOR SUPPORT OF DEPENDENTS. To assist in locating and determining the financial resources of parents who have deserted their children and other persons liable for support of dependents, the department of health and

welfare and county prosecuting attorneys may request and shall receive information from the records of all departments, boards, bureaus or other agencies of this state, and may request and may receive information from businesses and financial entities; and the same are authorized to provide such information as is necessary for this purpose, notwithstanding ~~any--other-provision-of-law~~ any provisions of chapter 3, title 9, Idaho Code, making the information ~~confidential~~ exempt from disclosure. There shall be no legal sanctions imposed against a business or financial entity which refuses to provide requested information, unless the business or financial entity has been served with a subpoena requesting the information. Only information directly bearing on the identity, financial resources, and whereabouts of a person owing or asserted to be owing an obligation of support shall be requested and used or transmitted by the department of health and welfare and county prosecuting attorneys pursuant to the authority conferred by this act. The department of health and welfare and county prosecuting attorneys may make such information available only to public officials and agencies of this state, other states and the political subdivisions of this state and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents for the purpose of enforcing their liability for support.

SECTION 85. That Section 57-112, Idaho Code, be, and the same is hereby amended to read as follows:

57-112. BANKS TO WHICH OFFICIALS SECRETLY INDEBTED INELIGIBLE. No financial institution is eligible to become or remain a depository of public funds of any depositing unit to which the treasurer or auditor of the depositing unit, or any deputy of either of them is directly indebted, unless the fact of such indebtedness is made known to the supervising board, but the amount and character of such indebtedness shall not be ~~open-to--public--inspection;--and--the--depositing board--shall--treat--such--information-in-strict-confidence~~ subject to disclosure according to chapter 3, title 9, Idaho Code. Any member of the board violating this provision shall be guilty of a misdemeanor and punished therefor as provided by law.

In case of a violation by a depository of this provision, the supervising board shall immediately cause all funds therein to be withdrawn and such financial institution shall be ineligible again to become a depository during the incumbency of the official so indebted to said financial institution.

SECTION 86. That Section 57-133B, Idaho Code, be, and the same is hereby amended to read as follows:

57-133B. UNLAWFUL DISCLOSURE OF INFORMATION RELATING TO DESIGNATED DEPOSITORIES -- PENALTY. ~~No-member-of-a-supervising-board-or employee-in-the-office-of-the-treasurer-of-a-depositing-unit-may--disclose--a~~Any information obtained from any designated depository ~~to-any person-not-connected-with-the-board-or--office--of~~ by the treasurer ~~except--to~~ of a depositing unit shall be subject to disclosure according to chapter 3, title 9, Idaho Code, provided that federal or state

examiners ~~having~~ shall have a lawful right to examine said designated depository or to proper officials legally empowered to investigate criminal charges relating to said designated depository ~~or to any of its directors or employees~~ shall have a right to examine said depository. Any public official who violates any provision of this section by improperly disclosing information shall forfeit his office or employment and shall also be guilty of a felony. Any person who is not lawfully entitled to such information and who attempts to obtain such information illegally or who misuses such information as he may have obtained shall be guilty of a felony.

SECTION 87. That Section 57-911, Idaho Code, be, and the same is hereby amended to read as follows:

57-911. PUBLIC RECORDS -- LOCATIONS. (1) Records, with regard to the ownership of or security interests in registered public obligations~~, are not subject to inspection or copying under any law of this state relating to the right of the public to inspect or copy public records, any other law to the contrary notwithstanding~~ shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(2) Registration records of the issuer may be maintained at such locations within or without this state as the issuer shall determine.

SECTION 88. That Section 58-126, Idaho Code, be, and the same is hereby amended to read as follows:

58-126. ~~FALSE OATH----IMPROPERLY DIVULGING INFORMATION----PENALTY~~ INFORMATION REGARDING STATE LANDS. ~~If the director, or any state land selector, appraiser, or timber cruiser or appraiser, or other appointee or employee of the department or of the state board of land commissioners, shall knowingly, make a false oath~~ Information concerning the selection or appraisement of any state lands, or the timber thereon, or ~~knowingly or wilfully divulge anything, or give~~ any information in regard to such land ~~other than to the state board of land commissioners, or the director, he shall forthwith be removed from office, and shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary for a period not exceeding two (2) years, or be fined not exceeding one thousand dollars ($1,000), or shall suffer both such fine and imprisonment~~ shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 89. That Section 58-1005, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and shall not be available to the general public unless the person seeking to become a qualified bidder authorizes a release of such information.

SECTION 90. That Section 59-1325A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1325A. MEMBER'S RETIREMENT RECORDS CONFIDENTIAL. Except as specifically provided by law, information contained in each member's retirement system records is ~~considered confidential~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and may not be divulged except as ordered by a court; or except as may be required by the employer member or by the retirement board and its staff in order to carry into effect the purposes of this act. A member may by his written authorization release specific information from his own retirement system records to a stated designee.

SECTION 91. That Section 66-348, Idaho Code, be, and the same is hereby amended to read as follows:

66-348. DISCLOSURE OF INFORMATION. (a) All certificates, applications, records, and reports made for the purpose of this act and directly or indirectly identifying a patient or former patient or an individual whose commitment has been sought under this act shall be kept ~~confidential and shall not be disclosed by any person except insofar:~~

~~(1) As the individual identified or his legal guardian if any (or, if he is a minor, his parent or legal guardian), shall consent, or~~

~~(2) As disclosure may be necessary to carry out any of the provisions of this act, or~~

~~(3) As a court may direct upon its determination that disclosure is necessary and that failure to make such disclosure would be contrary to the public interest~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 92. That Section 67-2345, Idaho Code, be, and the same is hereby amended to read as follows:

67-2345. EXECUTIVE SESSIONS -- WHEN AUTHORIZED. (1) Nothing contained in this act shall be construed to prevent, upon a two-thirds (2/3) vote recorded in the minutes of the meeting by individual vote, a governing body of a public agency from holding an executive session during any meeting, after the presiding officer has identified the authorization under this act for the holding of such executive session. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt ~~by--law~~ from ~~public inspection~~ disclosure as provided in chapter 3, title 9, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation;

(g) By the commission of pardons and parole, as provided by law.

(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of section 67-2343, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

SECTION 93. That Section 67-2726, Idaho Code, be, and the same is hereby amended to read as follows:

67-2726. BANKS TO WHICH OFFICIALS SECRETLY INDEBTED INELIGIBLE. No bank is eligible to become or remain a state depository, to which the state treasurer, state auditor, or the chief deputy of either of them is directly indebted, unless the fact of such indebtedness is made known to the department of finance, but the amount and character of such indebtedness shall ~~not~~ be ~~open-to-public-inspection~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and said department of finance shall treat such information in strict confidence. Any member of the department violating this provisions shall be guilty of a misdemeanor, and punished therefor as provided by law.

In case of a violation by a state depository of this provision, the department of finance shall immediately cause all funds therein to be withdrawn and such bank shall be ineligible again to become a state

depository during the incumbency of the official so indebted to said bank.

SECTION 94. That Section 67-2743E, Idaho Code, be, and the same is hereby amended to read as follows:

67-2743E. ~~UNLAWFUL~~ DISCLOSURE OR USE OF INFORMATION RELATING TO DEPOSITORIES -- PENALTY. ~~No--member-of-the-board-or-employee-in-the office-of-the-director-of-the-department-of-finance-or-state-treasurer may-disclose-a~~Any information regarding the solvency of the bank obtained ~~from-any-bank-to-any-person-not-connected-with~~ by the board, the department of finance, or office of state treasurer, shall be subject to disclosure according to chapter 3, title 9, Idaho Code, except to federal or state bank examiners having a lawful right to examine said bank or to proper officials legally empowered to investigate criminal charges relating to said bank or to any of its directors or employees, provided that the provisions of this section shall not apply to information included as part of the daily, monthly, biennial or other official reports of the state treasurer's office. Any public official who violates any provision of this section shall forfeit his office or employment and shall also be guilty of a felony. Any person who is not lawfully entitled to such information and who attempts to obtain such information illegally or who misuses such information as he may have obtained shall be guilty of a felony.

SECTION 95. That Section 67-4708, Idaho Code, be, and the same is hereby amended to read as follows:

67-4708. ~~CERTAIN~~ RECORDS ~~CONFIDENTIAL~~. All papers, records, correspondence, communications and proceedings of the Idaho department of commerce, its advisory board, and the Idaho travel council shall be open and public ~~except-as-otherwise--provided--by--statute;~~ provided, however, that business records and information submitted to the department by business clients shall ~~remain-confidential-and-not--subject--to-public-inspection~~ be subject to disclosure according to chapter 3, title 9, Idaho Code. These records and information shall include financial statements, employment/employee records, loan agreements, the method of financing, the source and terms of financing, business and individual tax returns, insurance policies, bank statements, financial institution letters and documents, sales records, inventory lists, collateral agreements, and other documents or information the business declares to be, and marked "confidential -- proprietary information."

~~This-confidentiality-of--records--and--information~~ The exemption from disclosure as provided in chapter 3, title 9, Idaho Code, shall also be extended to and be consistent with the requirements for confidentiality for business information included in any application for the various federal grant, loan or loan guarantee programs, various federal procurement contracting programs, and other similar federal business assistance programs in which the Idaho department of commerce is a participant.

This ~~confidentiality~~ exemption from disclosure shall also apply to business information and records associated with industrial revenue

bonds, department efforts to assist businesses with international marketing, industrial relocation projects, and other business development projects in which the department extends assistance.

SECTION 96. That Section 67-5009, Idaho Code, be, and the same is hereby amended to read as follows:

67-5009. OFFICE OF OMBUDSMAN FOR THE ELDERLY. The office of ombudsman for the elderly is hereby created within the Idaho office on aging. The ombudsman shall be responsible for receiving, investigating and resolving or closing complaints made by or in behalf of residents of long term care facilities or persons aged sixty (60) or older living in the community. No representative of the office shall be liable for the good faith performance of official duties, and willful interference with representatives of the office is unlawful. Long term care facilities are prohibited from reprisals or retaliation against a resident or employee filing a complaint with, or furnishing information to, the office.

For the purposes of implementing the provisions of this section, the Idaho office on aging is hereby authorized as follows:

The director shall hire the state ombudsman for the elderly who shall be a person with the necessary educational background commensurate with the duties and responsibilities of the office of ombudsman and shall be a classified employee subject to the provisions of chapter 53, title 67, Idaho Code.

The ombudsman may delegate to designated local ombudsmen any duties deemed necessary to carry out the purposes of the provisions of this section.

The ombudsman shall establish procedures for receiving and processing complaints, ~~maintaining--client--confidentiality,~~ conducting investigations and reporting his findings. He shall have jurisdiction to investigate administrative acts or omissions of long term care facilities or state or county departments or agencies providing services to older people. An administrative act of a long term care facility or state or county department or agency may become an appropriate subject for the ombudsman to investigate under certain circumstances. For example, the ombudsman may investigate such an act if it might be contrary to law, unreasonable, unfair, oppressive, capricious or discriminatory. The ombudsman may make a finding for an appropriate resolution to the subject matter of the investigation.

The ombudsman shall investigate any complaint which he determines to be an appropriate subject for investigation under this section.

When the ombudsman investigates a complaint, he shall notify the complainant, if any, of the investigation and shall also notify the long term care facility or the state or county department or agency affected by the investigation of his intent to investigate. However, if no investigation takes place, he shall inform the complainant of the reasons therefor. Records obtained by the ombudsman shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

In an investigation of any complaint or administrative act of any long term care facility or state or county department or agency providing services to older people, the ombudsman may undertake, but not be limited to, any of the following actions:

(a) Make the necessary inquiries and obtain such information he deems necessary.

(b) Hold private hearings.

(c) Enter during regular business hours, a long term care facility or state or county department or agency's premises.

Following the investigation and upon his determination that particular subject matter should be further considered by the long term care facility or state or county department or agency, an administrative act should be modified or cancelled, a statute or regulation on which an administrative act is based should be altered, reasons should be given for an administrative act, or some other action should be taken by a long term care facility or state or county department or agency, he shall report his opinions and recommendations to the respective parties. The ombudsman may request the parties affected by such opinions or recommendations to notify him within the specified time of any action taken by such parties on his recommendation.

Following an investigation, the ombudsman shall consult with the particular parties before issuing any opinion or recommendation that is critical to such parties.

The ombudsman shall notify the complainant in writing within a reasonable time from the date the investigation is terminated of any actions taken by him and the long term care facility, or state or county department or agency to resolve any issues raised by the complaint.

The ombudsman, on December 30 of each year, shall submit to the governor, the director of the Idaho office on aging, the state advisory council on aging, the speaker of the house, president of the senate, the department of health and welfare bureau of licensing and certification, the president of the Idaho hospital association and the president of the Idaho health care association a report of the activities of the ombudsman for the elderly during the prior calendar year. This report shall include, but not be limited to, the number and general patterns of complaints received by the ombudsman, the action taken on such complaints, the results of such action, and any opinions or recommendations which further the state's capability in providing for statutory resolution of complaints.

Nothing in this section shall be construed to be a limitation of the powers and responsibilities assigned by law to other state or county departments or agencies.

<u>Records obtained by the ombudsman shall be subject to disclosure according to chapter 3, title 9, Idaho Code.</u>

SECTION 97. That Section 67-5768, Idaho Code, be, and the same is hereby amended to read as follows:

67-5768. NOMINAL POLICYHOLDER -- NO OBLIGATION TO STATE. (1) In policies and contracts procured by the administrator under this act and covering personnel of any state office, department, division, board, commission, institution, agency and operation, the director of administration shall be designated as the nominal policyholder or contract holder.

(2) No policy or contract shall create, or be deemed to constitute, any financial obligation on the part of the state of Idaho

beyond the obligation, to contribute for or upon current premiums or prepayments thereof.

(3) Except as hereinafter provided, information obtained from any employee, dependent or retiree insured under this act shall be ~~held confidential and shall not be disclosed or be open to public inspection in any manner which would reveal the individual's or his employer's identity~~ subject to disclosure according to chapter 3, title 9, Idaho Code; provided however, that if the affected employee, dependent or retiree waives in writing the right to hold such information confidential, said information may be disclosed.

SECTION 98. 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 investigations performed in accordance with 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~~ subject to disclosure according to chapter 3, title 9, Idaho Code. Nothing herein shall prohibit the lottery from disclosing information obtained by it to law enforcements agencies or other lottery organizations for security or enforcement purposes.

SECTION 99. 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 commission to evaluate the competence, integrity, background, character and the nature of the true ownership and control of lottery vendors. The 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 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, corpora-

tion, 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 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 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 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 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~~ subject to disclosure according to chapter 3, title 9, Idaho Code;

(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 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 100. That Section 67-7436, Idaho Code, be, and the same is hereby amended to read as follows:

67-7436. AUDITS. A certified public accounting firm appointed by

the commission shall conduct audits of all accounts and transactions of the state lottery. The director and his agents conducting an audit under this chapter shall have access and authority to examine any and all lottery-related records of lottery vendors and retailers. Such records shall be ~~treated as confidential records and shall not be subject to public disclosure~~ subject to disclosure according to chapter 3, title 9, Idaho Code. An independent certified public accountant, retained by the state lottery, shall witness all drawings of the state lottery.

SECTION 101. 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. Confidential validation or security tests shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

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 102. 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~~ be subject to disclosure according to chapter 3, title 9, Idaho Code.

No lottery employee shall divulge or make known to any person in any manner any ~~confidential~~ information which is exempt from disclosure, 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 103. 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 commission's rules and regulations and by lottery game rules developed by the 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. Confidential validation and security tests shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 104. That Section 69-250, Idaho Code, be, and the same is hereby amended to read as follows:

69-250. ~~CONFIDENTIALITY-OF~~ RECORDS. All financial statements of warehousemen required under the provisions of this chapter shall be ~~kept-confidential-by-the-department-and-its-agents-and--employees--and are-not-subject-to-disclosure~~ subject to disclosure according to chapter 3, title 9, Idaho Code, except as follows:

(1) Upon written permission by the licensee;

(2) In actions or administrative proceedings commenced under the provisions of this chapter or chapter 5, title 69, Idaho Code;

(3) When required by subpoena or court order; or

(4) Disclosure to law enforcement agencies in connection with the investigation or prosecution of criminal offenses.

SECTION 105. That Section 69-515, Idaho Code, be, and the same is hereby amended to read as follows:

69-515. ~~CONFIDENTIALITY-OF~~ RECORDS. All financial statements of commodity dealers required under the provisions of this chapter shall be ~~kept-confidential-by-the-department-and-its--agents--and--employees and--are--not-subject-to-disclosure~~ subject to disclosure according to chapter 3, title 9, Idaho Code, except as follows:

(a) Upon written permission by the licensee;

(b) In actions or administrative proceedings commenced under the provisions of this chapter or chapter 2, title 69, Idaho Code;

(c) When required by subpoena or court order; or

(d) Disclosure to law enforcement agencies in connection with the investigation or prosecution of criminal offenses.

SECTION 106. That Section 72-603, Idaho Code, be, and the same is hereby amended to read as follows:

72-603. EMPLOYERS' REPORT OF EMPLOYEES. ~~(1)~~ Requirement to keep records and to report. Subject to the provisions of this law, every employer shall keep an accurate record of the number and job classification of his employees and the wages paid, and upon demand of the commission shall furnish the commission a sworn statement of the same. Such records shall not be open to inspection except on request of the commission. The commission shall have the right, at any time and as often as it requires, to verify the number of employees and the amount of the payroll, and to inspect or cause to be inspected such records.

~~(2)~~ Information received from employers ~~not--public--Unauthorized disclosure--a--misdemeanor.--The--information--contained-in-such-sworn statement-shall-not-be-open-to-public-inspection;-and-any-person;-who; without-authority-from-the-commission-or-unless-required-by-law;-shall disclose-the-same-shall-be-guilty-of-a-misdemeanor~~ shall be subject to disclosure as provided in chapter 3, title 9, Idaho Code.

SECTION 107. That Section 72-926, Idaho Code, be, and the same is hereby amended to read as follows:

72-926. DISCLOSURES PROHIBITED. Information acquired by the manager from employers or employees pursuant to this chapter shall ~~not~~ be ~~open--to--public-inspection~~ subject to disclosure according to chapter 3, title 9, Idaho Code, and any officer or employee of the manager or of the state insurance fund who, without authority of the manager or pursuant to his rules, or as otherwise required by law, shall disclose the same, shall be guilty of a misdemeanor.

SECTION 108. That Section 72-1007, Idaho Code, be, and the same is hereby amended to read as follows:

72-1007. PUBLIC INSPECTION AND DISCLOSURE OF COMMISSION'S RECORDS. The records the commission maintains in its possession in the administration of this chapter are open to public inspection in accordance with the provisions of section 59-1009, Idaho Code, provided that all copies of reports of law enforcement agencies, hospitals, physicians, mental health counselors and any other person providing treatment to the victim shall ~~remain-confidential~~ be subject to disclosure according to chapter 3, title 9, Idaho Code, except that during the commission's regular office hours any claimant, or his attorney or authorized representative, may examine all files maintained by the commission in connection with his application for compensation.

SECTION 109. That Section 72-1342, Idaho Code, be, and the same is hereby amended to read as follows:

72-1342. DISCLOSURE OF INFORMATION. Except as hereinafter otherwise provided, information obtained from any employer or individual

pursuant to the administration of this act, and determinations of the benefit rights of any individual shall be ~~held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or the employer's identity~~ subject to disclosure as provided in chapter 3, title 9, Idaho Code. Provided, however, that if all interested parties waive in writing the right to hold said information confidential, said information may be disclosed. Any claimant (or his legal representative) shall be supplied with information from the records available to the director, to the extent necessary for the proper presentation of the claim in any proceedings under this act with respect thereto. Any cost reimbursement employer shall be supplied with information from the records available to the director to the extent necessary to identify or determine actual or potential costs for which it may be required to reimburse the department. Subject to such restrictions and fees as ~~the director may by rule prescribe~~ provided in chapter 3, title 9, Idaho Code, such information may be made available to public employees in the performance of their public duties. The director may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this act, and may in connection with such request transmit any such report or return to the comptroller of the currency of the United States as provided in section 1606(c) of the Federal Internal Revenue Code.

SECTION 110. That Section 72-1374, Idaho Code, be, and the same is hereby amended to read as follows:

72-1374. UNAUTHORIZED DISCLOSURE OF INFORMATION. If any employee or member of the commission or the director or any employee of the director, in violation of the provisions of ~~section 72-1342~~ chapter 3, title 9, Idaho Code, makes any disclosure of information obtained from any employer or individual in the administration of this act, or if any person who has obtained any list of applicants for work, or of claimants or recipients of benefits, under this act shall use or permit the use of such list for any political purpose, he shall be fined not less than twenty dollars ($20.00) nor more than two hundred dollars ($200), or imprisoned for not longer than ninety (90) days, or both; and each such unauthorized disclosure shall constitute a separate misdemeanor.

SECTION 111. Sections 1 and 2 of this act shall be in full force and effect on and after July 1, 1990. Sections 3 through 110 of this act shall be in full force and effect on and after July 1, 1993.

Approved April 5, 1990.

CHAPTER 214
(H.B. No. 868)

AN ACT

RELATING TO THE CHILD CARE LICENSING REFORM ACT OF 1990; AMENDING SECTION 39-1202, IDAHO CODE, AS REDESIGNATED AND AMENDED BY H.B. 729, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO FURTHER DEFINE TERMS; AMENDING SECTION 39-1203, IDAHO CODE, AS ADDED BY H.B. 729, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO AUTHORIZE WAIVER OF FILING CERTAIN REPORTS; AMENDING SECTION 39-1206, IDAHO CODE, AS ADDED BY H.B. 729, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO SPECIFY CERTAIN EXCEPTIONS; AND AMENDING SECTION 39-1221, IDAHO CODE, AS AMENDED BY H.B. 729, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO REMOVE CHILDREN'S AGENCY FROM THE PROVISIONS OF THE SECTION.

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

SECTION 1. That Section 39-1202, Idaho Code, as redesignated and amended by H.B. No. 729, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

39-1202. DEFINITIONS. For the purposes of this chapter:

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

(2) "Child care" means that care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.

(3) "Child" means an individual less than eighteen (18) years of age who is not enrolled in an institution of higher education.

(4) "Children's agency" means a person who operates a business for the placement of children in foster homes or group homes or for adoption in a permanent home and who does not provide child care as part of that business. Children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements.

(5) "Children's camp" means a program of child care at a location away from the child's home which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child.

(6) "Children's institution" means a person who operates a residential facility for children not related to that person if that person is an individual, for the purpose of providing child care. Children's institutions include, but are not limited to, foster homes, group homes, maternity homes, juvenile detention centers and other residential facilities referenced in the juvenile justice reform act, or any facilities providing treatment, therapy or rehabilitation for children. Children's institutions do not include: (a) facilities which provide only day care as defined in chapter 11, title 39, Idaho Code; (b) facilities and agencies including hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded licensed pursuant to chapter 13, title

39, Idaho Code; (c) day schools; ~~or~~ (d) individuals acting in an advisory capacity, counseling a child in a religious context, and providing no child care associated with the advice; (e) the occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily engaged in child care.

(7) "Children's treatment facility" means a children's institution, excluding:

(a) Foster homes;

(b) Group homes;

(c) Juvenile detention centers;

(d) Residential schools;

(e) Children's camps.

No facility expressly excluded from the definition of a children's institution is included within the definition of a children's treatment facility.

(8) "Day school" means a public, private, parochial or secular facility offering an educational program in which the children leave the facility each day at the conclusion of the academic, vocational or school supervised activities.

(~~8~~9) "Department" means the state department of health and welfare.

(~~9~~10) "Director" means the director of the department of health and welfare.

(~~10~~11) "Foster care" means child care by a person not related to the child, in lieu of parental care, in a foster home.

(~~11~~12) "Foster home" means a home which accepts, for any period of time, with or without compensation, one (1) or more children who are not related to the foster parent as members of the household for the purpose of providing substitute parental care.

(~~12~~13) "Group care" means foster care of a number of children for whom child care in a family setting is not available or appropriate, in a dormitory or cottage type setting, characterized by activities and discipline of a more regimented and less formal nature than found in a family setting.

(~~13~~14) "Group home" means a residential facility providing group care.

(~~14~~15) "Juvenile detention" means the temporary child care of juveniles who require secure custody pursuant to the juvenile justice reform act, as defined in section 16-1802(i), Idaho Code, for their own or the community's protection.

(~~15~~16) "Juvenile detention center" means a physically restrictive facility for juveniles pending court adjudication or subsequent to court adjudication, as defined in section 16-1802(j), Idaho Code.

(~~16~~17) "Person" includes any individual, group of individuals, association, partnership or corporation.

(~~17~~18) "Placement" means finding a suitable licensed foster home or suitable adoptive home for a child and completing the arrangements for a child to be accepted into and adjusted to such home.

(~~18~~19) "Representative" means an employee of the state department of health and welfare.

(~~19~~20) "Residential facility" means any facility where child care is provided, as defined in this section, and which provides day and night accommodation.

(2~~0~~1) "Residential school" means a residential facility for children which:

(a) Provides a planned, scheduled, regular, academic or vocational school program for students in the elementary, middle or secondary grades as defined in section 33-1001, Idaho Code; and

(b) Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and

(c) Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and

(d) Is not:

(i) A college or university; or

(ii) A children's camp as defined in this section; or

(iii) A public or private day school in which the children leave the facility each day at the conclusion of the academic, vocational and school supervised activities.

SECTION 2. That Section 39-1203, Idaho Code, as added by H.B. 729, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

39-1203. FILING OF DISCLOSURE REPORTS. All children's institutions except foster homes shall file with the department a disclosure report as designed by the department and containing only such information as set forth in section 39-1204, Idaho Code. All such disclosure reports shall be signed under oath by the administrative employee responsible for operation of the children's institution.

(1) An initial disclosure report shall be filed with the department:

(a) Within six (6) months of the effective date of this chapter for all children's institutions which are providing child care on the effective date of this chapter; or

(b) At least thirty (30) days prior to the acceptance of any child for child care.

(2) An annual update disclosure report shall be filed by all children's institutions except foster homes each year within thirty (30) days of the anniversary of the filing of the initial disclosure report. The department may waive the filing of an annual disclosure report by any children's institution.

SECTION 3. That Section 39-1206, Idaho Code, as added by H.B. 729, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

39-1206. CHILDREN'S CAMPS. A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period shall constitute a children's treatment facility. A children's camp which also constitutes a residential school shall be governed under the provisions of this chapter as a residential school. A children's camp which provides child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period shall be exempt from any the licensure under and disclosure

provisions of this chapter.

SECTION 4. That Section 39-1221, Idaho Code, as amended by H.B. 729, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

39-1221. REMOVAL OF CHILDREN. Any child or children receiving child care in a group home~~, children's agency~~ or children's treatment facility found to be operating without a license may be removed from such home, agency or institution upon order of the magistrate court of the county in which the child is receiving care and returned to the child's own home, or placed in the custody of the department if the child's custodial parent is not available. The prosecuting attorneys of the several counties shall represent the department at all stages of the proceedings before the magistrate court. The magistrate court shall retain jurisdiction relative to child custody pursuant to the provisions of this section. In the event that the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the violation, the attorney general is authorized to prosecute violations under this chapter.

Approved April 5, 1990.

CHAPTER 215
(H.B. No. 729)

AN ACT

RELATING TO THE CHILD CARE LICENSING REFORM ACT OF 1990; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING SECTION 39-1208, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO CLARIFY APPLICATION OF THE CHAPTER; AMENDING SECTION 39-1209, IDAHO CODE, TO REDESIGNATE THE SECTION, AND TO DEFINE TERMS; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1203, IDAHO CODE, TO REQUIRE FILING OF DISCLOSURE REPORTS; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1204, IDAHO CODE, TO PROVIDE THE FORM FOR THE DISCLOSURE REPORT; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1205, IDAHO CODE, TO REQUIRE THE DEPARTMENT TO EVALUATE DISCLOSURE REPORTS AND CATEGORIZE INSTITUTIONS; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1206, IDAHO CODE, TO DEFINE CHILDREN'S CAMPS AND TO SPECIFY WHEN THE PROVISIONS OF THIS CHAPTER APPLY TO CHILDREN'S CAMPS; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1207, IDAHO CODE, TO SPECIFY CONDITIONS FOR APPLICATION OF THE PROVISIONS OF THIS CHAPTER TO RESIDENTIAL SCHOOLS, AND TO SPECIFY WHEN RESIDENTIAL SCHOOLS SHALL REPORT TO THE DEPARTMENT OF EDUCATION; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1208, IDAHO CODE, TO SPECIFY CONDITIONS FOR APPLICATION OF THE PROVISIONS OF THIS CHAPTER TO JUVENILE DETEN-

TION CENTERS; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1209, IDAHO CODE, TO PROVIDE APPLICATION OF THE PROVISIONS OF THIS CHAPTER TO CHILDREN'S AGENCIES; AMENDING SECTION 39-1210, IDAHO CODE, TO PROVIDE APPLICATION OF THE PROVISIONS OF THIS CHAPTER TO CHILDREN'S TREATMENT FACILITIES AND TO SPECIFY A CRIMINAL HISTORY CHECK; AMENDING SECTION 39-1211, IDAHO CODE, TO CLARIFY APPLICATION OF THE SECTION TO GROUP HOMES AND SPECIFY A CRIMINAL HISTORY CHECK; REPEALING SECTION 39-1212, IDAHO CODE; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1212, IDAHO CODE, TO PROVIDE APPLICATION OF THE ADMINISTRATIVE PROCEDURES ACT TO THE PROVISIONS OF THIS CHAPTER; AMENDING SECTION 39-1213, IDAHO CODE, TO INCLUDE GROUP HOMES AND TO CORRECT REFERENCES TO CHILDREN'S TREATMENT FACILITIES IN PROVISIONS GOVERNING LICENSING AUTHORITY; AMENDING SECTION 39-1214, IDAHO CODE, TO INCLUDE GROUP HOMES AND TO CORRECT REFERENCES TO CHILDREN'S TREATMENT FACILITIES IN PROVISIONS GOVERNING LICENSING; AMENDING SECTION 39-1216, IDAHO CODE, TO INCLUDE GROUP HOMES AND TO CLARIFY REFERENCES TO CHILDREN'S TREATMENT FACILITIES IN PROVISIONS GOVERNING PROVISIONAL LICENSES; AMENDING SECTION 39-1217, IDAHO CODE, TO INCLUDE GROUP HOMES AND TO CLARIFY REFERENCES TO CHILDREN'S TREATMENT FACILITIES IN PROVISIONS GOVERNING VISITATION; AMENDING SECTION 39-1218, IDAHO CODE, TO CORRECT REFERENCES TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 39-1219, IDAHO CODE, TO PROVIDE CORRECT CITATIONS AND TO CLARIFY APPLICATION OF THE SECTION; AMENDING SECTION 39-1220, IDAHO CODE, TO PROVIDE PENALTIES FOR OPERATING WITHOUT A LICENSE; AMENDING SECTION 39-1221, IDAHO CODE, TO PROVIDE APPLICATION OF THE SECTION AND TO AUTHORIZE PROSECUTION BY THE ATTORNEY GENERAL UNDER CONDITIONS SPECIFIED; AMENDING SECTION 39-1222, IDAHO CODE, TO CLARIFY APPLICATION OF THE PROVISIONS OF THE SECTION TO GROUP HOMES AND CHILDREN'S TREATMENT FACILITIES, AND TO CLARIFY AUTHORITY OF THE DEPARTMENT TO REVOKE A LICENSE IN THE CONDITIONS SPECIFIED; AND AMENDING SECTION 39-1224, IDAHO CODE, TO PROVIDE THE TITLE OF THE ACT AND REQUIRE DESIGNATION OF THE CHAPTER.

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

SECTION 1. It is the intent of the legislature of the state of Idaho that the existing law governing child care facilities in chapter 12, title 39, Idaho Code, should be amended to clarify the different types of facilities in Idaho which provide twenty-four (24) hour child care for children in lieu of parental care. Since the enactment of the original language in this chapter in 1965, many different types of child care facilities have opened in Idaho providing a wide range of services for children but creating uncertainties whether they are or are not covered by the provisions of this chapter. Also, the Idaho legislature has enacted a separate law governing day care facilities for children. Therefore, it is timely to clarify how to categorize different child care providers, to identify which care providers are covered by this chapter and to assure that the provisions of this chapter do not and cannot be interpreted to apply to day care facilities, day schools, or to any type of home schools.

SECTION 2. That Section 39-1208, Idaho Code, be, and the same is hereby amended to read as follows:

39-12081. POLICY. It is hereby declared to be the policy of this state to insure that children of this state shall receive adequate substitute parental care in the event of absence, temporary or permanent inability of parents to provide care and protection for their children or the parents are seeking alternative twenty-four (24) hour long-term care for their children. This policy is predicated upon the fact that ~~a child is~~ children are vulnerable, not capable of protecting ~~himself~~ themselves, and when ~~his~~ their parents for any reason have relinquished ~~his~~ their care to others, there arises the possibility of certain risks to the children's lives, health and safety which the community as a whole must protect against. This requires the offsetting statutory protection of review and, in certain instances, licensing or registration.

The provisions of this chapter shall apply only to those entities specifically addressed herein. It is not the intent of the legislature to restrict, regulate, or otherwise control private day schools or home schools.

SECTION 3. That Section 39-1209, Idaho Code, be, and the same is hereby amended to read as follows:

39-12092. DEFINITIONS. For the purposes of this chapter:

(1~~.~~) "~~D~~epartment Board" means the ~~state department~~ Idaho board of health and welfare.

(2) "Child care" means that care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.

~~2.--"Director" means the director of the department of health and welfare.~~

(3~~.~~) "Child" means ~~a person~~ an individual less than eighteen (18) years of age who is not enrolled in an institution of higher education.

~~4.--"Foster home" means a home which accepts, for any period of time, with our without compensation, an unrelated child as a member of the household for the purpose of providing substitute parental care of the child.~~

(4) "Children's agency" means a person who operates a business for the placement of children in foster homes or group homes or for adoption in a permanent home and who does not provide child care as part of that business.

(5) "Children's camp" means a program of child care at a location away from the child's home which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child.

~~5.~~(6) "Children's ~~agency" or "children's~~ institution" means ~~an organization, corporation, society or association which receives~~ a person who operates a residential facility for children ~~for control,~~ not related to that person if that person is an individual, for the purpose of providing child care~~, maintenance or placement, or a place maintained or operated by a person or persons, organization, corpora-~~

~~tion,--society--or--association-which-specializes-in-maternity-care-to unmarried-mothers,-or-provides-group-care-for-children-who-are-in--its custody--and--control-through-legal-action-or-informal-arrangement,-or which-place-children-in-adoptive-or-foster-homes.~~ Children's institutions include, but are not limited to, foster homes, group homes, maternity homes, juvenile detention centers and other residential facilities referenced in the juvenile justice reform act, or any facilities providing treatment, therapy or rehabilitation for children. Children's institutions do not include: (a) facilities which provide only day care as defined in chapter 11, title 39, Idaho Code; (b) facilities and agencies including hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded licensed pursuant to chapter 13, title 39, Idaho Code; (c) day schools; or (d) the occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily engaged in child care.

~~6.--"Child-care"-means-foster-care,-group-care,-or-placement.~~

~~7.--"Foster-care"-means-child-care,-in-lieu-of-parental-care-in--a foster-home,-children's-agency-or-children's-institution.~~

(7) "Day school" means a public, private, parochial or secular facility offering an educational program in which the children leave the facility each day at the conclusion of the academic, vocational or school supervised activities.

(8) "Department" means the state department of health and welfare.

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

(10) "Foster care" means child care by a person not related to the child, in lieu of parental care, in a foster home.

(11) "Foster home" means a home which accepts, for any period of time, with or without compensation, one (1) or more children who are not related to the foster parent as members of the household for the purpose of providing substitute parental care.

~~8.~~(12) "Group care" means foster care of a number of children for whom child care in a family setting is not available or appropriate, in a dormitory or cottage type setting, characterized by activities and discipline of a more regimented and less formal nature than found in a family setting.

(13) "Group home" means a residential facility providing group care.

(14) "Juvenile detention" means the temporary child care of juveniles who require secure custody pursuant to the juvenile justice reform act, as defined in section 16-1802(i), Idaho Code, for their own or the community's protection.

(15) "Juvenile detention center" means a physically restrictive facility for juveniles pending court adjudication or subsequent to court adjudication, as defined in section 16-1802(j), Idaho Code.

(16) "Person" includes any individual, group of individuals, association, partnership or corporation.

~~9.~~(17) "Placement" means finding a suitable licensed foster home or suitable adoptive home for a child and completing the arrangements for a child to be accepted into and adjusted to such home.

(~~10.~~8) "Representative" means an employee of the state department

of health and welfare.

(19) "Residential facility" means any facility where child care is provided, as defined in this section, and which provides day and night accommodation.

(20) "Residential school" means a residential facility for children which:

(a) Provides a planned, scheduled, regular, academic or vocational school program for students in the elementary, middle or secondary grades as defined in section 33-1001, Idaho Code; and

(b) Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and

(c) Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and

(d) Is not:

(i) A college or university; or

(ii) A children's camp as defined in this section; or

(iii) A public or private day school in which the children leave the facility each day at the conclusion of the academic, vocational and school supervised activities.

SECTION 4. That Chapter 12, 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 39-1203, Idaho Code, and to read as follows:

39-1203. FILING OF DISCLOSURE REPORTS. All children's institutions except foster homes shall file with the department a disclosure report as designed by the department and containing only such information as set forth in section 39-1204, Idaho Code. All such disclosure reports shall be signed under oath by the administrative employee responsible for operation of the children's institution.

(1) An initial disclosure report shall be filed with the department:

(a) Within six (6) months of the effective date of this chapter for all children's institutions which are providing child care on the effective date of this chapter; or

(b) At least thirty (30) days prior to the acceptance of any child for child care.

(2) An annual update disclosure report shall be filed by all children's institutions except foster homes each year within thirty (30) days of the anniversary of the filing of the initial disclosure report.

SECTION 5. That Chapter 12, 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 39-1204, Idaho Code, and to read as follows:

39-1204. FORM FOR DISCLOSURE REPORT. (1) The department shall design a form for the initial disclosure report which shall contain only the following information:

(a) The name, address and telephone number(s) for each residential facility.
(b) The name(s), address and telephone number(s) of the individual(s) in charge at each residential facility.
(c) The number of children that can be accommodated for child care at each residential facility operated by the children's institution and a description of such accommodations.
(d) Whether and how the children's institution seeks, receives or enrolls students for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or students who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision.
(e) A complete description of the child care services to be provided at each residential facility operated by the children's institution.
(f) Whether and how the children's institution expects to receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental retardation.
(g) Whether and how the children's institution represents to the payor of the child care services provided by the children's institution that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services.
(h) A description of the educational programs provided at each residential facility and their accreditation status.
(2) The department shall design a form for the annual update disclosure report which shall reference the information provided in the initial disclosure report and shall request identification of any changes in the information provided on the initial report or the previous annual update disclosure report.

SECTION 6. That Chapter 12, 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 39-1205, Idaho Code, and to read as follows:

39-1205. EVALUATION OF DISCLOSURE REPORTS. The department shall review all initial and annual update disclosure reports and shall categorize each children's institution, based on the type of care provided, into one (1) of the following categories:
(1) Foster homes;
(2) Group homes;
(3) Juvenile detention centers;
(4) Residential schools;
(5) Children's camps; or
(6) Each children's institution not otherwise categorized in subsections (1) through (5) of this section, except any day school, shall be designated as a "children's treatment facility."

SECTION 7. That Chapter 12, 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 39-1206, Idaho Code, and to read as follows:

39-1206. CHILDREN'S CAMPS. A children's camp which provides child care for any child for more than nine (9) consecutive weeks in any one (1) year period shall constitute a children's treatment facility. A children's camp which also constitutes a residential school shall be governed under the provisions of this chapter as a residential school. A children's camp which provides child care for any child for less than nine (9) consecutive weeks in any one (1) year period shall be exempt from any licensure under this chapter.

SECTION 8. That Chapter 12, 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 39-1207, Idaho Code, and to read as follows:

39-1207. RESIDENTIAL SCHOOLS. (1) Upon receipt of an initial disclosure report from a children's institution that the department categorizes as a residential school, the department shall provide a copy of such initial disclosure report to the Idaho department of education.

(2) The Idaho department of education shall certify to the department whether each residential school has been accredited according to the accrediting standards promulgated by the Idaho department of education, the Idaho state board of education or a secular or religious accrediting association recognized by the Idaho department of education.

(3) If a residential school has been certified as accredited under subsection (2) of this section, then the department shall exercise no further jurisdiction under this chapter over that accredited residential school so long as the accreditation for the residential school remains in effect.

(4) Upon certification of accreditation, the Idaho department of education shall notify the accredited residential school that all future update disclosure reports or other reports as the Idaho department of education may require shall be filed with the Idaho department of education so long as the accreditation remains in effect.

(5) Upon the determination by the Idaho department of education that a residential school is no longer accredited, it shall notify the department and shall notify the residential school that all future update disclosure reports must be filed with the department.

(6) A residential school that is not certified or accredited pursuant to this section or has lost accreditation shall be subject to the jurisdiction of the department as a children's treatment facility pursuant to section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho department of education pursuant to this section.

(7) The department has the authority to postpone for up to one (1) year the designation of a nonaccredited residential school as a children's treatment facility upon receipt of an affidavit under oath signed by a legally authorized agent of the nonaccredited residential

school that application for accreditation has been made to the Idaho department of education, the Idaho state board of education or an affiliated accrediting association recognized by the Idaho department of education; and the department determines that the application is being pursued in good faith.

SECTION 9. That Chapter 12, 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 39-1208, Idaho Code, and to read as follows:

39-1208. JUVENILE DETENTION CENTERS. The department has the authority pursuant to the provisions of chapter 18, title 16, Idaho Code, the juvenile justice reform act, to license and establish standards for all children's institutions that have been categorized as juvenile detention centers.

SECTION 10. That Chapter 12, 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 39-1209, Idaho Code, and to read as follows:

39-1209. STANDARDS FOR CHILDREN'S AGENCIES. The board shall have the power and it shall be its duty to promulgate appropriate rules and regulations necessary to implement and enforce the following standards for licensing children's agencies to:

(1) Assure the organizational stability of children's agencies, which may require incorporation under the laws of this state;

(2) Require from the policy-making authority of the agency a statement setting forth the agency's purposes and objectives and describing the character and extent of the services which it offers and maintains, and the geographical area to be served;

(3) Require a statement of financial solvency sufficient to maintain facilities and personnel necessary to achieve its purposes and objectives and to maintain its services.

SECTION 11. That Section 39-1210, Idaho Code, be, and the same is hereby amended to read as follows:

39-1210. STANDARDS FOR CHILDREN'S ~~AGENCIES AND CHILDREN'S--INSTITUTIONS------BOARD--TO-IMPLEMENT-AND-ENFORCE~~ TREATMENT FACILITIES. The board of health and welfare shall have the power and it shall be its duty to promulgate appropriate rules and regulations necessary to implement and enforce the following standards for licensing ~~children's agencies and~~ a children's ~~institutions~~ treatment facility:

(1~~.~~) Assure the organizational stability of the ~~agency~~ facility, which may require incorporation under the laws of Idaho.

(2~~.~~) Require from the policy-making authority of the ~~agency~~ facility the promulgation of a statement setting forth the ~~agency's~~ facility's purposes and objectives and describing the character and extent of the services which it offers and maintains, and the geographical area to be served.

(3~~.~~) Require ~~evidence of income and resources~~ a statement of sol-

vency sufficient to maintain facilities and personnel necessary to achieve its purposes and objectives and to maintain its services.

(4~~.~~) Assure such record-keeping and reporting as may be deemed necessary to the ~~agency's~~ facility's services and to the department's licensing responsibility.

(5~~.~~) Assure the safety and physical care of children for whom the ~~agency~~ facility assumes or accepts responsibility.

(6~~.~~) Establish the legal status of each child accepted for care and the legal authority and responsibility of the ~~agency~~ facility for ~~him~~ the child.

(7~~.~~) Require a statement of intake policy which shall set forth criteria for accepting children for care or service in relation to the ~~agency's~~ facility's purposes and facilities.

(8~~.~~) Provide through observation and collateral inquiry for studies of homes into which children may be placed sufficient to enable a judgment determining the adequacy of the homes in relation to the needs of the children~~, and~~.

(9~~.~~) In the case of an institution specializing in maternity care to unmarried mothers:

(a) Assure social services on behalf of both the mother and infant~~,~~; and

(b) Assure protection of the legal rights and rights to confidential treatment of minor unmarried mothers and their children.

(10) The department shall obtain a criminal history check on the owners, operators and employees of all children's treatment facilities. The criminal history check shall include the following:

(a) Statewide criminal identification bureau;

(b) Federal bureau of investigation (FBI) criminal history;

(c) National crime information center; and

(d) Statewide child abuse register.

SECTION 12. That Section 39-1211, Idaho Code, be, and the same is hereby amended to read as follows:

39-1211. STANDARDS FOR FOSTER HOMES AND GROUP HOMES -- BOARD AUTHORIZED TO IMPLEMENT AND ENFORCE. The board of health and welfare shall have the power, and it shall be its duty to promulgate appropriate rules and regulations necessary to implement and enforce the following standards for licensing private foster homes and group homes pursuant to this ~~act~~ chapter. The board's rules and regulations for group homes may be separate from rules and regulations for foster homes. Such rules and regulations shall:

(1~~.~~) Require evidence of income and resources sufficient to maintain the home and the services offered.

(2~~.~~) Require such record-keeping and reporting regarding children's status and progress as may be deemed necessary.

(3~~.~~) Assure the safety and adequate physical care of children under care.

(4~~.~~) Require that foster parents be physically and emotionally suited to care for unrelated children and to deal with problems presented by children away from their own homes and own parents and shall require a criminal background check.

Provided, however, nothing in this ~~act~~ chapter shall be construed

to cover the occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily engaged in child care.

SECTION 13. That Section 39-1212, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Chapter 12, 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 39-1212, Idaho Code, and to read as follows:

39-1212. APPLICATION OF ADMINISTRATIVE PROCEDURES ACT. Actions of the department relating to adoption of rules and regulations, notice, hearings, appeals from decisions of the department or the director, and review shall be governed by the provisions of chapter 52, title 67, Idaho Code, the administrative procedures act.

SECTION 15. That Section 39-1213, Idaho Code, be, and the same is hereby amended to read as follows:

39-1213. LICENSING AUTHORITY. (a) The board of health and welfare is hereby authorized and directed to establish procedures for licensing foster homes, group homes, children's agencies and children's ~~institutions~~ treatment facilities which are maintained and operated in conformity with the rules, regulations and standards authorized herein. Such procedures shall include the manner and form for making application for license, investigation upon application and notice of decision.

(b) It is recognized that children's agencies ~~and--children's institutions~~ may have their own procedure ~~(exclusive-of-the-board-of health-and-welfare)~~ for approval of foster homes affiliated with their program. Any foster home which has been approved by a licensed children's agency ~~or-children's-institution~~ shall be exempt from the licensing provisions of this chapter, provided that the standards for approval by such agency ~~or-institution~~ are ~~in-substantial-conformity with~~ no less restrictive than rules, regulations and standards established by the board of health and welfare, and provided further that such children's agency ~~or-children's--institution~~ is maintained and operated in conformity with rules, regulations and standards of the board of health and welfare. The board of health and welfare may promulgate rules and regulations necessary to implement the provisions of this section.

SECTION 16. That Section 39-1214, Idaho Code, be, and the same is hereby amended to read as follows:

39-1214. ELIGIBILITY FOR LICENSE. Any foster home, group home, children's agency or children's ~~institution~~ treatment facility which applies for a license in the manner and form prescribed by the board of health and welfare and is found upon investigation by the department to be established in conformity with the rules, regulations and standards established by the department under the authority conferred

herein shall be licensed for a period of one (1) year.

SECTION 17. That Section 39-1216, Idaho Code, be, and the same is hereby amended to read as follows:

39-1216. PROVISIONAL LICENSE. Upon initial investigation, should an applicant for a license be unable to meet a standard because of conditions that are unlikely to endure beyond six (6) months from the date of such investigation, the department may, if in its judgment the health and safety of any child is not thereby endangered, issue a provisional license for a period not to exceed six (6) months. No more than one (1) provisional license shall be issued to the same foster home, group home, children's agency or children's ~~institution~~ treatment facility in any twelve (12) month period.

SECTION 18. That Section 39-1217, Idaho Code, be, and the same is hereby amended to read as follows:

39-1217. VISITATION. For the purpose of determining whether every licensed foster home, licensed group home, licensed children's agency and licensed children's ~~institution~~ treatment facility consistently maintains conformity with the standards established under the authority conferred herein, the department, through an authorized representative, shall visit each such home~~,-agency~~ and ~~institution~~ facility as often as it deems necessary or desirable, but in any event at intervals not to exceed ~~six-(6)~~ twelve (12) months.

SECTION 19. That Section 39-1218, Idaho Code, be, and the same is hereby amended to read as follows:

39-1218. LICENSE -- DENIAL -- SUSPENSION -- REVOCATION -- NONRENEWAL -- HEARING. (1) Any license issued pursuant to this ~~act~~ chapter may be denied, suspended, revoked or not renewed, by notice in writing by the director ~~of-the-department-of-health-and-welfare~~ or his authorized representative served upon the applicant or licensee by registered or certified mail, setting forth the reasons therefor, if upon investigation it is found that the licensee has failed or refused to comply with any of the provisions of this ~~act~~ chapter or with any of the rules, regulations or standards established pursuant to this ~~act~~ chapter.

(2) Within fifteen (15) days from receipt of notice of grounds for denial, suspension, revocation or nonrenewal, the applicant or licensee may serve upon the director by registered or certified mail, a written request for hearing. Upon receipt of such request, the director shall fix a date for hearing, which date shall not be more than thirty (30) days from receipt of the request and shall give the applicant or licensee at least fifteen (15) days' notice of said hearing date.

(3) If no request for hearing is made within the time specified, the license shall be deemed denied, suspended or revoked. The ~~director~~ department shall notify the applicant or licensee of the ~~director's~~ decision of the director or his authorized representative within thirty (30) days after conclusion of the hearing.

SECTION 20. That Section 39-1219, Idaho Code, be, and the same is hereby amended to read as follows:

39-1219. APPEAL FROM DECISION OF DIRECTOR. If an applicant or licensee feels aggrieved by a decision rendered as a result of a hearing, as provided in section 39-12~~17~~8, Idaho Code, appeal may be taken to the district court of the county in which the ~~institution~~ group or foster home, facility or agency is located, in the manner and form as provided in section 39-1212, Idaho Code, provided, however, the filing of notice of appeal shall not, unless otherwise ordered, stay the proceedings of the director.

SECTION 21. That Section 39-1220, Idaho Code, be, and the same is hereby amended to read as follows:

39-1220. OPERATING WITHOUT LICENSE MISDEMEANOR. Any person or persons who operate a foster home, group home, children's agency or children's ~~institution~~ treatment facility, within this state, without first obtaining a license as provided in this chapter shall be guilty of a misdemeanor. However, in the event of an initial citation for violation of the provisions of this section, if a person makes the application required within thirty (30) days, the complaint shall be dismissed. The penalty for violation of the provisions of this section shall be three hundred dollars ($300) for each day of a continuing violation, which penalty shall accrue from thirty (30) days following the initial notice of violation in the event of a finding of violation.

SECTION 22. That Section 39-1221, Idaho Code, be, and the same is hereby amended to read as follows:

39-1221. REMOVAL OF CHILDREN. Any child or children receiving child care in a ~~foster~~ group home, children's agency or children's ~~institution~~ treatment facility found to be operating without a license ~~shall~~ may be removed from such home, agency or institution upon order of the ~~probate~~ magistrate court of the county in which the child is receiving care and returned to ~~his or their~~ the child's own home, or placed in the custody of the department if the child's custodial parent is not available. The prosecuting attorneys of the several counties shall represent the department at all stages of the proceedings before the ~~probate~~ magistrate court. The magistrate court shall retain jurisdiction relative to child custody pursuant to the provisions of this section. In the event that the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the violation, the attorney general is authorized to prosecute violations under this chapter.

SECTION 23. That Section 39-1222, Idaho Code, be, and the same is hereby amended to read as follows:

39-1222. ACTION AGAINST UNLICENSED FOSTER HOME, GROUP HOME, CHILDREN'S AGENCY OR CHILDREN'S ~~INSTITUTION~~ TREATMENT FACILITY. Notwithstanding the existence or pursuit of any other remedy, the depart-

ment shall, upon showing good cause to the prosecuting attorney who shall represent the department in the proceeding, maintain an action in the name of the state for injunction or other process against a person ~~or--persons,-organization,-corporation,-society-or-association which~~ as defined herein who shall hereafter operate or maintain any foster home, group home, children's agency or children's ~~institution~~ treatment facility without first having secured a license pursuant to the provisions of this ~~act~~ chapter. Upon a finding that the safety of children at a foster home, group home, children's agency or children's treatment facility is endangered, the department has the authority to immediately revoke a license.

SECTION 24. That Section 39-1224, Idaho Code, be, and the same is hereby amended to read as follows:

39-1224. TITLE OF ACT. This act shall be known and cited as the "~~Foster~~-Child Care Licensing Reform Act~~.~~," and the caption for chapter 12, title 39, Idaho Code, shall so designate.

Approved April 5, 1990.

CHAPTER 216
(H.B. No. 848)

AN ACT

RELATING TO A COUNTY JUSTICE FUND; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 46, TITLE 31, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE, TO PROVIDE FOR THE ESTABLISHMENT OF A COUNTY JUSTICE FUND, TO PROVIDE A PROCEDURE FOR THE ESTABLISHMENT OF A COUNTY JUSTICE FUND; AMENDING SECTION 31-3201, IDAHO CODE, TO PROVIDE FOR IMPOSING AN ADMINISTRATIVE SURCHARGE ON FINES, FORFEITURES, AND COSTS; AMENDING SECTION 49-328, IDAHO CODE, EFFECTIVE APRIL 1, 1990, TO PROVIDE FOR THE COLLECTION OF AN ADMINISTRATIVE FEE FOR REINSTATING A DRIVER'S LICENSE; AMENDING SECTION 63-903, IDAHO CODE, TO REDUCE THE COUNTY CURRENT EXPENSE LEVY; AMENDING CHAPTER 9, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-904, IDAHO CODE, TO PROVIDE FOR A COUNTY JUSTICE FUND LEVY; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 46, Title 31, Idaho Code, and to read as follows:

CHAPTER 46
COUNTY JUSTICE FUND

31-4601. PURPOSE. The legislature recognizes that the counties of the state perform vital functions in administering and delivering law

enforcement services to all residents of the state. The legislature further finds it is necessary that the boards of county commissioners of the counties of the state be able to address the needs of county-provided components of the justice system by funding them at levels which do not compromise the performance of the justice system as a whole and which advance the interests of the public, while protecting the rights of individuals involved with the justice system.

31-4602. JUSTICE FUND ESTABLISHMENT. The board of county commissioners of any county may, in conjunction with development of their annual budget, by resolution adopted at a public meeting of the board, establish a county justice fund to provide funding for the operation of the county sheriff's department, construction, remodeling, operation and maintenance of county jails, juvenile detention facilities and/or county courthouses, operation of the prosecuting attorney's office, provision of public defender service and otherwise court-appointed counsel, and operation of the office of the clerk of the district court, to the extent that operation of that office provides support for the district court. The justice fund shall be separate and distinct from the county current expense fund and expenditures from the justice fund shall be solely dedicated to the purposes set forth in this section.

At the discretion of the board of county commissioners, funds deposited in the county justice fund may be allowed to accumulate over a period of years for designated capital improvements or be expended on a regular basis.

31-4603. PROCEDURE FOR ESTABLISHMENT. (1) If a board of county commissioners desires to establish a county justice fund, it shall publish notice of intent to do so in conjunction with the proposed budget publication required in section 31-1604, Idaho Code, and shall depict such proposal in the proposed county budget in a manner consistent with the provisions of section 31-1603, Idaho Code.

(2) Establishment of a county justice fund shall proportionately reduce the allowable ad valorem tax charges for remaining expenses in the county current expense fund. For purposes of achieving a proportionate reduction, the following procedure shall be followed:

(a) Prior to the September budget hearing required by section 31-1604, Idaho Code, and upon the request of the board of county commissioners, the budget officer shall identify and separate the appropriations for the services and operations outlined in section 31-4602, Idaho Code, from the previous year's budget, including estimated portions of the general reserve appropriation and court-ordered expenditures for such purposes. Such figure, and the percentage that such figure constitutes of the whole of the current expense fund expenditures, shall be certified by the clerk of the county and shall be transmitted to the board of county commissioners.

(b) The board of county commissioners shall review the submittal by the clerk and shall, upon completion of such review, adopt a resolution creating a county justice fund, which resolution shall certify, to the accuracy of two (2) decimal places, the percentage that authorized justice fund appropriations in the prior budget

year are of total current expense fund appropriations for that year. If the board of county commissioners believes the previous year's budget is not typical, it may petition the state tax commission for an administrative ruling setting the percentage of justice fund expenditures based upon a more extended history of such budgeted expenditures.

(c) The percentage derived by completion of the steps called for in subsection (2)(b) of this section shall be multiplied by the total of ad valorem tax charges levied to support the current expense fund as a whole. The product of this multiplication shall be subtracted from the entire ad valorem tax charge for the current expense fund and shall constitute the justice fund allocation. The remainder, after the justice fund allocation has been subtracted, shall constitute a new ad valorem tax base for the current expense fund, which current expense and justice fund bases shall continue to be subject to the provisions of section 63-2220, Idaho Code. Allowable ad valorem tax charges for the current expense fund in the year the justice fund is created shall be determined upon the base established in this section. In subsequent years, after a county has established a justice fund, the maximum levy authority for the current expense fund shall be twenty hundredths percent (.20%) of market value for assessment purposes as provided for in section 63-903, Idaho Code.

(3) Additional revenues, other than those derived from ad valorem taxation, shall be allocated to the current expense fund or the justice fund, respectively, in accordance with their association with the functions performed by offices supported by the respective funds. Where revenues sources are not clearly attributable to either justice or current expense fund activities, they shall be apportioned to the current expense fund or justice fund by the board of county commissioners to meet the greatest funding need in each local jurisdiction.

SECTION 2. That Section 31-3201, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201. CLERK OF DISTRICT COURT -- FEES. The clerk of the district court shall lawfully charge, demand and receive the following fees for services rendered by him in discharging the duties imposed upon him by law:

For filing and docketing abstract or transcript of judgment from another court $2.00

For issuing execution upon an abstract or transcript of judgment and filing same on return $2.00

For recording execution issued upon abstract or transcript of judgment, per page $2.00

For taking affidavits, including jurat $1.00

For taking acknowledgments, including seal $1.00

For filing and indexing designation of agent of foreign corporation $2.00

For filing and indexing notarial statement $2.00

For making copy of any file or record, by the clerk, the clerk shall charge and receive, per page $1.00

For comparing and conforming a prepared copy of any file or

record, the clerk shall charge and receive, per page ..... $ .50

For certifying the same and an additional fee for certificate and seal $1.00

For all services not herein enumerated, and of him lawfully required, the clerk of the district court shall demand and receive such fees as are herein allowed for similar services.

All fees collected under the provisions of this section shall be paid over to the county treasurer, at the same time and in the same manner as other fees.

In addition to all other fines, forfeitures and costs levied by the court, the clerk of the district court shall collect five dollars ($5.00) as an administrative surcharge fee on each criminal or infraction case, to be paid over to the county treasurer at the same time and in the same manner as other fees, for the support of the county justice fund, or the current expense fund if no county justice fund has been established.

Provided further, an additional handling fee of two dollars ($2.00) shall be imposed on each monthly installment of criminal or infraction fines, forfeitures, and other costs paid on a monthly basis.

SECTION 3. That Section 49-328, Idaho Code, effective April 1, 1990, 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.

(3) In addition to any other fees required in this section to be collected, the department shall collect twenty-five dollars ($25.00) for reinstating a driver's license after conviction for driving under the influence while suspended, without privileges, and after conviction or other violation of any other traffic related misdemeanor or infraction, of which fees twenty dollars ($20.00) shall be paid over to the county treasurer of the county in which the conviction occurred for support of that county's justice fund, or the current expense fund if no county justice fund has been established.

SECTION 4. That Section 63-903, Idaho Code, be, and the same is hereby amended to read as follows:

63-903. CURRENT EXPENSE FUND -- ANNUAL TAX LEVY. The board of county commissioners of each county in this state may levy annually upon all taxable property of said county, a tax for general county purposes, to be collected and paid into the county treasury and apportioned to the county current expense fund which levy shall not exceed

twenty-six hundredths percent (.26%) of market value for assessment purposes of such property, or a levy sufficient to raise two-hundred fifty thousand dollars ($250,000), whichever is greater~~,--in-the--counties--where--the--market-value-for-assessment-purposes-is-thirty-seven million-five-hundred--thousand--dollars--($37,500,000)--or--over,--and thirty-four--hundredths--percent-(.34%)-of-market-value-for-assessment purposes-of-such-property-where-the-market-value-for--assessment--purposes--is-less-than-thirty-seven-million-five-hundred-thousand-dollars ($37,500,000)-for-the-year-in-which-such-levy-is--made~~. If a county establishes the justice fund, as provided in section 31-4602, Idaho Code, the maximum current expense levy shall be reduced to twenty hundredths percent (.20%) of market value for assessment purposes, or a levy sufficient to raise two hundred fifty thousand dollars ($250,000), whichever is greater.

SECTION 5. That Chapter 9, 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 63-904, Idaho Code, and to read as follows:

63-904. COUNTY JUSTICE FUND -- ANNUAL TAX LEVY. The board of county commissioners of each county in this state may levy upon all taxable property of said county, a tax for the purposes set forth in the statutes authorizing a county justice fund, to be collected and paid into the county treasury and apportioned to the county justice fund, if one (1) has been established. Said levy shall not exceed twenty hundredths percent (.20%) of market value for assessment purposes of such property, or a levy sufficient to raise two hundred fifty thousand dollars ($250,000), whichever is greater.

SECTION 6. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved April 5, 1990.

CHAPTER 217
(S.B. No. 1577)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING ACCOUNT TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MAKING GRANTS TO COUNTIES FOR JUVENILE DETENTION FACILITIES, PROVIDING CONDITIONS FOR MAKING A GRANT, AND PROVIDING THAT THE UNUTILIZED BALANCE SHALL REVERT TO THE PERMANENT BUILDING ACCOUNT; 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 Department of Health and Welfare the sum of $6,000,000. The moneys from this appropriation shall be used for the purpose of making grants to a county or a series of counties to aid in constructing, remodeling, or renovating detention facilities for juveniles. No county or series of counties is automatically entitled to receive a grant from the appropriation; grants shall be made only to those counties or series of counties which have been evaluated and ranked by the Department of Health and Welfare.

The Department of Health and Welfare, on the recommendation of the Idaho Association of Counties, shall establish criteria for evaluating and ranking applications for grants, and shall award grants in order of rank. The Department shall consider at least the following items for its evaluation and ranking process:

(a) Applications that include a facility or facilities to serve a multi-county area shall be favored over single county applications.

(b) The availability of detention facilities for juveniles in the community.

(c) The population to be served.

(d) The possibility of converting all or part of an existing health facility into a detention facility for juveniles.

(e) The possibility of remodeling or renovating existing jail facilities into a detention facility for juveniles.

In addition to meeting the requirements contained in Section 16-1812A, Idaho Code, the Department must have written assurances from the applicant county or counties that all current life safety codes will be met in the facility.

Any balance of this appropriation not utilized on June 30, 1992, shall revert to the Permanent Building 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, 1990.

CHAPTER 218
(S.B. No. 1410)

AN ACT

RELATING TO THE DESIGNATION OF A STATE FISH; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 45, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4508, IDAHO CODE, TO DESIGNATE THE CUTTHROAT TROUT AS THE STATE FISH.

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

SECTION 1. It is the sense of the legislature that the Cutthroat trout is the fish best representing all Idaho waters and anglers. The

Cutthroat trout's historic significance as the first of the salmon or trout in Idaho and as a key resource for early Idahoans makes this fish an important part of Idaho's natural heritage. This fish's sensitivity to changing and degraded environments and its value as a sport fish for Idaho anglers makes it an ideal barometer for the quality of life. Dramatic declines in recent history highlight problems in natural environments and resource management. Recognition as the state fish can help build the public awareness and support necessary for thoughtful use of our aquatic habitats and all associated resources. Cutthroat trout can be a symbol of Idaho's natural heritage and high quality environment.

SECTION 2. That Chapter 45, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4508, Idaho Code, and to read as follows:

67-4508. STATE FISH DESIGNATED. The Cutthroat trout is designated and declared to be the state fish of the state of Idaho.

Approved April 5, 1990.

CHAPTER 219
(H.B. No. 497)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622Y, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM THE SALES AND USE TAX FOR THE SALE AT RETAIL, STORAGE, USE OR OTHER CONSUMPTION IN IDAHO OF TANGIBLE PERSONAL PROPERTY WHICH WILL ENTER INTO AND BECOME AN INGREDIENT OR COMPONENT PART OF AN AERIAL PASSENGER TRAMWAY AND TO DEFINE TERMS; DECLARING AN EMERGENCY, PROVIDING A RETROACTIVE EFFECTIVE DATE AND PROVIDING A SUNSET CLAUSE.

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 63-3622Y, Idaho Code, and to read as follows:

63-3622Y. EXEMPTION FOR AERIAL PASSENGER TRAMWAYS AND RELATED FACILITIES OWNED BY MUNICIPALITIES. (1) There is hereby exempted from the taxes imposed by this chapter 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 an aerial passenger tramway owned by municipalities and directly related facilities such as sewer lines, water lines, power lines, base terminal building, upper terminal building and parking lot owned by municipalities whether or not such aerial passenger tramway and directly

related facilities are to become a part of real estate and whether or not constructed or installed by the municipality, a contractor or subcontractor.

(2) As used in this section:

(a) "Aerial passenger tramway" means any device operated by a ski area operator used to transport passengers by single or double reversible tramway; chair lift or gondola lift; T-bar lift, J-bar lift; platter lift or similar device; or a fiber rope tow.

(b) "Ski area" means the property owned or leased and under the control of the ski area operator within the state of Idaho to be used by skiers for the purpose of participating in the sport of skiing.

(c) "Ski area operator" means any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group of combination acting as a unit who have operational responsibility for any ski area or aerial passenger tramway.

(d) "Municipality" means those municipalities incorporated under title 50, Idaho Code.

(e) "Directly" means those facilities and services necessary for the operation of the aerial passenger tramway.

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 December 1, 1988. This act shall have no force and effect after July 1, 1991, unless it is reenacted.

Approved April 5, 1990.

CHAPTER 220
(H.B. No. 648, As Amended)

AN ACT

RELATING TO MONEYS IN THE COUNTY VESSEL FUND; AMENDING SECTION 67-7013, IDAHO CODE, TO REVISE WHAT MONEYS IN THE COUNTY VESSEL FUND MAY BE EXPENDED FOR.

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

SECTION 1. That Section 67-7013, Idaho Code, be, and the same is hereby amended to read as follows:

67-7013. REMITTANCE OF FEES. (1) There is established in the dedicated fund of the state treasury an account known as the "State Vessel Account," to which shall be credited:

(a) Moneys or fees collected by assessors and authorized vendors, under the provisions of this section and sections 67-7008 and 67-7011, Idaho Code; and

(b) All other moneys as may be provided by law.

(2) All fees collected by an assessor or authorized vendor under the provisions of sections 67-7008 and 67-7011, Idaho Code, shall be forwarded to the state treasurer not later than the fifteenth day of the month following the calendar month in which the fees were collected, and the state treasurer shall then pay the moneys collected into the state vessel account and the park and recreation account, as provided in subsection (3) of this section, unless otherwise provided by law.

(3) Moneys collected shall be deposited eighty-five percent (85%) to the state vessel account, and fifteen percent (15%) to the park and recreation account established in section 67-4225, Idaho Code. The department shall remit the moneys apportioned to county units of government from the state vessel account not later than January 25, April 25, July 25 and October 25 of each year.

(4) All moneys deposited to the park and recreation account are to be appropriated for the purpose of defraying the expenses, debts and costs incurred in carrying out the powers and duties of the department as provided in this chapter, and for defraying administrative expenses of the department, including salaries and wages of employees of the department, expenses for traveling, supplies, equipment and other necessary expenses of the department as they relate to administration of this chapter. All claims against moneys apportioned to the park and recreation account shall be expended by the department and certified to the state auditor, who shall, upon approval of the board of examiners, draw his warrant against the park and recreation account for all bills and claims allowed by the board. Should the related administrative costs of the department amount to less than the moneys apportioned to the park and recreation account for such purposes, the difference shall be remitted to the state vessel account and then apportioned to all counties with a boating improvement program so that the amount apportioned to each eligible county will be in the same ratio as the county's amount of funds received from the state vessel account during the prior fiscal year by a county bears to the total amounts received during that prior fiscal year by all eligible counties.

(5) All moneys deposited to the state vessel account and appropriated to the department, shall be apportioned among the counties of the state based on the designations which the owners make on their application for a certificate of registration or use permit.

(a) An owner, when purchasing a certificate of registration or use permit, will be allowed to designate, on the appropriate form, a primary and secondary eligible county where his boating activity occurs. The portion of his fees which are appropriated from the state vessel account shall be apportioned to the designated counties, with seventy percent (70%) of those fees apportioned to the primary designated county and thirty percent (30%) apportioned to the secondary designated county.

(b) Should an owner designate on the appropriate form only one (1) eligible county where his boating activity occurs, the full portion of his fees which are appropriated from the state vessel account shall be apportioned to the designated county.

(c) Should an owner fail to designate on the appropriate form any

eligible county where his boating activity occurs, the full portion of his fees which are appropriated from the state vessel account shall be apportioned to all counties with a boating improvement program so that the amount apportioned to each eligible county will be in the same ratio as the county's amount of funds received from the state vessel account during the prior three (3) month payment period bears to the total amounts received during that prior three (3) month payment period by all eligible counties.

(6) Only those counties in the state with a boating improvement program, as recognized by the department, shall be eligible to receive moneys from the state vessel account. A "boating improvement program" means that one or more recognized boating facilities are being developed and/or maintained within the county's jurisdiction and/or that the county has or is actively developing a recognized boating law enforcement program.

(7) Moneys apportioned to the eligible counties shall be placed in and credited to an account which shall be known and designated as the county vessel fund, which shall be used and expended by the board of county commissioners for the ~~exclusive purpose of maintaining and improving the public waters of this state for recreational boating purposes and for law enforcement activities related to the enforcement of the provisions of law~~ protection and promotion of safety, waterways improvement, creation and improvement of parking areas for boating purposes, making and improving boat ramps and moorings, marking of waterways, search and rescue, and all things incident to such purposes including the purchase of real and personal property. The board of county commissioners is also authorized to use and expend funds from the county vessel fund outside the county when the board deems it advisable and for the public good.

Approved April 5, 1990.

CHAPTER 221
(H.B. No. 612)

AN ACT

RELATING TO EMERGENCY COMMUNICATIONS SYSTEMS; AMENDING CHAPTER 48, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-4812, IDAHO CODE, TO PROVIDE FOR IMMUNITY AND CONDITIONS OF LIABILITY IN PROVIDING EMERGENCY COMMUNICATIONS SERVICE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 48, 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 31-4812, Idaho Code, and to read as follows:

31-4812. IMMUNITY AND CONDITIONS OF LIABILITY IN PROVIDING EMERGENCY COMMUNICATIONS SERVICE. In order to further the purposes of this chapter, and to encourage the development of consolidated emergency communications systems, the legislature finds that telephone companies providing consolidated emergency communications systems and related services shall not be subject to liability in conjunction with providing such services except on the terms stated below.

(1) No telephone company or telecommunications provider shall be liable to any person for the good faith release to emergency communication system personnel of information not in the public record including, but not limited to, nonpublished or nonlisted telephone numbers.

(2) A local exchange telephone company or other telecommunications entity providing emergency communications systems or services, and its employees and agents, shall not be liable in tort to any person for damages alleged to have been caused by the design, development, installation, maintenance or provision of consolidated emergency communications systems or services, unless such entities or persons act with malice or criminal intent, or commit reckless, willful and wanton conduct.

(3) For the purposes of this section, "reckless, willful and wanton conduct" is defined as an intentional and knowing action, or failure to act, creating an unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result.

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, 1990.

CHAPTER 222
(H.B. No. 713, As Amended)

AN ACT

RELATING TO HERD DISTRICTS; AMENDING SECTION 25-2401, IDAHO CODE, TO PROVIDE PROCEDURES FOR CREATION OF A HERD DISTRICT; AMENDING SECTION 25-2402, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR CREATION OF A HERD DISTRICT, AND TO PROVIDE FOR PAYMENT OF COSTS; AMENDING SECTION 25-2407, IDAHO CODE, TO PROVIDE A CIVIL PENALTY RATHER THAN A CRIMINAL PENALTY; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 25-2401, Idaho Code, be, and the same is hereby amended to read as follows:

25-2401. COMMISSIONERS MAY CREATE HERD DISTRICTS. (1) The board

of county commissioners of each county in the state shall have power to create, modify or eliminate herd districts within such county as hereinafter provided; and when such district is so created, modified or eliminated, the provisions of this chapter shall apply and be enforceable therein. On and after January 1, 1990, no county shall regulate or otherwise control the running at large of horses, mules, asses, cattle, sheep or goats within the unincorporated areas of the county unless such regulation or control is provided by the creation of a herd district pursuant to the provisions of this chapter, except as provided by subsection (2) of this section. The provisions of this chapter shall not apply to any herd district or herd ordinance in full force and effect prior to January 1, 1990, but shall apply to any modification thereof.

(2) A panel of five (5) members may be created in a county, the members of which shall be appointed as follows: two (2) members by appointment of the board of county commissioners; two (2) members by appointment of a local, county or state livestock association or associations; and the fifth member, by concurrent appointment of the first four (4) appointees. Only if a majority of said panel, after a public hearing held with notice as prescribed by law, concludes that the creation, modification or elimination of a herd district is insufficient to control or otherwise regulate the movement of livestock in an area, the board of county commissioners shall have power to establish such control by ordinance, provided that the cost of construction and maintenance of any fencing or cattle guards required by said ordinance shall be paid by the county current expense fund. Notwithstanding any provision of law to the contrary, a county shall have the authority to levy an annual property tax of not to exceed two hundredths percent (.02%) of market value for assessment purposes on taxable real property within the county, and the revenues derived therefrom shall not be used for any other purpose. Such special levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.

SECTION 2. That Section 25-2402, Idaho Code, be, and the same is hereby amended to read as follows:

25-2402. PETITION AND REQUIREMENTS FOR DISTRICT. (1) A majority of the ~~landowners~~ of taxable real property, including corporations, in any area or district described by metes and bounds ~~not including open range~~ and who are also domiciled and resident in~~, and qualified electors of,~~ the state of Idaho, may petition the board of county commissioners in writing to create, modify or eliminate a herd district in such area ~~a herd district~~; provided, that in the case of a petition for the purpose of eliminating an existing district or any portion thereof, said area must be contiguous to open range. Such petition shall describe the boundaries of the said proposed herd district, and shall designate what animals of the species of horses, mules, asses, cattle, swine, sheep and goats it is desired to prohibit from running at large, also prohibiting said animals from being herded upon the public highways in such district; and shall designate that the herd district shall not apply to nor cover livestock, excepting swine, which shall roam, drift or stray from open range into the district unless the district shall be inclosed by lawful fences and cattle

guards as needed in roads penetrating the district so as to prevent livestock, excepting swine, from roaming, drifting or straying from open range into the district; and may designate the period of the year during which it is desired to prohibit such animals from running at large, or being herded on the highways. Such petition may also state the conditions and location(s), if any, for the construction of legal fences and cattle guards which may be required to prohibit the running at large of livestock within the interior of the proposed district; provided, that if such petition does not address the issue of interior fencing and cattle guards, the board of county commissioners shall have the power to establish such internal fencing requirements upon their approval of a proposed district. Provided, any herd district heretofore established shall retain its identity, geographic definition, and remain in full force and effect, until vacated or modified hereafter as provided by section 25-2404, Idaho Code.

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

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

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

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

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

(4) The owners of taxable real property within the herd district shall:

(a) Pay the costs, including on private land, of constructing and maintaining legal fences as required on the district's border with open range so as to prevent livestock, excepting swine, from roaming, drifting or straying from open range into the district.

(b) Pay the costs, including on private land, of constructing and maintaining cattle guards as required on the district's border with open range so as to prevent livestock, excepting swine, from roaming, drifting or straying from open range into the district; except that the costs of maintaining a cattle guard located on a public right-of-way shall thereafter be paid by the state, county, city or highway district responsible for maintaining said right-of-way.

(c) Pay seventy-five percent (75%) of the costs, including on private land, of constructing legal fences required, at the time of the creation or modification of the district only, to control livestock within the interior of the district; provided that (i) the costs of maintaining such fences shall thereafter be paid by the owner(s) of the land on which the fencing is constructed as prescribed by chapter 1, title 35, Idaho Code, and that (ii) the costs of constructing and maintaining fences on livestock operations which come into existence after the creation or modification

of the district shall be paid by owner(s) of the land on which the fencing is constructed as prescribed by chapter 1, title 35, Idaho Code.

(d) Pay seventy-five percent (75%) of the costs, including on private land, of constructing legal cattle guards required, at the time of the creation or modification of the district only, to control livestock within the interior of the district; provided that (i) the costs of maintaining a cattle guard located on a public right-of-way shall thereafter be paid by the state, county, city or highway district responsible for maintaining the public right-of-way on which the cattle guard is located, or, in the case of a cattle guard located on private land, by the owner(s) of the land on which the cattle guard is constructed as prescribed by chapter 1, title 35, Idaho Code, and that (ii) the costs of constructing and maintaining cattle guards on livestock operations which come into existence after the creation or modification of the district shall be paid by the owner(s) of the land on which the cattle guard is constructed as prescribed by chapter 1, title 35, Idaho Code.

(e) In the case of a new herd district created contiguous to an existing herd district, there shall be no obligation to maintain a legal fence or cattle guards on the border between the new district and the existing district, except to the extent that said fence or cattle guards, or any portion thereof, may be required to control movement of livestock on the interior of the district. In the case of a modification of an existing herd district which alters its borders with open range, there shall be no obligation to maintain a legal fence or cattle guards on its previous border with open range, except to the extent that said fence or cattle guards, or any portion thereof, may be required to control movement of livestock on the interior of the district.

(5) In the case of interior fencing and cattle guards as described in subsections (4)(c) and (d), the owner(s) of private land on which such fencing or cattle guards are constructed shall pay twenty-five percent (25%) of the total cost of their construction, provided that the share of that total cost to be paid by each individual landowner shall be as prescribed by chapter 1, title 35, Idaho Code.

(6) Notwithstanding any provision of law to the contrary, a county shall have the authority to and shall levy an annual property tax not to exceed six hundredths percent (.06%) of market value for assessment purposes on taxable real property within the district for the costs of constructing and maintaining the legal fencing and cattle guards required by the creation or modification of such a herd district; provided that a herd district created on or after January 1, 1990, shall have no force and effect unless and until such a levy is approved, and provided that the revenues derived therefrom may not be used for any other purpose. Such special levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code. In the case of a new herd district contiguous to an existing herd district, said levy shall apply, for purposes of constructing legal fences and cattle guards required by the new district, only to owners of taxable real property residing within the new district; but for purposes of main-

taining thereafter fences as required on the district's border with open range, shall apply to owners of taxable real property residing within both the new district and the existing district to which it is contiguous.

SECTION 3. That Section 25-2407, Idaho Code, be, and the same is hereby amended to read as follows:

25-2407. VIOLATION OF COMMISSIONERS' ORDER -- ~~CRIMINAL~~ CIVIL LIABILITY. Any person who shall, in violation of any order made pursuant to the provisions of section 25-2404, Idaho Code, permit or allow any of the animals designated in such order, owned by him or under his control, to run at large in such herd district, or to be herded on the said highway, shall be deemed guilty of a ~~misdemeanor~~ civil offense, for which, within a period of one (1) year, law enforcement officials shall issue a warning on at least the first and second such offense, and thereafter, for which a civil penalty of not to exceed fifty dollars ($50.00) may be imposed per animal unit in violation, the aggregate of which shall not exceed five hundred dollars ($500), plus restitution to the owner for any damage to property. The pendency of any such action shall not prevent nor prejudice the bringing of another action against the same party for a violation of such order committed after the commencement of such pending action. For purposes of this section, an animal unit shall be as defined, at the time of such violation, by federal and state agencies which administer the grazing of livestock on public lands.

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, and retroactively to January 1, 1990.

Approved April 5, 1990.

CHAPTER 223
(H.B. No. 608)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO ALLOW A DEDUCTION FROM INCOME FOR INSURANCE PREMIUMS PAID FOR WORKERS COMPENSATION INSURANCE BY SELF-EMPLOYED INDIVIDUALS, DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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 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; 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 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 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.

(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.

(p) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

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, 1987.

Approved April 5, 1990.

CHAPTER 224
(H.B. No. 844)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1991; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE GUARDIAN AD LITEM ACCOUNT; APPROPRIATING MONEYS FROM THE GUARDIAN AD LITEM ACCOUNT TO THE SUPREME COURT; 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 Supreme Court not exceed the following amount for the period July 1, 1990, through June 30, 1991:

FOR:	
Supreme Court	$2,317,800
Law Library	518,500
District Courts	4,796,200
Magistrates Division	5,354,300
Judicial Council	48,900
Court of Appeals	715,000
TOTAL	$13,750,700
FROM:	
General Account	$13,542,200
Water Resources Adjudication Account	107,100
Interagency Billing and Receipts Account	101,400
TOTAL	$13,750,700

SECTION 2. There is hereby appropriated to the Supreme Court, 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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. SUPREME COURT			
FROM:			
General Account			$ 2,216,400
Interagency Billing and Receipts Account			101,400
TOTAL			$ 2,317,800
B. LAW LIBRARY			
General Account			$ 518,500
C. DISTRICT COURTS			
General Account			$ 4,689,100
Water Resources Adjudication Account			107,100
TOTAL			$ 4,796,200
D. MAGISTRATES DIVISION			
General Account	$5,111,200	$243,100	$ 5,354,300
E. JUDICIAL COUNCIL			
General Account			$ 48,900
F. COURT OF APPEALS			
General Account			$ 715,000
GRAND TOTAL			$13,750,700

SECTION 3. There is hereby appropriated from the General Account for deposit in the Guardian Ad Litem Account the sum of $150,000.

SECTION 4. 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, 1990, through June 30, 1991.

SECTION 5. It is legislative intent that of the amount appropriated in Section 2, 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 2, 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 6. There is hereby reappropriated to the Supreme Court any unexpended and unencumbered balances of all General Account appropriations made to the Supreme Court for the period July 1, 1989, through June 30, 1990, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

Approved April 5, 1990.

CHAPTER 225
(H.B. No. 611, As Amended)

AN ACT

RELATING TO MORTGAGE COMPANIES; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 28, TITLE 26, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE EXEMPTIONS, TO PROVIDE UNLAWFUL ACTS, TO PROVIDE POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF FINANCE, TO PROVIDE REMEDIES AVAILABLE TO THE DEPARTMENT, TO PROVIDE DISCLOSURE OF RESERVE ACCOUNTS, TO PROVIDE ANNUAL STATEMENTS, TO PROVIDE FOR NOTICE OF TRANSFER, TO PROVIDE FOR COPIES OF COMPLAINTS, AND TO PROVIDE SEVERABILITY.

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 28, Title 26, Idaho Code, and to read as follows:

CHAPTER 28
MORTGAGE COMPANIES

26-2801. SHORT TITLE. This act may be known and may be cited as the "Mortgage Company Act."

26-2802. DEFINITIONS. As used in this chapter:

(1) "Department" means the department of finance of the state of Idaho.

(2) "Director" means the director of the department of finance.

(3) "Mortgage company" means any person who, directly or indirectly is engaged in one (1) of the following with respect to real property located in this state:

(a) Makes or offers to make loans secured by liens on real property.

(b) Services or offers to service loans secured by liens on real property.

(c) Buys or sells promissory notes secured by liens on real property or offers to buy or sell promissory notes secured by liens on real property.

(4) "Person" means an individual, sole proprietorship, partnership, corporation or other association of individuals, however organized.

26-2803. EXEMPTIONS. The provisions of this chapter do not apply to:

(1) A real estate broker or real estate salesman licensed under chapter 20, title 54, Idaho Code, and engaged in the sale of real estate as a principal vocation if the real estate broker or salesman affiliated with the broker represents either the buyer or the seller.

(2) Agencies of the United States and of this state and its political subdivisions.

(3) An owner of real property who offers credit secured by a con-

tract of sale, mortgage or deed of trust on the property sold.

(4) A loan that is made by a person to an employee of that person if the proceeds of the loan are used to assist the employee in meeting his housing needs.

(5) Any person licensed or chartered under the laws of this state or the United States as a bank, regulated lender licensed under the Idaho credit code, savings and loan association, credit union, or trust company.

26-2804. UNLAWFUL ACTS. It shall be unlawful on and after July 1, 1990, for any person to act as mortgage company unless the person complies with the provisions of this chapter and rules promulgated pursuant thereto or unless the person is exempted from the provisions of this chapter.

26-2805. POWERS AND DUTIES OF DIRECTOR. (1) In addition to the other duties imposed upon the director by law, the director shall:

(a) Conduct investigations and issue subpoenas as necessary to determine whether any person has violated any provision of this chapter or rules promulgated under authority of this chapter.

(b) Conduct examinations of the books and records of mortgage companies and investigations as necessary and proper for the enforcement of the provisions of this chapter and the rules promulgated under the authority of this chapter.

(2) 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. Any person aggrieved by a final order of the director may obtain judicial review of that order pursuant to section 67-5215, Idaho Code.

26-2806. REMEDIES AVAILABLE TO THE DEPARTMENT. (1) Whenever it appears to the director that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order thereunder, he may in his discretion bring an action in any court of competent jurisdiction, and upon a proper showing for each there shall be granted any or all of the following:

(a) A writ or order restraining or enjoining, temporarily or permanently, any act or practice violating any provision of this chapter or any rule and regulation promulgated pursuant thereto and to enforce compliance under this chapter or any rule or order hereunder.

(b) An order that the person violating any provision of this chapter, rule or order hereunder pay a civil penalty to the department in an amount not to exceed five thousand dollars ($5,000) for each violation.

(c) An order allowing the director to recover costs which may include investigative expenses and attorney's fees.

(d) An order granting a declaratory judgment that a particular act, practice or method is a violation of the provisions of this chapter.

(e) An order granting other appropriate remedies.

(2) If the director finds that a person has violated or is violating, or that there is reasonable cause to believe that a person is about to violate the provisions of this chapter, the director may order the person to cease and desist from the violations.

(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 (3) of this section may petition for a judicial review of the order in conformance with the provisions of chapter 52, title 67, Idaho Code.

26-2807. RESERVE ACCOUNTS. (1) A mortgage company shall, conspicuously and specifically, disclose to each borrower all contractual provisions relating to reserve accounts, impound accounts, escrow accounts, or any other account maintained for the borrower in order to pay for property taxes, property insurance or private mortgage insurance.

(2) A mortgage company shall not keep more than one hundred twenty per cent (120%) of the amounts necessary on an annual basis to pay expected insurance, taxes or other agreed charges. Upon written notice by a borrower to the director and the mortgage company that reserves being required are excessive, the mortgage company must, within thirty (30) days, either refund the excess or explain to the borrower and the director why the amounts being required are believed to be reasonable and necessary. If, after notice of hearing under chapter 52, title 67, Idaho Code, the director determines that the reserve account, impound account, escrow account or any other similar account maintained for a borrower is not reasonable, the director may order the mortgage company to reduce its reserve requirements for such accounts. In any proceeding under this section the burden shall be upon the mortgage company to prove that the amounts required for such reserve accounts are based upon actual and reasonably anticipated charges.

26-2808. ANNUAL STATEMENTS. (1) A mortgage company shall deliver to the borrower at least annually during the month of January, a statement of the borrower's account showing the date and amount of all payments made or credited to the account for the immediately preceding twelve (12) month period, and the total unpaid balance. The statement shall also clearly describe in full the amounts received on all tax and insurance reserve accounts, the disposition of such funds, and the amounts held in reserve in such accounts. The statement shall clearly indicate any penalty or interest payments because of failure to pay taxes on time. A fee shall not be charged the borrower for the statement.

(2) A borrower may request additional statements from a mortgage company at any time, and the mortgage company may require a fee to provide each such statement. The statement shall be delivered to the

borrower within thirty (30) days after receipt of a written request from the borrower.

26-2809. NOTICE OF TRANSFER. The mortgage company shall provide notice to the borrower within fifteen (15) days after any sale or assignment of the promissory note of the borrower to another person in which the mortgage company does not retain the loan servicing. A mortgage company purchasing or receiving assignment of the promissory note with servicing shall provide to the borrower within thirty (30) days a written statement describing policies relating to the reserve account.

26-2810. COMPLAINTS. (1) If requested by the director for a specified period of time, the mortgage company shall furnish to the director a copy of all written complaints made to the mortgage company by borrowers, together with a copy of any and all written responses by the mortgage company to the borrower. The borrower complaint and mortgage company responses shall be furnished to the director within thirty (30) days of the receipt of the borrower's complaint by the mortgage company.

26-2811. 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, 1990.

CHAPTER 226
(H.B. No. 471)

AN ACT

RELATING TO ATTORNEY FEES IN WAGE CLAIM CASES; AMENDING SECTIONS 45-615 AND 45-617, IDAHO CODE, TO CLARIFY THAT ATTORNEY FEES CAN BE RECOVERED IN WAGE CLAIM CASES BROUGHT BY THE DIRECTOR OF THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES AS WELL AS IN CASES BROUGHT BY EMPLOYEES.

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

SECTION 1. That Section 45-615, Idaho Code, be, and the same is hereby amended to read as follows:

45-615. ATTORNEYS' FEES IN SUITS FOR WAGES. Whenever a mechanic, artisan, miner, laborer, servant or employee <u>or the director</u> 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 2. That Section 45-617, Idaho Code, be, and the same is hereby amended to read as follows:

45-617. PROCEEDINGS FOR COLLECTION OF WAGES AND DAMAGES -- $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 two thousand dollars ($2,000) for each employee.

2. Any proceeding by one (1) or more employees to assert any claim arising under or pursuant to this 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 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 chapter shall include all costs <u>and attorney fees</u> 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 ~~perid~~ <u>period</u> of not less than two (2) years, from the date of collection, to make payment of wages collected under this 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 chapter.

Approved April 5, 1990.

CHAPTER 227
(H.B. No. 821)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1991; 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 Lieutenant Governor the following amount, to be expended according to designated expense classes from the listed account for the period July 1, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$70,000
Operating Expenditures	14,200
TOTAL	$84,200
FROM:	
General Account	$84,200

SECTION 2. It is legislative intent that an amount not to exceed $1,000 of the amounts appropriated in Section 1, may be used at the discretion of the Lieutenant Governor to assist in defraying expenses relating to or resulting from the discharge of the Lieutenant Governor's official duties. Such moneys shall be accounted for solely on the itemized certificate of the Lieutenant Governor and shall be exempted from the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 3. There is hereby reappropriated to the Lieutenant Governor any unexpended and unencumbered balances of the moneys appropriated by Section 2, Chapter 204, Laws of 1989, for the period July 1, 1990, through June 30, 1991.

Approved April 5, 1990.

CHAPTER 228
(H.B. No. 824)

AN ACT
APPROPRIATING MONEYS FOR THE COMMISSION ON WOMEN'S PROGRAMS FOR FISCAL YEAR 1991; 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, 1990, through June 30, 1991:

FOR:	
Operating Expenditures	$16,100
FROM:	
General Account	$15,600
Commission on Women's Programs Account	500
TOTAL	$16,100

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 April 5, 1990.

CHAPTER 229
(H.B. No. 905)

AN ACT

APPROPRIATING MONEYS FROM THE BUDGET RESERVE ACCOUNT TO THE SPECIFIED COUNTIES AND HIGHWAY DISTRICTS FOR REPAIR OF HIGHWAYS AND BRIDGES; APPROPRIATING MONEYS FROM THE BUDGET RESERVE ACCOUNT TO THE HIGHWAY DISTRIBUTION ACCOUNT FOR APPORTIONMENT TO LOCAL UNITS OF GOVERNMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. Of the moneys appropriated to the Budget Reserve Account in S.B. 1573, Second Regular Session, Centennial Idaho Legislature, there is hereby appropriated from the account to the specified highway jurisdictions the sum of $12,500,000 to be distributed as follows:

1. LAKES HIGHWAY DISTRICT:	
To rebuild and pave Ramsey Road from Highway 53 north to sludge area	$ 330,000
2. POST FALLS HIGHWAY DISTRICT:	
To upgrade Pleasantview Road from Seltice Way to Highway 53	$ 330,000
3. EAST SIDE HIGHWAY DISTRICT:	
To improve two corners on Fernan Lake Road	$ 200,000
To replace Cave Lake Channel bridge	165,000
TOTAL	$ 365,000
4. WORLEY HIGHWAY DISTRICT:	
To upgrade Loffs Bay Road from Rockford Bay Road to boat access	$ 200,000
5. BOUNDARY COUNTY:	
To replace Ball Creek bridge	$ 115,000
To replace Addy bridge on Moyie River	220,000
To replace Moyie River bridge at Rutledge Creek	302,000
TOTAL	$ 637,000
6. BONNER COUNTY:	
To resurface old Priest River Road south of Pend Oreille River US 95 to state Highway 41	$ 140,000
7. WEST POINT HIGHWAY DISTRICT:	
For the Clear Lakes Grade project	$3,000,000
8. WASHINGTON COUNTY:	
For repair of bridges with a rating under 30	$ 500,000
9. GOLDEN GATE HIGHWAY DISTRICT:	
For highways and bridges	$ 250,000
10. NOTUS-PARMA HIGHWAY DISTRICT:	

For highways and bridges	$ 250,000
11. NAMPA HIGHWAY DISTRICT:	
For highways and bridges	$ 250,000
12. CANYON HIGHWAY DISTRICT:	
For highways and bridges	$ 250,000
13. ADA COUNTY HIGHWAY DISTRICT:	
For Black Cat Road	$ 460,000
For Columbia Road	145,000
For Federal Way	470,000
For Linder South Channel	310,000
For Linder North Channel	1,110,000
For other critical bridges needs	943,000
TOTAL	$3,438,000
14. FRANKLIN COUNTY:	
For highways and bridges	$ 100,000
15. FREMONT COUNTY:	
For highways and bridges	$ 100,000
16. BEAR LAKE COUNTY:	
For highways and bridges	$ 105,000
17. BINGHAM COUNTY:	
For highways and bridges	$ 255,000
18. BONNEVILLE COUNTY:	
For critical bridges on Sand Creek and Willow Creek Inn Road	$ 100,000
For critical bridges on Eagle Rock Canal	100,000
For construction of Ammon-Lincoln Road	1,600,000
TOTAL	$1,800,000
19. JEFFERSON COUNTY:	
For highways and bridges	$ 100,000
20. TETON COUNTY:	
For highways and bridges	$ 100,000
GRAND TOTAL	$12,500,000

SECTION 2. Of the moneys appropriated to the Budget Reserve Account in S.B. 1573, Second Regular Session, Centennial Idaho Legislature, there is hereby appropriated the sum of $3,000,000 from the account to the Highway Distribution Account for apportionment only to local units of government, pursuant to the allocation formula provided by section 40-709, Idaho Code. Notwithstanding the provisions of section 40-701, Idaho Code, neither the State Highway Account nor the Law Enforcement Account shall receive any of the moneys appropriated by this section. The apportionments to be made under this section 2 to local units shall be reduced by the dollar amount such unit received under the provisions of section 1, if any, but to not less than zero.

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, 1990.

CHAPTER 230
(S.B. No. 1490, As Amended in the House)

AN ACT

RELATING TO LONG-TERM CARE INSURANCE; AMENDING SECTION 41-4605, IDAHO CODE, TO PROVIDE THAT NO LONG-TERM CARE INSURANCE POLICY MAY PROVIDE COVERAGE FOR NURSING HOME CARE ONLY BUT MUST INCLUDE COVERAGE FOR ADDITIONAL SERVICES, TO REQUIRE THAT THE APPLICANT, RATHER THAN AN AGENT OF THE INSURER, COMPLETE ALL MEDICAL QUESTIONS ON AN APPLICATION FOR COVERAGE, TO REQUIRE THAT A NOTICE BE PROMINENTLY PRINTED ON THE APPLICATION STATING THAT ALL QUESTIONS SHALL BE ANSWERED TRUTHFULLY, TO REQUIRE THAT A PHYSICIAN'S STATEMENT ACCOMPANY ANY APPLICATION FOR A PROPOSED INSURED OVER SEVENTY-FIVE YEARS OF AGE, AND TO REQUIRE THAT ANY CANCELLATION, NONRENEWAL OR TERMINATION OF A LONG-TERM CARE INSURANCE POLICY BE REPORTED BY THE ISSUER THEREOF TO THE DEPARTMENT OF INSURANCE.

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

SECTION 1. That Section 41-4605, Idaho Code, be, and the same is hereby amended to read as follows:

41-4605. DISCLOSURE AND PERFORMANCE STANDARDS FOR LONG-TERM CARE INSURANCE. (1) The director may adopt regulations that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms.

(2) No long-term care insurance policy may:

(a) Be cancelled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(b) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

(c) Provide coverage for skilled nursing care only or ~~provide significantly more coverage~~ for skilled <u>nursing</u> care in a facility ~~than coverage for lower levels of care~~ <u>only, and such policy shall also provide coverage for additional services including, but not limited to, personal care services, adult foster care, adult day care, in-home services and home-delivered meals.</u>

(3) Preexisting condition:

(a) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, shall use a definition of "preexisting condition" which is more restrictive than the follow-

ing: Preexisting condition means a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within six (6) months preceding the effective date of coverage of an insured person.

(b) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, may exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six (6) months following the effective date of coverage of an insured person.

(c) The director may extend the limitation periods set forth in paragraphs (a) and (b) of this subsection as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(d) The definition of "preexisting condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in paragraph (b) of this subsection expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in paragraph (b) of this subsection.

(4) Prior institutionalization: No long-term care insurance policy which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty (30) days after discharge from the institution.

(5) The director may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

(6) Right to return - free look:

(a) Individual long-term care insurance policyholders shall have the right to return the policy within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. Individual long-term care insurance policies shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder shall have the right to return the policy within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

(b) A person insured under a long-term care insurance policy issued pursuant to a direct response solicitation shall have the right to return the policy within thirty (30) days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason. Long-term care

insurance policies issued pursuant to a direct response solicitation shall have a notice prominently printed on the first page or attached thereto stating in substance that the insured person shall have the right to return the policy within thirty (30) days of its delivery and to have the premium refunded if after examination the insured person is not satisfied for any reason.

(7) An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application for an individual policy. In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request shall make such delivery not later than at the time of policy delivery. Such outline of coverage shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions and limitations contained in the policy;

(c) A statement of the renewal provisions, including any reservation in the policy of a right to change premiums; and

(d) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine governing contractual provisions.

(8) A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions and limitations contained in the policy; and

(c) A statement that the group master policy determines governing contractual provisions.

(9) The following shall apply to any application for coverage under a long-term care insurance policy:

(a) All medical questions shall be completed and attested to by the applicant and answers thereto shall not be provided or suggested by any agent of the insurer;

(b) The application shall contain a notice prominently printed near the signature line stating in substance that all questions shall be answered truthfully; and

(c) A physician's statement of the mental and physical condition of the proposed insured shall accompany the application of any person over seventy-five (75) years of age.

(10) The issuer of a long-term care insurance policy shall report any cancellation, nonrenewal or termination of such policy, stating the reasons therefor, to the department of insurance.

(9~~10~~) No policy may be advertised, marketed or offered as long-term care or nursing home insurance unless it complies with the provisions of this chapter.

Approved April 5, 1990.

CHAPTER 231
(S.B. No. 1383, As Amended, As Amended in the House)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTIONS 59-1301 AND 59-1302, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE; AMENDING SECTIONS 59-1302A AND 59-1326, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 59-1327 AND 59-1311A, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 59-1308, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 59-1306, 59-1331, 59-1328, 59-1344 AND 59-1329, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 59-1335, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 59-1325A, 59-1325, 59-1333, 59-1309, 59-1330, 59-1332A, 59-1332B AND 59-1332, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 59-1309A, IDAHO CODE, TO REDESIGNATE; REPEALING SECTION 59-1310A, IDAHO CODE; AMENDING SECTIONS 59-1303, 59-1303A, 59-1304, 59-1305 AND 59-1305A, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 59-1310, IDAHO CODE, TO REDESIGNATE AND TO STRIKE REFERENCE TO CERTAIN CONDITIONS OF ELIGIBILITY FOR RETIREMENT; AMENDING SECTION 59-1319, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES AND NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTIONS 59-1315 AND 59-1311, IDAHO CODE, TO REDESIGNATE; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1345, IDAHO CODE, TO PROVIDE CONDITIONS FOR AN ACTIVE MEMBER'S ELIGIBILITY FOR RETIREMENT; AMENDING SECTION 59-1321, IDAHO CODE, TO REDESIGNATE; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1347, IDAHO CODE, TO PROVIDE CONDITIONS FOR AN INACTIVE MEMBER'S ELIGIBILITY FOR VESTED RETIREMENT; AMENDING SECTION 59-1322, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES AND TO REDESIGNATE; AMENDING SECTION 59-1312, IDAHO CODE, TO REDESIGNATE; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1350, IDAHO CODE, TO PROVIDE FOR DEFERRAL OF EARLY OR VESTED RETIREMENT; AMENDING SECTION 59-1317, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES AND NOMENCLATURE AND TO REDESIGNATE; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1352, IDAHO CODE, TO PROVIDE CONDITIONS FOR ELIGIBILITY FOR DISABILITY RETIREMENT; AMENDING SECTION 59-1320, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 59-1313, 59-1319A AND 59-1318, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1357, IDAHO CODE, TO PROVIDE THAT AN INACTIVE MEMBER IS ELIGIBLE FOR THE SEPARATION BENEFIT; AMENDING SECTION 59-1323, 59-1314 AND 59-1307, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 59-1324, 59-1336 AND 59-1337, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTIONS 59-1339, 59-1340, 59-1343 AND 59-1345, IDAHO CODE, TO REDESIGNATE; AMENDING SECTION 59-1346, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 59-1347, IDAHO CODE, TO REDESIGNATE;

AMENDING SECTION 59-1349, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 59-1350, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 59-1348, 59-1351, 59-1352, 59-1353 AND 59-1357, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 59-1354, IDAHO CODE, TO REDESIGNATE; AMENDING SECTION 59-1355, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES AND TO REDESIGNATE; AMENDING SECTIONS 59-1356, 59-1358, 59-1359 AND 72-1401, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 72-1420, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 72-1402 AND 72-1432A, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTIONS 72-1415, 72-1405, 72-1406, 72-1407, 72-1424, 72-1422, 72-1408, 72-1404, 72-1417, 72-1427, 72-1410 AND 72-1418, IDAHO CODE, TO REDESIGNATE; AMENDING SECTIONS 72-1411, 72-1412, 72-1413, 72-1432, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 72-1430, IDAHO CODE, AS AMENDED BY SECTION 5 OF SENATE BILL NO. 1525, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTIONS 72-1429R, 72-1431, 72-1429S AND 72-1429Q, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 72-1430H, IDAHO CODE, AS AMENDED BY SECTION 6 OF SENATE BILL NO. 1525, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 72-1429F, IDAHO CODE, AS AMENDED BY SECTION 1 OF SENATE BILL NO. 1525, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE PROPER CODE REFERENCES OR NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 72-1414, IDAHO CODE, AS AMENDED BY SECTION 10 OF SENATE BILL NO. 1381, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO REDESIGNATE; AMENDING SECTION 72-1432C, IDAHO CODE, AS AMENDED BY SECTION 17 OF SENATE BILL NO. 1381, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE PROPER CODE REFERENCES AND TO REDESIGNATE; AMENDING SECTION 72-1434, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO REDESIGNATE; AMENDING SECTION 72-1429H, IDAHO CODE, AS AMENDED BY SECTION 12 OF SENATE BILL NO. 1381, AND BY SECTION 2 OF SENATE BILL NO. 1525, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE PROPER CODE REFERENCES AND TO REDESIGNATE; AMENDING SECTION 72-1429I, IDAHO CODE, AS AMENDED BY SECTION 13 OF SENATE BILL NO. 1381, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO REDESIGNATE; AMENDING SECTION 72-1429J, IDAHO CODE, AS AMENDED BY SECTION 14 OF SENATE BILL NO. 1381, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO REDESIGNATE; AMENDING SECTION 72-1429L, IDAHO CODE, AS AMENDED BY SECTION 15 OF SENATE BILL NO. 1381, AND BY SECTION 3 OF SENATE BILL NO. 1525, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE PROPER CODE REFERENCES AND TO REDESIGNATE; AMENDING SECTION 72-1429M, IDAHO CODE, AS AMENDED BY SECTION 16 OF SENATE BILL NO. 1381, AND BY SECTION 4 OF SENATE BILL NO. 1525, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE PROPER CODE REFERENCES AND TO REDESIGNATE; AMENDING SECTION 72-1432B, IDAHO CODE, AS AMENDED BY SECTION 7 OF

SENATE BILL NO. 1525, SECOND REGULAR SESSION, CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE PROPER CODE REFERENCES AND TO REDESIGNATE; AND AMENDING SECTION 72-1426, IDAHO CODE, TO REDESIGNATE.

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

SECTION 1. That Section 59-1301, Idaho Code, be, and the same is hereby amended to read as follows:

59-1301. PUBLIC EMPLOYEE RETIREMENT SYSTEM CREATED -- PURPOSE. (1) A retirement and disability benefit system is created and placed under the management of a retirement board for the purpose of providing a retirement system and other benefits for public employees in the state of Idaho under this ~~act~~ chapter. The retirement system shall be known as the "Public Employee Retirement System of Idaho."

(2) The purpose of such system is to provide an orderly means whereby public employees in the state of Idaho who become superannuated or otherwise incapacitated as the result of age or disability, may be retired from active service without prejudice and without inflicting a hardship upon the employees retired, and to enable such employees to accumulate pension credits to provide for old-age, disability, death and termination of employment, thus effecting economy and efficiency in the administration of the state, county and local government. The legislature, therefore, declares that, in its considered judgment, the public good, and the general welfare of the citizens of this state required the enactment of this measure, under the police powers of the state.

SECTION 2. 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~~ chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "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" mean 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~~1~~--59-130~~5~~34, 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~~ chapter 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) 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~~ chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1303~~1~~--59-130~~5~~34, Idaho Code.

(16) "~~Fireman~~ Firefighter" 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~~ chapter.

(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~~ chapter.

(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 59-13~~0~~31--59-13~~0~~534 and 59-13~~10~~A27, 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~~ chapter, 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 59-13~~02~~A3, 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~~ chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-13~~2~~604--59-13~~2~~914, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) "Salary" means the total salary or wages payable by all employers to an active member for personal services currently performed, including the cash value of all remuneration in any medium other than cash in the amount reported by all employers for income tax purposes and also including the amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means personal service rendered to an employer for

a salary. Service of fifteen (15) days or more during any calendar month shall be credited as one (1) month of service. Service of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested retirement allowance" means the periodic payment becoming payable upon an inactive member's becoming eligible for vested retirement.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 3. That Section 59-1302A, Idaho Code, be, and the same is hereby amended to read as follows:

59-130~~2A~~3. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.

(3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:

(a) (i) The director of the department of law enforcement and the superintendent of the Idaho state police;

(ii) Commissioned and uniformed Idaho state police officers holding positions for which current POST certification is required to continue in employment in the position, POST instructors, and department training instructors;

(iii) Brand inspectors and brand inspector supervisors;

(iv) The division administrator, regional supervisors and investigators in the police services division of the department of law enforcement, and the administrator and investigators in the alcohol beverage control division of the department of law enforcement;

(v) The bureau chief, supervisor, and specialists in the bureau of criminal identification in the department of law enforcement;

(vi) Employees of the department of law enforcement serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

(b) (i) County sheriffs;

(ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are

active law enforcement service; deputy county sheriffs holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in county law enforcement activities pertaining to crime prevention or reduction; deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

(c) (i) City police chiefs;

(ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; city police officers holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in city law enforcement activities pertaining to crime prevention or reduction; police officers, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

(d) Employees of the department of fish and game serving in a conservation officer position for which current POST certification is necessary to continue in employment in that position and which position has as its primary accountability the enforcement of wildlife protection laws and regulations.

(e) (i) The director of the department of correction, the deputy director for probation and parole, and wardens of institutions;

(ii) Employees of the department of correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;

(iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;

(iv) Correctional peace officer training instructors;

(v) Employees of the department of correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

(f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.

(g) Magistrates of the district court, and court employees designated by court order to have primary responsibility for court

security or transportation of prisoners.

(h) Paramedics and paramedic trainees.

(i) Criminal investigators of the attorney general's office, and criminal investigators of a prosecuting attorney's office.

(4) A member may be designated by the retirement board as a police officer member for retirement purposes if the position held is one in which the principal duties involve hazardous law enforcement duties.

(a) For purposes of this section, "hazardous law enforcement duties" mean principal duties which:

(i) Will reasonably expect to increase the probability of early superannuation;

(ii) Is associated with life-threatening risk or presents a position of peril either to the member or to others, or which can place the public safety in jeopardy; and

(iii) Either compels others to observe the law, pertains to crime prevention, or pertains to crime reduction, including police, courts, prosecution, correction, or rehabilitation.

(b) If continued employment in a position is conditioned on maintaining current POST certification, such condition shall be evidence to be considered that the employee is a police officer member for retirement purposes.

(i) After July 1, 1985, a requirement for POST certification for classified state employees may be made only by the personnel commission.

(c) Occasional assignments to hazardous law enforcement duties does not create a condition for designation as a police officer member for retirement purposes.

(5) Any employer or agency that believes that any employee, not specifically designated as a police officer by law, is incorrectly classified as a nonpolice officer member, may petition the retirement board for inclusion of that employee's position as one to be filled by a police officer member for retirement purposes. The petition shall be in writing and shall explain in detail the principal duties of the position and include written evidence which establishes that the criteria of subsection (4) are met. The board shall review the petition and evidence, together with such information and evidence as may be presented by the staff of the retirement system. The board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the board. The decision of the board shall be final, but a similar petition may be resubmitted after six (6) months.

(6) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board.

(7) An active member classified as a police officer for retire-

ment purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements of this chapter for police officer status for retirement purposes shall become a general member but shall not lose retirement benefits earned and accrued prior to the reclassification. If that member continues to be employed in that same position until retired, that member then will be deemed to be a police officer member for the purposes of retirement eligibility.

SECTION 4. That Section 59-1326, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~2~~604. RETIREMENT BOARD -- APPOINTMENT. (1) There is hereby created in the office of the governor a governing authority of the system to consist of a board of five (5) persons known as the retirement board. Each member of the board shall be appointed by the governor to serve a term of five (5) years. The governor shall designate one (1) member of the board to serve as chairman.

(2) Two (2) board members shall be appointed from among active members having at least ten (10) years of credited service.

(3) Three (3) board members shall be appointed from among Idaho citizens who are not members of the system except by reason of having served on the board.

(4) Members of the board shall be compensated as provided by section 59-509(h), Idaho Code. These allowances shall be paid from the administration account of the fund.

(5) A board member shall serve until his successor qualifies. Each board member shall be entitled to one (1) vote, and three (3) board members shall constitute a quorum. Three (3) votes shall be necessary for resolution or action by the board at any meeting except as otherwise provided in this ~~act~~ chapter.

(6) The board shall hold regular meetings and shall hold special meetings at such times and at such places as it deems necessary. All meetings of the board shall be open to the public. The board shall keep a record of all its proceedings.

SECTION 5. That Section 59-1327, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~2~~705. POWERS AND DUTIES OF BOARD. (1) The board shall have the power and duty, subject to the limitations of this ~~act~~ chapter, of managing the system. It shall have the powers and privileges of a corporation, including the right to sue and be sued in its own name as such board. The venue of all actions in which the board is a party shall be Ada County, Idaho.

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

(3) The board shall authorize the creation of whatever staff it deems necessary for sound and economical administration of the system. The executive director shall hire the persons for the staff who shall hold their respective positions subject to the rules of a merit system for state employees. The salaries and compensation of all persons

employed for purposes of administering the system shall be fixed by the board and as otherwise provided by law.

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

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

(6) If the board determines that it has previously overpaid or underpaid benefits provided under this chapter or chapter 14, title 72, Idaho Code, it shall correct the prior error. In the event of prior underpayment, the board shall forthwith pay the amount of the underpayment together with regular interest thereon. In the event of prior overpayment, the board may offset future benefit payments by the amount of the prior overpayment together with regular interest thereon. Any such decision to offset future benefit payments shall be administratively and judicially reviewable as provided in section 59-13~~29~~14, Idaho Code. Nothing herein contained shall be construed to limit the rights of a member or the board to pursue any other remedy provided by law.

SECTION 6. That Section 59-1311A, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~11~~A06. 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~~ chapter 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 7. That Section 59-1308, Idaho Code, be, and the same is

hereby amended to read as follows:

59-1308~~3~~7. AGREEMENTS WITH OTHER RETIREMENT SYSTEMS. The board may enter into agreements with the boards or other authorities of other retirement systems operated by the state of Idaho or by political subdivisions to protect the retirement rights or benefits of employees who may alter their membership status by changing employment from one agency to another.

SECTION 8. That Section 59-1306, Idaho Code, be, and the same is hereby amended to read as follows:

59-1306~~3~~8. PRIOR SERVICE CERTIFICATES. Within sixty (60) days after becoming a member, each member shall furnish the board with such information as the board shall deem necessary for the proper operation of the system. Within six (6) months after receipt of such information, the board shall issue a prior service certificate to each member having prior service. Such certificate shall specify the amount of such service, and shall be final and conclusive for the purposes of this ~~act~~ chapter as to such service, provided, however, that in the event of error regarding the amount of such service specified, the board may issue a modified prior service certificate.

SECTION 9. That Section 59-1331, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~3~~11. 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~~ chapter. 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 the

department'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.

(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 10. That Section 59-1328, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~28~~12. SELECTION OF FUNDING AGENT(S) -- INVESTMENT OF ASSETS -- TAX EXEMPTION. (1) The board shall select the funding agent(s) and establish a medium for funding, which may be a self-administration pension trust fund or a group annuity contract, or combination thereof. The contract shall authorize the funding agent(s) to hold and, subject to the provisions of subsections (2) and (3) of this section, to invest moneys for the system and to provide the retirement benefits and death benefits for retired members granted by this ~~act~~ chapter.

(2) The board is authorized to select investment managers registered with the Securities and Exchange Commission to invest, reinvest and otherwise manage, subject to the restrictions outlined in subsection (3) of this section, such portions of the assets of the fund as are assigned by the board and are held by a funding agent(s) designated by the board.

(3) The funding agent(s) and investment managers, in acquiring, investing, reinvesting, exchanging, retaining, selling and managing the moneys and properties of the system, shall be governed by the Prudent Man Investment Act, sections 68-501 through 68-506, Idaho Code; provided, however, that the board is hereby authorized and empowered, in its sole discretion, to limit, control and designate the types, kinds and amounts of such investments. The funding agent(s) will not be required to segregate moneys applicable to individual employees or employers, but shall only be responsible for the aggregate of such moneys as are received by it.

(4) All contributions paid to the funding agent(s) shall be con-

strued as being exempt from premium taxes payable pursuant to section 41-402, Idaho Code.

SECTION 11. That Section 59-1344, Idaho Code, be, and the same is hereby amended to read as follows:

59-134~~4~~13. TRUST AGREEMENT -- AMENDED TO COMPLY WITH THIS ~~ACT~~ CHAPTER. The board may amend its trust agreement with the funding agent to comply with the requirements of this ~~act~~ chapter.

SECTION 12. That Section 59-1329, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~29~~14. RULES AND REGULATIONS -- PROCEDURES FOR HEARINGS PRIOR TO APPEALS -- APPEALS. (1) Subject to other provisions of this ~~act~~ chapter and pursuant to the policy and standards set out in section 59-1301, Idaho Code, the board shall have the power and authority to adopt, amend or rescind such rules and regulations and administrative policies as may be necessary for the proper administration of this ~~act~~ chapter.

(2) Any person aggrieved by any otherwise final decision or inaction of the board must, before he appeals to the courts, file with the executive director of the board by mail or personally a notice for a hearing before the board. The notice of hearing shall set forth the grounds of appeal to the board.

(3) A hearing shall be held before the board in Ada County, Idaho, at a time and place designated by the board or may be undertaken or held by or before any member(s) thereof or any hearing officer appointed by the board for that purpose. The retirement board shall cause all oral testimony to be recorded and thereafter transcribed if an appeal is taken or if ordered by the board. Members of the board or the hearing officer shall have power to administer oaths, to preserve and enforce order during such hearings, to issue subpoenas for and to compel the attendance and testimony of witnesses or the production of books, papers, documents and other evidence and to examine witnesses.

(4) At the time and place fixed for hearing, unless continued for cause, each party shall present his evidence with respect to the issues raised in the notice of hearing.

(5) Every finding, order, decision or award made by any member or hearing officer pursuant to such hearing, as confirmed or modified by the board, and ordered filed in its office, shall be deemed to be the finding, order, decision or award of the board. The record of the hearing shall be considered by the board and the decision and order of the majority of the members shall be the decision and order of the board. Every such final decision and order rendered by the board shall be in writing and a copy thereof shall be mailed to each party to the appeal and to his attorney of record.

(6) If any person in proceedings herein disobeys or resists any lawful order or process or misbehaves during a hearing, or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered so to do, any pertinent book, paper, document or other evidence, or refuses to appear after having been subpoenaed, or

upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the board shall certify the facts to the district court having jurisdiction, and the court shall thereupon, in a summary manner, hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for contempt committed before the court, or commit such person upon the same conditions as if doing of the forbidden act had occurred with reference to the proceedings, or in the presence of the court.

(7) Within thirty (30) days after any final decision and order by the board has been mailed to the parties any such party aggrieved thereby may appeal to the District Court of the Fourth Judicial District of the state of Idaho, in and for the County of Ada, and such appeal shall be heard as a case in equity, but any party shall be entitled to a trial de novo upon such appeal. Such appeal shall be perfected by serving a notice of appeal and claim for relief on the executive director of the board and each adverse party, or his attorney, by personal service or by mail and by filing the notice of appeal and claim for relief, together with proof of service thereof, with the clerk of the court. The board and any other party to the appeal shall, within thirty (30) days after receipt of such notice of appeal and claim for relief, serve and file a notice of appearance and answer upon the appellant or his attorney of record and such appeal shall thereupon be deemed at issue. The executive director shall serve upon all parties to the appeal or their attorneys and file with the clerk of the court, a certified copy of the complete record of the hearing before the board. The decision or judgment of the district court shall be subject to appeal to the Supreme Court in the same manner and by the same procedure as appeals are taken and perfected to the court in civil actions at law.

SECTION 13. That Section 59-1335, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~3~~15. AMOUNT, TERMS AND CONDITIONS OF REVISED BENEFITS TO BE PROSPECTIVE ONLY UNLESS OTHERWISE PROVIDED. As the amount, terms and conditions of benefits may be revised from time to time the application of such revisions shall be prospective only and not retrospective or retroactive unless otherwise provided by statute.

SECTION 14. That Section 59-1325A, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~25A~~16. MEMBER'S RETIREMENT RECORDS CONFIDENTIAL. Except as specifically provided by law, information contained in each member's retirement system records is considered confidential and may not be divulged except as ordered by a court; or except as may be required by the employer member or by the retirement board and its staff in order to carry into effect the purposes of this ~~act~~ chapter. A member may by his written authorization release specific information from his own retirement system records to a stated designee.

SECTION 15. That Section 59-1325, Idaho Code, be, and the same is

hereby amended to read as follows:

59-13~~25~~17. RIGHTS TO BENEFITS INALIENABLE. The right of a person to any benefits under this ~~act~~ chapter and the money in any fund created by this ~~act~~ chapter shall not be assignable or subject to execution, garnishment or attachment or to the operation of any bankruptcy or insolvency law, except that benefits of a member 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 member benefit defined in either chapter 13, title 59, Idaho Code, or chapter 14, title 72, Idaho Code, be made to the member's spouse or former spouse, that member's full benefit entitlement will be forwarded to the court for distribution.

SECTION 16. That Section 59-1333, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~33~~18. RIGHTS IN ASSETS OF SYSTEM LIMITED. No particular person, group of persons or entity shall have any right in any specific portion of the assets of the system other than such undivided interest in the whole of such assets as is specified in this ~~act~~ chapter.

SECTION 17. That Section 59-1309, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~09~~21. 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~~ chapter, 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~~ chapter 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 18. That Section 59-1330, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~30~~22. EMPLOYER CONTRIBUTIONS -- AMOUNTS -- RATES. (1) Each employer shall contribute to the cost of the system. The amount of the

employer contributions shall consist of the sum of a percentage of the salaries of members to be known as the "normal cost" and a percentage of such salaries to be known as the "amortization payment." The rates of such contributions shall be determined by the board on the basis of assets and liabilities as shown by actuarial valuation, and such rates shall become effective no later than January 1 of the second year following the year of the most recent actuarial valuation, and shall remain effective until next determined by the board.

(2) The normal cost rate shall be computed to be sufficient, when applied to the actuarial present value of the future salary of the average new member entering the system, to provide for the payment of all prospective benefits in respect to such member which are not provided by the member's own contribution.

(3) The amortization rate shall not be less than the minimum amortization rate computed pursuant to subsection (4) of this section, unless a one (1) year grace period has been made effective by the board. During a grace period, the amortization rate shall be no less than the rate in effect during the immediately preceding year. A grace period may not be made effective if more than one (1) other grace period has been effective in the immediately preceding four (4) year period.

(4) The minimum amortization payment rate shall be that percentage, calculated as of the date of the most recent actuarial valuation, of the then actuarial present value of the annual salaries of all members in the system after the rate will be effective pursuant to subsection (1) of this section for the next thirty (30) years starting July 1, 1988, and twenty-five (25) years starting July 1, 1993, which is equivalent to the excess of the then actuarial present value of all future benefits payable in respect of all members and contingent annuitants over the sum of (a), (b) and (c) as follows:

(a) the actuarial value of the assets then held by the funding agent for the payment of benefits under this ~~act~~ chapter; and

(b) the actuarial present value of the future normal costs payable in respect of all then active members; and

(c) the actuarial present value of the future contributions payable either under sections 59-13~~03~~31--59-13~~05~~34, Idaho Code, by all then active members, or as amortization payment until the minimum amortization payment rate being computed becomes effective pursuant to subsection (1) of this section.

SECTION 19. That Section 59-1332A, Idaho Code, be, and the same is hereby amended to read as follows:

59-13232~~A~~. TRANSFER OF MONEYS FOR SCHOOL PERSONNEL. ~~(1)~~ After July 1, 1984, not less than four (4) times each fiscal year, the state board of education shall, at the request of the board, direct the transfer from the appropriation made for that purpose to the public employee retirement account of an aggregate sum in lieu of and equivalent to individual employer contributions provided by section 59-13~~30~~22, Idaho Code, required with respect to employees of school districts on the basis of salaries paid such employees as certified by the retirement board to the state treasurer. Such sums of money shall be taken from legislative appropriations made for that purpose. No

income from the public school fund shall ever be used for such purposes.

~~(2)--School-districts-shall-fund--the--retirement--incentive--plan provided--by--section--59-1310A,-Idaho-Code,-exclusively-from-nonstate appropriated-revenues.~~

SECTION 20. That Section 59-1332B, Idaho Code, be, and the same is hereby amended to read as follows:

59-133~~2B~~24. TRANSFER OF MONEYS FROM STATE JUNIOR COLLEGE ACCOUNT. After July 1, 1984, the state board of education shall, at the request of the board, direct the transfer from the state junior college account or from appropriations made for that purpose to the public employee retirement account of an aggregate sum in lieu of and equivalent to individual employer contributions provided by section 59-133~~0~~22, Idaho Code, required with respect to employees of junior college districts on the basis of salaries paid such employees as certified by the board to the state treasurer.

SECTION 21. That Section 59-1332, Idaho Code, be, and the same is hereby amended to read as follows:

59-13325. EMPLOYER REMITTANCE TO BOARD -- COLLECTION OF DELINQUENCIES. (1) So as to be received not later than the twentieth day of each month each employer, or, where the employer's payroll is paid separately by departments, each department of the employer, shall remit to the retirement board all contributions required of it and its employees on the basis of salaries paid by it during the previous month with whatever contributions or contribution credits may be required to correct previous errors or omissions. These remittances shall be accompanied by such reports as are required by the board to determine contributions required and member benefit entitlements established under this ~~act~~ chapter. The board may charge regular interest for remittances received after the twentieth of the month at the rate of interest provided in section 28-22-104(1), Idaho Code.

(2) If any employer shall fail or refuse to remit any such contributions within thirty (30) days after the date due, the board may certify to the state auditor the fact of such failure or refusal and the amount of the delinquent contribution or contributions, together with its request that such amount be set over from funds of the delinquent employer to the credit of the retirement fund. A copy of such certification and request shall be furnished the delinquent employer.

(3) Within ten (10) days after receipt of such request, the state auditor shall draw his warrant for payment of such amount out of moneys in the state treasury allocated to the use of such employer during the current fiscal year.

SECTION 22. That Section 59-1309A, Idaho Code, be, and the same is hereby amended to read as follows:

59-130~~9A~~26. PROCEDURE FOR COMPLETE OR PARTIAL WITHDRAWAL OF POLITICAL SUBDIVISIONS -- WITHDRAWAL CONTRIBUTIONS. (1) An employer incurring complete withdrawal or partial withdrawal after December 31,

1980, shall be required to make withdrawal contributions, all as provided in this section.

(2) Complete withdrawal occurs for a political subdivision on the date it permanently ceases to employ active members.

(3) Partial withdrawal occurs for a political subdivision when its average membership declines from one calendar year to the next by more than twenty-five (25) members and twenty-five per cent (25%) of the average membership in the earlier year. The date of partial withdrawal is the first day after the end of the later year.

(4) "Average membership" for a calendar year shall equal one-twelfth (1/12) of the sum of the number of active members employed during each month of that year.

(5) Withdrawal contributions shall commence on the first day of the fourth month after the date of complete withdrawal or partial withdrawal. The monthly amount of withdrawal contribution of an employer incurring complete withdrawal shall be one-twelfth (1/12) of the employer's contribution during the last complete calendar year prior to such date. The monthly amount of withdrawal contribution of an employer incurring partial withdrawal shall be one-twelfth (1/12) of (c) reduced proportionately by the ratio of (a) to (b) as follows:

(a) The average membership of the employer estimated by the board for the year commencing on such date;

(b) The average membership of the employer during the second complete calendar year prior to such date;

(c) The employer's contribution payable during the second complete calendar year prior to such date.

(6) Withdrawal contributions shall continue until the withdrawal liability becomes nil.

(7) On the date of complete withdrawal, the withdrawal liability of an employer is (a) multiplied by the fraction (b)/(c) as follows:

(a) The excess of the actuarial present value of the vested benefits of the system's members over the fair value of its assets, both as of the date of the actuarial valuation for the fiscal year preceding such date;

(b) The total employer contributions of the employer during the five (5) complete calendar years immediately prior to such date;

(c) The total employer contributions of all employers during the five (5) complete calendar years immediately prior to such date.

(8) On the date of partial withdrawal, the withdrawal liability of an employer is the same as if complete withdrawal had occurred, reduced proportionately by the ratio of (a) to (b) as follows:

(a) The average membership of the employer estimated by the board for the year commencing on such date;

(b) The average membership of the employer during the second complete calendar year prior to such date.

(9) After the date of an employer's complete withdrawal or partial withdrawal, the withdrawal liability is the initial withdrawal liability decreased by the accumulation of withdrawal contributions, all adjusted for interest. Interest charges shall be on the basis used in determining the original withdrawal liability. Interest credits shall be based upon quarter-year investment earnings of the system. If partial withdrawal occurs, the amounts of withdrawal liability and withdrawal contribution shall be adjusted by appropriate

recalculations after the average membership of the employer is known for the year commencing on the date of partial withdrawal. If the average membership of an employer which has incurred a partial withdrawal exceeds for each of three (3) consecutive years the average membership during the second calendar year prior to the date of partial withdrawal, the withdrawal liability shall become nil upon the final day of the last of such three (3) years, regardless of the accumulation of the previously computed withdrawal liability.

SECTION 23. That Section 59-1310A, Idaho Code, be, and the same is hereby repealed.

SECTION 24. That Section 59-1303, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~03~~31. CONTRIBUTIONS. (1) Beginning on or after the later of the date of establishment or employment, each active member shall contribute toward the cost of the benefits provided under this ~~act~~ chapter. This contribution shall be made in the form of a deduction from salary to be transmitted to the board in accordance with section 59-13~~32~~25, Idaho Code.

(2) Any person who was prevented from being an active member during his first twelve (12) months of employment due to the restriction contained in subsection (2) of section 59-1302, Idaho Code, may, prior to December 31, 1975, pay the board the contributions he would have made absent said restriction and be credited with membership service for such period of time. The time for payment shall be extended provided such payment includes regular interest from December 31, 1975.

(3) Employee contributions received by the board in error may be refunded with regular interest.

SECTION 25. That Section 59-1303A, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~03A~~32. PICK UP OF EMPLOYEE CONTRIBUTIONS. (1) An employer, pursuant to the provisions of section 414(h)(2) of the Internal Revenue Code of 1954, as amended, shall pick up and pay the contributions which would be payable by the employees as members under sections 59-13~~03~~31 and 72-14~~1~~31, Idaho Code, with respect to the service of employees after June 30, 1983.

(2) The members' contributions picked up by an employer shall be designated for all purposes of the retirement system as member contributions, except for the determination of tax upon a distribution from the retirement system. These accumulated contributions shall become part of the members' accumulated contributions, but accounted for separately from those previously accumulated.

(3) Member contributions picked up by an employer shall be payable from the same source as is used to pay compensation to a member, and shall be included in the member's salary as defined in subsection (31) of section 59-1302, Idaho Code.

SECTION 26. That Section 59-1304, Idaho Code, be, and the same is hereby amended to read as follows:

59-130~~4~~33. CONTRIBUTIONS FROM EMPLOYEES. The contribution for a member who is not classified as a police officer or ~~fireman~~ firefighter shall be sixty percent (60%) of the employer contribution rate determined pursuant to section 59-13~~3~~022, Idaho Code, and rounded to the nearest one hundredth percent (.01%) of salary; provided, however, that such member rate effective October 1, 1985, shall remain at five and thirty-four hundredths percent (5.34%) of salary until the first time after October 1, 1985, that the employer rate is changed from eight and eighty-nine hundredths percent (8.89%) of salary. The board is specifically authorized to certify to the state auditor the necessary adjustments in the rate of member contributions.

SECTION 27. That Section 59-1305, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~0~~534. CONTRIBUTIONS -- FROM POLICEMEN AND ~~FIREMEN~~ FIREFIGHTERS. The contribution for a member who is classified as a police officer or ~~fireman~~ firefighter shall be seventy-two percent (72%) of the employer contribution rate determined pursuant to section 59-13~~3~~022, Idaho Code, and rounded to the nearest one hundredth percent (.01%) of salary; provided, however, that such member rate effective October 1, 1985, shall remain at six and forty hundredths percent (6.40%) of salary until the first time after October 1, 1985, that the employer rate is changed from eight and eighty-nine hundredths percent (8.89%) of salary. The board is specifically authorized to certify to the state auditor the necessary adjustments in the rate of member contributions.

SECTION 28. That Section 59-1305A, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~0~~5A35. VOLUNTARY CONTRIBUTIONS. (1) The term "accumulated voluntary contributions" means the sum of the voluntary contributions of a member, together with regular interest credit thereon.

(2) A member with accumulated voluntary contributions may make or withdraw voluntary contributions pursuant to regulations formulated by the board. Such voluntary contributions shall be maintained apart from contributions required under sections 59-13031--59-130534, Idaho Code.

(3) Upon the retirement of a member with accumulated voluntary contributions, such accumulated voluntary contributions shall be converted to an annuity which shall be the actuarial equivalent of the aggregate accumulated voluntary contributions made. For the purpose of determining any optional retirement allowance payable under section 59-13~~1~~752, Idaho Code, this annuity shall be added to the retirement allowance and such optional benefit shall be in lieu of all other benefits payable under this section.

(4) With respect to the payment of a separation or death benefit to a member with accumulated voluntary contributions, the excess accumulated voluntary contributions over any annuity payments made in accordance with this section shall be added to the benefits otherwise payable. With respect to a death benefit after retirement, the accumulated voluntary contributions used in determining the excess shall be the aggregate of accumulated voluntary contributions at the time of retirement.

SECTION 29. That Section 59-1310, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~4~~10. CONDITIONS OF ELIGIBILITY FOR RETIREMENT. ~~(1)~~ An active member with at least five (5) years of credited service including six (6) months of membership service is eligible for service retirement as indicated below, based upon his service retirement ratio. A member's service retirement ratio shall, at retirement, be equal to the ratio of (~~a~~1) to (~~b~~2) as follows:

(~~a~~1) The number of years of credited service for which the member was classified as a police officer or ~~fireman~~ firefighter:

(~~b~~2) The member's total number of years of credited service.

For service retirement ratio:	Service retirement eligibility ag
0.000 to 0.100	65
0.101 to 0.300	64
0.301 to 0.500	63
0.501 to 0.700	62
0.701 to 0.900	61
0.901 to 1.000	60

A person who was an active member on June 30, 1985 shall be deemed to have a service retirement ratio of 1.000 either if the member was a police officer or ~~fireman~~ firefighter on that date and continuously thereafter to retirement or if at the time of retirement the majority of the member's credited service has been that of a police officer or ~~fireman~~ firefighter.

~~(2)--An active member who is not eligible for--service--retirement is--eligible for disability retirement if he becomes disabled after at least ten (10) years of credited service including six (6)--months--of membership service.~~

~~(3)--An--active--member--who--is--not--eligible for either service retirement or disability retirement is eligible for--early--retirement if--he--has--at least five (5) years of credited service including six (6) months of membership service and is within ten (10) years of being eligible for service retirement. Additionally an active member is eligible for early retirement on termination of disability retirement--as provided by section 59-1313, Idaho Code.~~

~~(4)--An inactive member who has at least five (5) years of membership--service--is eligible for vested retirement within ten (10) years of the date he would have been eligible for service retirement had--he remained--an active member, except that an inactive member, who at the time of his separation from service held an office--to--which--he--had been--elected--by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official or was the--head--or--director--of--a--department,--division, agency,--statutory--section or bureau of the state, or was employed on or after July 1, 1965 by an elected official of the state of Idaho and occupied a position exempt from the provisions of--chapter--53,--title 67, Idaho Code, is eligible for vested retirement regardless of length and type of service, unless covered by a merit system for employees of the state of Idaho.~~

~~(5)--An inactive member who is not eligible for service retirement is eligible for the separation benefit.~~

~~(6)--The beneficiary of any member other than a retired member who~~

~~elected--option--1-or-2-under-section-59-1317,-Idaho-Code,-is-eligible for-the-death-benefit,-if-any,-upon-the-member's-death.~~

~~(7)--By-written-notice-on-a-form-prescribed-by-the--board,--eligibility--for--early--or--vested--retirement-may-be-deferred-by-a-member until-the-date-he-would-have-been-eligible-for-service-retirement--had he-remained-an-active-member.~~

SECTION 30. That Section 59-1319, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~19~~42. COMPUTATION OF SERVICE RETIREMENT ALLOWANCES -- MINIMUM BENEFITS. (1) The annual amount of accrued retirement allowance for each month of credited service for which a member was not classified as a police officer or fireman shall equal one and two-thirds per cent (1 2/3%) of his average monthly salary. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) five dollars ($5.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-13~~19~~A56, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(2) The annual amount of accrued retirement allowance for each month of credited service for which a member was classified as a police officer or fireman shall equal two per cent (2%) of his average monthly salary. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) six dollars ($6.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1319A, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(3) Provisions of this section shall be applicable to members and contingent annuitants of the employee system and to members, annuitants and beneficiaries of the teachers and city systems. In any recomputation of an initial retirement allowance for a person not making a final contribution subsequent to 1974, the bridging factor referred to in subsections (1) and (2) shall be 1.000. Any recomputed retirement allowance shall be payable only prospectively from July 1, 1974.

(4) Benefits payable to a person who became a member prior to July 1, 1974, or to his beneficiaries shall never be less than they would have received under this ~~act~~ chapter as in effect on June 30, 1974; provided, however, that the member shall have accrued the amount of accumulated contributions required thereby prior to payment of an initial retirement allowance.

(5) If the majority of a member's credited service is as an elected official or as an appointed official, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer in excess of twenty (20) hours per week during the term of office, and that member's initial service retirement allowance for

service credited only during that period would be computed under subsection (1)(b) and/or (2)(b) of this section, without consideration of any other credited service, then it will be so computed for that period of service.

If that member has credited service from any other employment, the accrued service retirement allowance for the credited service from such other employment shall be computed from an average monthly salary for salary received during the period of such other employment.

SECTION 31. That Section 59-1315, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~15~~43. CONVERSION AND COMMUTATION OF CERTAIN PAYMENTS. Payments of less than ten dollars ($10.00) per month shall be commuted into an actuarially equivalent single sum, unless the member elects a monthly allowance at time of retirement.

SECTION 32. That Section 59-1311, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~11~~44. TIME FOR PAYMENT OF SERVICE RETIREMENT OR EARLY RETIREMENT. A service retirement allowance or early retirement allowance shall become payable to a member on the first of the month following his ceasing to be an employee while eligible for service retirement or early retirement and on the first of each month thereafter to and including the first of the month of the member's death.

SECTION 33. 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 59-1345, Idaho Code, and to read as follows:

59-1345. ACTIVE MEMBER ELIGIBLE FOR EARLY RETIREMENT. An active member who is not eligible for either service retirement or disability retirement is eligible for early retirement if he has at least five (5) years of credited service including six (6) months of membership service and is within ten (10) years of being eligible for service retirement. Additionally, an active member is eligible for early retirement on termination of disability retirement as provided by section 59-1396, Idaho Code.

SECTION 34. That Section 59-1321, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~21~~46. COMPUTATION OF EARLY RETIREMENT ALLOWANCES. ~~[(1)]~~ The annual amount of initial early retirement allowance of a member shall be a percentage of his accrued retirement allowance. Such percentage shall be one hundred percent (100%) if the sum of the number of years and months of credited service and the age in years and months is equal to or greater than the sum indicated below. Otherwise, such percentage shall be one hundred percent (100%) reduced by one-fourth of one percent (.25%) for each month up to sixty (60) months that the member's retirement precedes the date he would be eligible to receive

his full accrued benefit without additional credited service, and further reduced by two-thirds of one percent (.6667%) for each additional month.

If a member's service retirement ratio as defined by section 59-1310, Idaho Code, is:	Then the sum of his credited service and age must be equal to or greater than:
0.000 to 0.050	90
0.051 to 0.150	89
0.151 to 0.250	88
0.251 to 0.350	87
0.351 to 0.450	86
0.451 to 0.550	85
0.551 to 0.650	84
0.651 to 0.750	83
0.751 to 0.850	82
0.851 to 0.950	81
0.951 to 1.000	80.

~~[(2)]~~ If the majority of a member's credited service is as an elected official or as an appointed official, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer in excess of twenty (20) hours per week during the term of office, that member's accrued retirement allowance for service credited only during that period shall be computed from an average monthly salary for salary received during that period of such employment only.

If that member has credited service from any other employment, the accrued retirement allowance for the credited service from such other employment shall be computed from an average monthly salary for salary received during the period of such other employment.

SECTION 35. 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 59-1347, Idaho Code, and to read as follows:

59-1347. INACTIVE MEMBER ELIGIBLE FOR VESTED RETIREMENT. An inactive member who has at least five (5) years of membership service is eligible for vested retirement within ten (10) years of the date he would have been eligible for service retirement, except that an inactive member, who at the time of his separation from service held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official or was the head or director of a department, division, agency, statutory section or bureau of the state, or was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code, is eligible for vested retirement regardless of length and type of service unless covered by a merit system for employees of the state of Idaho.

SECTION 36. That Section 59-1322, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~22~~48. COMPUTATION OF VESTED RETIREMENT ALLOWANCES. The annual amount of initial vested retirement allowance payable to any member shall equal the amount of initial retirement allowance payable pursuant to sections 59-13~~19~~43 or 59-13~~21~~47, Idaho Code, whichever is applicable, based upon the member's age at vested retirement and the amount of credited service earned to the date of final contribution.

SECTION 37. That Section 59-1312, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~12~~49. TIME FOR PAYMENT OF VESTED RETIREMENT. A vested retirement allowance shall become payable to a member on the first of the month following his becoming eligible for vested retirement and on the first of each month thereafter to and including the first of the month of the member's death.

SECTION 38. 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 59-1350, Idaho Code, and to read as follows:

59-1350. DEFERRAL OF EARLY OR VESTED RETIREMENT. By written notice on a form prescribed by the board, eligibility for early or vested retirement may be deferred by a member until the date he would have been eligible for service retirement had he remained an active member.

SECTION 39. That Section 59-1317, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~5~~17. CONVERSION OF SERVICE RETIREMENT OR EARLY RETIREMENT OR VESTED RETIREMENT ALLOWANCES INTO OPTIONAL RETIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The service retirement allowance, the early retirement allowance or the vested retirement allowance of a member who, at time of retirement, so elects shall be converted into an optional retirement allowance which is the actuarial equivalent of such other allowance. The optional retirement allowance may take one of the forms listed below and shall be in lieu of all other benefits under this ~~act~~ chapter except that the provisions of section 59-13~~6~~24(1), Idaho Code, shall be applicable to option 3:

(a) Option 1 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of such reduced retirement allowance during the lifetime of his named contingent annuitant.

(b) Option 2 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of one-half (1/2) of such reduced retirement allowance during the lifetime of his named contingent annuitant.

(c) Option 3, which is available only if the member retires before the date of his sixty-fifth birthday, provides an increased retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equaling the governmental old-age benefit becoming

payable at such date as estimated by the board.

(d) Option 4, which is available only if the member retires before the date of his sixty-fifth birthday, provides an adjusted retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equalling the governmental old-age benefit becoming payable at such date as estimated by the board. The retirement allowance shall be paid to the retired member during his lifetime and to his named contingent annuitant for life thereafter.

(2) Option 1 or 2 may not be chosen if initial payments of less than ten dollars ($10.00) per month would result.

(3) Application for any optional retirement allowance shall be in writing, duly executed and filed with the board. Such application shall contain all information required by the board, including such proofs of age as are deemed necessary by the board.

(4) Not later than one (1) year after the marriage of a retired member, he may elect option 1, 2 or 4 to become effective one (1) year after the date of such election, provided the member's spouse is named as a contingent annuitant, and either:

(a) The member was not married at the time of his retirement; or

(b) The member earlier elected option 1, 2 or 4, having named his spouse as contingent annuitant, and said spouse has died. The retirement allowance to be converted in such a case is that currently being paid under said election.

SECTION 40. 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 59-1352, Idaho Code, and to read as follows:

59-1352. ELIGIBILITY FOR DISABILITY RETIREMENT. An active member who is not eligible for service retirement is eligible for disability retirement if he becomes disabled after at least ten (10) years of credited service including six (6) months of membership service.

SECTION 41. That Section 59-1320, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~20~~53. COMPUTATION OF DISABILITY RETIREMENT ALLOWANCES. (1) The annual amount of initial disability retirement allowance of any member shall equal the excess, if any, of (a) over (b), as follows:

(a) an initial service retirement allowance, based upon the sum of his accrued credited service and such disabled service as would accrue if he were to remain disabled until he would have been eligible for a service retirement allowance as an active member;

(b) the annual amount payable under the provisions of any workmen's compensation law because of the same disability.

(2) If a single payment is made under the provisions of any workmen's compensation law and such single payment is in lieu of periodic income payments, such single payment shall be considered as its annual equivalent for the purpose of this section. Each adjustment in the payment of a disability retirement allowance due to a change in the amount payable under the provisions of any workmen's compensation

law shall take effect on the first of the month coinciding with or next following the effective date of such change.

SECTION 42. That Section 59-1313, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~13~~54. TIME FOR PAYMENT OF DISABILITY RETIREMENT. (1) A disability retirement allowance shall become payable to a member on the first of the month next following the later of:

(a) the day salary, sick leave or other temporary compensation benefits terminate under any plan paid for in whole or in part by the employer of the member; or

(b) the day five (5) months after the member becomes eligible for disability retirement.

(2) The disability retirement allowance shall be paid monthly thereafter to, but not including, the first of the month next following the earliest of:

(a) the day of the retired member's death; or

(b) the day the retired member would be eligible for service retirement, were he still an ~~i~~nactive member; or

(c) the day the retired member ceases to be disabled.

(3) When a disability retirement allowance ceases pursuant to (b) of subsection (2) of this section, the retired member shall thereupon become eligible for service retirement, his service retirement allowance to commence on the first of the month following the date of the last payment of the disability retirement allowance.

(4) When a disability retirement allowance ceases pursuant to (c) of subsection (2) of this section, the retired member shall thereupon resume the status of an active member. Should he not become an employee or elect to receive an early retirement allowance within sixty (60) days thereafter, his status shall be considered to be an inactive member for the purposes of this ~~act~~ chapter as of the date his disability retirement allowance ceases.

SECTION 43. That Section 59-1319A, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~19A~~55. 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 the index month of the previous year to the consumer price index for 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 59-133~~0~~22, 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 numbered of months in the earlier adjustment 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 59-13~~1~~9~~4~~3(1)(b) or 59-13~~1~~9~~4~~3(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. 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.

SECTION 44. That Section 59-1318, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~1~~0~~5~~6. REEMPLOYMENT OF RETIRED MEMBERS. (1) Upon a retired member's again becoming an employee, any benefit payable on behalf of such member shall terminate and any contributions payable by such member under sections 59-13~~0~~31--59-13~~0~~534, Idaho Code, shall again commence, except as provided in subsection (2). The terminated benefit, as adjusted pursuant to section 59-13~~1~~9~~A~~55, Idaho Code, shall resume upon subsequent retirement, along with a separate allowance computed with respect to only that salary and service credited during the

period of reemployment.

(2) When a retired member again becomes employed and an employer certifies to the board that the member does not qualify as an employee as defined in section 59-1302(14)(A)(a), Idaho Code, no contributions shall be made by the member or employer during such reemployment and any benefit payable on behalf of such member shall continue.

SECTION 45. 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 59-1357, Idaho Code, and to read as follows:

59-1357. INACTIVE MEMBER ELIGIBLE FOR SEPARATION BENEFIT. An inactive member is eligible for the separation benefit.

SECTION 46. That Section 59-1323, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~23~~58. COMPUTATION OF SEPARATION BENEFITS. The separation benefit shall equal the excess, if any, of the member's accumulated contributi~~ons~~ at the time the benefit becomes payable over the aggregate of all retirement allowance payments ever made to the member.

SECTION 47. That Section 59-1314, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~14~~59. SEPARATION BENEFITS. The separation benefit, if any, shall become payable upon the written request of an inactive member who has been separated from employment with an employer and who is not reemployed or reinstated by that same employer within thirty (30) days or, if the inactive ~~member~~ member has less than five (5) years of membership service and has not previously so requested and is not a person who at the time of his separation from service held an office to which he had been elected by popular vote or having a term fixed by the Constitution, statute or charter or was appointed to such office by an elected official or was the head or director of a department, division, agency or statutory section or bureau of the state, shall be payable automatically ten (10) years after the person becomes an inactive member.

SECTION 48. That Section 59-1307, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~07~~60. CESSATION OF MEMBERSHIP -- REINSTATEMENT. A person shall cease to be a member when his accumulated contributions become payable to him. If no more than ten (10) years separates his periods of employee status, or if his accumulated contributions become payable during military service, he may reinstate his previous credited service by repaying to the retirement fund the full amount of his accumulated contributions after again becoming an employee provided such repayment includes payment of interest as determined by the board on any amount remaining unpaid.

SECTION 49. That Section 59-1324, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~2~~461. COMPUTATION OF DEATH BENEFITS -- METHOD OF PAYMENT -- OPTIONAL DEATH BENEFIT. (1) The death benefit of an active or inactive member shall equal the excess, if any, of the member's accumulated contributions at the time the benefit becomes payable over the aggregate of all retirement allowance payments ever made to the deceased member. The death benefit of a retired member~~,--except-as-provided-by section-59-1317,--Idaho-Code,~~ shall equal the excess, if any, of the member's accumulated contributions at the time the member retired over the aggregate of all retirement allowance payments ever made to the deceased member.

(2) The death benefit, if any, will be paid to the beneficiary surviving the member; otherwise, it will be paid in accordance with the laws of descent and distribution of the state of Idaho as they may then be in effect.

(3) Upon the death of a member who has at least five (5) years of credited service and is: (a) active; or (b) inactive and eligible to receive a retirement allowance; or (c) a disability retired member; his beneficiary may elect, in lieu of any death benefit otherwise payable, an allowance to be paid to the member's surviving spouse as provided in option 1 under section 59-13~~17~~52, Idaho Code. The initial retirement allowance upon which such optional retirement allowance is based shall be calculated as if the member had retired immediately before his death. If the member is not then eligible to receive a service or early retirement allowance, such initial retirement allowance shall equal the actuarial equivalent of the retirement allowance payable when the member would first be eligible for vested retirement, calculated as if he had separated from service immediately before his death.

SECTION 50. That Section 59-1336, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~3~~671. DEFINITIONS. As used in this ~~act~~ chapter, each of the terms defined shall have the meaning given in this section or in section 59-1302, Idaho Code, unless a different meaning is clearly required by the context.

(a) "Accumulated teacher member contributions" means the sum of all amounts deducted from the compensation of a teacher member on or before July 1, 1965 and credited to his individual account in the savings annuity savings fund, together with interest credited to said account to such date.

(b) "Board" means the retirement board of the employee system.

(c) "Date of establishment" means July 1, 1967 for school employees.

(d) "Funding agent" means the funding agent of the employee system.

(e) "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 as defined by this ~~act~~ chapter of each school employee who is an active member or in military service or

on leave of absence on the date of establishment.

(f) "Employee system" means the retirement system created by and existing through the provisions of chapter 13, title 59, Idaho Code.

(g) "School employee" means any employee of any school district or any public community college district or Boise State University including each member of the teachers system, subject to the provisions of section 59-1302(14), Idaho Code, but shall not include any person who is an annuitant of the teachers system.

(h) "Teacher member" means a member of the teachers system on July 1, 1967, subject to the provisions of section 59-1302(14), Idaho Code.

(i) "Teachers system" means the retirement system created by and existing through chapter 13, title 33, Idaho Code.

SECTION 51. That Section 59-1337, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~37~~72. TRANSFER OF ALL ASSETS, LIABILITIES, DUTIES, OBLIGATIONS AND RIGHTS TO EMPLOYEE SYSTEM. All of the funds, assets, liabilities, duties, obligations and rights of the board of trustees and members of the teachers system shall be transferred to and integrated with the employee system on July 1, 1967. The board of trustees of the teachers system is by this ~~act~~ chapter abolished. Benefits payable to annuitants and beneficiaries of the teachers system shall become the obligation of the employee system on July 1, 1967 and shall be paid in the same amount as established by the teachers system. The funds of the teachers system are by this ~~act~~ chapter abolished. Cash on hand in said funds shall be deposited by the state treasurer in the clearing account of the employee system. Evidence of indebtedness arising from invested money of said funds shall be transferred by the custodians thereof to the funding agent. The money and property of said funds shall become the money and property of the employee system.

SECTION 52. That Section 59-1339, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~73~~9. ACCUMULATED TEACHER MEMBER CONTRIBUTIONS -- REMAINING CONTRIBUTIONS -- MEMBERSHIP SERVICE CREDIT. Accumulated teacher member contributions, unless previously withdrawn, shall be paid to teacher members prior to January 1, 1968, by the board from the clearing account of the employee system. All remaining contributions shall be considered as accumulated contributions as defined in section 59-1302(3), Idaho Code. Each month of service of any teacher member between July 1, 1965 and July 1, 1967 during which the teacher member was a member of the teachers system shall be deemed to be membership service.

SECTION 53. That Section 59-1340, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~74~~0. EMPLOYERS -- MEMBERS -- EXCEPTIONS. All school districts, public community college districts and Boise State University shall become employers pursuant to the provisions of chapter 13, title

59, Idaho Code, on July 1, 1967, except as herein otherwise provided. School employees shall become members pursuant to the provisions of chapter 13, title 59, Idaho Code, on July 1, 1967, except as herein otherwise provided. Provided, however, that teacher members employed by the agricultural extension service of the college of agriculture of the University of Idaho shall be deemed to be employees of the state of Idaho notwithstanding the provisions of section 59-1302(14)(e), Idaho Code, and may elect to participate or be excluded as members of the system in accordance with rules of the board.

SECTION 54. That Section 59-1343, Idaho Code, be, and the same is hereby amended to read as follows:

59-134~~3~~75. ANNUITANTS -- CONTRIBUTION IN LIEU OF THE REQUIREMENT OF SIX MONTHS OF MEMBERSHIP SERVICE. A person who became an annuitant of the teachers system on or after March 29, 1965, and who had met the requirements for service or disability retirement on the date such person became an annuitant, except for the requirement of six (6) months of membership service, shall be eligible for service or disability retirement on January 1, 1968 by contributing to the employee system pursuant to rules of the board an amount equal to the sum such person would have contributed during six (6) months of membership service computed on the basis of the salary such person received on the date such person became an annuitant. This contribution shall be in lieu of the requirement of six (6) months of membership service. The amount so contributed shall not be included in the computation of disability or service retirement allowance.

SECTION 55. That Section 59-1345, Idaho Code, be, and the same is hereby amended to read as follows:

59-134~~5~~76. BENEFITS TO TEACHER MEMBERS NOT TO BE LESS THAN THOSE PAID IF SYSTEM HAD NOT BEEN INTEGRATED. Benefits paid teacher members who became eligible for benefits under the employee system shall never be less than the benefits such teacher members would have received as annuitants or that their beneficiaries would have received from the teachers system if the systems had not been integrated.

SECTION 56. That Section 59-1346, Idaho Code, be, and the same is hereby amended to read as follows:

59-134~~6~~81. MERGER OF CITY SYSTEMS INTO STATE EMPLOYEE SYSTEM -- DEFINITIONS. As used in this ~~act~~ chapter, each of the terms defined shall have the meaning given in this section or in section 59-1302, Idaho Code, unless a different meaning is clearly required by the context.

(a) "Board" means the retirement board of the employee system.

(b) "City member" means a person receiving benefits or establishing the right to receive benefits from a city system.

(c) "City system" means the Boise city employee's retirement system and any policeman's retirement system established and operated by virtue of any city ordinance, charter, or pursuant to the provisions of chapter 15, title 50, Idaho Code.

(d) "Employee system" means the retirement system created by and existing through the provisions of chapter 13, title 59, Idaho Code.
(e) "Employer" means a city having a city system.

SECTION 57. That Section 59-1347, Idaho Code, be, and the same is hereby amended to read as follows:

59-134~~7~~82. CITY ORDINANCE ELECTING MERGER -- CONTRACT WITH BOARD. Any city having a city system may elect to merge its city system with the employee system by the enactment of an ordinance declaring such intention; the provisions of section 50-1503, Idaho Code, and section 50-1524, Idaho Code, notwithstanding. Thereupon the board of the employee system may upon such terms as are set forth in a contract between the board and employer integrate the city system of the employer into the employee system.

SECTION 58. That Section 59-1349, Idaho Code, be, and the same is hereby amended to read as follows:

59-134983. TRANSFER OF ASSETS, LIABILITIES, DUTIES, AND RIGHTS TO STATE EMPLOYEE SYSTEM -- GOVERNING BOARD OF CITY SYSTEM ABOLISHED. On its date of establishment all of the funds, assets, liabilities, duties, obligations and rights of the governing board of the city system and of all city members being integrated into the employee system shall be transferred to the employee system. The governing board of such a city system is by this ~~act~~ chapter abolished. On and after the date of establishment, benefits payable to annuitants and beneficiaries of such a city system shall become the obligation of the employee system and shall be paid in the same amount as established by such a city system, except that on and after the date of establishment future monthly benefits shall be subject to the provisions of section 59-13~~19~~A56, Idaho Code. The funds of such a city system are by this ~~act~~ chapter abolished. The custodian of the fund of such a city system shall transfer all cash on hand in such fund to the state treasurer for deposit in the clearing account of the employee system, and all evidence of indebtedness arising from invested money of said fund to the funding agent as designated by the board. The money and property of such funds shall become the money and property of the employee system.

SECTION 59. That Section 59-1350, Idaho Code, be, and the same is hereby amended to read as follows:

59-135~~0~~84. BENEFITS NOT REDUCED. Benefits paid city members or their beneficiaries shall never be less than the benefits they would have re~~ceived from t~~he city systems if such systems had not been integrated with the employee system.

SECTION 60. That Section 59-1348, Idaho Code, be, and the same is hereby amended to read as follows:

59-1348~~5~~. CONTRIBUTIONS BY EMPLOYER -- ADJUSTMENT TO EQUALIZE BENEFITS PAYABLE AND ASSETS TRANSFERRED -- CORPORATE TAX BY CITY TO

PAY CONTRIBUTIONS. (a) Each employer shall contribute to the cost of benefits under the system, pursuant to section 59-13~~3~~022, Idaho Code. On the date of establishment and from time to time thereafter, the board shall conduct studies of those benefits payable under section 59-13~~5~~084, Idaho Code, which are in excess of those otherwise earned in accordance with chapter 13, title 59, Idaho Code. If, for any such employer, such study indicates the value of such benefits exceeds the amount of money and property transferred in accordance with section 59-134983, Idaho Code, said amount being adjusted for interest and for any previous payments in accordance with this section and section 59-13~~5~~084, Idaho Code, such excess value shall be computed as an additional contribution to be paid by such employer. In the event said amount so adjusted shall exceed said value of such benefits, the excess shall be immediately payable to such employer by the employee system.

(b) Each such employer may levy a special tax on all assessed property within its corporate limits solely for the purpose of paying all or a portion of such contributions.

SECTION 61. That Section 59-1351, Idaho Code, be, and the same is hereby amended to read as follows:

59-135~~9~~1. DEFINITIONS. As used in sections 59-135~~9~~1 through and including 59-135~~9~~9, Idaho Code, each of the terms defined shall have the meaning given in this section or in section 59-1302, Idaho Code, unless a different meaning is clearly required by the context.

(a) "Board" means the retirement board of the employee system.

(b) "~~Fireman~~ Firefighter member" means a person or beneficiary who, prior to October 1, 1980, was receiving benefits or establishing the right to receive benefits from the ~~firemen's~~ firefighters' retirement fund.

(c) "~~Firemen's~~ Firefighters' retirement fund" means the retirement system created by and existing through chapter 14, title 72, Idaho Code.

(d) "Employee system" means the retirement system created and existing through chapter 13, title 59, Idaho Code.

(e) "Employer" means a city or fire district that employs paid ~~firemen~~ firefighters who are participating in the ~~firemen~~ firefighters' retirement fund on October 1, 1980.

(f) "Paid ~~fireman~~ firefighter" means any individual, male or female, excluding office secretaries on the payroll of any city or fire district in the state of Idaho who devotes his or her principal time of employment to the care, operation, maintenance or the requirements of a regularly constituted fire department of such city or fire district in the state of Idaho.

SECTION 62. That Section 59-1352, Idaho Code, be, and the same is hereby amended to read as follows:

59-135~~9~~2. TRANSFER OF ALL ASSETS, LIABILITIES, DUTIES, OBLIGATIONS AND RIGHTS OF THE ~~FIREMEN'S~~ FIREFIGHTERS' RETIREMENT FUND TO THE EMPLOYEE SYSTEM. All of the funds, assets, liabilities, duties, obligations and rights provided for by chapter 14, title 72, Idaho Code,

shall be transferred to, and integrated with, the employee system on October 1, 1980. Benefits payable to ~~firemen~~ firefighter members shall become the obligation of the employee system on October 1, 1980. Cash on hand in the ~~firemen's~~ firefighters' retirement fund shall be deposited to the credit of the public employee retirement fund as provided in section 59-13~~3~~11, Idaho Code.

SECTION 63. That Section 59-1353, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~5~~93. CONTRIBUTIONS. (1) Employers shall deduct, withhold and remit contributions from the salaries of paid ~~firemen~~ firefighters who were employed as paid ~~firemen~~ firefighters prior to October 1, 1980, as provided by section 72-143~~1~~1, Idaho Code.

(2) Employers shall make payments required by the provisions of section 72-14~~1~~32, Idaho Code, for all paid ~~firemen~~ firefighters employed prior to October 1, 1980.

(3) Employers shall deduct, withhold and remit contributions from the salaries of paid ~~firemen~~ firefighters, whose employment begins on or after October 1, 1980, and make employer contributions for such paid ~~firemen~~ firefighters, as provided in chapter 13, title 59, Idaho Code, on and after October 1, 1980.

SECTION 64. That Section 59-1357, Idaho Code, be, and the same is hereby amended to read as follows:

59-135~~7~~94. EXCESS COSTS -- ADDITIONAL CONTRIBUTIONS. (1) In addition to the employee and employer contributions required by chapter 14, title 72, Idaho Code, additional contributions shall be required to fund the provisions of section 59-135~~6~~97, Idaho Code. These costs shall be borne by employers and by the state of Idaho as hereinafter provided.

(a) Fifty percent (50%) of the gross receipts by the state of the tax on fire insurance premiums, as provided by section 41-402, Idaho Code, is hereby perpetually appropriated to the public employee retirement account for the purpose of partially funding the benefit payment requirements imposed by the provisions of chapter 14, title 72, Idaho Code.

(b) The board shall conduct studies from time to time of the benefits prescribed by section 59-135~~6~~97, Idaho Code, to determine the additional contributions required to fund the rights conferred by chapter 14, title 72, Idaho Code, above and beyond the initial contribution from the fire insurance premium tax required by subsection (1) (a) of this section. If such studies indicate the value of the benefits exceeds the required contributions otherwise prescribed, the board shall establish an additional contribution rate necessary to bring the amounts into balance. The cost of such additional contribution shall be borne equally by the employers through additional contributions and the state of Idaho through the fire insurance premium tax. In addition to appropriation of the fire insurance premium tax contained in subsection (1) (a) of this section, the amount of the gross receipts by the state of the tax on fire insurance premiums, as provided by section

41-402, Idaho Code, necessary to match dollar for dollar the additional contribution required of employers is hereby perpetually appropriated commencing July 1, 1980 to the public employee retirement account for the purpose of subsection (1) (b) of this section. If the matching funds herein provided equal one hundred percent (100%) of the gross receipts from the fire insurance premium tax, the employers shall contribute the balance of the monies required to meet the required contribution rate. The additional contribution rate from the employers commencing October 1, 1980 shall be ten percent (10%) of the pay period salary of each paid ~~fireman~~ firefighter until next determined by the board. If the additional contribution rate is to be satisfied by an ad valorem tax levy, such 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.

(2) Nothing herein contained shall prevent the board from contracting with employers to provide a schedule of contributions which will retire any excess cost over a given period of time, not to exceed fifty (50) years. In the event that such agreements are reached, the amount of the fire insurance premium tax necessary to match additional employer contributions is continuously appropriated for that purpose.

SECTION 65. That Section 59-1354, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~5~~4. MEMBERSHIP RIGHTS AND DUTIES. The rights, benefits, memberships, payments, duties and obligations of paid ~~firemen~~ firefighters whose employment begins on or after October 1, 1980, with respect to membership and participation in the employee system shall be governed by the provisions of chapter 13, title 59, Idaho Code.

SECTION 66. That Section 59-1355, Idaho Code, be, and the same is hereby amended to read as follows:

59-135~~5~~96. LIMIT ON SEPARATION BENEFIT. (1) When a ~~fireman~~ firefighter member who was employed prior to October 1, 1980, terminates employment and seeks return of his or her accumulated contributions, such contributions shall be returned as provided under the provisions of section 72-14~~29~~045, Idaho Code.

(2) When a paid ~~fireman~~ firefighter whose employment began on or after October 1, 1980, terminates employment and seeks return of his or her accumulated contributions, such contributions shall be returned as provided by section 59-13~~2~~359, Idaho Code.

SECTION 67. That Section 59-1356, Idaho Code, be, and the same is hereby amended to read as follows:

59-135~~6~~97. BENEFITS PAYABLE. The combined rights and benefits of paid ~~firemen~~ firefighters who were employed prior to October 1, 1980, shall not be less than the rights and benefits they would have received from the ~~firemen's~~ firefighters' retirement fund, had the fund not been integrated with the employee system.

SECTION 68. That Section 59-1358, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~5~~98. MEMBERSHIP IN SOCIAL SECURITY. The provisions of the Federal Social Security System are hereby made applicable to all paid ~~firemen~~ firefighters hired for the first time on or after October 1, 1980.

SECTION 69. That Section 59-1359, Idaho Code, be, and the same is hereby amended to read as follows:

59-13~~5~~99. COOPERATION OF STATE INSURANCE FUND. The director of the state insurance fund is hereby authorized and directed to cooperate with and furnish necessary information to the board to accomplish the purposes of this ~~act~~ chapter.

SECTION 70. That Section 72-1401, Idaho Code, be, and the same is hereby amended to read as follows:

72-1401. PURPOSE OF ~~ACT~~ CHAPTER. The retirement, with continuance of pay for themselves, provision for dependents, and pay during temporary disability, and the encouragement of long service in fire fighting service, of paid ~~firemen~~ firefighters becoming aged or disabled in the service of the state or any of its cities or fire districts, is hereby declared to be a public purpose of joint concern to the state and each of its cities and fire districts in the protection and conservation of property and lives and essential to the maintenance of competent and efficient personnel in fire service.

The provisions of chapter 14, title 72, Idaho Code, are applicable only to those paid ~~firemen~~ firefighters who were employed as paid ~~firemen~~ firefighters prior to October 1, 1980. If any person employed as a paid ~~fireman~~ firefighter prior to October 1, 1980, should leave such employment prior to his establishing eligibility to benefits under any provision of chapter 14, title 72, Idaho Code, except as provided by sections ~~72-1428~~ 44-109(6), 72-14~~29~~45, and 72-14~~29~~44, Idaho Code, and such ~~fireman~~ firefighter is again employed as a paid ~~fireman~~ firefighter, he shall not be eligible to participate in the retirement system authorized by chapter 14, title 72, Idaho Code, but shall be eligible to participate in the public employee retirement system, as provided in chapter 13, title 59, Idaho Code.

SECTION 71. That Section 72-1420, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~2~~02. CONSTRUCTION. The provisions of this chapter shall be liberally construed, with the object of promotion of justice and the welfare of the persons subject to its provisions.

SECTION 72. That Section 72-1402, Idaho Code, be, and the same is hereby amended to read as follows:

72-140~~2~~3. DEFINITIONS. The following are definitions of terms used in this ~~act~~ chapter:

(A) The words "paid fireman" are synonymous with "paid firefighter," and mean any individual, male or female, excluding office secretaries employed after July 1, 1967, who is on the payroll of any city or fire district in the state of Idaho prior to October 1, 1980 and who devotes his or her principal time of employment to the care, operation, maintenance or the requirements of a regularly constituted fire department of such city or fire district in the state of Idaho.

(B) "Industrial commission" means the commission as authorized and created under the provisions of chapter 5 of title 72, Idaho Code.

(C) "Workmen's compensation law" means the workmen's compensation law as authorized and created under title 72, Idaho Code.

(D) "Twenty-five (25) years active service": an individual whose principal means of livelihood for the period of twenty-five (25) years has been through employment by a city or fire district in the state of Idaho in a regularly constituted fire department of a city or fire district, and has actually been carried on the payroll of an Idaho fire department for twenty-five (25) years or more.

(E) "Five (5) years continuous service": an individual who has been employed by a regularly constituted fire department in a city or fire district in the state of Idaho for a period of five (5) years continuously, without having engaged in any other gainful occupation as his principal gainful occupation and has had "five (5) years continuous service" with a paid fire department of a city or fire district in the state of Idaho.

(F) "Public employee retirement account" as used herein, means the public employee retirement account created by chapter 13, title 59, Idaho Code, and the "director" thereof, as used herein, means the executive director or manager of the public employee retirement system.

(G) The meaning of the term "incapacitated in a degree which prohibits efficient service" means that degree of mental or physical disability which prohibits the efficient performance of the duties of a paid ~~fireman~~ <u>firefighter.</u>

(H) "Years active service": service rendered by an individual whose principal means of livelihood for the prescribed period of years has been through employment by a city or fire district in the state of Idaho, in a regularly constituted fire department of a city or fire district, and has actually been carried on the payroll of an Idaho fire department for the prescribed period of years. All years of active service as herein defined before the establishment of the ~~firemen's~~ <u>firefighters'</u> retirement fund may count only toward the prescribed period of years for retirement as set out in sections 72-14~~29~~F<u>46</u>, 72-14~~29~~L<u>64</u>, 72-14~~29~~M<u>65</u>, and 72-143~~0~~<u>5</u>, Idaho Code. Before any year's service since February 28, 1945 may count toward the prescribed period of years, contributions must have been deducted from his or her wage or salary and remitted as set out in sections 72-14~~1~~<u>31</u> and 72-14~~1~~<u>32</u>, Idaho Code, for that year.

SECTION 73. That Section 72-1432A, Idaho Code, be, and the same is hereby amended to read as follows:

72-143~~2A~~<u>04</u>. AVERAGE FINAL COMPENSATION. "Average final compensa-

tion" shall mean the average of the highest annual compensation received by the individual paid ~~fireman~~ firefighter in this state, as defined in subsection (A) of section 72-140~~2~~3, Idaho Code, during a period of five (5) consecutive years of service, as defined in subsection (H) of section 72-140~~2~~3, Idaho Code, immediately preceding his or her retirement or leaving service. If said ~~fireman~~ firefighter has less than five (5) years of service, then "average final compensation" shall mean the annual average compensation received by him or her during the total years of service.

SECTION 74. That Section 72-1415, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~1~~05. POWERS AND DUTIES OF PUBLIC EMPLOYEE RETIREMENT BOARD. The public employee retirement system board shall have power to make rules and regulations for the administration of this chapter, to prescribe forms and require registration, to delegate its authority to act in specific instances to its deputies and employees, and to incur expenses in connection with the management, administration and enforcement of this chapter, which expenses shall be paid out of the public employee retirement account.

SECTION 75. That Section 72-1405, Idaho Code, be, and the same is hereby amended to read as follows:

72-140~~5~~6. ADMINISTRATION OF PROVISIONS OF CHAPTER. The provisions of this chapter shall be administered by the public employee retirement system board without liability on the part of the state, or of any of its officers, beyond the moneys in the public employee retirement account for the purposes of chapter 14, title 72, Idaho Code, and the moneys accruing thereto. It shall be the duty of the board to administer the account and conduct the business thereof, and the board is hereby vested with full authority over the account, and may do any and all things which are necessary or convenient in the administration thereof as provided or as consistent with the provisions of this chapter and the general laws of the state.

SECTION 76. That Section 72-1406, Idaho Code, be, and the same is hereby amended to read as follows:

72-140~~6~~7. POWER OF BOARD TO SUE AND BE SUED. The public employee retirement system board shall, in its official name, have power to sue and be sued in all matters arising out of the administration, management and enforcement of this chapter. The venue of all actions in which the board is a party shall be Ada County, Idaho.

SECTION 77. That Section 72-1407, Idaho Code, be, and the same is hereby amended to read as follows:

72-140~~7~~8. POWER OF BOARD TO ENGAGE EMPLOYEES. The public employee retirement system board shall have power to engage all needful assistants, experts, accountants, clerks, and other employees which may be found necessary by it, in carrying out the provisions of this chapter,

the same to be paid out of the public employee retirement account.

SECTION 78. That Section 72-1424, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~24~~09. EMPLOYMENT OF ATTORNEYS AND AGENTS. The public employee retirement system board and its director are hereby given power and authority to employ attorneys and agents in the administration of this chapter, its conservation and protection.

SECTION 79. That Section 72-1422, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~22~~10. RISKS AUTHORIZED TO BE INSURED -- PAYMENT OF PREMIUMS. In event the public employee retirement system board shall determine that there are risks arising under the terms of this chapter which may be made the subject of insurance against loss to the public employee retirement account, the board is hereby authorized, at its discretion, to insure such risks; in event of such insurance, the premiums therefor shall be paid from the public employee retirement account as other claims are paid: provided, that such insurance shall not in any event be insurance of any individual but exclusively insurance of the public employee retirement account itself against loss.

SECTION 80. That Section 72-1408, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~08~~11. LIABILITY OF BOARD. The public employee retirement system board shall not, nor shall any person employed by it, be personally liable in its private capacity for or on account of any act performed or entered into in an official capacity in good faith and without intent to defraud, in connection with the administration of the provisions of chapter 14, title 72, Idaho Code.

SECTION 81. That Section 72-1404, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~04~~21. FUNDS -- HOW USED. All moneys coming into the public employee retirement account under the provisions of this chapter are hereby continuously appropriated for the objects and purposes of this chapter and the uses and purposes set forth in this chapter, and to pay all costs and expenses to be incurred and the costs of administration thereof by the public employee retirement system as herein provided.

SECTION 82. That Section 72-1417, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~17~~22. BENEFITS EXEMPT FROM EXECUTION -- NOT ASSIGNABLE. No benefits or payments payable under the provisions of this chapter shall be subject to execution, nor assignable, nor shall the same be hypothecated or in any manner encumbered.

SECTION 83. That Section 72-1427, Idaho Code, be, and the same is hereby amended to read as follows:

72-142~~7~~4. PRESENTATION OF FALSE CLAIM PENALIZED. Any person making a false claim for allowance of benefits or payment of money under this chapter, knowing the same to be false, shall be guilty of a misdemeanor and shall be punished as provided by law.

SECTION 84. That Section 72-1410, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~10~~25. WORKMEN'S COMPENSATION LAW NOT REPEALED. No provision contained in this chapter shall be deemed to operate as either a repeal or modification of any provision of the Workmen's Compensation Law of this state, except as hereinafter specifically set forth.

SECTION 85. That Section 72-1418, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~18~~26. RECORDS TO BE PUBLIC RECORDS. The records of the industrial commission, insofar as they relate to the administration, management, and enforcement of this chapter, shall constitute public records.

SECTION 86. That Section 72-1411, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~11~~31. CONTRIBUTION FROM ~~FIREMEN~~ FIREFIGHTERS -- MANNER OF COLLECTION. Beginning October 1, 1978, there is hereby levied upon and shall be paid to the public employee retirement system board, in addition to other provisions of payment to the board, a contribution from each paid ~~fireman~~ firefighter establishing the right to benefits under the provisions of chapter 14, title 72, Idaho Code, as follows:

(a) For a paid ~~fireman~~ firefighter who selected Option I, as provided in section 72-143~~2~~4, Idaho Code, the contribution shall be equal to eleven and forty-five one hundredths percent (11.45%) of the average paid ~~fireman's~~ firefighter's salary or wage in the state;

(b) For a paid ~~fireman~~ firefighter who selected Option II, as provided in section 72-143~~2~~4, Idaho Code, the contribution shall be equal to eleven and forty-five one hundredths percent (11.45%) of his individual salary or wage.

The contribution shall be collected by the employer by deducting the amount of the contribution from the fireman's wages or salary as and when paid. The contribution shall be payable to the board by the end of the succeeding payroll period, and shall be remitted by the city or fire district employing the paid ~~fireman~~ firefighter. The average paid salary or wage or the individual ~~fireman's~~ firefighter's salary or wage, shall be determined annually on October 1 by the director, in the manner prescribed in section 72-14~~11~~32, Idaho Code, from the payroll period reports submitted to him on or before September 1 by the cities or fire districts; after determining the amount to be collected from each paid ~~fireman~~ firefighter as herein set out, the director shall notify each city and fire district of the amount of the

contribution to be collected for the ensuing fiscal year commencing October 1.

SECTION 87. That Section 72-1412, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~11~~32. PENSION FUND CONTRIBUTIONS BY CITIES AND FIRE DISTRICTS -- REMITTANCES. Beginning October 1, 1978, it shall also be the duty of the cities and fire districts of this state employing paid ~~firemen~~ firefighters who are establishing the right to benefits under the provisions of chapter 14, title 72, Idaho Code, and of the boards and officers having authority therein, to cause to be remitted to the public employee retirement system board, as an incident to and part of the current expenses of such cities and fire districts, a sum equivalent to the total contribution rate and tax percentage paid into the Idaho public employee retirement system and the Social Security Act on other public employees plus one percent (1%) thereafter of the annual average paid ~~fire-fighter's~~ firefighter's salary or wage in the state of Idaho or the monthly gross salary or wage of each individual ~~fire fighter~~ firefighter, to be computed according to the classification of each ~~fire-fighter~~ firefighter under Option I or Option II as defined under section 72-143~~2~~4, Idaho Code, for each paid ~~fireman~~ firefighter employed by said cities or fire districts; which said sum shall be measured and determined by the actual expenditures for such purpose during the preceding year from September 1 to August 30, and remitted by the end of the succeeding payroll period as herein provided for remittances for individual ~~firemen~~ firefighters as set forth in section 72-14~~11~~32, Idaho Code.

SECTION 88. That Section 72-1413, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~13~~33. FAILURE OF CITY OR FIRE DISTRICT TO MAKE PAYMENT -- EFFECT. In event any city or fire district of this state shall fail to contribute to the public employee retirement system board for any cause whatever, the provisions of this chapter shall apply to and be available for the payment of benefits to ~~firemen~~ firefighters employed by such municipality or subdivision if the contribution required of such city or fire district shall have been, in fact, paid from any source whatever. In the event that any city or fire district shall eliminate its paid fire department, the city or fire district shall continue to make its contribution prescribed by section 72-14~~11~~32, Idaho Code, necessary to fund the payment of benefits vested in any paid ~~fireman~~ firefighter, or then being paid to any retired ~~fireman~~ firefighter or beneficiary, of such city or fire district.

SECTION 89. That Section 72-1432, Idaho Code, be, and the same is hereby amended to read as follows:

72-143~~2~~4. OPTIONAL PENSION AMOUNTS -- OPTION I AND OPTION II. Prior to July 1, 1976, but not thereafter, any paid ~~fireman~~ firefighter in this state, as defined in subsection (A) of section 72-140~~2~~3, Idaho Code, may elect to receive his or her retirement bene-

fits in accordance with the provisions of Option I or Option II as hereinafter set forth. Except as otherwise provided in this chapter, in the event a ~~fireman~~ firefighter fails to elect an option prior to July 1, 1976, then his or her pension benefits shall be paid to him under the provisions as set forth in Option I. Selection of option shall be nominated by written designation duly executed and filed with the public employee retirement system board. Any paid ~~fireman~~ firefighter employed in the state by a city or fire district, after July 1, 1976, shall be employed under the provisions as set forth in Option II.

(1) OPTION I -- On or after July 1, 1976, any employed paid ~~fireman~~ firefighter, as defined in subsection (A) of section 72-140~~2~~3, Idaho Code, electing this option or failing to nominate an option, after payment of the contribution, as set forth in section 72-14~~1~~31, Idaho Code, and after completion of years active service, as defined in subsection (H) of section 72-140~~2~~3, Idaho Code, may at his or her option retire, and in the event of such retirement said ~~fireman~~ firefighter shall be paid from the public employee retirement account a monthly sum during the remainder of his life equal to the percentage of the average paid ~~fireman's~~ firefighter's salary or wage in this state, as defined in section 72-14~~1~~31, Idaho Code, and that said ~~fireman~~ firefighter is entitled to under the provisions of this chapter, which said monthly sum shall vary annually, according to the determination of the cost of living adjustment as set forth in section 72-14~~32~~B71, Idaho Code.

(2) OPTION II -- On or after October 1, 1979, any paid ~~fireman~~ firefighter, as defined in subsection (A) of section 72-140~~2~~3, Idaho Code, who elected Option II, or who was employed after July 1, 1976, after payment of the contribution, as set forth in section 72-14~~1~~31, Idaho Code, and after completion of years active service, as defined in section 72-140~~2~~3(H), Idaho Code, may at his or her option retire, and in the event of such retirement he or she shall be paid from the public employee retirement account a monthly sum during the remainder of his or her life equal to the percentage of said ~~fireman's~~ firefighter's average monthly salary or wage, as defined in section 72-14~~1~~31, Idaho Code, that said ~~fireman~~ firefighter is entitled to under the provisions as set forth in this chapter, based on his or her "average final compensation," as defined in section 72-14~~32~~A04, Idaho Code, which said monthly sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-14~~32~~B71, Idaho Code.

SECTION 90. That Section 72-1430, Idaho Code, as amended by Section 5 of Senate Bill No. 1525, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-143~~0~~5. VOLUNTARY RETIREMENT -- YEARS OF SERVICE DETERMINE PENSION BENEFIT. (1) Any Option I ~~fireman~~ firefighter, as provided in section 72-143~~2~~4, Idaho Code, who has had the contributions remitted as provided in sections 72-14~~1~~31 and 72-14~~1~~32, Idaho Code, for the same number of years as he claims for service as a paid ~~fireman~~ firefighter in Idaho, may at his option retire, and upon retirement

shall be paid from the public employee retirement account a monthly sum during the remainder of his life equal to:

(a) after twenty (20) years of service and contributions, forty percent (40%) of the average paid ~~fireman's~~ firefighter's salary or wage; or

(b) after twenty-one (21) years of service and contributions, forty-five percent (45%) of the average paid ~~fireman's~~ firefighter's salary or wage; or

(c) after twenty-two (22) years of service and contributions, fifty percent (50%) of the average paid ~~fireman's~~ firefighter's salary or wage; or

(d) after twenty-three (23) years of service and contributions, fifty-five percent (55%) of the average paid ~~fireman's~~ firefighter's salary or wage; or

(e) after twenty-four (24) years of service and contributions, sixty percent (60%) of the average paid ~~fireman's~~ firefighter's salary or wage; or

(f) after twenty-five (25) years of service and contributions, sixty-five percent (65%) of the average paid ~~fireman's~~ firefighter's salary or wage.

All benefit payments to Option I ~~firemen~~ firefighters shall be based on the average paid ~~fireman's~~ firefighter's salary or wage in this state as defined in section 72-14~~1~~31, Idaho Code. Option I monthly benefit payments shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-14~~32B~~71, Idaho Code.

(2) Any Option II ~~fireman~~ firefighter, as provided in section 72-143~~2~~4, Idaho Code, who has had the contributions remitted as provided in sections 72-14~~1~~31 and 72-14~~1~~32, Idaho Code, for the same number of years as he claims for service as a paid ~~fireman~~ firefighter in Idaho, may at his option retire, and upon retirement shall be paid from the public employee retirement account a monthly sum during the remainder of his life equal to:

(a) after twenty (20) years of service and contributions, forty percent (40%) of his average salary or wage; or

(b) after twenty-one (21) years of service and contributions, forty-five percent (45%) of his average salary or wage; or

(c) after twenty-two (22) years of service and contributions, fifty percent (50%) of his average salary or wage; or

(d) after twenty-three (23) years of service and contributions, fifty-five percent (55%) of his average salary or wage; or

(e) after twenty-four (24) years of service and contributions, sixty percent (60%) of his average salary or wage; or

(f) after twenty-five (25) years of service and contributions, sixty-five percent (65%) of his average salary or wage.

All benefit payments to Option II ~~firemen~~ firefighters shall be based on his average final compensation as defined in section 72-14~~32A~~04, Idaho Code. Option II monthly benefit payments shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-14~~32B~~71, Idaho Code.

SECTION 91. That Section 72-1429R, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~29~~R41. DATE OF PAYMENT. All claims for benefits originating under Option II from and after October 1, 1979 shall be payable as provided in section 72-143~~2~~4 through section 72-143~~2~~B51, Idaho Code. All claims for benefits being paid or originating prior to October 1, 1979 shall be payable as provided in section 72-14~~1~~47, Idaho Code, so long as such claims or benefits are entitled to be paid, as that section existed prior to July 1, 1976; provided, however, that any firefighter incapacitated in the performance of duty prior to the effective date of any claims under this chapter shall be entitled to benefits under Option II, if said firefighter and his or her employer have been contributing the required contributions under sections 72-14~~1~~31 and 72-14~~1~~32, Idaho Code.

SECTION 92. That Section 72-1431, Idaho Code, be, and the same is hereby amended to read as follows:

72-143~~1~~42. PENSION PAYMENT -- MAXIMUM. (1) No paid ~~fireman~~ firefighter, retiring under the provisions of chapter 14, title 72, Idaho Code, shall receive more than one hundred percent (100%) of his last year's monthly average salary or wage, which said monthly sum shall vary annually according to the determination of the "cost of living adjustment" as set forth in section 72-143~~2~~B71, Idaho Code.

(2) As the amount, terms and conditions of benefits under this chapter may be revised from time to time, the ap~~plicatio~~n of such revisions shall be prospective only and not retrospective or retroactive unless otherwise provided by law.

SECTION 93. That Section 72-1429S, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~29~~S43. ACCRUED PENSION PAYMENT -- ~~FIREMEN~~ FIREFIGHTERS DISCONTINUING SERVICE PRIOR TO VOLUNTARY RETIREMENT. A paid ~~fireman~~ firefighter, irrespective of date of hire, who has at least five (5) years of continuous service as defined in section 72-140~~2~~3, subsections (E) and (H), Idaho Code, and who discontinues service with the city or fire district prior to meeting voluntary retirement or disability requirements, and who has not withdrawn his contributions as provided in section 72-14~~29~~Q45, Idaho Code, shall be eligible, only after reaching sixty (60) years of age, to receive a monthly service retirement benefit equal to two percent (2%) of his average monthly salary, as defined in section 72-14~~1~~31, Idaho Code, for each year of credited service, adjusted by the cost of living adjustment as provided under section 72-143~~2~~B71, Idaho Code.

SECTION 94. That Section 72-1429Q, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~29~~Q44. REFUND TO ~~FIREMAN~~ FIREFIGHTER TERMINATING EMPLOYMENT. (1) If the employment of a paid ~~fireman~~ firefighter, irrespective of date of hire, as defined in this chapter, is terminated for any reason prior to the completion of twenty (20) years of service, and he cannot qualify for benefits under any other provision of this chapter, he shall be entitled to receive at the time of said termination one hun-

dred percent (100%) of whatever sums he has contributed to the retirement account. If such ~~fireman~~ firefighter is subsequently reemployed as a paid ~~fireman~~ firefighter with duties which involve or are incidental to fire-fighting, he shall, within two (2) years from such employment, reimburse the retirement account to the full extent of the amount he received from said account upon said termination.

(2) In lieu of withdrawing his accumulated contributions as provided in subsection (1) of this section, a paid ~~fireman~~ firefighter, with less than five (5) years of service, may elect to convert his accumulated contributions to an equivalent benefit entitlement under the provisions of chapter 13, title 59, Idaho Code, as if such contributions had been made by the ~~fireman~~ firefighter at the contribution rate of a paid ~~fireman~~ firefighter under the provisions of chapter 13, title 59, Idaho Code; this conversion will normally result in a higher "years of service" factor than the ~~fireman~~ firefighter actually served under the provisions of chapter 14, title 72, Idaho Code. It is legislative intent that this is precisely the effect to be achieved.

(3) No paid ~~fireman~~ firefighter may elect to proceed under the provisions of subsection (2) until he has been personally interviewed and advised by the director of the public employee retirement system on the choices available. The ~~fireman~~ firefighter may be accompanied during such interview by any person of his choice.

SECTION 95. That Section 72-1430H, Idaho Code, as amended by Section 6 of Senate Bill No. 1525, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-14~~30~~H45. PENSION PAYMENT -- RETIREMENT OF ~~FIREMAN~~ FIREFIGHTER INCAPACITATED IN THE PERFORMANCE OF DUTY. (1) Any paid ~~fireman~~ firefighter incapacitated by injury in the performance of duty, or by illness attributable wholly or partially to service as a paid ~~fireman~~ firefighter, shall be retired so long as such disability shall continue in a degree which prevents efficient service, limited to a maximum of two (2) years, and during such disability shall be paid from the public employee retirement account the monthly retirement sum to which he would be entitled if he elected to retire, but in no event less than a monthly sum equal to: (a) sixty-five per cent (65%) of the average paid ~~fireman's~~ firefighter's salary or wage in this state if the incapacitated ~~fireman~~ firefighter is an Option I ~~fireman~~ firefighter; or, (b) sixty-five per cent (65%) of the said ~~fireman's~~ firefighter's average monthly salary or wage, based on his average final compensation, if the incapacitated ~~fireman~~ firefighter is an Option II ~~fireman~~ firefighter. The monthly sum shall vary annually according to the cost of living adjustment as set forth in section 72-14~~32~~B71, Idaho Code.

Upon application of a firefighter or his or her department head for a service disability retirement, and prior to said retirement, a medical examination of said firefighter shall be given by a medical committee consisting of a physician named by the public employee retirement system board, a physician named by the firefighter claiming benefits, and a third physician designated by the first two (2) physicians so named. If the medical committee, by a majority opinion certi-

fies in writing, that: (1) the firefighter is physically incapacitated for the efficient performance of the duties as a paid firefighter, as defined under the provisions of subsection (G), section 72-140~~2~~3, Idaho Code, in the service of the city or fire district, (2) such incapacity is likely to be permanent, (3) the member should be retired, and (4) there is medical evidence of probative value including reports of clinical findings (such as the individual's medical history, physical status examinations), laboratory findings, diagnosis and treatment prescribed and response to such treatment, the public employee retirement system board may approve such application for retirement as provided herein.

If the disabled ~~fireman~~ firefighter is still retired at the conclusion of the two (2) year period, the public employee retirement system board shall determine whether the disability renders the disabled ~~fireman~~ firefighter totally incapacitated. "Totally incapacitated" as used in this section means the inability to perform work in any remunerative employment. It is not necessary for a person to be absolutely helpless or entirely unable to do anything worthy of compensation to be considered totally incapacitated. If the person is so incapacitated that substantially all the avenues of gainful employment are reasonably closed to him, his condition is within the meaning of "totally incapacitated." In evaluating whether a person is totally incapacitated, the medical factor of permanent impairment and nonmedical factors such as age, sex, education, economic and social environment, and training and usable skills shall be considered. If the disabled ~~fireman~~ firefighter is totally incapacitated, then payments shall continue at the rate prescribed in this section during the period of total incapacity. A medical committee may be summoned to determine total incapacity as provided above.

(2) If the disabled ~~fireman~~ firefighter is less than totally incapacitated at the end of the two (2) year period, but has a disability which reduces his presumed ability to engage in gainful activity, payments shall be made to the disabled ~~fireman~~ firefighter during the period of his disability as hereinafter provided. The board shall determine the percentage of disability suffered by the disabled ~~fireman~~ firefighter as compared to the whole man. A medical committee, comprised as prescribed in this section, may be summoned to determine the percentage of disability suffered by the disabled ~~fireman~~ firefighter. The disabled ~~fireman~~ firefighter shall receive a disability benefit equal to the percentage that his disability bears to a totally incapacitated person.

(3) The public employee retirement system board shall provide and maintain disability benefits for all paid ~~firemen~~ firefighters who are hired for the first time on or after October 1, 1980. The benefits provided shall be at least equal to those provided to an Option II ~~fireman~~ firefighter. The benefits shall be maintained only until a paid ~~fireman~~ firefighter is eligible for disability retirement under the provisions of chapter 13, title 59, Idaho Code. The costs for such benefits shall be paid from the appropriation made by section 59-13~~5~~94(1)(b), Idaho Code.

SECTION 96. That Section 72-1429F, Idaho Code, as amended by Section 1 of Senate Bill No. 1525, Second Regular Session, Centennial

Idaho Legislature, be, and the same is hereby amended to read as follows:

72-14~~29F~~46. PENSION PAYMENT -- RETIREMENT OF INCAPACITATED ~~FIREMEN~~ FIREFIGHTERS FOR NONSERVICE. (1) Any paid ~~fireman~~ firefighter with not less than five (5) years' active service as defined in subsection (H) of section 72-140~~2~~3, Idaho Code, as a paid ~~fireman~~ firefighter who shall become totally incapacitated by reason of a personal injury or disease occurring as the result of causes arising outside the course of his employment by the city or fire district, shall, so long as he remains totally incapacitated be paid a monthly sum equal to: (a) two per cent (2%) of the average paid ~~fireman's~~ firefighter's salary or wage, as defined in section 72-14~~1~~31, Idaho Code, in this state for each year's active service, if the incapacitated ~~fireman~~ firefighter is an Option I ~~fireman~~ firefighter; or, (b) a monthly sum equal to two per cent (2%) of the said ~~fireman's~~ firefighter's average monthly salary or wage, as defined in section 72-14~~1~~31, Idaho Code, for each year's active service based on his average final compensation, as defined in section 72-14~~32A~~04, Idaho Code, if the incapacitated ~~fireman~~ firefighter is an Option II ~~fireman~~ firefighter. "Totally incapacitated" as used in this section means the inability to perform work in any remunerative employment. It is not necessary for a person to be absolutely helpless or entirely unable to do anything worthy of compensation to be considered totally incapacitated. If the person is so incapacitated that substantially all the avenues of gainful employment are reasonably closed to him, his condition is within the meaning of "totally incapacitated." In evaluating whether a person is totally incapacitated, the medical factor of permanent impairment and nonmedical factors such as age, sex, education, economic and social environment, and training and usable skills shall be considered.

(2) In the event said ~~fireman~~ firefighter has twenty-one (21) or more years' service, and has otherwise met the requirements of section 72-143~~0~~5, Idaho Code, if applicable, the monthly sum shall be the same amount as would be payable in the case of voluntary retirement.

(3) The monthly benefits provided for in this section shall vary annually according to the cost of living adjustment as set forth in section 72-14~~32B~~71, Idaho Code.

(4) Upon application of a ~~fire-fighter~~ firefighter or his or her department head for a nonservice disability retirement, and prior to said retirement, a medical examination of said ~~fire---fighter~~ firefighter shall be given by a medical committee, consisting of a physician named by the public employee retirement system board, a physician named by the ~~fire-fighter~~ firefighter claiming benefits, and a third physician designated by the first two (2) physicians so named. If the medical committee, by a majority opinion certifies in writing, that the ~~fire--fighter~~ firefighter is mentally or physically totally incapacitated the board may approve such application for retirement as provided herein.

(5) All paid ~~firemen~~ firefighters who are receiving nonservice disability benefits shall be subject to the provisions of sections 72-14~~32~~51 and 72-14~~34~~52, Idaho Code.

SECTION 97. That Section 72-1414, Idaho Code, as amended by Sec-

tion 10 of Senate Bill No. 1381, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-14~~44~~47. PAYMENT OF PENSIONS -- AMOUNT TO BE PAID -- PARTIES ENTITLED THERETO. Any firefighter, spouse, child or children of a firefighter entitled to compensation under the Workmen's Compensation Law, shall draw benefits under this chapter only to the extent that the benefits under this chapter exceed those to which he or she shall be entitled under the Workmen's Compensation Law of Idaho. In no case, however, will a firefighter's regular retirement benefit be equal to more than one hundred per cent (100%) of the firefighter's average compensation for the three (3) consecutive years of employment which produce the greatest aggregate compensation. If the benefit is calculated to exceed one hundred per cent (100%) of the firefighter's average compensation, the firefighter shall be eligible for and may choose either:

(1) An annual service retirement allowance equal to the firefighter's average annual compensation for the three (3) consecutive years of employment which produced the greatest aggregate compensation; or

(2) A separation benefit.

SECTION 98. That Section 72-1432C, Idaho Code, as amended by Section 17 of Senate Bill No. 1381, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-14~~32~~51. DISABILITY -- REEXAMINATION -- RETURN TO SERVICE. Irrespective of the date of retirement, at least once each year during the first five (5) years following the retirement of a firefighter with a disability retirement pension and in any three (3) year period thereafter, the public employee retirement system board may, or upon the disabled firefighter's application shall, require the disabled firefighter to undergo a medical examination, to be made by or under the direction of a physician designated by the board, at the place of residence of said disabled firefighter or other place mutually agreed upon. Should any disabled firefighter refuse to submit to such medical examination in any period, his or her disability retirement may be discontinued by the board and should such refusal continue for one (1) year all his or her rights in and to his or her disability retirement pension shall be revoked by the board. If upon such medical examination of said disabled firefighter, the said physician reports to the board that said disabled firefighter is physically able and capable of resuming employment in the classification held by him or her at the time of his or her retirement, he or she shall be restored to active service in the employment of the city or fire district and payment of his or her disability retirement shall cease, provided the report of the physician is concurred in by the board. A disabled firefighter so restored to active service shall from the date of his or her return to service become a member of the retirement system, thereafter in the same manner as prior to his or her disability retirement. Any service credited to him or her at the time of his or her disability retirement

shall be restored to full force and effect. He or she shall be given credit for the period he or she was receiving service disability pension, provided under section 72-14~~30~~H45, Idaho Code; he or she shall not be given service credit for the period he or she was receiving a nonservice disability pension, provided under section 72-14~~29~~F46, Idaho Code. When a disabled firefighter on a disability retirement engages in work activities commensurate with the physical demands that were required in his or her classification as a firefighter, the work performed may demonstrate that said firefighter has the ability to be restored as a firefighter in the employ of the city or fire district. However, the circumstances under which the work was performed generally must be considered. Where said disabled firefighter has to discontinue his or her work after a short time because of his or her impairment, his or her work activities would not demonstrate ability to resume his or her employment as a firefighter. The findings of the adequacy of the said firefighter's performance of work activities must be concurred in by the board. If said firefighter has a disability which is amenable to corrective treatment that could be expected to restore his or her efficient performance of duties of a paid firefighter, as defined in section 72-140~~2~~3(G), Idaho Code, he or she would be considered disabled, provided he or she is undergoing the treatment prescribed by the medical committee, as set forth in section 72-14~~30~~H45, Idaho Code.

However, nothing in this section shall be construed to require a firefighter who in good faith relies on or is treated by prayer through spiritual means alone by a duly accredited practitioner of a well-recognized church to undergo any medical or surgical treatment, nor shall he or his dependents be deprived of any benefits hereunder to which he would have been entitled if medical or surgical treatment were employed.

SECTION 99. That Section 72-1434, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~34~~52. REVIEW OF DISABILITY. Upon application of a ~~fireman~~ firefighter receiving a disability benefit, irrespective of the date of retirement, whether service or nonservice connected, or upon the board's own motion, the disability shall be reviewed by the board to determine whether a change of condition has occurred which would justify increasing or decreasing the disability benefit. The board may make such order as is appropriate. Such review shall only occur once every three (3) years after the date of the first disability payment.

SECTION 100. That Section 72-1429H, Idaho Code, as amended by Section 12 of Senate Bill No. 1381, and by Section 2 of Senate Bill No. 1525, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-14~~29~~H61. DEATH BENEFITS -- SPOUSE AND THE SURVIVING CHILD OR CHILDREN OF FIREFIGHTER KILLED IN PERFORMANCE OF DUTY. (1) In the event a paid firefighter is killed or sustained injury from which death results, while in performance of his duty and leaves surviving him a spouse or a spouse with the firefighter's surviving child or

children, the spouse, during his or her lifetime and so long as he or she does not remarry, shall be paid from the public employee retirement account the same pension the deceased firefighter would have been entitled to had the deceased firefighter retired as of the date of death, but in no event less than a monthly sum equal to: (a) sixty-five percent (65%) of the average paid firefighter's salary or wage in this state, if the deceased firefighter was an Option I firefighter; or, (b) sixty-five percent (65%) of the deceased firefighter's average monthly salary or wage, based on his average final compensation, if the deceased firefighter was an Option II firefighter. If the surviving spouse should die, the full retirement pay shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased firefighter shall have died without leaving a surviving spouse and leaving surviving a child or children, said firefighter's surviving child or children shall be entitled to be paid from the public employee retirement account the same pension the deceased firefighter would have been entitled to had the deceased firefighter retired as of the date of death, until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) The monthly benefits provided for in this section shall vary annually according to the cost of living adjustment as set forth in section 72-143~~2B~~71, Idaho Code.

(3) Those benefits payable under the provisions of subsection (1), or under the provisions of section 72-1429G, Idaho Code, which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 101. That Section 72-1429I, Idaho Code, as amended by Section 13 of Senate Bill No. 1381, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-146~~29I~~. DEATH BENEFITS -- SPOUSE OF RETIRED FIREFIGHTER. (1) In the event a paid firefighter, retired on retirement pay, shall die and leave surviving a spouse, who was such spouse for over five (5) years immediately prior to said firefighter's death, but no minor children, such surviving spouse shall receive for life the retirement benefits to which the deceased firefighter was entitled so long as such surviving spouse does not remarry.

(2) Those benefits payable under the provisions of subsection (1) which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 102. That Section 72-1429J, Idaho Code, as amended by Section 14, Senate Bill No. 1381, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-14~~29J~~63. DEATH BENEFITS -- SURVIVING SPOUSE AND SURVIVING CHILD OR CHILDREN OF RETIRED FIREFIGHTER. In the event a paid

firefighter, retired on retirement pay, shall die and leave surviving a spouse, of over five (5) years immediately prior to the firefighter's death, or a spouse and firefighter's surviving child or children, the spouse, during the spouse's lifetime and so long as the spouse does not remarry, shall be paid the retirement pay to which the deceased firefighter was eligible, and if the surviving spouse marries or dies the full retirement pay shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first. Should a paid firefighter, retired on retirement pay, die without leaving a surviving spouse, and leave surviving him or her a minor child or children, said child or children shall be entitled to receive the pension to which said firefighter was entitled until they marry or shall attain eighteen (18) years of age, whichever occurs first.

SECTION 103. That Section 72-1429L, Idaho Code, as amended by Section 15 of Senate Bill No. 1381, and by Section 3 of Senate Bill No. 1525, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-14~~29L~~64. DEATH BENEFITS -- SURVIVING SPOUSE AND CHILDREN OF FIREFIGHTER DYING FROM CAUSES UNCONNECTED WITH DUTIES BUT DURING SERVICE AFTER FIVE YEARS. (1) In the event a paid firefighter who shall have died from causes unconnected with said firefighter's official duties, but during the period of said firefighter's service, leaves surviving a spouse or a spouse with firefighter's surviving child or children, and who shall have completed less than twenty (20) years, but more than five (5) years of active service as defined in subsection (H) of section 72-140~~2~~3, Idaho Code, as a paid firefighter, said spouse, during the spouse's lifetime and so long as said spouse does not remarry, shall be paid from the account a monthly sum equal to: (a) two per cent (2%) of the average paid firefighter's salary or wage in this state, if the deceased firefighter was an Option I firefighter, for each year's active service; or, (b) two per cent (2%) of said firefighter's average monthly salary or wage, based on his average final compensation, if the deceased firefighter was an Option II firefighter, for each year's active service. The monthly sum for Option I benefits shall vary annually, according to the determination of the average paid firefighter's salary or wage in this state as set forth in section 72-14~~13~~31, Idaho Code. If said surviving spouse dies, said monthly sum shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased firefighter shall have died without leaving a surviving spouse and leaving surviving a child or children, said firefighter's surviving child or children shall be entitled to receive said monthly sum until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) In the event a paid firefighter who shall have died from causes unconnected with said firefighter's official duties, but during the period of said firefighter's service, leaves surviving a spouse or a spouse with firefighter's surviving child or children, and who shall have completed less than twenty-five (25) years, but more than twenty

(20) years of active service as defined in subsection (H) of section 72-140~~2~~3, Idaho Code, as a paid firefighter, said spouse, during his or her lifetime and so long as said spouse does not remarry, shall be paid from the account a monthly sum equal to the sum the firefighter would have received under the provisions of section 72-143~~0~~5, Idaho Code, had said firefighter retired as of the date of his or her death, and for the purposes of this section, said firefighter shall be deemed to have retired as of the date of death. The monthly retirement sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-143~~2B~~71, Idaho Code, and if said spouse dies said monthly sum shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first, provided, however, that if said deceased firefighter shall have died without leaving a surviving spouse and leaving surviving a child or children, said firefighter's surviving child or children shall be entitled to receive said monthly sum until they reach the age of eighteen (18) years or shall marry, whichever occurs first.

(3) Those benefits payable under the provisions of subsections (1) and (2) of this section which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 104. That Section 72-1429M, Idaho Code, as amended by Section 16 of Senate Bill No. 1381, and by Section 4 of Senate Bill No. 1525, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-14~~2~~9M65. DEATH BENEFITS -- SPOUSE AND CHILDREN OF FIREFIGHTER DYING FROM CAUSES UNCONNECTED WITH DUTIES BUT DURING SERVICE AFTER TWENTY-FIVE YEARS. (1) In the event a paid firefighter who shall have died from causes unconnected with said firefighter's official duties, but during the period of said firefighter's service, and left surviving a spouse or a spouse with the firefighter's surviving child or children, and who shall have completed twenty-five (25) years' active service as defined in subsection (H) of section 72-140~~2~~3, Idaho Code, as a paid firefighter, said spouse, during his or her lifetime and so long as he or she does not remarry, shall be paid from the account a monthly sum equal to: (a) sixty-five per cent (65%) of the average paid firefighter's salary or wage in this state, if the deceased firefighter was an Option I firefighter; or, (b) sixty-five per cent (65%) of said firefighter's average monthly salary or wage, based on his average final compensation, if the deceased firefighter was an Option II firefighter~~;-or-the-amount-that-the-firefighter--would--have received--had-the-deceased-firefighter-retired-under-the-provisions-of section-72-1430,-Idaho-Code,-as-of-the-date--of--death,--whichever--is greater~~. The monthly sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-143~~2B~~71, Idaho Code, and if he or she dies said monthly sum shall be paid to the firefighter's surviving child or children until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased firefighter shall have died without leaving a surviving spouse and leaving a child

or children, said firefighter's surviving child or children shall be entitled to receive the pension which said firefighter was entitled until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) Those benefits payable under the provisions of subsection (1) which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 105. That Section 72-1432B, Idaho Code, as amended by Section 7 of Senate Bill No. 1525, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

72-14~~32~~B71. COST OF LIVING ADJUSTMENT. In addition to the monthly sums provided for under this chapter, any retired firefighter or his or her surviving spouse, child, or children drawing benefits shall be entitled to receive adjustments to such benefits, calculated on the percentage of increase or decrease in the average paid firefighter's salary or wage, in this state, as computed under the terms of section 72-14~~1~~31, Idaho Code.

SECTION 106. That Section 72-1426, Idaho Code, be, and the same is hereby amended to read as follows:

72-14~~7~~26. SEPARABILITY. If any clause, section or provision of this chapter be found to be unconstitutional, the remainder of this chapter shall remain in full force and effect, notwithstanding such invalidity.

Approved April 5, 1990.

CHAPTER 232
(S.B. No. 1584)

AN ACT
APPROPRIATING MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY; PROVIDING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho State Historical Society the amount of $100,000 from the General Account for the purpose of entering into a personal service contract with Mr. Leonard Arrington or some other suitable individual or entity to undertake and complete, a comprehensive and definitive work or treatise on the history of Idaho for Idaho's Centennial for publication and distribution.

SECTION 2. It is legislative intent that in expending the moneys

provided in Section 1 of this act, the State Historical Society contract with Mr. Arrington or some other suitable individual or entity to provide an overview of colonization history, economic history, political history, social and cultural history and the natural environment of Idaho during its territorial years and its first one hundred years of statehood.

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, 1990.

CHAPTER 233
(S.B. No. 1338, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE LICENSE PLATE FEES; AMENDING SECTION 49-450, IDAHO CODE, TO INCREASE THE LICENSE PLATE FEE AND TO PROVIDE FOR DISTRIBUTION OF THE FEES, AND FOR THE USE OF SUCH FEES; AMENDING SECTION 49-450A, IDAHO CODE, TO PROVIDE FOR USE OF FUNDS DEPOSITED TO THE PLATE MANUFACTURING ACCOUNT; AND PROVIDING AN EFFECTIVE DATE.

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 ~~two~~ three dollars ~~and fifty cents~~ (~~$2.50~~ $3.00) per plate, which shall be in addition to the vehicle registration fee provided by law, from which one dollar and seventy cents ($1.70) shall be deposited in the highway distribution account, and the remainder shall be deposited into the plate manufacturing account created in section 49-450A, Idaho Code. Fifty cents ($.50) of the amount deposited into the plate manufacturing account shall be used to pay the Idaho heritage trust for the use of the copyrighted design provided for in section 49-443(10), Idaho Code. Such funds shall be matched with equal funds from other sources and used to fund projects designed to preserve Idaho's historic resources.

SECTION 2. That Section 49-450A, Idaho Code, be, and the same is hereby amended 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 and to pay costs related to use of the centennial

design on the license plate. 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.

SECTION 3. This act shall be in full force and effect on and after January 1, 1992.

Approved April 5, 1990.

CHAPTER 234
(S.B. No. 1412)

AN ACT

RELATING TO DOMESTIC VIOLENCE PREVENTION; AMENDING SECTION 39-6306, IDAHO CODE, TO PROVIDE FOR THE DEVELOPMENT OF TREATMENT STANDARDS USED FOR RECOMMENDING BATTERER PROGRAMS; AMENDING SECTION 39-6308, IDAHO CODE, TO PROVIDE FOR RESTRAINING THE RESPONDENT FROM TAKING MORE THAN PERSONAL AND OTHER ITEMS ORDERED BY THE COURT; AMENDING SECTION 39-6312, IDAHO CODE, TO PROVIDE FOR A PUNISHMENT AND FINE FOR VIOLATION OF A PROTECTION ORDER AND PROVIDING DEPOSIT OF A PORTION OF THE FINE TO THE CREDIT OF THE DOMESTIC VIOLENCE PROJECT ACCOUNT; AND AMENDING SECTION 39-6316, IDAHO CODE, TO PROVIDE THAT A PEACE OFFICER SHALL GIVE A WRITTEN STATEMENT WHEN RESPONDING TO A DOMESTIC VIOLENCE CALL LISTING COMMUNITY RESOURCES AVAILABLE AND INCLUDING THE LEGAL RIGHT TO SUE FOR LOSSES, AND TO PROVIDE THAT THE PEACE OFFICER SHALL MAKE EVERY EFFORT TO FACILITATE TRANSPORTATION FOR THE VICTIM.

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

SECTION 1. 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. The council on domestic violence, in recognition of the particular treatment requirements for batterers, shall develop minimal program and treatment standards to be used as guidelines for recommending approval of batterer programs to the court;

(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 2. 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;

(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; and/or

(g) Restraining the respondent from taking more than personal clothing and toiletries and any other items specifically ordered by the court.

(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.

(4) The court shall hold an ex parte hearing on the day the petition is filed or on the following judicial day.

(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 3. That Section 39-6312, Idaho Code, be, and the same is hereby amended to read as follows:

39-6312. VIOLATION OF ORDER -- PENALTIES. (1) Whenever a protection order is granted under this chapter and the respondent or person to be restrained had notice of the order, a violation of the restraint provisions or of a provision excluding the person from a residence shall be a ~~violation of section 18-1801, Idaho Code~~ misdemeanor punishable by not to exceed one (1) year in jail and a fine not to exceed five thousand dollars ($5,000), ten dollars ($10.00) of which shall be deposited to the credit of the domestic violence project account created in section 39-5212, Idaho Code.

(2) A peace officer may arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, if the person restrained had notice of the order.

~~(3) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order for protection granted under this chapter, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen (14) days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.~~

SECTION 4. That Section 39-6316, Idaho Code, be, and the same is hereby amended to read as follows:

39-6316. LAW ENFORCEMENT OFFICERS -- TRAINING, POWERS, DUTIES. (1) All training provided by the peace officers standards and training academy relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) When a peace officer responds to a domestic violence call, the officer may shall give a written statement to victims which alert the victim to the availability of a shelter or other resources in the community, and give the victim a written notice provided by the department of law enforcement substantially stating the following:

> IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in magistrate court requesting an order for protection from domestic abuse which could include any of the following: (a) an order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your resi-

dence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available from the clerk of the district court. The resources available in this community for information relating to domestic violence, treatment of injuries and places of safety and shelters are: (For safety reasons, inclusion of shelter/safe house addresses are not necessary). You also have the right to sue for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support, and other out-of-pocket expenses for injuries sustained and damage to your property. This can be done without an attorney in small claims court if the total amount claimed is less than two thousand dollars ($2,000).

(3) The peace officer may shall make every effort to arrange, offer, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(4) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten (10) days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

Approved April 5, 1990.

CHAPTER 235
(S.B. No. 1499, As Amended)

AN ACT

RELATING TO WARRANTIES FOR MOTOR VEHICLES; AMENDING SECTION 48-902, IDAHO CODE, TO REVISE THE DEFINITION OF MOTOR VEHICLE; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 under-

takes 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 purporting 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 49-123, Idaho Code, which is sold or licensed in this state, but does not include: (a) motorcycle or farm tractor, as defined in sections 49-114 and 49-107, Idaho Code; or (b) house trailer as defined in section 49-121, 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 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, 1990.

CHAPTER 236
(S.B. No. 1485, As Amended)

AN ACT

RELATING TO LIENS FOR SERVICES ON OR CARING FOR PROPERTY; AMENDING SECTION 45-805, IDAHO CODE, TO PROVIDE A NOTICE PROCEDURE FOR A PUBLIC AUCTION IF LIENS FOR SERVICES ON OR CARING FOR PROPERTY ARE NOT PAID, TO PROVIDE PRIORITY STATUS, AND TO PROVIDE EXCEPTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 45-805, Idaho Code, be, and the same is hereby amended to read as follows:

45-805. LIENS FOR SERVICES ON OR CARING FOR PROPERTY. (a) Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor, or

skill, employed for the protection, improvement, safe keeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due him from the owner, for such service. If the liens as herein provided are not paid within sixty (60) days after the work is done, service rendered or materials supplied, the person in whose favor such special lien is created may proceed to sell the property at a public auction after giving ten (10) days' public notice of the sale by advertising in some newspaper published in the county where the property is situated, or if there is no newspaper published in the county then by posting notices of the sale in three (3) of the most public places in the county for ten (10) days previous to such sale. The person shall also send the notice of auction to the owner or owners of the property and to the holder or holders of a perfected security interest in the property as provided in subsection (c) of this section. The person who is about to render any service to the owner of an article of personal property by labor or skill employed for the protection, improvement, safekeeping or carriage thereof may take priority over a prior perfected security interest by, before commencing any such service, giving notice of the intention to render such service to any holder of a prior perfected security interest at least three (3) days before rendering such service. If the holder of the security interest does not notify said person, within three (3) days that it does not consent to the performance of such services, then the person rendering such service may proceed and the lien provided for herein shall attach to the property as a superior lien. The provisions of this section shall not apply to a motor vehicle subject to the provisions of sections 49-1809 through 49-1818, Idaho Code.

(b) Livery or boarding or feed stable proprietors, and persons pasturing livestock of any kind, have a lien, dependent on possession, for their compensation in caring for, boarding, feeding or pasturing such livestock. If the liens as herein provided are not paid within sixty (60) days after the work is done, service rendered, or feed or pasturing supplied, the person in whose favor such special lien is created may proceed to sell the property at a licensed public livestock auction market, after giving ten (10) days' notice to the owner or owners of the livestock and the state brand inspector. The information contained in such notice shall be verified and contain the following:

(1) The time, place and date of the licensed public livestock auction market;

(2) The name, address and phone number of the person claiming the lien;

(3) The name, address and phone number of the owner or owners of the livestock upon which the lien has been placed;

(4) The number, breed and current brand of the livestock upon which the lien has been placed; and

(5) A statement by the lienor that the requirements of this section have been met.

(c) Notices provided in subsections (a) and (b) of this section shall be made by personal service or by certified or registered mail to the last known address of the owner or owners and any holder of a prior perfected security interest. The proceeds of the sale must be

applied to the discharge of any prior perfected security interest, the lien created by this section and costs; the remainder, if any, must be paid over to the owner.

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, 1990.

CHAPTER 237
(S.B. No. 1482)

AN ACT

RELATING TO THE SCHOOL FOR THE DEAF AND THE BLIND; AMENDING THE HEADING FOR CHAPTER 34, TITLE 33, IDAHO CODE; AND AMENDING SECTIONS 33-3401, 33-3402, 33-3404, 33-3405 AND 33-3408, IDAHO CODE, TO ELIMINATE "STATE" FROM THE SCHOOL NAME AND ADD "IDAHO" TO THE SCHOOL NAME.

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

SECTION 1. That the heading for Chapter 34, Title 33, Idaho Code, be and the same is hereby amended to read as follows:

~~STATE~~ IDAHO SCHOOL FOR THE DEAF AND THE BLIND

SECTION 2. That Section 33-3401, Idaho Code, be, and the same is hereby amended to read as follows:

33-3401. ESTABLISHMENT OF SCHOOL FOR DEAF AND BLIND. The establishment by law of a school for the deaf and blind at Gooding, Idaho, is hereby ratified and affirmed, said school to be called the ~~State~~ Idaho School for the Deaf and the Blind, and its operation continued. It is further provided that wherever the term "State School for the Deaf and the Blind" shall appear in the Idaho Code it shall mean "Idaho School for the Deaf and the Blind."

SECTION 3. That Section 33-3402, Idaho Code, be, and the same is hereby amended to read as follows:

33-3402. BODY POLITIC AND CORPORATE -- BOARD OF TRUSTEES. The ~~State~~ Idaho School for the Deaf and the Blind is hereby declared to be a body 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 ~~State~~ Idaho School for the Deaf and the Blind is vested in the state board of education, which shall act as the board of trustees of the ~~State~~ Idaho School for the Deaf and the Blind.

SECTION 4. That Section 33-3404, Idaho Code, be, and the same is

hereby amended to read as follows:

33-3404. TITLE TO PROPERTY -- ACQUIRING, SELLING OR EXCHANGING PROPERTY. All rights and title to property, real and personal, belonging to or vested in the ~~State~~ Idaho School for the Deaf and the Blind are hereby vested in its board of trustees and their successors. The board of trustees is empowered to acquire, by purchase or exchange, any property which in the judgment of the board is needful for the operation of the ~~State~~ Idaho School for the Deaf and the Blind, and to dispose of, by sale or exchange, any property which in the judgment of the board is not needful for the operation of the same.

SECTION 5. That Section 33-3405, Idaho Code, be, and the same is hereby amended to read as follows:

33-3405. GENERAL POWERS OF BOARD. The board of trustees of the ~~State~~ Idaho School for the Deaf and the Blind shall have the following powers:

1. To adopt rules and regulations for its own government and that of the school;
2. To employ a superintendent of the school, and, with his advice, to appoint such assistants, instructors, specialists and other employees as are required for the operation of the school; to fix salaries and prescribe duties; and to remove the superintendent or any other employee for cause;
3. With the advice of the superintendent, to prescribe the course of study, the textbooks to be used, and for those pupils who complete the requirements for grade twelve (12), the time and standard of graduation;
4. To have at all times, general supervision and control of all property, real and personal, appertaining to the school, and to insure the same;
5. To employ architects or engineers in planning the construction, remodeling or repair of any building and, whenever no other agency is designated so to do, to let contracts for such construction, remodeling or repair and to supervise the work thereof;
6. To expend moneys appropriated, or otherwise placed to the credit of the school for the maintenance and operation thereof, and to account for the same as prescribed by law;
7. To provide for the conveyance of pupils to and from the school, the expense of such conveyance being a lawful use of the moneys available to the board of trustees.

SECTION 6. That Section 33-3408, Idaho Code, be, and the same is hereby amended to read as follows:

33-3408. REPORTING DEAF AND BLIND PUPILS. On or before the first day of February, in each year, the clerk of each school district, including elementary school districts and especially chartered school districts shall report the number of deaf and blind pupils, as defined in section 33-3407, Idaho Code, attending the school or schools of the district, and any such person, not a pupil in the school, of whom he may have knowledge.

Such report shall be made to the superintendent of the ~~State~~ Idaho School for the Deaf and the Blind, upon forms approved by the state board of education.

Approved April 5, 1990.

CHAPTER 238
(S.B. No. 1454)

AN ACT

RELATING TO THE DEPARTMENT OF CORRECTION; AMENDING CHAPTER 25, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2520F, IDAHO CODE, TO PROVIDE FOR THE SENTENCING OF PERSONS CONVICTED OF FELONIES IN CORRECTIONAL FACILITIES.

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

SECTION 1. That Chapter 25, 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 19-2520F, Idaho Code, and to read as follows:

19-2520F. CONSECUTIVE SENTENCES FOR FELONIES COMMITTED IN CORRECTIONAL FACILITIES. Every person who has been found guilty of a commission of a felony on the grounds of a correctional facility located in this state shall have the sentence for such offense begin after all previous sentences have ended.

Approved April 5, 1990.

CHAPTER 239
(S.B. No. 1506)

AN ACT

RELATING TO THE DESTRUCTION OF ILLICIT DRUGS SEIZED; AMENDING SECTION 37-2744, IDAHO CODE, TO ALLOW DESTRUCTION OR STORAGE OF CERTAIN SEIZED ILLEGAL DRUGS AND ITEMS.

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

SECTION 1. That Section 37-2744, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) All controlled substances which have been manufactured, distributed, dispensed, acquired, possessed or held in violation of

this act or with respect to which there has been any act by any person in violation of this act;

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

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

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

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

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

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

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

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

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

(B) Items described in paragraph (6)(A) above or other things of value furnished or intended to be furnished by any person in exchange for a contraband controlled substance in violation of this chapter, all proceeds, including items of property traceable to such an exchange, and all moneys or other things of value used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted with-

out the knowledge or consent of that owner.

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

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

(b) Property subject to forfeiture under this chapter may be seized by the director, or any peace officer of this state, upon process issued by any district court, or magistrate's division thereof, having jurisdiction over the property. Seizure without process may be made if:

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

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

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

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

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

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

(A) Place the property under seal;

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

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

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

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

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

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

(2) When property described in paragraphs (2), (3), (4), (5) and (6) of subsection (a) hereof is seized pursuant to this section, forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such property is seized. The procedure governing such proceedings shall be the same

as that prescribed for civil proceedings by the Idaho Rules of Civil Procedure. The court shall order the property forfeited to the director if he determines that such property was used, or intended for use, in violation of this chapter, or, in the case of items described in paragraph (6)(A) of subsection (a), was found in close proximity to property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section.

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

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

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

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

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

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

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

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

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

(III) If the court finds that the property was not used or was not intended to be used in violation of this act,

or is not subject to forfeiture under this act, the court shall order the property released to the owner as his right, title, or interest appears on records in the appropriate department as of the seizure.

(IV) An owner, co-owner or claimant of any right, title, or interest in the conveyance may prove that his right, title, or interest, whether under a lien, mortgage, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged;

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

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

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

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

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

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

C. The remainder, if any, to the direc-

tor for credit to the drug enforcement donation account.

(iii) In any case, the director may, within thirty (30) days after judgment, pay the balance due to the bona fide lien holder, mortgagee or conditional sales vendor and thereby purchase the conveyance for use to enforce this act.

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

(1) Retain it for official use;

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

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

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

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

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

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

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

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

(2) All property described in paragraphs (1) and (2) of subsec-

tion (a) which is seized or surrendered under provisions of this act may be destroyed after all legal actions have been exhausted. The destruction shall be done under the supervision of the supervisory drug analyst of the department of law enforcement, a representative of the office of the director and a representative of the state board of pharmacy. An official record listing the property destroyed and the location of destruction shall be kept on file at the office of the director. Except, however, that the director of the department of law enforcement or his designee may authorize the destruction of drug or nondrug evidence, ~~specifically marijuana or nondrug items used in the planting, cultivation or harvesting of marijuana,~~ or store those items at government expense when, in the opinion of the director or his designee, it is not reasonable to remove or transport such items from the location of the seizure for destruction. In such case, a representative sample ~~of the marijuana~~ will be removed and preserved for evidentiary purposes and, when practicable, destroyed as otherwise is in accordance with this chapter. On-site destruction of such items shall be witnessed by at least two (2) persons, one (1) of whom shall be the director or his designee who shall make a record of the destruction.

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

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

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

Approved April 5, 1990.

CHAPTER 240
(S.B. No. 1446)

AN ACT

RELATING TO COMMERCIAL INSURANCE AND LIABILITY LAW; AMENDING SECTION 41-1815, IDAHO CODE, TO STRIKE MANDATORY POLICY LANGUAGE; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1842, IDAHO CODE, TO PROVIDE FOR WRITTEN NOTICES OF NONRENEWAL, CANCELLATION, OR CHANGE OF CERTAIN TERMS OF CERTAIN COMMERCIAL INSURANCE POLICIES, DEFINING TERMS AND PROVIDING FOR RULES AND REGULATIONS BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE; AND AMENDING SECTION 41-2401, IDAHO CODE, TO PROVIDE FOR INCLUSION OF

A THIRTY DAY WRITTEN NOTICE PRIOR TO CANCELLATION AS A PROVISION IN THE IDAHO STANDARD INSURANCE POLICY.

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

SECTION 1. That Section 41-1815, Idaho Code, be, and the same is hereby amended to read as follows:

41-1815. CONTENTS OF POLICIES IN GENERAL. (1) Every policy shall specify:

(a) The names of the parties to the contract.

(b) The subject of the insurance.

(c) The risks insured against.

(d) The time when the insurance thereunder takes effect and the period during which the insurance is to continue.

(e) The premium.

(f) The conditions pertaining to the insurance.

(2) If under the policy the exact amount of premium is determinable only at stated intervals or termination of the contract, a statement of the basis and rates upon which the premium is to be determined and paid shall be included.

(3) Subsections (1) and (2) above shall not apply as to surety contracts, or to group insurance policies.

~~(4)--Unless-otherwise-provided-by-law,-every-commercial--or--business-policy-shall-contain-a-provision-which-requires-the-insurer:~~

~~(a)--To-give-directly-to-the-policyholder-not-less-than-sixty-(60)-days'--prior--written--notice-of-any-cancellation-or-nonrenewal-of-the-policyholder's-insurance-policy.-Not-less--than--fifteen--(15)-days--notice--is-required-if-cancellation-or-nonrenewal-is-due-to:-failure--to--pay--premiums,--material--misrepresentation--by---the-insured,--substantial--and-unforeseen-changes-in-the-risk-assumed,-substantial-breaches-of-contractual-duties,-conditions-or--warranties,--or--the--policy--is--being--cancelled-or-not-renewed-at-the-request-of-the-policyholder.-Failure-by-the-insurer-to-comply-with-the-requirements-of-this-paragraph-shall-be--a--violation--of--the-provisions-of-this-title-and-shall-render-the-cancellation-or-nonrenewal-by-the-insurer-null-and-void-and-without-effect.-The-failure--of--the-insurer-to-comply-with-the-requirements-of-this-paragraph-shall-not-affect-the-contract-rights--of--the--insured.--The-provisions--of-this-paragraph-shall-be-effective-for-all-contracts-of-insurance-entered-into-after-July-1,-1987.~~

~~(b)--To-give-directly-to-the-policyholder-not-less-than-sixty-(60)-days'--prior-written-notice-of-any-premium--rate--increase--greater-than-ten-per-cent-(10%).-Failure-by-the-insurer-to-comply-with-the-requirements--of-this-paragraph-shall-be-a-violation-of-the-provisions-of-this-title-and-shall-render-the-premium-rate-increase--by-the--insurer--null-and-void-and-without-effect.-The-failure-of-the-insurer-to-comply-with-the-requirements-of--this--paragraph--shall-not--affect-the-contract-rights-of-the-insured-under-the-insurance-policy.-The-provisions-of-this-paragraph-shall--be--effective--for-all-contracts-of-insurance-entered-into-after-July-1,-1987.~~

SECTION 2. That Chapter 18, 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 41-1842, Idaho Code, and to read as follows:

41-1842. COMMERCIAL INSURANCE -- CANCELLATION -- NONRENEWAL. (1) Applicability. The provisions of this section apply only to:

(a) Commercial property insurance policies;

(b) Commercial liability insurance policies other than automobile, aviation and employer's liability insurance policies;

(c) Commercial multiperil insurance policies.

The provisions of this section do not apply to: block cancellations or block nonrenewals as provided in section 41-1841, Idaho Code, reinsurance, excess and surplus lines insurance, residual market risks, worker's compensation insurance, multistate location risks, policies subject to retrospective rating plans, excess or umbrella policies and such other policies that are exempted by the director of the department of insurance.

(2) Definitions. For the purposes of this section:

(a) "Cancellation" means termination of a policy at a date other than its expiration date.

(b) "Expiration date" means the date upon which coverage under a policy ends. It also means, for a policy written for a term longer than one (1) year or with no fixed expiration date, each annual anniversary date of such policy.

(c) "Nonpayment of premium" means the failure or inability of the named insured to discharge any obligation in connection with the payment of premiums on a policy of insurance subject to this section, whether such payments are payable directly to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit.

(d) "Nonrenewal" or "not to renew" means termination of a policy at its expiration date.

(e) "Renewal" or "to renew" means the issuance, or the offer so to issue, by an insurer of a policy succeeding a policy previously issued and delivered by the same insurer or an insurer within the same group of insurers, or the issuance of a certificate or notice extending the term of an existing policy for a specified period beyond its expiration date.

(3) Notice of cancellation.

(a) Permissible cancellations. If coverage under a policy has not been in effect for sixty (60) days and the policy is not a renewal, cancellation of such policy shall be effected by mailing or delivering a written notice to the first-named insured at the last known mailing address shown on the policy at least thirty (30) days before the effective date of the cancellation. After coverage has been in effect for more than sixty (60) days or after the effective date of a renewal policy, whichever is earlier, no insurer shall cancel a policy unless the cancellation is based on at least one (1) of the following reasons:

(i) Nonpayment of premium.

(ii) Fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the pol-

icy.

(iii) Activities or omissions on the part of the named insured which increase any hazard insured against, including a failure to comply with loss control recommendations.

(iv) Change in the risk which materially increases the risk of loss after insurance coverage has been issued or renewed including, but not limited to, an increase in exposure to regulation, legislation or court decision.

(v) Loss or decrease of the insurer's reinsurance covering all or part of the risk or exposure by the policy.

(vi) Determination by the director that the continuation of the policy would jeopardize an insurer's solvency or would place the insurer in violation of the insurance laws of this state or any other state.

(vii) Violation or breach by the insured of any policy terms or conditions other than nonpayment of premium.

(b) Notification of cancellation.

(i) A notice of cancellation of insurance coverage by an insurer shall be in writing and shall be mailed or delivered to the first-named insured at the last known mailing address as shown on the policy. Notices of cancellation based on subsections (3)(a)(ii) through (a)(vii) of this section shall be mailed or delivered at least thirty (30) days prior to the effective date of the cancellation. Notices of cancellation based upon subsection (3)(a)(i) of this section shall be mailed or delivered at least ten (10) days prior to the effective date of cancellation. The notice shall state the effective date of the cancellation.

(ii) The insurer shall provide the first-named insured with a written statement setting forth the reason(s) for the cancellation if (1) the insured requests such a statement in writing; and (2) the named insured agrees in writing to hold the insurer harmless from liability for any communication giving notice of or specifying the reasons for a cancellation or for any statement made in connection with an attempt to discover or verify the existence of conditions which would be a reason for a cancellation under this section.

(4) Notice of nonrenewal.

(a) An insurer may not renew a policy if the insurer delivers or mails to the first-named insured, at the last known mailing address, written notice that the insurer will not renew the policy. Such notice shall be mailed or delivered at least forty-five (45) days before the expiration date. If the notice is mailed less than forty-five (45) days before expiration, coverage shall remain in effect until forty-five (45) days after notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date shall be considered pro rata based upon the previous year's rate. For purposes of this section, the transfer of a policyholder between companies within the same insurance group is not a nonrenewal or a refusal to renew. In addition, changes in deductibles, changes in premium, and changes in the amount of insurance or reductions in policy limits or coverage shall not be deemed to be nonrenewals or refusals to renew. Notice

of nonrenewal is not required if:

(i) The insurer or a company within the same insurance group has offered to issue a renewal policy; or

(ii) Where the named insured has obtained replacement coverage or has agreed in writing to obtain replacement coverage.

(b) If an insurer provides the notice described in subsection (4) of this section and thereafter the insurer extends the policy for ninety (90) days or less, an additional notice of nonrenewal is not required with respect to the extension.

(5) Notice of premium or coverage changes. An insurer shall mail or deliver to the named insured, at the last known mailing address, written notice of premium increases, changes in deductibles, reductions in limits, or reductions in coverages at least thirty (30) days prior to the expiration date of the policy. If the insurer fails to provide such thirty (30) day notice, the coverage provided to the named insured shall remain in effect until thirty (30) days after such notice is given or until the effective date of replacement coverage obtained by the named insured, whichever first occurs. For the purposes of this section, notice is considered given thirty (30) days following date of mailing or delivery of the notice to the named insured. If the insured elects not to renew, any earned premium for the period of extension of the terminated policy shall be calculated pro rata at the lower of the current or previous year's rate. If the insured accepts the renewal, the premium increase, if any, and other changes shall be effective the day following the prior policy's expiration or anniversary date.

(6) Proof of notice. Proof of mailing of notice of cancellation, or of nonrenewal or of premium or coverage changes, to the named insured at the last known mailing address showing the policy, shall be sufficient proof of notice.

(7) Application, effective date and termination. The provisions of this section shall apply only to policies with coverage effective dates after the effective date of this section.

(8) Regulations. The director may promulgate rules and regulations to implement the provisions of this section. 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 of the legislature 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 3. That Section 41-2401, Idaho Code, be, and the same is hereby amended to read as follows:

41-2401. STANDARD FIRE POLICY. (1) No fire insurer shall issue any fire insurance policy covering on property or interest therein in this state, other than on the form known as the New York standard as revised in 1943, except as follows:

(a) An insurer may print on or in its policy its name, location, date of incorporation, plan of operation, whether stock, mutual, reciprocal or organized under special charter provisions, and if

mutual or reciprocal whether on cash premium or assessment plan; and if it be a stock company, the amount of its paid up capital stock, the names of its officers and agents, the number and date of the policy, and, if it is issued by an agent, the words, "this policy shall not be valid until countersigned by the duly authorized agent of the company at ...."; and, if a mutual or reciprocal insurer, the policy must state the contingent liability, if any, of its policyholders, members, or subscribers for payment of losses and expenses not provided for by its cash funds.

(b) An insurer may print or use in its policies printed forms of description and specifications of the property insured.

(c) An insurer insuring against damage by lightning may print in the clause enumerating the perils insured against the additional words, "also any damage by lightning whether fire ensues or not," and in the clause providing for an apportionment of loss in case of other insurance the words, "whether by fire, lightning or both."

(d) A domestic insurer may print in its policies any provisions which it is authorized or required by the law to insert therein, and any foreign insurer may, with the approval of the director, so print any provision required by its charter or deed of settlement, or by the laws of its own state or country, not contrary to the laws of this state; but the director shall require any provision which, in his opinion modifies the contract of insurance in such a way as to affect the question of loss, to be appended to the policy by an endorsement or rider as hereinafter provided.

(e) The blanks in the standard form may be completed in print or in writing.

(f) An insurer may print upon policies issued in compliance with the preceding provisions of this section the words, "Idaho standard policy."

(g) An insurer may write upon the margin or across the face of the policy, or write or print in type not smaller than nonpareil upon a slip, slips, rider or riders to be attached thereto, provisions adding to or relating to those contained in the standard form; and all such slips, riders, endorsements and provisions must be signed by the officers or agents of the insurer so using them.

(h) If the policy be made by a mutual, reciprocal or other insurer having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance such regulations shall apply to and form a part of the policy as the same may be written or printed upon, attached or appended thereto.

(i) Every policy shall have legibly inscribed upon its face and filing back suitable words to designate whether the insurer making such insurance be a stock, mutual or reciprocal insurer, provided, that any insurer organized under special charter provisions may so indicate upon its policy and may add a statement of the plan under which it operates in this state.

(j) Every fire policy shall contain language that provides for a ~~twenty~~ thirty (~~2~~30) day written notice to the insured prior to cancellation of the policy~~,--provided,-business-or-commercial--fire policies--shall--conform-with-the-notice-requirements-contained-in subsections-4(a)-and-4(b)-of-section-41-1815,-Idaho-Code.~~

(k) Every fire policy shall provide that it becomes effective at 12:01 a.m. of the standard time of the place where the property covered by the insurance is located, on the effective date of the policy.

(2) An insurer issuing the standard fire policy is authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under the policy; but nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination.

(3) The standard fire policy is not mandatory for vehicle insurance, or for marine insurance, or inland marine insurance as the same is defined pursuant to section 41-1401(2), Idaho Code, or for insurance on growing crops.

(4) Any policy or contract otherwise subject to the provisions of subsection (1) hereof, which includes either on an unspecified basis as to the coverage or for a single premium coverage against the peril of fire and substantial coverage against other perils need not comply with the provisions of subsection (1) hereof, provided~~t~~:

(a) Such policy or contract shall afford coverage, with respect to the peril of fire, not less than the coverage afforded by such standard fire policy,

(b) The provisions in relation to mortgagee interests and obligations in such standard fire policy shall be incorporated therein without change,

(c) Such policy or contract is complete as to all of its terms without reference to the standard form of fire insurance policy or any other policy, and

(d) The director is satisfied that such policy or contract complies with the provisions hereof.

Approved April 5, 1990.

CHAPTER 241
(S.B. No. 1508)

AN ACT

RELATING TO THE PARI-MUTUEL SYSTEM OF HORSE RACING; AMENDING SECTION 54-2513, IDAHO CODE, TO INCREASE DISTRIBUTION OF DEPOSITS TO CERTAIN LICENSEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-2513, Idaho Code, be, and the same is hereby amended to read as follows:

54-2513. DISTRIBUTIONS OF DEPOSITS -- BREAKAGE. (A) Each licensee

conducting the pari-mutuel system for live horse races having an average daily handle in excess of one hundred thousand dollars ($100,000) shall distribute all sums deposited in any pool as follows:

(1) Seventy-nine per cent (79%) of any win, place or show pool to the winner thereof, one per cent (1%) to the racing commission for deposit in the Idaho centennial futurity account, and twenty per cent (20%) to the licensee;

(2) Seventy-eight and one-quarter per cent (78.25%) of any daily double, exacta or trifecta pool to the winner thereof, one per cent (1%) to the racing commission for deposit in the Idaho centennial futurity account, three-quarters of one per cent (.75%) to the racing commission for deposit in the racing account, and twenty per cent (20%) to the licensee;

(3) Seventy-nine per cent (79%) of any quinella pool to the winner thereof, one per cent (1%) to the racing commission for deposit in the Idaho centennial futurity account, and twenty per cent (20%) to the licensee.

(B) Each licensee conducting the pari-mutuel system for live horse races shall retain twenty per cent (20%) of all sums deposited in any pool, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter per cent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission, for deposit in the racing commission account, which is hereby created in the dedicated fund.

(2) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated, shall be paid to the Idaho state racing commission for deposit in the track distribution account, which is hereby created in the dedicated fund, for further distribution to certain Idaho horse race tracks, defined as follows:

a. recipient horse racing tracks shall be those which, during the race meet year of distribution, have an average daily handle of less than sixty thousand dollars ($60,000);

b. distributions to recipient horse racing tracks shall be weighted proportionately on the number of days raced during the year of distribution.

All moneys in the track distribution account are hereby appropriated to the commission for payment as required by this section. Payments to horse racing tracks shall be made monthly.

(3) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated shall be paid by the licensee to the commission for deposit in the breed distribution account, which is hereby created in the dedicated fund, for payment by the commission in proportion to the handle generated by each horse breed, to lawfully constituted representatives of each horse breed, to benefit owners and/or breeders of Idaho bred racing thoroughbreds, racing quarter horses, racing Appaloosas, racing paints and racing Arabians, subject to the approval of the commission. Moneys in the breed distribution account on December 31 of each year which have not been distributed by the commission shall be paid to the public school income fund.

All moneys in the breed distribution account are hereby appropriated to the commission for payment as required by this

section. Payments to representatives shall be made monthly.

(4) Seventeen and three-quarters per cent (17.75%) of gross daily receipts from horse races shall be paid or retained as follows:

a. From the first $20,000 of gross daily receipts, the licensee shall retain seventeen and three-quarters per cent (17.75%);

b. From the next $10,000 of gross daily receipts (gross daily receipts between $20,000 and $30,000), the public school income fund shall receive one-quarter of one per cent (.25%), and the licensee shall retain seventeen and one-half per cent (17.50%);

c. From the next $10,000 of gross daily receipts (gross daily receipts between $30,000 and $40,000), the public school income fund shall receive one and one-quarter per cent (1.25%), and the licensee shall retain sixteen and one-half per cent (16.50%);

d. From all amounts of over $40,000 of gross daily receipts, the public school income fund shall receive two and one-quarter per cent (2.25%), and the licensee shall retain fifteen and one-half per cent (15.50%).

The public schools' share shall be paid by the licensee to the racing commission for deposit in the public school income fund. The licensee's percentage shall be retained by the licensee.

(C) Each licensee conducting the pari-mutuel system for live horse races having an average daily handle of one hundred thousand dollars ($100,000) or less shall distribute all sums deposited in any pool as follows:

(1) Seventy-six per cent (76%) of any win, place or show pool to the winner thereof, one per cent (1%) to the racing commission for deposit in the Idaho centennial futurity account, and twenty-three per cent (23%) to the licensee;

(2) Seventy-five and one-quarter per cent (75.25%) of any daily double, exacta or trifecta pool to the winner thereof, one per cent (1%) to the racing commission for deposit in the Idaho centennial futurity account, three-quarters of one per cent (.75%) to the racing commission for deposit in the racing account, and twenty-three per cent (23%) to the licensee;

(3) Seventy-six per cent (76%) of any quinella pool to the winner thereof, one per cent (1%) to the racing commission for deposit in the Idaho centennial futurity account, and twenty-three per cent (23%) to the licensee.

(D) Each licensee conducting the pari-mutuel system for live horse races shall retain twenty-three per cent (23%) of all sums deposited in any pool, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter per cent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission, for deposit in the racing commission account, which is hereby created in the dedicated fund.

(2) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated, shall be paid to the Idaho state racing commission for deposit in the track distribution account, which is hereby created in the dedicated fund, for further distri-

bution to certain Idaho horse race tracks, defined as follows:

a. Recipient horse racing tracks shall be those which, during the race meet year of distribution, have an average daily handle of less than sixty thousand dollars ($60,000);

b. Distributions to recipient horse racing tracks shall be weighted proportionately on the number of days raced during the year of distribution.

All moneys in the track distribution account are hereby appropriated to the commission for payment as required by this section. Payments to horse racing tracks shall be made monthly.

(3) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated shall be paid by the licensee to the commission for deposit in the breed distribution account, which is hereby created in the dedicated fund, for payment by the commission in proportion to the handle generated by each horse breed, to lawfully constituted representatives of each horse breed, to benefit owners and/or breeders of Idaho bred racing thoroughbreds, racing quarter horses, racing Appaloosas, racing paints and racing Arabians, subject to the approval of the commission. Moneys in the breed distribution account on December 31 of each year which have not been distributed by the commission shall be paid to the public school income fund. All moneys in the breed distribution account are hereby appropriated to the commission for payment as required by this section. Payments to representatives shall be made monthly.

(4) Twenty and three-quarters per cent (20.75%) of gross daily receipts from horse races shall be paid or retained as follows:

a. From the first $20,000 of gross daily receipts, the licensee shall retain twenty and three-quarters per cent (20.75%);

b. From the next $10,000 of gross daily receipts (gross daily receipts between $20,000 and $30,000), the public school income fund shall receive one-quarter of one per cent (.25%), and the licensee shall retain twenty and one-half per cent (20.50%);

c. From the next $10,000 of gross daily receipts (gross daily receipts between $30,000 and $40,000), the public school income fund shall receive one and one-quarter per cent (1.25%), and the licensee shall retain nineteen and one-half per cent (19.50%);

d. From all amounts of over $40,000 of gross daily receipts, the public school income fund shall receive two and one-quarter per cent (2.25%), and the licensee shall retain eighteen and one-half per cent (18.50%).

The public schools' share shall be paid by the licensee to the racing commission for deposit in the public school income fund. The licensee's percentage shall be retained by the licensee.

(~~D~~E) Each licensee conducting the pari-mutuel system for dog racing shall retain twenty and one-half per cent (20.5%) of all sums deposited in any pool, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter per cent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commis-

sion, for deposit in the racing commission account.

(2) One per cent (1%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for payment to the county in which the dog racing facility is located. The board of county commissioners shall spend such revenues only for visitor promotion.

(3) One-half of one per cent (.50%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for deposit in the Idaho horse breeders' and owners' award account, which is hereby created in the dedicated fund for further distribution as follows:

a. Fifty per cent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, to the breeders of Idaho bred winners of each approved horse race in Idaho in proportion to the handle generated by each breed; and

b. Fifty per cent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, in equal amounts to the owners of Idaho bred horse race winners.

(4) During calendar years 1988, 1989 and 1990, by not later than December 15, each licensee conducting the pari-mutuel system for dog racing shall pay one hundred thousand dollars ($100,000) to the racing commission for deposit in the track improvement and industry promotion account, which is hereby created in the dedicated fund. Moneys in the account shall be distributed by the racing commission, as soon as possible after receipt, as follows:

a. The sum of fifty thousand dollars ($50,000) each year for the years 1988 and 1989 shall be paid to the Idaho horse council for the purpose of conducting an Idaho horse census and for the purpose of promoting the Idaho horse industry, subject to the approval of the Idaho racing commission.

b. The balance of all such moneys shall be paid to owners of horse racing tracks in the state of Idaho in proportion to the number of racing commission approved horse race days actually raced in the year in which the commission receives moneys at each horse race track, subject to the rules and regulations promulgated by the Idaho racing commission. Each commission approved horse race track shall receive that proportion of the moneys in the track improvement and industry promotion account as is equal to that track's percentage of the total horse race track days held in Idaho during that calendar year. The moneys to be paid to each horse race track shall be used solely for the purpose of improvement, repair, maintenance and upkeep of each such horse race track, grandstands, horse buildings, barns and stalls, lighting and horse race track equipment, subject to the rules and regulations of the racing commission.

(5) Seventeen and three-quarters per cent (17.75%) of gross daily receipts from dog races shall be paid or retained as follows:

a. From the first $20,000 of gross daily receipts, the

licensee shall retain seventeen and three-quarters per cent (17.75%);

b. From the next $10,000 of gross daily receipts (gross daily receipts between $20,000 and $30,000), the public school income fund shall receive one-quarter of one per cent (.25%), and the licensee shall retain seventeen and one-half per cent (17.50%);

c. From the next $10,000 of gross daily receipts (gross daily receipts between $30,000 and $40,000), the public school income fund shall receive one and one-quarter per cent (1.25%), and the licensee shall retain sixteen and one-half per cent (16.50%);

d. From all amounts of over $40,000 of gross daily receipts, the public school income fund shall receive two and one-quarter per cent (2.25%), and the licensee shall retain fifteen and one-half per cent (15.50%).

The public schools' share shall be paid by the licensee to the racing commission for deposit in the public school income fund. The licensee's percentage shall be retained by the licensee.

(~~D~~F) Moneys paid to the racing commission pursuant to the provisions of subsection (A) of this section, from daily double, exacta, trifecta or quinella pools shall be deposited in the Idaho centennial futurity account, which is hereby created in the dedicated fund. The account may receive gifts, donations or assignments from any other source. Moneys in the account are reserved exclusively for the payment of preliminary expenses, promotional expenses, operational expenses, and purses to conduct Idaho centennial futurity races for Idaho bred horses during this state's centennial celebration at sites licensed by the commission for that purpose. The racing commission shall coordinate all activities leading up to the centennial futurity races with the Idaho centennial commission. Moneys in the account are hereby appropriated to the racing commission for such purposes.

(~~E~~G) Each licensee may retain the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as breakage, and the total amount of unclaimed tickets at the termination of the time allowed by rule and regulation of the commission.

(~~F~~H) Following the last Idaho centennial futurity race in 1990, the moneys that have been deducted for deposit in the Idaho centennial futurity account shall cease to be deducted for that purpose and shall be added to winner's pool for that race.

(~~G~~I) No dog racing facility shall be granted racing dates by the Idaho state racing commission if such facility is located within one hundred (100) miles of any operating pari-mutuel horse racing facility in the state of Idaho which conducted pari-mutuel horse racing in 1986.

SECTION 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, 1990.

CHAPTER 242
(S.B. No. 1438)

AN ACT

RELATING TO ARTICLES OF INCORPORATION OF STATE BANKS; AMENDING SECTIONS 26-203 AND 26-204, IDAHO CODE, TO PROVIDE THAT A STATE BANK MAY ELIMINATE OR LIMIT THE PERSONAL LIABILITY OF ITS DIRECTORS EXCEPT AS OTHERWISE PROVIDED IN THE BANK ACT.

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

SECTION 1. That Section 26-203, Idaho Code, be, and the same is hereby amended to read as follows:

26-203. ARTICLES OF INCORPORATION -- FORM. Proposed articles of incorporation of a banking corporation shall be in a form acceptable to the director, and must be submitted to the director for approval as to form and content before the same are filed for record in the offices of the secretary of state and county recorder; provided that no bank shall be required to have the word "corporation" in its corporate name. The articles may include a provision which eliminates or limits the personal liability of the directors of the bank in accordance with section 30-1-54, Idaho Code, provided that such provision shall not eliminate or limit the liability of a director under section 26-213(5), Idaho Code.

SECTION 2. That Section 26-204, Idaho Code, be, and the same is hereby amended to read as follows:

26-204. ARTICLES OF INCORPORATION -- AMENDMENT. Any proposed amendment to the articles of incorporation of a bank shall, before the same is adopted, be submitted to the director for his approval as to form and content. In addition to the articles of amendment to be filed with the secretary of state under the provisions of the general business corporation act, like articles and a copy of the articles of incorporation as amended must be filed in the office of the director and no amendment shall be operative nor effective until such articles be filed in the office of the director and shall have been approved in writing by the director. The articles of incorporation may be amended to include a provision which eliminates or limits the personal liability of the directors of the bank in accordance with section 30-1-54, Idaho Code, provided that such provision shall not eliminate or limit the liability of a director under section 26-213(5), Idaho Code.

Approved April 5, 1990.

CHAPTER 243
(S.B. No. 1565)

AN ACT

RELATING TO DOMESTIC VIOLENCE PROJECT GRANTS; AMENDING SECTION 39-5210, IDAHO CODE, TO ALLOW CERTAIN PROJECTS FOR BATTERERS AND TO PROHIBIT USE OF CERTAIN FUNDS FOR PROJECTS PROVIDING SERVICES TO BATTERERS; AND AMENDING SECTION 39-5212, IDAHO CODE, TO INCLUDE FUNDS DERIVED FROM SOURCES SPECIFIED IN THE DOMESTIC VIOLENCE PROJECT ACCOUNT.

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

SECTION 1. That Section 39-5210, Idaho Code, be, and the same is hereby amended to read as follows:

39-5210. ELIGIBLE PROJECTS. To be eligible for grants pursuant to this chapter, a project must provide a safe house or refuge and a crisis line, except in the case of a project providing services to batterers. No funds may be granted to batterer programs from the domestic violence project account which are derived from marriage license fees. Other services which may be provided include, but are not limited to:

(1) Counseling;

(2) Educational services for community awareness, for prevention of domestic violence and for the care, treatment and rehabilitation of parties to domestic violence;

(3) Support groups;

(4) Assistance in obtaining legal, medical, psychological or vocational services.

SECTION 2. That Section 39-5212, Idaho Code, be, and the same is hereby amended to read as follows:

39-5212. DOMESTIC VIOLENCE PROJECT ACCOUNT. There is hereby created in the state operating fund the domestic violence project account. Moneys received from the fees imposed by section 39-5213, Idaho Code, and section 39-6312, Idaho Code, shall be credited to the account and shall be perpetually appropriated to the council on domestic violence for grants for domestic violence projects and to meet the costs of maintaining the operation of the council.

Eligible projects shall be given priority by the council based upon an allocation of funds to projects in the seven (7) substate regions established pursuant to section 39-104, Idaho Code, in the proportion that marriage licenses are filed in each region.

Approved April 5, 1990.

CHAPTER 244
(S.B. No. 1413, As Amended)

AN ACT

RELATING TO THE DOMESTIC VIOLENCE PROJECT ACCOUNT; AMENDING SECTION 39-5213, IDAHO CODE, TO REQUIRE PRESENTATION OF PROPER IDENTIFICATION AND TO PROVIDE AN ADDITIONAL FEE OF TWENTY DOLLARS UPON FILINGS FOR DIVORCE FOR CREDIT TO THE DOMESTIC VIOLENCE PROJECT ACCOUNT.

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

SECTION 1. That Section 39-5213, Idaho Code, be, and the same is hereby amended to read as follows:

39-5213. FEE IMPOSED. (1) In addition to the fee due to the county recorder of each county of this state under the provisions of section 31-3205, Idaho Code, for the issuance of a marriage license, the recorder shall collect upon presentation of proper identification by the applicants an additional fee of fifteen dollars ($15.00) for each license issued, which additional fee shall be remitted to the state treasurer for credit to the "domestic violence project account" created in section 39-5212, Idaho Code.

(2) In addition to any other fee imposed for filing an action for divorce in the district court, there shall be collected a fee of twenty dollars ($20.00) for each divorce action, separately identified, which additional fee shall be remitted to the state treasurer for credit to the domestic violence project account created in section 39-5212, Idaho Code.

Approved April 5, 1990.

CHAPTER 245
(S.B. No. 1582)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1802, IDAHO CODE, TO FURTHER DEFINE "COURT"; AND AMENDING SECTION 16-1816, IDAHO CODE, TO ADD SUBSECTION NUMBERS AND TO PROVIDE THAT NOTHING IN THE ACT SHALL PROHIBIT THE EXCHANGE OF RECORDS CREATED PURSUANT TO THE ACT BETWEEN PROSECUTING ATTORNEYS OR COURTS IN THIS STATE.

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

SECTION 1. That Section 16-1802, Idaho Code, be, and the same is hereby amended to read as follows:

16-1802. DEFINITIONS. When used in this chapter, unless context

otherwise requires:

a. "Adult" means a person eighteen (18) years of age or older.

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.

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 jurisdiction.

g. "Court" means <u>any</u> district court <u>within the state of Idaho,</u> or magistrate's division thereof.

h. "Department" means the state department of health and welfare.

i. "Detention" means the temporary care of children who require secure custody for their own or the community's protection in physically restricting facilities.

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.

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.

m. "Judge" means district judge or a magistrate.

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 2. That Section 16-1816, Idaho Code, be, and the same is hereby amended to read as follows:

16-1816. RECORDS -- PRIVILEGED INFORMATION. (1) The court shall maintain records of all cases brought before it. In proceedings under this act the following records shall not be withheld from public inspection, except on court order, which order must be made in writing in each case: the court docket, petitions, complaints, information, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

(2) These records shall be open to inspection by the parties and their attorneys, by an institution or agency to which custody of a child has been transferred, by an individual who has been appointed guardian with consent of the court, by persons having a legitimate interest in the proceedings; and, pursuant to rule or special order of the court, by persons conducting pertinent research studies, and by persons, institutions, and agencies having a legitimate interest in the protection, welfare or treatment of the child.

(3) Reports of social and clinical studies or examinations made pursuant to this act shall be withheld from public inspection, except that facts contained in such reports shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the child. All information obtained and social records prepared in the discharge of official duty by an employee of the court shall not be disclosed directly or indirectly to anyone other than the court or others entitled under this act to receive such information, unless and until otherwise ordered by the court.

(4) The victim of misconduct shall always be entitled to the name of the child involved, the name of the child's parents or guardian, and their addresses and telephone numbers, if available in the records of the court.

(5) Notwithstanding the other provisions of this act and notwithstanding any order entered pursuant hereto, nothing in this act shall prohibit the exchange of records created pursuant to this act between prosecuting attorneys or courts in this state.

Approved April 5, 1990.

CHAPTER 246
(S.B. No. 1593)

AN ACT
RELATING TO THE JUDGES' RETIREMENT FUND; AMENDING SECTION 1-2003, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN CIVIL CASE FILING FEES.

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

SECTION 1. That Section 1-2003, Idaho Code, be, and the same is hereby amended to read as follows:

1-2003. ADDITIONAL FEES IN CIVIL ACTIONS AND APPEALS. (a) In addition to the fees and charges to be collected by the clerks of the district courts of the state and by other persons authorized by rule or administrative order of the Supreme Court as now or hereafter provided by law, such clerks and authorized persons are directed to charge and collect the additional sum of ~~eleven~~ eighteen dollars ($~~11~~18.00) for filing a civil case or proceeding of any type in the district court or magistrate's division of the district court including cases involving the administration of decedents' estates, whether testate or intestate, conservatorships of the person or of the estate or both and guardianships of the person or of the estate or both, except that no fee shall be charged or collected for filing a proceeding under the Summary Administration or~~f~~ Small Estates Act. The additional sum of ~~eleven~~ eighteen dollars ($~~11~~18.00) shall also be collected from any party, except the plaintiff, making an appearance in any civil action in the district court, but such ~~eleven~~ eighteen dollars ($~~11~~18.00) fee shall not be collected from the person making an appearance in civil actions filed in the small claims departments of the district court.

(b) The sum of ~~eleven~~ eighteen dollars ($1~~1~~8.00) shall also be collected:

(1) from an intervenor in an action;

(2) from a party who files a third party claim;

(3) from a party who files a cross claim;

(4) from a party appealing from the magistrate's division of the district court to the district court;

(5) ~~F~~from a party appealing the decision of any commission, board or body to the district court.

(c) The clerk of the Supreme Court is authorized and directed to charge and collect, in addition to the fees now prescribed by law and as a part of the cost of filing the transcript on appeal in any civil case or proceeding, other than criminal, appealed to the Supreme Court, the additional sum of ~~eleven~~ eighteen dollars ($~~11~~18.00); for filing a petition for rehearing, the additional sum of ten dollars ($10.00); for filing an application for any writ for which a fee is now prescribed, the additional sum of ten dollars ($10.00); for filing appeals from the industrial accident board, the additional sum of five dollars ($5.00).

(d) The clerks of the district courts, persons authorized by rule or administrative order of the Supreme Court and the clerk of the

Supreme Court are directed and required to remit all additional charges and fees authorized by this section and collected during a calendar month, to the state treasurer within five (5) days after the end of the month in which such fees were collected. The state treasurer shall place all such sums in the judges' retirement fund.

Approved April 5, 1990.

CHAPTER 247
(S.B. No. 1592)

AN ACT

RELATING TO THE INVESTMENT OF THE JUDGES' RETIREMENT FUND; REPEALING SECTIONS 1-2008 AND 1-2008A, IDAHO CODE; AMENDING CHAPTER 20, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2008, IDAHO CODE, TO PROVIDE FOR THE METHOD AND THE LIMITATIONS ON INVESTMENTS OF THE JUDGES' RETIREMENT FUND AND TO PROVIDE THAT IN ACQUIRING, INVESTING, REINVESTING, EXCHANGING, RETAINING, SELLING AND MANAGING THE MONEYS AND SECURITIES OF THE FUND, THE INVESTMENT MANAGER(S) SHALL BE GOVERNED BY THE PRUDENT MAN INVESTMENT ACT, AND TO PROVIDE THAT THE INVESTMENT BOARD, SUBJECT TO THE APPROVAL OF THE SUPREME COURT, IS AUTHORIZED TO SELECT AND CONTRACT WITH A BANK OR TRUST COMPANY LOCATED IN THE STATE OF IDAHO, TO ACT AS CUSTODIAN OF THE JUDGES' RETIREMENT FUND.

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

SECTION 1. That Sections 1-2008 and 1-2008A, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 20, 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 1-2008, Idaho Code, and to read as follows:

1-2008. INVESTMENT OF JUDGES' RETIREMENT FUND. The investment board shall at the direction of the supreme court select and contract with a minimum of one (1) investment manager to manage the investment of the judges' retirement fund. The investment manager(s) shall, subject to the direction of the board, exert control over the funds as though the investment manager(s) were the owner thereof, subject to the limitation hereinafter provided. The investment manager(s) is hereby authorized to invest the judges' retirement fund in the following manner and in the following investments or securities and none others:

(1) Bonds, notes or other obligations of the United States or any agency or instrumentality thereof.

(2) Money market mutual funds.

(3) Bonds, notes, or other obligations of the state of Idaho and its political subdivisions, or bonds, notes, or other obligations of other states and their political subdivisions, provided such bonds,

notes, or other obligations or the issuing agency for other than the state of Idaho and its political subdivisions have, at the time of their purchase, an AAA rating by a commonly known rating service.

(4) Bonds, debentures or notes of any corporation organized, controlled, and operating within the United States which have, at the time of their purchase, an A rating or higher by a commonly known rating service.

(5) Corporate obligations designated as corporate convertible debt securities.

(6) Obligations secured by mortgages constituting a first lien upon real property of the state of Idaho which are fully insured or guaranteed as to the payment of the principal by the government of the United States or any agency thereof.

(7) Time certificates of deposit and savings accounts.

(8) Common or preferred stocks of corporations.

(9) Commercial paper, which at the time of purchase, is rated prime 1 by moody's investors service incorporated or is rated A-1 or higher by standard and poor's corporation.

In acquiring, investing, reinvesting, exchanging, retaining, selling and managing the moneys and securities of the fund, the investment manager(s) shall be governed by the prudent man investment act, sections 68-501 through 68-506, Idaho Code; provided, however, that the supreme court may in its sole discretion, limit the types, kinds and amounts of such investments. The investment board shall be responsible for assuring that the investment manager(s) complies with this act. The investment board, subject to the approval of the supreme court, is hereby authorized to select and contract with a bank or trust company located in the state of Idaho, to act as custodian of the judges' retirement fund, who shall hold all securities and moneys of the judges' retirement fund and shall collect the principal, dividends and interest thereof when due and pay the same into the judges' retirement fund. The state treasurer shall pay all warrants drawn on the judges' retirement fund for making such investments when issued pursuant to vouchers signed by the chief justice of the supreme court and by the state auditor.

Approved April 5, 1990.

CHAPTER 248
(S.B. No. 1370)

AN ACT

RELATING TO RETIREE MEDICAL INSURANCE COVERAGE; REPEALING SECTION 67-5341, IDAHO CODE.

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

SECTION 1. That Section 67-5341, Idaho Code, be, and the same is hereby repealed.

Approved April 5, 1990.

CHAPTER 249
(S.B. No. 1381)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO REDEFINE DEFINITIONS; AMENDING SECTION 59-1310, IDAHO CODE, TO CLARIFY CONDITIONS OF ELIGIBILITY FOR RETIREMENT; AMENDING SECTION 59-1317, IDAHO CODE, TO PROVIDE FOR WRITTEN NOTICE FOR CHANGES IN A RETIREMENT OPTION; AMENDING SECTION 59-1319, IDAHO CODE, TO CLARIFY CONDITIONS FOR COMPUTATION OF SERVICE RETIREMENT ALLOWANCES; AMENDING SECTION 59-1319A, IDAHO CODE, TO CLARIFY THE DETERMINATION OF ACTUARIAL ASSETS AND LIABILITIES, AND TO PROVIDE FOR POST-RETIREMENT ALLOWANCE ADJUSTMENTS; AMENDING SECTION 59-1324, IDAHO CODE, TO PROVIDE CLARIFICATION FOR THE COMPUTATION OF DEATH BENEFITS; AMENDING SECTION 59-1325A, IDAHO CODE, TO PROVIDE FOR CONFIDENTIALITY OF CERTAIN RECORDS; AMENDING SECTION 59-1330, IDAHO CODE, TO CLARIFY THE DETERMINATION OF ACTUARIAL VALUES; AMENDING SECTION 59-1351, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 72-1414, IDAHO CODE, TO PROVIDE CONDITIONS FOR PAYMENT OF PENSIONS TO FIREFIGHTERS; AMENDING CHAPTER 14, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1429E, IDAHO CODE, TO PROVIDE A DEFINITION; AMENDING SECTIONS 72-1429H, 72-1429I, 72-1429J, 72-1429L, AND 72-1429M, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS, AND TO PROVIDE THE AMOUNT OF CERTAIN RETIREMENT BENEFITS; AMENDING SECTION 72-1432C, IDAHO CODE, TO PROVIDE A PROPER CODE REFERENCE; AND DECLARING AN EMERGENCY.

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 <u>or federal statutes other than social security</u> for that same service.

(3) "Accumulated contributions" mean 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 mem-

ber 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) 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" and "firefighter" 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, any thrift institu-

tion or credit union 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.

SECTION 2. That Section 59-1310, Idaho Code, be, and the same is hereby amended to read as follows:

59-1310. CONDITIONS OF ELIGIBILITY FOR RETIREMENT. (1) An active member with at least five (5) years of credited service including six (6) months of membership service is eligible for service retirement as indicated below, based upon his service retirement ratio. A member's service retirement ratio shall, at retirement, be equal to the ratio of (a) to (b) as follows:

(a) The number of years of credited service for which the member was classified as a police officer or ~~fireman~~ firefighter:

(b) The member's total number of years of credited service.

For service retirement ratio:	Service retirement eligibility a
0.000 to 0.100	65
0.101 to 0.300	64
0.301 to 0.500	63
0.501 to 0.700	62
0.701 to 0.900	61
0.901 to 1.000	60

A person who was an active member on June 30, 1985 shall be deemed to have a service retirement ratio of 1.000 either if the member was a police officer or ~~fireman~~ firefighter on that date and continuously thereafter to retirement or if at the time of retirement the majority of the member's credited service has been that of a police officer or ~~fireman~~ firefighter.

(2) An active member who is not eligible for service retirement is eligible for disability retirement if he becomes disabled after at least ten (10) years of credited service including six (6) months of membership service.

(3) An active member who is not eligible for either service retirement or disability retirement is eligible for early retirement if he has at least five (5) years of credited service including six (6) months of membership service and is within ten (10) years of being

eligible for service retirement. Additionally an active member is eligible for early retirement on termination of disability retirement as provided by section 59-1313, Idaho Code.

(4) An inactive member who has at least five (5) years of membership service is eligible for vested retirement within ten (10) years of the date he would have been eligible for service retirement ~~had he remained an active member~~, except that an inactive member, who at the time of his separation from service held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official or was the head or director of a department, division, agency, statutory section or bureau of the state, or was employed on or after July 1, 1965 by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code, is eligible for vested retirement regardless of length and type of service, unless covered by a merit system for employees of the state of Idaho.

(5) An inactive member ~~who is not eligible for service retirement~~ is eligible for the separation benefit.

(6) ~~The beneficiary of any member other than a retired member who elected option 1 or 2 under section 59-1317, Idaho Code, is eligible for the death benefit, if any, upon the member's death.~~

~~(7)~~ By written notice on a form prescribed by the board, eligibility for early or vested retirement may be deferred by a member until the date he would have been eligible for service retirement had he remained an active member.

SECTION 3. That Section 59-1317, Idaho Code, be, and the same is hereby amended to read as follows:

59-1317. CONVERSION OF SERVICE RETIREMENT OR EARLY RETIREMENT OR VESTED RETIREMENT ALLOWANCES INTO OPTIONAL RETIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The service retirement allowance, the early retirement allowance or the vested retirement allowance of a member who, at time of retirement, so elects shall be converted into an optional retirement allowance which is the actuarial equivalent of such other allowance. The optional retirement allowance may take one of the forms listed below and shall be in lieu of all other benefits under this act except that the provisions of section 59-1324(1), Idaho Code, shall be applicable to option 3:

(a) Option 1 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of such reduced retirement allowance during the lifetime of his named contingent annuitant.

(b) Option 2 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of one-half (1/2) of such reduced retirement allowance during the lifetime of his named contingent annuitant.

(c) Option 3, which is available only if the member retires before the date of his sixty-fifth birthday, provides an increased retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equaling the governmental old-age benefit becoming

payable at such date as estimated by the board.

(d) Option 4, which is available only if the member retires before the date of his sixty-fifth birthday, provides an adjusted retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equalling the governmental old-age benefit becoming payable at such date as estimated by the board. The retirement allowance shall be paid to the retired member during his lifetime and to his named contingent annuitant for life thereafter.

(2) Option 1 or 2 may not be chosen if initial payments of less than ten dollars ($10.00) per month would result.

(3) Application for any optional retirement allowance shall be in writing, duly executed and filed with the board. Such application shall contain all information required by the board, including such proofs of age as are deemed necessary by the board.

(4) A retirement option elected at the time of retirement as provided for in section 59-1317, Idaho Code, may not be changed except by written notice to the retirement board no later than five (5) business days after the receipt of the first retirement allowance.

(5) Not later than one (1) year after the marriage of a retired member, he may elect option 1, 2 or 4 to become effective one (1) year after the date of such election, provided the member's spouse is named as a contingent annuitant, and either:

(a) The member was not married at the time of his retirement; or

(b) The member earlier elected option 1, 2 or 4, having named his spouse as contingent annuitant, and said spouse has died. The retirement allowance to be converted in such a case is that currently being paid under said election.

SECTION 4. That Section 59-1319, Idaho Code, be, and the same is hereby amended to read as follows:

59-1319. COMPUTATION OF SERVICE RETIREMENT ALLOWANCES -- MINIMUM BENEFITS. (1) The annual amount of accrued retirement allowance for each month of credited service for which a member was not classified as a police officer or ~~fireman~~ firefighter shall equal one and two-thirds per cent (1 2/3%) of his average monthly salary. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) five dollars ($5.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1319A, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(2) The annual amount of accrued retirement allowance for each month of credited service for which a member was classified as a police officer or ~~fireman~~ firefighter shall equal two per cent (2%) of his average monthly salary. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) six dollars ($6.00) multiplied by the number of months of credited service and by the bridging factor, as provided in sec-

tion 59-1319A, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(3) Provisions of this section shall be applicable to members and contingent annuitants of the employee system and to members, annuitants and beneficiaries of the teachers and city systems. In any recomputation of an initial retirement allowance for a person not making a final contribution subsequent to 1974, the bridging factor referred to in subsections (1) and (2) shall be 1.000. Any recomputed retirement allowance shall be payable only prospectively from July 1, 1974.

(4) Benefits payable to a person who became a member prior to July 1, 1974, or to his beneficiaries shall never be less than they would have received under this act as in effect on June 30, 1974; provided, however, that the member shall have accrued the amount of accumulated contributions required thereby prior to payment of an initial retirement allowance.

(5) If the majority of a member's credited service is as an elected official or as an appointed official, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer in excess of twenty (20) hours per week during the term of office, and that member's initial service retirement allowance for service credited only during that period would be computed under subsection (1)(b) and/or (2)(b) of this section, without consideration of any other credited service, then it will be so computed for that period of service.

If that member has credited service from any other employment, the accrued service retirement allowance for the credited service from such other employment shall be computed from an average monthly salary for salary received during the period of such other employment.

(6) In no case, however, will a member's regular retirement benefit be equal to more than one hundred per cent (100%) of the member's average compensation for the three (3) consecutive years of employment which produce the greatest aggregate compensation. If the benefit is calculated to exceed one hundred per cent (100%) of the member's average compensation, the member shall be eligible for and may choose either:

(a) an annual service retirement allowance equal to the member's average annual compensation for the three (3) consecutive years of employment which produced the greatest aggregate compensation; or

(b) a separation benefit.

(7) The annual amount of retirement allowance of a member who is over age seventy (70) on the effective date of the member's retirement shall be a percentage of the member's accrued retirement allowance. Such percentage shall be one hundred per cent (100%) increased as determined by the board to compensate for each month that the member's retirement is deferred beyond age seventy (70).

SECTION 5. 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 retire-

ment 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 the index month of the previous year to the consumer price index for 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~~. The actuarial assets comprise the sum of the actuarial present value of the amortization payments determined with the requirements of section 59-1330(4), Idaho Code, and paragraphs (b), (c), (d) and (e) of section 59-1330(4), Idaho Code. The actuarial liabilities are as defined in paragraph (a) of section 59-1330(4), 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 numbered of months in the earlier adjustment 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. The index month is October for adjustment years com-

mencing 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 subsections (1) ~~above~~ and (8) of this section, such action on the part of the legislature shall constitute legislative approval of the board's adjustments.

(8) Notwithstanding other provisions of this section, the board may grant a post-retirement allowance adjustment for any previous year or years up to the full amount of the increase in the consumer price index for that year or those years, as provided in subsection (7) above.

SECTION 6. That Section 59-1324, Idaho Code, be, and the same is hereby amended to read as follows:

59-1324. COMPUTATION OF DEATH BENEFITS -- METHOD OF PAYMENT -- OPTIONAL DEATH BENEFIT. (1) The death benefit of an active or inactive member shall equal the excess, if any, of the member's accumulated contributions at the time the benefit becomes payable over the aggregate of all retirement allowance payments ever made to the deceased member upon the death of the member and the contingent annuitant, if any. The death benefit of a retired member~~, except as provided by section 59-1317, Idaho Code,~~ shall equal the excess, if any, of the member's accumulated contributions at the time the member retired over the aggregate of all retirement allowance payments ever made to the deceased member and the member's named contingent annuitant, if any.

(2) The death benefit, if any, will be paid to the beneficiary surviving the member; otherwise, it will be paid in accordance with the laws of descent and distribution of the state of Idaho as they may then be in effect.

(3) Upon the death of a member who has at least five (5) years of credited service and is: (a) active; or (b) inactive and eligible to receive a retirement allowance; or (c) a disability retired member; his beneficiary may elect, in lieu of any death benefit otherwise payable, an allowance to be paid to the member's surviving spouse as provided in option 1 under section 59-1317, Idaho Code. The initial retirement allowance upon which such optional retirement allowance is based shall be calculated as if the member had retired immediately before his death. If the member is not then eligible to receive a service or early retirement allowance, such initial retirement allowance shall equal the actuarial equivalent of the retirement allowance payable when the member would first be eligible for vested retirement, calculated as if he had separated from service immediately before his death.

SECTION 7. That Section 59-1325A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1325A. MEMBER'S RETIREMENT RECORDS CONFIDENTIAL. Except as specifically provided by law, information contained in the retirement system mortgage portfolio loan documents and in each member's retire-

ment system records is considered confidential and may not be divulged except as ordered by a court; or except as may be required by the employer member or by the retirement board and its staff in order to carry into effect the purposes of this act. A member may by his written authorization release specific information from his own retirement system records to a stated designee.

SECTION 8. That Section 59-1330, Idaho Code, be, and the same is hereby amended to read as follows:

59-1330. EMPLOYER CONTRIBUTIONS -- AMOUNTS -- RATES. (1) Each employer shall contribute to the cost of the system. The amount of the employer contributions shall consist of the sum of a percentage of the salaries of members to be known as the "normal cost" and a percentage of such salaries to be known as the "amortization payment." The rates of such contributions shall be determined by the board on the basis of assets and liabilities as shown by actuarial valuation, and such rates shall become effective no later than January 1 of the second year following the year of the most recent actuarial valuation, and shall remain effective until next determined by the board.

(2) The normal cost rate shall be computed to be sufficient, when applied to the actuarial present value of the future salary of the average new member entering the system, to provide for the payment of all prospective benefits in respect to such member which are not provided by the member's own contribution.

(3) The amortization rate shall not be less than the minimum amortization rate computed pursuant to subsection (4) of this section, unless a one (1) year grace period has been made effective by the board. During a grace period, the amortization rate shall be no less than the rate in effect during the immediately preceding year. A grace period may not be made effective if more than one (1) other grace period has been effective in the immediately preceding four (4) year period.

(4) The minimum amortization payment rate shall be that percentage, calculated as of the date of the most recent actuarial valuation, of the then actuarial present value of the annual salaries of all members in the system after the rate will be effective pursuant to subsection (1) of this section for the next thirty (30) years starting July 1, 1988, and twenty-five (25) years starting July 1, 1993, which is equivalent to the excess of (a) over the sum of the then actuarial present values of (b), (c), (d) and (e) as follows:

(a) ~~the--then-actuarial-present-value-of~~ all future benefits payable ~~in-respect-of~~ to all members and contingent annuitants ~~over the-sum-of-(a),-(b)-and-(c)-as-follows:~~;

(~~a~~b) ~~the--actuarial--value-of~~ the assets then held by the funding agent for the payment of benefits under this act; ~~and~~

(~~b~~c) ~~the-actuarial-present-value-of~~ the future normal costs payable in respect of all then active members; ~~and~~

(~~c~~d) ~~the-actuarial-present-value-of~~ the future contributions payable ~~either~~ under sections 59-1303-- through 59-1305, Idaho Code, by all ~~then~~ current active members~~,--or~~;

(e) future contributions payable as amortization payment until the minimum amortization payment rate being computed becomes

effective pursuant to subsection (1) of this section.

SECTION 9. That Section 59-1351, Idaho Code, be, and the same is hereby amended to read as follows:

59-1351. DEFINITIONS. As used in sections 59-1351 through and including 59-1359, Idaho Code, each of the terms defined shall have the meaning given in this section or in section 59-1302, Idaho Code, unless a different meaning is clearly required by the context.

(a) "Board" means the retirement board of the employee system.

(b) "Fireman member" and "firefighter member" means a person or beneficiary who, prior to October 1, 1980, was receiving benefits or establishing the right to receive benefits from the firemen's retirement fund.

(c) "Firemen's retirement fund" means the retirement system created by and existing through chapter 14, title 72, Idaho Code.

(d) "Employee system" means the retirement system created and existing through chapter 13, title 59, Idaho Code.

(e) "Employer" means a city or fire district that employs paid firemen who are participating in the firemen's retirement fund on October 1, 1980.

(f) "Paid fireman" and "paid firefighter" means any individual, male or female, excluding office secretaries on the payroll of any city or fire district in the state of Idaho who devotes his or her principal time of employment to the care, operation, maintenance or the requirements of a regularly constituted fire department of such city or fire district in the state of Idaho.

SECTION 10. That Section 72-1414, Idaho Code, be, and the same is hereby amended to read as follows:

72-1414. PAYMENT OF PENSIONS -- AMOUNT TO BE PAID -- PARTIES ENTITLED THERETO. Any ~~fireman~~ firefighter, spouse, child or children of a ~~fireman~~ firefighter entitled to compensation under the Workmen's Compensation Law, shall draw benefits under this chapter only to the extent that the benefits under this chapter exceed those to which he or she shall be entitled under the Workmen's Compensation Law of Idaho. In no case, however, will a firefighter's regular retirement benefit be equal to more than one hundred per cent (100%) of the firefighter's average compensation for the three (3)consecutive years of employment which produce the greatest aggregate compensation. If the benefit is calculated to exceed one hundred per cent (100%) of the firefighter's average compensation, the firefighter shall be eligible for and may choose either:

(1) An annual service retirement allowance equal to the firefighter's average annual compensation for the three (3) consecutive years of employment which produced the greatest aggregate compensation; or

(2) A separation benefit.

SECTION 11. That Chapter 14, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1429E, Idaho Code, and to read as

follows:

72-1429E. SURVIVING CHILD. A person qualifies as a surviving child of a firefighter if he or she is dependent on the firefighter at the time of the firefighter's death and meets either of the following requirements:

(a) At the time of the firefighter's death, the person is under the age of eighteen (18) years and, had the firefighter been eligible for social security benefits, would be entitled to child insurance benefits under the federal social security ~~act~~ by the firefighter's death; or

(b) Qualifies and has been filed for as a dependent under the age of eighteen (18) years on the firefighter's most recent internal revenue service income tax forms.

SECTION 12. That Section 72-1429H, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429H. DEATH BENEFITS -- SPOUSE AND THE SURVIVING CHILD OR CHILDREN OF ~~FIREMAN~~ FIREFIGHTER KILLED IN PERFORMANCE OF DUTY. (1) In the event a paid ~~fireman~~ firefighter is killed or sustained injury from which death results, while in performance of his duty and leaves surviving him a spouse or a spouse with the firefighter's surviving child or children, the spouse, during his or her lifetime and so long as he or she does not remarry, shall be paid from the public employee retirement account the same pension the deceased ~~fireman~~ firefighter would have been entitled to had the deceased ~~fireman~~ firefighter retired as of the date of death, but in no event less than a monthly sum equal to: (a) sixty-five percent (65%) of the average paid ~~fireman's~~ firefighter's salary or wage in this state, if the deceased ~~fireman~~ firefighter was an Option I ~~fireman~~ firefighter; or, (b) sixty-five percent (65%) of the deceased ~~fireman's~~ firefighter's average monthly salary or wage, based on his average final compensation, if the deceased ~~fireman~~ firefighter was an Option II ~~fireman~~ firefighter hired prior to July 1, 1978; or (c) fifty percent (50%) of the deceased ~~fireman's~~ firefighter's average monthly salary or wage, based on his average final compensation, if the deceased ~~fireman~~ firefighter was an Option II ~~fireman~~ firefighter hired after July 1, 1978. If the surviving spouse should die, the full retirement pay shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased ~~fireman~~ firefighter shall have died without leaving a surviving spouse and leaving surviving a child or children, said firefighter's surviving child or children shall be entitled to be paid from the public employee retirement account the same pension the deceased ~~fireman~~ firefighter would have been entitled to had the deceased ~~fireman~~ firefighter retired as of the date of death, until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) The monthly benefits provided for in this section shall vary annually according to the cost of living adjustment as set forth in section 72-1432B, Idaho Code.

(3) Those benefits payable under the provisions of subsection

(1), or under the provisions of section 72-1429G, Idaho Code, which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 13. That Section 72-1429I, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429I. DEATH BENEFITS -- SPOUSE OF RETIRED ~~FIREMAN~~ FIREFIGHTER. (1) In the event a paid ~~fireman~~ firefighter, retired on retirement pay, shall die and leave surviving a spouse, who was such spouse for over five (5) years immediately prior to said ~~fireman's~~ firefighter's death, but no minor children, such surviving spouse shall receive for life the retirement benefits to which the deceased ~~spouse~~ firefighter was entitled so long as such surviving spouse does not remarry.

(2) Those benefits payable under the provisions of subsection (1) which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 14. That Section 72-1429J, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429J. DEATH BENEFITS -- ~~WIDOW~~ SURVIVING SPOUSE AND SURVIVING CHILD OR CHILDREN OF RETIRED ~~FIREMAN~~ FIREFIGHTER. In the event a paid ~~fireman~~ firefighter, retired on retirement pay, shall die and leave surviving ~~him~~ a ~~widow~~ spouse, ~~who was his wife for~~ of over five (5) years immediately prior to ~~his~~ the firefighter's death, or a ~~widow~~ spouse and firefighter's surviving child or children, the ~~widow~~ spouse, during ~~her~~ the spouse's lifetime and so long as ~~she~~ the spouse does not remarry, shall be paid the retirement pay to which ~~her~~ the deceased ~~husband~~ firefighter was eligible, and if ~~she~~ the surviving spouse marries or dies the full retirement pay shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first. Should a paid ~~fireman~~ firefighter, retired on retirement pay, die without leaving a surviving ~~wife~~ spouse, and leave surviving him or her a minor child or children, said child or children shall be entitled to receive the pension to which said ~~fireman~~ firefighter was entitled until they marry or shall attain eighteen (18) years of age, whichever occurs first.

SECTION 15. That Section 72-1429L, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429L. DEATH BENEFITS -- ~~WIDOW~~ SURVIVING SPOUSE AND CHILDREN OF ~~FIREMAN~~ FIREFIGHTER DYING FROM CAUSES UNCONNECTED WITH DUTIES BUT DURING SERVICE AFTER FIVE YEARS. (1) In the event a paid ~~fireman~~ firefighter who shall have died from causes unconnected with said ~~fireman's~~ firefighter's official duties, but during the period of said ~~fireman's~~ firefighter's service, leaves surviving a spouse or a spouse with firefighter's surviving child or children, and who shall have

completed less than twenty (20) years, but more than five (5) years of active service as defined in subsection (H) of section 72-1402, Idaho Code, as a paid ~~fireman~~ firefighter, said spouse, during the spouse's lifetime and so long as said spouse does not remarry, shall be paid from the account a monthly sum equal to: (a) two percent (2%) of the average paid ~~fireman's~~ firefighter's salary or wage in this state, if the deceased ~~fireman~~ firefighter was an Option I ~~fireman~~ firefighter, for each year's active service; or, (b) two percent (2%) of said ~~fireman's~~ firefighter's average monthly salary or wage, based on his average final compensation, if the deceased ~~fireman~~ firefighter was an Option II ~~fireman~~ firefighter hired prior to July 1, 1978, for each year's active service; or, (c) one and one-half percent (1 1/2%) of said ~~fireman's~~ firefighter's average monthly salary or wage, based on his average final compensation, if the deceased ~~fireman~~ firefighter was an Option II ~~fireman~~ firefighter hired after July 1, 1978, for each year's active service. The monthly sum for Option I benefits shall vary annually, according to the determination of the average paid ~~fire-fighter's~~ firefighter's salary or wage in this state as set forth in section 72-1411, Idaho Code. If said surviving spouse dies said monthly sum shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased ~~fireman~~ firefighter shall have died without leaving a surviving spouse and leaving surviving a child or children, said firefighter's surviving child or children shall be entitled to receive said monthly sum until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) In the event a paid ~~fireman~~ firefighter who shall have ~~dired~~ died from causes unconnected with said ~~fireman's~~ firefighter's official duties, but during the period of said ~~fireman's~~ firefighter's service, leaves surviving a spouse or a spouse with firefighter's surviving child or children, and who shall have completed less than twenty-five (25) years, but more than twenty (20) years of active service as defined in subsection (H) of section 72-1402, Idaho Code, as a paid ~~fireman~~ firefighter, said spouse, during his or her lifetime and so long as said spouse does not remarry, shall be paid from the account a monthly sum equal to the sum the ~~fireman~~ firefighter would have received under the provisions of section 72-1430, Idaho Code, had said ~~fireman~~ firefighter retired as of the date of his or her death, and for the purposes of this section, said ~~fireman~~ firefighter shall be deemed to have retired as of the date of death. The monthly retirement sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1432B, Idaho Code, and if said spouse dies said monthly sum shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first, provided, however, that if said deceased ~~fireman~~ firefighter shall have died without leaving a surviving spouse and leaving surviving a child or children, said firefighter's surviving child or children shall be entitled to receive said monthly sum until they reach the age of eighteen (18) years or shall marry, whichever occurs first.

(3) Those benefits payable under the provisions of subsections (1) and (2) which were ordered prior to July 1, 1978, shall continue

under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 16. That Section 72-1429M, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429M. DEATH BENEFITS -- SPOUSE AND CHILDREN OF ~~FIREMAN~~ FIREFIGHTER DYING FROM CAUSES UNCONNECTED WITH DUTIES BUT DURING SERVICE AFTER TWENTY-FIVE YEARS. (1) In the event a paid ~~fireman~~ firefighter who shall have died from causes unconnected with said ~~fireman's~~ firefighter's official duties, but during the period of said ~~fireman's~~ firefighter's service, and left surviving a spouse or a spouse with child or children, and who shall have completed twenty-five (25) years' active service as defined in subsection (H) of section 72-1402, Idaho Code, as a paid ~~fireman~~ firefighter, said spouse, during his or her lifetime and so long as he or she does not remarry, shall be paid from the account a monthly sum equal to: (a) sixty-five percent (65%) of the average paid ~~fireman's~~ firefighter's salary or wage in this state, if the deceased ~~fireman~~ firefighter was an Option I ~~fireman~~ firefighter; or, (b) sixty-five percent (65%) of said ~~fireman's~~ firefighter's average monthly salary or wage, based on his average final compensation, if the deceased ~~fireman~~ firefighter was an Option II ~~fireman~~ firefighter hired prior to July 1, 1978; or, (c) fifty percent (50%) of the deceased ~~fireman's~~ firefighter's average monthly salary or wage, based on his average final compensation, or the amount that the firefighter would have received had the deceased firefighter retired under the provisions of section 72-1430, Idaho Code, as of the date of death, whichever is greater, if the deceased ~~fireman~~ firefighter was an Option II ~~fireman~~ firefighter hired after July 1, 1978. The monthly sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1432B, Idaho Code, and if he or she dies said monthly sum shall be paid to the surviving child or children until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased ~~fireman~~ firefighter shall have died without leaving a surviving spouse and leaving a child or children, said surviving child or children shall be entitled to receive the pension which said ~~fireman~~ firefighter was entitled until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) Those benefits payable under the provisions of subsection (1), or under the provisions of section 72-1430G, Idaho Code, which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

SECTION 17. That Section 72-1432C, Idaho Code, be, and the same is hereby amended to read as follows:

72-1432C. DISABILITY -- REEXAMINATION -- RETURN TO SERVICE. Irrespective of the date of retirement, at least once each year during the first five (5) years following the retirement of a firefighter with a disability retirement pension and in any three (3) year period there-

after, the public employee retirement system board may, or upon the disabled firefighter's application shall, require the disabled firefighter to undergo a medical examination, to be made by or under the direction of a physician designated by the board, at the place of residence of said disabled firefighter or other place mutually agreed upon. Should any disabled firefighter refuse to submit to such medical examination in any period, his or her disability retirement may be discontinued by the board and should such refusal continue for one (1) year all his or her rights in and to his or her disability retirement pension shall be revoked by the board. If upon such medical examination of said disabled firefighter, the said physician reports to the board that said disabled firefighter is physically able and capable of resuming employment in the classification held by him or her at the time of his or her retirement, he or she shall be restored to active service in the employment of the city or fire district and payment of his or her disability retirement shall cease, provided the report of the physician is concurred in by the board. A disabled firefighter so restored to active service shall from the date of his or her return to service become a member of the retirement system, thereafter in the same manner as prior to his or her disability retirement. Any service credited to him or her at the time of his or her disability retirement shall be restored to full force and effect. He or she shall be given credit for the period he or she was receiving service disability pension, provided under section 72-1429~~3~~30H, Idaho Code; he or she shall not be given service credit for the period he or she was receiving a nonservice disability pension, provided under section 72-1429F, Idaho Code. When a disabled firefighter on a disability retirement engages in work activities commensurate with the physical demands that were required in his or her classification as a firefighter, the work performed may demonstrate that said firefighter has the ability to be restored as a firefighter in the employ of the city or fire district. However, the circumstances under which the work was performed generally must be considered. Where said disabled firefighter has to discontinue his or her work after a short time because of his or her impairment, his or her work activities would not demonstrate ability to resume his or her employment as a firefighter. The findings of the adequacy of the said firefighter's performance of work activities must be concurred in by the board. If said firefighter has a disability which is amenable to corrective treatment that could be expected to restore his or her efficient performance of duties of a paid firefighter, as defined in section 72-1402(G), Idaho Code, he or she would be considered disabled, provided he or she is undergoing the treatment prescribed by the medical committee, as set forth in section 72-1430H, Idaho Code.

However, nothing in this section shall be construed to require a firefighter who in good faith relies on or is treated by prayer through spiritual means alone by a duly accredited practitioner of a well-recognized church to undergo any medical or surgical treatment, nor shall he or his dependents be deprived of any benefits hereunder to which he would have been entitled if medical or surgical treatment were employed.

SECTION 18. An emergency existing 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, 1990.

CHAPTER 250
(S.B. No. 1411)

AN ACT

RELATING TO STANDARDS FOR HUNTING PRESERVES; AMENDING SECTION 36-2203, IDAHO CODE, TO PROVIDE CONDITIONS FOR APPROVAL OF HUNTING PRESERVES LOCATED WITHIN ONE MILE OF STATE OR FEDERAL PARKS, WILDERNESS AREAS, REFUGE OR WILDLIFE MANAGEMENT AREAS.

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

SECTION 1. That Section 36-2203, Idaho Code, be, and the same is hereby amended to read as follows:

36-2203. STANDARDS. (a) Each shooting preserve shall contain a minimum of one hundred sixty (160) acres in any tract of land (including water area, if any) and shall be restricted to not more than one thousand six hundred (1,600) acres (including water area, if any). Tracts included in the preserve do not need to be contiguous.

(b) The tract or tracts of land concerned must be owned or leased by the licensee; must be adaptable to use as a game breeding and/or controlled shooting area; must be of such nature that the game birds propagated and/or released thereon are not likely to become diseased and a menace to other wildlife; and the operation of a shooting preserve must be of such a nature as to not likely work a fraud upon persons paying a fee to hunt thereon.

(c) No license shall be granted for any shooting preserve, any portion of which is ~~less than~~ within one (1) mile ~~distant from~~ of any state or federal park, wilderness area, refuge or wildlife management area operated by the state or federal government unless the commission finds that:

1. The state or federal park, wilderness area, refuge or wildlife management area is less than one hundred sixty (160) acres in size;
2. The state or federal park, wilderness area, refuge or wildlife management area is open to public hunting; and
3. Licensing the proposed shooting preserve will not affect the management of the state or federal park, wilderness area, refuge or wildlife management area.

Approved April 5, 1990.

CHAPTER 251
(S.B. No. 1596)

AN ACT

RELATING TO RETIREMENT PROGRAMS FOR CERTAIN FACULTY AND STAFF OF THE COLLEGE AND UNIVERSITIES AND THE STATE BOARD OF EDUCATION; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-107A, IDAHO CODE, TO AUTHORIZE THE STATE BOARD OF EDUCATION TO ESTABLISH OPTIONAL RETIREMENT PROGRAMS FOR NEWLY HIRED FACULTY AND PROFESSIONAL STAFF AT THE STATE COLLEGE AND UNIVERSITIES AND FOR THE STATE BOARD OF EDUCATION.

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

SECTION 1. That Chapter 1, 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 33-107A, Idaho Code, and to read as follows:

33-107A. BOARD MAY ESTABLISH AN OPTIONAL RETIREMENT PROGRAM. (1) The state board of education may establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for members of the faculty and nonclassified staff of the university of Idaho, Idaho state university, Boise state university, Lewis Clark state college and the office of the state board of education who are hired after July 1, 1990; provided, however, that no such employee shall be eligible to participate in an optional retirement program unless he would otherwise be eligible for membership in the public employees retirement system of Idaho. The benefits to be provided for or on behalf of participants in an optional retirement program shall be provided through annuity contracts or certificates, fixed or variable in nature, or a combination thereof, whose benefits are owned by the participants in the program.

(2) The state board of education is hereby authorized to provide for the administration of the optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes. The board shall designate the company or companies from which contracts are to be purchased under the optional retirement program and shall approve the form and contents of such contracts. In making the designation and giving approval, the board shall consider:

(a) The nature and extent of the rights and benefits to be provided by such contracts for participants and their beneficiaries;

(b) The relation of such rights and benefits to the amount of contributions to be made;

(c) The suitability of such rights and benefits to the needs of the participants and the interests of the institutions in the recruitment and retention of staff members; and

(d) The ability of the designated company to provide such suitable rights and benefits under such contracts.

(3) Elections to participate in an optional retirement program shall be as follows:

(a) Eligible employees are those initially appointed or hired on or after July 1, 1990, but shall exclude employees who are active members of the public employees retirement system of Idaho immediately prior to appointment to the faculty or nonclassified staff for an appointment which occurs after July 1, 1990. At time of entry into service an eligible employee shall participate in the optional retirement program.

(b) Active faculty and nonclassified staff employed on July 1, 1990, may make a one (1) time irrevocable election to participate in the optional retirement program. The election of active faculty or nonclassified staff members of the public employees retirement system of Idaho shall be made in writing, within ninety (90) days after July 1, 1990, and filed with the administrative officer of the employing institution to be effective as of July 1, 1990. Such election by an active member of the public employees retirement system of Idaho shall be treated as a separation from service for benefits under chapter 13, title 59, Idaho Code.

(c) An election by an eligible employee of the optional retirement program shall be irrevocable and shall be accompanied by an appropriate application, where required, for issuance of a contract or contracts under the program.

(4) (a) Each institution shall contribute on behalf of each participant in its optional retirement program the following:

(i) To the designated company or companies, an amount equal to the employer's "normal cost" under the public employees retirement system as defined in section 59-1330, Idaho Code, reduced by any amount necessary, if any, to provide contributions to a total disability program provided either by the state or by a private insurance carrier licensed and authorized to provide such benefits, but in no event less than five per cent (5%) of each participant's salary; and

(ii) To the public employees retirement system, an amount equal to the "amortization payment" as defined in section 59-1330, Idaho Code, which otherwise would have been paid to the public employees retirement system if the participant in its optional retirement program had instead become an active member of the public employees retirement system.

(b) Each participant shall contribute an amount equal to the member contribution under the public employees retirement system as required in section 59-1304, Idaho Code. Employee contributions may be made by employer pick-up pursuant to section 59-1303A, Idaho Code.

(c) Payment of contributions authorized or required under this subsection shall be made by the financial officer of the employing institution to the designated company or companies for the benefits of each participant.

(5) Any person electing to participate in the optional retirement program shall be ineligible for membership in the public employees retirement system of Idaho so long as he remains continuously employed in any faculty or nonclassified position by any of the institutions under the jurisdiction of the state board of education.

(6) A retirement, death or other benefit shall not be paid by the state of Idaho or the state board of education for services credited

under the optional retirement program. Such benefits are payable to participants or their beneficiaries only by the designated company or companies in accordance with the terms of the contracts.

Approved April 5, 1990.

CHAPTER 252
(S.B. No. 1394, As Amended)

AN ACT

RELATING TO LICENSES TO RETAIL LIQUOR BY THE DRINK; AMENDING SECTION 23-903, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF A LICENSE TO SELL LIQUOR BY THE DRINK AT CONTINUOUS OPERATION FACILITIES AND TO CORRECT A CODIFIED ERROR.

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 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 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 ~~truck~~ 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, 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.

Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a food, beverage and/or lodging facility that has been in continuous operation in the same location for at least seventy-five (75) years, except for temporary closings for refurbishing or reconstruction. The provisions of section 23-910, Idaho Code, shall apply to licenses issued to continuous operation facilities. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued to continuous operation facilities are not transferable.

Approved April 5, 1990.

CHAPTER 253
(S.B. No. 1406, As Amended)

AN ACT

RELATING TO WORKER'S COMPENSATION INSURANCE; AMENDING SECTION 72-523, IDAHO CODE, TO CHANGE CURRENT REFERENCES FROM NET PREMIUMS COLLECTED TO NET PREMIUMS WRITTEN, AND TO PROVIDE A DEFINITION; AND AMENDING SECTION 72-524, IDAHO CODE, TO CHANGE CURRENT REFERENCES FROM NET PREMIUMS COLLECTED TO NET PREMIUMS WRITTEN.

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

SECTION 1. That Section 72-523, Idaho Code, be, and the same is hereby amended to read as follows:

72-523. SOURCE OF FUND -- PREMIUM TAX. The state insurance fund, every authorized self-insurer and every surety authorized under the Idaho insurance code or by the director of the department of insurance to transact ~~workmen's~~ worker's compensation insurance in Idaho, in addition to all other payments required by statute, shall semiannually, within thirty (30) days after February 1 and July 1 of each year, pay into the state treasury to be deposited in the industrial administration fund a premium tax as follows:

(1) Every surety, other than self-insurers authorized to transact ~~workmen's~~ worker's compensation insurance, a sum equal to one and three-tenths per cent (1 3/10%) of the net premiums ~~collected~~ written by each respectively on ~~workmen's~~ worker's compensation insurance in this state during the preceding six (6) months' period, but in no case less than fifty dollars ($50.00); and

(2) Each self-insurer, a sum equal to one and three-tenths per cent (1 3/10%) of the amount of premium such employer who is a self-insurer would be required to pay as premium to the state insurance fund, but in no case less than fifty dollars ($50.00).

(3) Any insurer making any payment into the industrial administration fund under the provisions of subsection (1) of this section shall be entitled to deduct the full sum so paid from any sum that it is required to pay into the department of insurance as a tax on ~~workmen's~~ worker's compensation premiums.

(4) Computed upon the same basis as provided in subsections (1) and (2) of this section and payable at the time specified in this section, each surety and self-insurer shall pay a special and additional premium tax of four-tenths per cent (4/10%) covering the period July 1, 1974, through December 31, 1974, and thereafter seven-tenths per cent (7/10%) for the purpose of funding and administering a rehabilitation program and division within the commission as provided by law. In no case shall such special and additional premium tax be less than twenty-five dollars ($25.00) nor shall the amount paid for such purpose be deductible by sureties from any sums paid into the department of insurance as a tax on ~~workmen's~~ worker's compensation premiums.

(5) In arriving at net premiums ~~collected~~ written, dividends paid, declared or payable shall not be deducted.

(6) For the purposes of this section and section 72-524, Idaho Code, net premiums written shall mean the amount of gross direct premiums written, less returned premiums and premiums on policies not taken.

SECTION 2. That Section 72-524, Idaho Code, be, and the same is hereby amended to read as follows:

72-524. SURETIES' REPORTS OF TAX BASIS. Every surety, other than a self-insurer shall, under oath of the person or officers making the report, within thirty (30) days after February 1 and July 1 of each year, report to the commission the net amount of premium ~~collected~~ written on ~~workmen's~~ worker's compensation insurance in this state during the preceding six (6) months' period, and every self-insurer shall, within thirty (30) days after February 1 and July 1 of each year, report in the same manner to the commission the total payroll for the preceding six (6) months' period. The commission shall have the right, at any time and as often as it requires, to verify the ~~workmen's~~ worker's compensation premiums ~~collected~~ written by any surety, and to inspect or cause to be inspected the records of any surety underwriting or authorized to underwrite ~~workmen's~~ worker's compensation liability in the state of Idaho for premiums-~~collected~~written verification purposes. Failure of any such surety to allow such verification or inspection shall constitute sufficient cause enabling the commission to revoke such surety's authority to underwrite ~~workmen's~~ worker's compensation liability of any and all employers located, or doing business, in the state of Idaho.

Approved April 5, 1990.

CHAPTER 254
(S.B. No. 1509)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2102, IDAHO CODE, TO STRIKE A DEFINITION; AMENDING SECTION 36-2104, IDAHO CODE, TO STRIKE CONTRADICTORY LANGUAGE; AND AMENDING SECTION

36-2114, IDAHO CODE, TO PROVIDE A REFERENCE TO THE BOARD'S EXECUTIVE DIRECTOR, AND TO INCREASE THE TIME PERIOD FOR BOARD ACTION ON A COMPLAINT.

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

SECTION 1. That Section 36-2102, Idaho Code, be, and the same is hereby amended to read as follows:

36-2102. DEFINITIONS. (a) "Person" includes any individual, firm, partnership, corporation or other organization or any combination thereof.

(b) "Outfitter" includes any person who, while engaging in any of the acts enumerated herein in any manner: (1) advertises or otherwise holds himself out to the public for hire; (2) provides facilities and services for consideration; and (3) maintains, leases, or otherwise uses equipment or accommodations for compensation for the conduct of outdoor recreational activities limited to the following: hunting animals or birds; float or power boating on Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and streams; and hazardous desert or mountain excursions. Any firm, partnership, corporation or other organization or combination thereof operating as an outfitter shall designate one or more individuals as agents who shall, together with the licensed outfitter, be held responsible for the conduct of the licensed outfitter's operations and who shall meet all of the qualifications of a licensed outfitter.

(c) "Guide" is any natural person who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed. Any such person not employed by a licensed outfitter who offers or provides facilities or services as specified in subsection (b) of this section shall be deemed in violation of the provisions of this chapter, except: (1) any employee of the state of Idaho or the United States when acting in his official capacity, or (2) any natural person who is employed by a licensed outfitter solely for the following activities: caring for, grooming or saddling of livestock, cooking, woodcutting, and transporting people, equipment and personal property on public roads shall be exempt from the provisions of this chapter.

(d) "Board" means the Idaho outfitters and guides licensing board.

(e) "Resident" means a person who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license.

(f) "Nonresident" means any person not included in subsection (e) above.

(g) "License year" means that period of time beginning on April 1 and ending with March 31 of the following year.

(h) ~~"Big--game--hunting--area"--means-department-of-fish-and-game management-unit-or-units,-or-portions-thereof.~~

~~(i)~~ "Individual" means any person other than a partnership, corporation or any other organization or combination thereof.

SECTION 2. That Section 36-2104, Idaho Code, be, and the same is hereby amended to read as follows:

36-2104. LICENSE A PREREQUISITE FOR OUTFITTING AND GUIDING. (a) It is a misdemeanor for any person to engage in the business of or act in the capacity of~~,~~ an outfitter or outfitting, or in the occupation of guiding, ~~as an independent contractor or as the agent or employee of another,~~ unless such person has first secured an outfitter's or guide's license in accordance with the provisions of this act, or for any person to knowingly and willingly conspire to violate the provisions of this chapter.

(b) Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, such person shall be punished as provided in section 36-2117, Idaho Code.

SECTION 3. That Section 36-2114, Idaho Code, be, and the same is hereby amended to read as follows:

36-2114. REVOCATION OR SUSPENSION OF LICENSE -- REVIEW OF DENIAL OF LICENSE -- PROCEDURE. (a) Proceedings for the revocation or suspension of a license issued hereunder may be taken upon information and recommendation of any person. All accusations must be made in writing and signed by a person familiar therewith and submitted to the board. Thereupon, the board, acting as a board, or through its ~~secretary~~ executive director, shall make a preliminary investigation of all facts in connection with such charge. The board in its discretion may either decide to take no further action and the results of such investigation shall remain confidential, or the board may decide to initiate proceedings to suspend or revoke the license of the outfitter or guide against whom a complaint has been filed, in which case the board shall set a time and place for hearing as provided in section 67-5209, Idaho Code. Notice of such hearing shall be given to the licensee against whom accusations have been filed not later than ~~sixty~~ one hundred eighty (6180) days after the filing of such accusations. If, after full, fair and impartial hearing, the majority of the board shall find the accused has committed the violations alleged, the board may suspend the license for a period not to exceed one (1) year, or the board may order the license revoked. The board shall forthwith suspend or revoke such license in accordance with and pursuant to its order under the procedure established by sections 67-5209 through 67-5214, Idaho Code.

(b) Any applicant aggrieved by a denial of his application in whole or in part for an outfitter's or guide's license by the board shall have twenty (20) days from the day of receiving such notice of denial in which to submit a written request for a hearing before the board to review such action. Upon receipt of such request, the board shall hold a hearing as provided in sections 67-5209 through 67-5214, Idaho Code.

Approved April 5, 1990.

CHAPTER 255
(S.B. No. 1395)

AN ACT

RELATING TO LICENSES TO RETAIL LIQUOR BY THE DRINK; AMENDING SECTION 23-903, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF A LICENSE TO SELL LIQUOR BY THE DRINK AT QUALIFIED GONDOLA RESORT COMPLEXES; AND DECLARING AN EMERGENCY.

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 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 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 ~~truck~~ 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, 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.

Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of the lodging, dining and entertainment facilities owned by a gondola resort complex and operated in conjunction with the other public services provided by a gondola resort complex located within the ownership/leasehold boundaries of a gondola resort complex.

A gondola resort complex means an actual, bona fide gondola capable of transporting people for recreational and/or entertainment pur-

poses at least three (3) miles in length with a vertical rise of three thousand (3,000) feet, portions of which may be located within or over the limits of one (1) or more cities.

The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this subsection. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this subsection are not transferable.

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

Approved April 5, 1990.

CHAPTER 256
(S.B. No. 1535, As Amended, As Amended)

AN ACT

RELATING TO THE CIVIL RIGHT OF SELF DEFENSE THROUGH THE CARRYING OF CONCEALED WEAPONS; REPEALING SECTION 18-3302, IDAHO CODE; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3302, IDAHO CODE, TO PROVIDE A PROCEDURE FOR OBTAINING, FOR ISSUING AND FOR REVOKING A LICENSE TO CARRY A CONCEALED WEAPON AND TO PROVIDE PENALTIES FOR VIOLATION; AND AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 18-3302A, 18-3302B AND 18-3302C, IDAHO CODE, TO PROHIBIT THE SALE OF WEAPONS TO MINORS UNDER CERTAIN CIRCUMSTANCES, TO DEFINE WEAPON, TO PROHIBIT THE CARRYING OF CONCEALED WEAPONS WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS AND TO PROHIBIT THE CARRYING OF A CONCEALED WEAPON IN A COURTHOUSE JUVENILE DETENTION FACILITY OR JAIL.

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

SECTION 1. That Section 18-3302, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 33, 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 18-3302, Idaho Code, and to read as follows:

18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county shall, within sixty (60) days after the filing of an application by any person, issue a license to the person to carry a weapon concealed on his person within this state for four (4) years from the date of issue, for the purpose of protection or while engaged in business, sport or while traveling. However, if the applicant does not have a valid permanent Idaho driver's license, or Idaho state identification card, or has not been a resident of the state for the

previous consecutive ninety (90) days, the sheriff shall have up to ninety (90) days after the filing of the application to issue a license. The citizen's constitutional right to bear arms shall not be denied to him, unless he:

(a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law; or

(b) Is under indictment or formal accusation of a crime made by a prosecuting attorney in any court for a crime punishable by imprisonment for a term exceeding one (1) year; or

(c) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one (1) year; or

(d) Is a fugitive from justice; or

(e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802; or

(f) Is or has been adjudicated mentally defective or has been committed to a mental institution; or

(g) Is or has been discharged from the armed forces under dishonorable conditions; or

(h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years has elapsed since conviction or pardon has occurred prior to the date on which the application is submitted; or

(i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from owning, possessing or receiving a firearm; or

(j) Is an alien illegally in the United States; or

(k) Is a person who having been a citizen of the United States, has renounced his or her citizenship; or

(l) Is under twenty-one (21) years of age; or

(m) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from owning, possessing or receiving a firearm.

The license shall be revoked immediately upon conviction of a crime which makes the person ineligible to own, possess or receive a firearm or upon a conviction for a violation of the provisions of this section. The license shall be in triplicate, in a form to be prescribed by the director of the department of law enforcement, and shall bear the name, address, description and signature of the licensee, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The sheriff may require, as he deems appropriate on a case by case basis, the licensee to submit his fingerprints in addition to the other information required in this subsection. The license application shall contain a warning substantially as follows:

CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The original application shall be delivered to the licensee, the duplicate shall be sent by mail within seven (7) days to the director

of the department of law enforcement and the triplicate shall be preserved for six (6) years by the sheriff.

(2) The fee for original issuance of a four (4) year license shall be twenty dollars ($20.00) and if fingerprinting is required, an additional thirty dollars ($30.00) shall be charged, provided, that no other additional charges by any branch or unit of government shall be borne by the applicant for the issuance of the license and provided further, that the fee shall be distributed as follows:

(a) If fingerprinting is not required, eight dollars ($8.00) shall be paid to the state general account or, if fingerprinting is required, eight dollars ($8.00) shall be paid to the state general account, and thirty dollars ($30.00) shall be paid to the agency taking the fingerprints of the person licensed; and

(b) Twelve dollars ($12.00) shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

(3) The fee for renewal of the license shall be twelve dollars ($12.00), provided, that no other additional charges by any branch or unit of government shall be borne by the applicant for the renewal of the license and that the fee shall be distributed as follows:

(a) Four dollars ($4.00) shall be paid to the state general account; and

(b) Eight dollars ($8.00) shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

(4) A licensee may renew a license if the licensee applies for renewal within ninety (90) days before or after the expiration date of the license. A renewal license shall be valid for a period of four (4) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of ten dollars ($10.00) in addition to the renewal fee. Three dollars ($3.00) of the fee shall be paid to the state general account and seven dollars ($7.00) shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

(5) Notwithstanding the requirements of this section, the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(6) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of subsections (1) through (5) of this section, shall be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(7) Except in the person's place of abode or fixed place of business, a person shall not carry a concealed weapon without a license to carry a concealed weapon. For the purposes of this section, a concealed weapon means any dirk, dirk knife, bowie knife, dagger, pistol, revolver, or any other deadly or dangerous weapon. The provisions of

this section shall not apply to any shotgun or rifle.

(8) A sheriff who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.

(9) While in any motor vehicle, a person shall not carry a concealed weapon on his person or in his immediate vicinity without a permit to carry a concealed weapon. This shall not apply to any pistol or revolver located in plain view whether it is loaded or unloaded.

(10) In implementing the provisions of this section, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(11) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrants the issuance of the license to carry a concealed weapon. Such issuance shall be subject to limitations which the issuing authority deems appropriate.

(12) The requirement to secure a license to carry a concealed weapon under this section shall not apply to the following persons:

(a) Officials of a county, officials of the state of Idaho, officials of the United States, peace officers, guards of any jail, court appointed attendants or any officer of any express company on duty;

(b) Employees of the adjutant general and military division of the state where military membership is a condition of employment;

(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office, prosecutor's and their assistants;

(d) Any person outside the limits of or confines of any city, or outside any mining, lumbering, logging or railroad camp, located outside any city, while engaged in lawful hunting, fishing, trapping or other lawful outdoor activity that involves the carrying of a weapon for personal protection;

(e) Any publicly elected Idaho official.

(13) When issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following:

(a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state; or

(b) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course; or

(c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the department of law enforcement; or

(d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency; or

(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service; or

(f) Is licensed or has been licensed to carry a firearm in this state or a county or municipality, unless the license has been revoked for cause; or

(g) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor.

(14) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.

SECTION 3. That Chapter 33, Title 18, Idaho Code, be and the same is hereby amended to read as follows by the addition thereto of NEW SECTIONS, to be known and designated as Sections 18-3302A, 18-3302B, and 18-3302C, Idaho Code, and to read as follows:

18-3302A. SALE OF WEAPONS TO MINORS. It shall be unlawful to directly or indirectly sell or deliver, loan or barter to any minor under the age of sixteen (16) years any weapon without the consent of the parent or guardian of the minor. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not in excess of one thousand dollars ($1,000) by imprisonment in the county jail for a term not in excess of six (6) months, or by both such fine and imprisonment. As used in this section, "weapon" shall mean any dirk, dirk knife, bowie knife, dagger, pistol, revolver, gun, or any other dangerous weapon.

18-3302B. CARRYING CONCEALED WEAPONS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS. It shall be unlawful for any person to carry a concealed weapon on or about his person when intoxicated or under the influence of an intoxicating drink or drug. Any violation of the provisions of this section shall be a misdemeanor.

18-3302C. PROHIBITED CONDUCT. No person subject to licensure under the provisions of sections 18-3302, 18-3302A, and 18-3302B, Idaho Code, may carry a concealed weapon in a courthouse, juvenile detention facility or jail.

Approved April 5, 1990.

CHAPTER 257
(S.B. No. 1648)

AN ACT

TRANSFERRING FUNDS TO THE TAX COMMISSION ADMINISTRATIVE ACCOUNT; APPROPRIATING MONEYS TO THE STATE TAX COMMISSION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 3, CHAPTER 395, LAWS OF 1989; TRANSFERRING FUNDS TO THE TAX COMMISSION ADMINISTRATION ACCOUNT; APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 1991; AND DECLARING AN EMERGENCY FOR SECTIONS 1 AND 2 OF THIS ACT.

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

SECTION 1. There is hereby appropriated from the listed account the following amount to be transferred to the Tax Commission Administration Account:

FROM:

Idaho Petroleum Clean Water Trust Account $66,100

SECTION 2. In addition to the appropriation made by Section 3, Chapter 395, Laws of 1989, there is hereby appropriated to the State Tax Commission the following amounts, 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:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. GENERAL SERVICES:				
FROM:				
Tax Commission Administration Account	$40,000		$18,800	$58,800
B. AUDIT AND COLLECTIONS:				
FROM:				
Tax Commission Administration Account		$2,000		$ 2,000
C. REVENUE OPERATIONS:				
FROM:				
Tax Commission Administration Account	$ 4,800	$ 500		$ 5,300
GRAND TOTAL	$44,800	$2,500	$18,800	$66,100

SECTION 3. There is hereby appropriated from the listed account the following amount to be transferred to the Tax Commission Administration Account:

FROM:

Idaho Petroleum Clean Water Trust Account $41,100

SECTION 4. There is hereby appropriated to the State Tax Commission the following amounts, to be expended for the designated programs according to the designated expense classes from the listed account for the period July 1, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. GENERAL SERVICES:			
FROM:			
Tax Commission Administration Account		$ 8,000	$ 8,000
B. AUDIT AND COLLECTIONS:			
FROM:			
Tax Commission Administration Account	$22,600	$ 2,700	$25,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
C. REVENUE OPERATIONS:			
FROM:			
Tax Commission Administration Account	$ 6,000	$ 1,800	$ 7,800
GRAND TOTAL	$28,600	$12,500	$41,100

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after its passage and approval.

Approved April 5, 1990.

CHAPTER 258
(S.B. No. 1603)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1319, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE APPLICATION OF THE PROVISIONS OF THE SECTION FOR MEMBERS OF THE SYSTEM WITH CREDITED SERVICE AS A MEMBER OF THE IDAHO LEGISLATURE; AMENDING SECTION 59-1321, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE APPLICATION OF THE PROVISIONS OF THE SECTION FOR MEMBERS OF THE SYSTEM WITH CREDITED SERVICE AS A MEMBER OF THE IDAHO LEGISLATURE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 59-1319, Idaho Code, be, and the same is hereby amended to read as follows:

59-1319. COMPUTATION OF SERVICE RETIREMENT ALLOWANCES -- MINIMUM BENEFITS. (1) The annual amount of accrued retirement allowance for each month of credited service for which a member was not classified as a police officer or fireman shall equal one and two-thirds per cent (1 2/3%) of his average monthly salary. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) five dollars ($5.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1319A, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(2) The annual amount of accrued retirement allowance for each month of credited service for which a member was classified as a police officer or fireman shall equal two per cent (2%) of his average monthly salary. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) six dollars ($6.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1319A, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(3) Provisions of this section shall be applicable to members and contingent annuitants of the employee system and to members, annuitants and beneficiaries of the teachers and city systems. In any recomputation of an initial retirement allowance for a person not making a final contribution subsequent to 1974, the bridging factor referred to in subsections (1) and (2) shall be 1.000. Any recomputed retirement allowance shall be payable only prospectively from July 1, 1974.

(4) Benefits payable to a person who became a member prior to July 1, 1974, or to his beneficiaries shall never be less than they would have received under this act as in effect on June 30, 1974; provided, however, that the member shall have accrued the amount of accumulated contributions required thereby prior to payment of an initial retirement allowance.

(5) If the majority of a member's credited service is as an elected official or as an appointed official, <u>except as a member of the Idaho legislature,</u> and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer in excess of twenty (20) hours per week during the term of office, and that member's initial service retirement allowance for service credited only during that period would be computed under subsection (1)(b) and/or (2)(b) of this section, without consideration of any other credited service, then it will be so computed for that period of service. <u>The initial service retirement allowance of members of the Idaho legislature will be computed under subsection (1) and/or (2) of this section, on the basis of their total months of credited service.</u>

If that member has credited service from any other employment, the accrued service retirement allowance for the credited service from such other employment shall be computed from an average monthly salary for salary received during the period of such other employment.

SECTION 2. That Section 59-1321, Idaho Code, be, and the same is hereby amended to read as follows:

59-1321. COMPUTATION OF EARLY RETIREMENT ALLOWANCES. (1) The annual amount of initial early retirement allowance of a member shall be a percentage of his accrued retirement allowance. Such percentage shall be one hundred percent (100%) if the sum of the number of years and months of credited service and the age in years and months is equal to or greater than the sum indicated below. Otherwise, such percentage shall be one hundred percent (100%) reduced by one-fourth of one percent (.25%) for each month up to sixty (60) months that the member's retirement precedes the date he would be eligible to receive his full accrued benefit without additional credited service, and further reduced by two-thirds of one percent (.6667%) for each additional month.

If a member's service retirement ratio as defined by section 59-1310, Idaho Code, is:	Then the sum of his credited service and age must be equal to or greater than:
0.000 to 0.050	90
0.051 to 0.150	89
0.151 to 0.250	88
0.251 to 0.350	87
0.351 to 0.450	86
0.451 to 0.550	85
0.551 to 0.650	84
0.651 to 0.750	83
0.751 to 0.850	82
0.851 to 0.950	81
0.951 to 1.000	80.

(2) If the majority of a member's credited service is as an elected official or as an appointed official, except as a member of the Idaho legislature, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer in excess of twenty (20) hours per week during the term of office, that member's accrued retirement allowance for service credited only during that period shall be computed from an average monthly salary for salary received during that period of such employment only. The initial service retirement allowance of members of the Idaho legislature will be computed under subsection (1) and/or (2) of this section, on the basis of their total months of credited service.

If that member has credited service from any other employment, the accrued retirement allowance for the credited service from such other employment shall be computed from an average monthly salary for salary received during the period of such other employment.

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 July 1, 1985.

Approved April 5, 1990.

CHAPTER 259
(S.B. No. 1619)

AN ACT

AUTHORIZING THE GOVERNOR AND THE ATTORNEY GENERAL OR THEIR DESIGNEES TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE UNITED STATES FOR QUANTIFICATION OF THE FEDERAL RESERVED WATER RIGHTS OF THE UNITED STATES DEPARTMENT OF ENERGY WITHIN THE SNAKE RIVER BASIN IN IDAHO, AND TO PROVIDE PROCEDURES FOR THE NEGOTIATION OF THE AGREEMENT.

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

SECTION 1. The Governor and the Attorney General or their designees are authorized to negotiate and execute on behalf of the state of Idaho an agreement with the United States to quantify the federal reserved water rights of the United States Department of Energy within the Snake River Basin in Idaho. Any agreement between the state of Idaho and the United States shall be processed in accordance with the procedures set forth in Chapter 14, Title 42, Idaho Code.

Approved April 5, 1990.

CHAPTER 260
(S.B. No. 1634)

AN ACT
APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 1991; 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 from the listed accounts for the period July 1, 1990, through June 30, 1991:

FROM:

General Account	$1,109,300
State Planning and Commerce Development Account	6,000
Indirect Cost Recovery Account	22,200
Interagency Billing and Receipts Account	71,900
TOTAL	$1,209,400

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 325, Laws of 1989, for the period July 1, 1990, through June 30, 1991.

Approved April 5, 1990.

CHAPTER 261
(S.B. No. 1635)

AN ACT
EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

FROM:

General Account	$ 9,708,300
Idaho Law Enforcement Telecommunications Account	457,900
Drug Enforcement Donation Account	215,600
Federal Justice Assistance Account	1,722,000
Idaho Law Enforcement Account	10,036,000
Federal Motor Carrier Safety Account	1,072,300
Hazardous Material/Waste Enforcement Account	627,800
Idaho State Racing Commission Account	637,200
State Brand Board Account	1,631,500
Idaho Horse Breeders' and Owners' Award Account	125,000
Track Improvement and Industry Promotion Account	100,000
County Dog Racing Fund Account	250,000
Interagency Billing and Receipts Account	706,400
Peace Officers Account	800,400
Federal Highway Safety Account	216,900
TOTAL	$28,307,300

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$1,056,000	$ 323,900	$ 35,500		$ 1,415,400
Federal Motor Carrier Safety Account	32,200	1,000			33,200
Interagency Billing and Receipts Account	33,900	5,200			39,100
TOTAL	$1,122,100	$ 330,100	$ 35,500		$ 1,487,700
II. POLICE SERVICES:					
FROM:					
General Account	$3,731,200	$1,953,700	$678,300		$ 6,363,200
Idaho Law Enforcement Telecommunications Account	105,300	352,600			457,900
Drug Enforcement Donation Account		215,600			215,600
Federal Justice Assistance Account	534,600	243,900		$ 943,500	1,722,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Interagency Billing and Receipts Account	60,100	99,600		500,000	659,700
TOTAL	$4,431,200	$2,865,400	$678,300	$1,443,500	$ 9,418,400
III. IDAHO STATE POLICE:					
FROM:					
General Account					$ 1,210,700
Idaho Law Enforcement Account					10,036,000
Hazardous Material/Waste Enforcement Account					627,800
Federal Motor Carrier Safety Account					1,039,100
Federal Highway Safety Account					216,900
TOTAL					$13,130,500
IV. BRAND INSPECTION:					
FROM:					
State Brand Board Account	$1,370,300	$ 211,200	$ 50,000		$ 1,631,500
V. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Account	$ 369,900	$ 267,300			$ 637,200
Idaho Horse Breeders' and Owners' Award Account				$ 125,000	125,000
Track Improvement and Industry Promotion Account				100,000	100,000
County Dog Racing Fund Account				250,000	250,000
TOTAL	$ 369,900	$ 267,300		$ 475,000	$ 1,112,200
VI. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Account	$ 548,200	$ 139,300	$ 31,500		$ 719,000
Interagency Billing and Receipts Account		1,000			1,000
TOTAL	$ 548,200	$ 140,300	$ 31,500		$ 720,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. POST ACADEMY:					
FROM:					
Peace Officers Account	$ 336,000	$ 389,900	$ 10,500	$ 64,000	$ 800,400
Interagency Billing and Receipts Account		5,000	1,600		6,600
TOTAL	$ 336,000	$ 394,900	$ 12,100	$ 64,000	$ 807,000
GRAND TOTAL					$28,307,300

Approved April 5, 1990.

CHAPTER 262
(S.B. No. 1636)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1991; 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, 1990, through June 30, 1991:

FROM:	
General Account	$ 2,866,900
Dedicated Accounts	2,599,400
Federal Accounts	52,684,700
Interagency Billing and Receipts Account	86,700
TOTAL	$58,237,700

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, 1990, through June 30, 1991:

A. MANAGEMENT:	
FROM:	
General Account	$ 373,800
Education Projects, Nonfederal Account	1,500
Educational Block Grant Account	13,400
TOTAL	$ 388,700

B. FINANCE AND ADMINISTRATION:

FROM:	
General Account	$ 1,342,400
Interagency Billing and Receipts Account	86,700
Indirect Cost Recovery Account	75,400
Driver Training Account	1,530,800
Asbestos in Schools Account	549,400
Commodity Distribution Account	497,500
Computer Services Account	175,100
Educational Block Grant Account	7,900
Food Services Account	17,648,900
TOTAL	$21,914,100

C. STATE-FEDERAL INSTRUCTIONAL SERVICES:

FROM:	
General Account	$ 1,150,700
Professional Standards Commission Account	279,400
Northwest Association of Schools and Colleges Account	7,800
Education Projects, Nonfederal Account	20,700
Association for the Humanities in Idaho Account	39,500
Idaho Ag in the Classroom Account	11,200
Indian Education Account	153,800
Education Projects - Health and Human Services Account	868,700
Elementary and Secondary Education Account	30,835,600
Educational Block Grant Account	2,567,500
TOTAL	$35,934,900
GRAND TOTAL	$58,237,700

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 400, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

Approved April 5, 1990.

CHAPTER 263
(S.B. No. 1638)

AN ACT

APPROPRIATING MONEYS TO THE HISPANIC COMMISSION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 151, LAWS OF 1989; 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 151, Laws of 1989, 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 account for the period from the effective date of this act through June 30, 1991:

FOR:

Personnel Costs	$30,000

FROM:

Hispanic Commission Account	$30,000

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

Approved April 5, 1990.

CHAPTER 264
(S.B. No. 1645)

AN ACT

TRANSFERRING FUNDS TO THE TAX COMMISSION ADMINISTRATION ACCOUNT; APPROPRIATING MONEYS FOR THE AUDIT AND COLLECTIONS PROGRAM IN ADDITION TO THE APPROPRIATION MADE BY SECTION 3, CHAPTER 395, LAWS OF 1989; EXPRESSING LEGISLATIVE INTENT; TRANSFERRING FUNDS TO THE TAX COMMISSION ADMINISTRATION ACCOUNT; APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 1991; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 1991; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND DECLARING AN EMERGENCY FOR SECTIONS 1 AND 2 OF THIS ACT.

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

SECTION 1. There is hereby appropriated from the listed account the following amount to be transferred to the Tax Commission Administration Account:

FROM:

Substance Abuse Treatment Account	$50,000

SECTION 2. In addition to the appropriation made by Section 3, Chapter 395, Laws of 1989, there is hereby appropriated to the State Tax Commission for the Audit and Collections Program the following amount, to be expended according to the designated expense class from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:

Operating Expenditures	$50,000

FROM:

Tax Commission Administration Account	$50,000

SECTION 3. It is legislative intent that the expenditures for the State Tax Commission not exceed the following amount for the period July 1, 1990, through June 30, 1991:

FROM:

General Account	$13,959,000
Tax Commission Administration Account	219,500
Highway Suspense Account	1,340,100
Multi-State Tax Compact Account	112,100
Interagency Billing and Receipts Account	89,700
Unclaimed Property Account	270,600
TOTAL	$15,991,000

SECTION 4. 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	26,000
3. Hotel and Motel Tax Suspense Account	3,500
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
8. Substance Abuse Treatment Account	175,000
TOTAL	$219,500

SECTION 5. 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, 1990, through June 30, 1991:

A. GENERAL SERVICES:

FROM:

General Account	$ 2,946,300
Highway Suspense Account	267,400
Interagency Billing and Receipts Account	53,300
Tax Commission Administration Account	19,100
TOTAL	$ 3,286,100

B. AUDIT AND COLLECTIONS:

FROM:

General Account	$ 6,579,100
Highway Suspense Account	704,300
Tax Commission Administration Account	177,200
Unclaimed Property Account	270,600
Multi-State Tax Compact Account	112,100
TOTAL	$ 7,843,300

C. COUNTY SUPPORT:

FROM:

General Account	$ 1,954,200
Interagency Billing and Receipts Account	31,300
TOTAL	$ 1,985,500

D. REVENUE OPERATIONS:
FROM:

General Account	$ 2,419,400
Interagency Billing and Receipts Account	5,100
Highway Suspense Account	368,400
Tax Commission Administration Account	23,200
TOTAL	$ 2,816,100
GRAND TOTAL	$15,931,000

SECTION 6. There is hereby reappropriated to the State Tax Commission any unexpended and unencumbered balances of the moneys appropriated by Section 3, Chapter 395, Laws of 1989, to be used for nonrecurring expenditures only, for the period July 1, 1990, through June 30, 1991.

SECTION 7. There is hereby appropriated to the Board of Tax Appeals the following amount from the listed account for the period July 1, 1990, through June 30, 1991:
FROM:

General Account	$60,000

SECTION 8. There is hereby reappropriated to the Board of Tax Appeals any unexpended and unencumbered balances of the moneys appropriated by Section 5, Chapter 395, Laws of 1989, to be used for nonrecurring expenditures only, for the period July 1, 1990, through June 30, 1991.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 5, 1990.

CHAPTER 265
(S.B. No. 1640)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH EXTENSION SERVICE FOR FISCAL YEAR 1991; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND EXPRESSING LEGISLATIVE INTENT.

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, 1990, through June 30, 1991:

FROM:	
General Account	$14,997,000
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	238,300
TOTAL	$19,372,800

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 168, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

SECTION 3. It is legislative intent that if federal funds received by the Agricultural Research Extension Service Program exceed the total of $4,137,500, the General Account moneys appropriated in Section 1 of this act shall be reduced on a dollar-for-dollar basis up to $303,100 and shall revert to the General Account.

Approved April 5, 1990.

CHAPTER 266
(S.B. No. 1643)

AN ACT
EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$2,072,200
Operating Expenditures	1,388,900
Capital Outlay	91,200
TOTAL	$3,552,300
FROM:	
Insurance Administration Account	$3,013,300
Arson, Fire and Fraud Prevention Account	539,000
TOTAL	$3,552,300

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
Insurance Administration Account	$ 559,800	$ 468,100	$39,900	$1,067,800
B. REGULATION:				
FROM:				
Insurance Administration Account	$1,187,400	$ 723,700	$34,400	$1,945,500
C. ARSON, FIRE AND FRAUD:				
FROM:				
Arson, Fire and Fraud Prevention Account	$ 325,000	$ 197,100	$16,900	$ 539,000
GRAND TOTAL	$2,072,200	$1,388,900	$91,200	$3,552,300

Approved April 5, 1990.

CHAPTER 267
(S.B. No. 1496, As Amended in the House)

AN ACT

RELATING TO SUPPLIERS AND DEALERS IN AGRICULTURE EQUIPMENT; AMENDING TITLE 28, IDAHO CODE, BY THE ADDITION THERETO OF A NEW CHAPTER 24, PART 1, TITLE 28, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND INTENT, TO PROVIDE DEFINITIONS, TO DESIGNATE UNLAWFUL ACTS AND PRACTICES, TO PROVIDE FOR NOTICE OF AND GOOD CAUSE FOR TERMINATION OF DEALER AGREEMENTS OR CHANGES IN THE COMPETITIVE CIRCUMSTANCES OF A DEALER'S AGREEMENT, TO SPECIFY WHAT SHALL CONSTITUTE GOOD CAUSE, TO PROVIDE FOR REMEDIES AND ENFORCEMENT, TO PROVIDE SEVERABILITY, AND TO PROVIDE AN EFFECTIVE DATE.

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

SECTION 1. That Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 24, Part 1, Title 28, Idaho Code, and to read as follows:

TITLE 28
CHAPTER 24
PART 1
AGREEMENTS BETWEEN SUPPLIERS AND DEALERS OF FARM EQUIPMENT

28-24-101. LEGISLATIVE FINDINGS AND INTENT. The legislature of this state finds that the retail distribution and sale of agricultural equipment, utilizing independent retail businesses operating under

agreements with the manufacturers and distributors thereof, vitally affects the general economy of the state, public interests and public welfare and that it is necessary to regulate the business relations between independent dealers and the equipment manufacturers, wholesalers and distributors.

28-24-102. DEFINITIONS. As used in this chapter:

(1) "Continuing commercial relationship" means any relationship in which the equipment dealer has been granted the right to sell or service equipment manufactured by supplier.

(2) "Dealer agreement" means a contract or agreement, either expressed or implied, whether oral or written, between a supplier and an equipment dealer, by which the equipment dealer is granted the right to sell, distribute or service the supplier's equipment, where there is a continuing commercial relationship between the supplier and the equipment dealer.

(3) "Equipment" means machines designed for or adapted and used for agriculture, horticulture, livestock and grazing.

(4) "Equipment dealer" or "equipment dealership" means any person, partnership, corporation, association or other form of business enterprise, primarily engaged in the retail sale and/or service of equipment in this state, pursuant to any oral or written agreement for a definite or indefinite period of time in which there is a continuing commercial relationship in the marketing of the equipment or related services.

(5) "Good cause" means failure by an equipment dealer to substantially comply with essential and reasonable requirements imposed upon the equipment dealer by the dealer agreement, provided, such requirements are not different from those requirements imposed on other similarly situated equipment dealers in the state either by their terms or in the manner of their enforcement.

(6) "Supplier" means the manufacturer, wholesaler or distributor of the equipment to be sold by the equipment dealer, or any successor in interest to or assignee of the supplier. A successor in interest includes any purchaser of assets or stock, any surviving corporation resulting from merger or liquidation, any receiver or any trustee of the original supplier.

28-24-103. DEALER AGREEMENTS -- UNLAWFUL ACTS AND PRACTICES. It shall be a violation of the provisions of this chapter for a supplier to:

(1) Require or attempt to require any equipment dealer to order or accept delivery of any equipment or parts or any equipment with special features or accessories not included in the base list price of such equipment as publicly advertised by the supplier which the equipment dealer has not voluntarily ordered;

(2) Require or attempt to require any equipment dealer to enter into any agreement, whether written or oral, supplementing or amending an existing dealer agreement with such supplier unless such amendment or supplementary agreement is imposed on other similarly situated dealers in the state;

(3) Refuse to deliver in reasonable quantities and within a reasonable time after receipt of the equipment dealer's order, to any

equipment dealer having a dealer agreement for the retail sale of new equipment sold or distributed by such supplier, equipment covered by such dealer agreement specifically advertised or represented by such supplier to be available for immediate delivery. The failure to deliver any such equipment shall not be considered a violation of the provisions of this chapter when deliveries are based on prior retail sales ordering histories, the priority given to the sequence in which the orders are received or manufacturing schedules or if such failure is due to prudent and reasonable restriction on extension of credit by the supplier to the equipment dealer, an act of God, work stoppage or delay due to a strike or labor difficulty, a bona fide shortage of materials, freight embargo or other cause over which the supplier has no control;

(4) Terminate, cancel or fail to renew the dealer agreement of any equipment dealer or substantially change the competitive circumstances of the dealer agreement, attempt to terminate or cancel, or threaten not to renew the dealer agreement or attempt or threaten to substantially change the competitive circumstances of the dealer agreement without good cause. Nothing in this paragraph shall be interpreted to apply to a discontinuation of or change in the product line of an equipment dealer;

(5) Condition the renewal, continuation or extension of a dealer agreement on the equipment dealer's substantial renovation of the equipment dealer's place of business or on the construction, purchase, acquisition or rental of a new place of business by the equipment dealer, unless:

(a) The supplier has advised the equipment dealer in writing of its demand for such renovation, construction, purchase, acquisition or rental within a reasonable time prior to the effective date of the proposed date of renewal or extension, but in no case less than one (1) year; and

(b) The supplier demonstrates the need for such change in the place of business and the reasonableness of the demand with respect to marketing and servicing the supplier's products and any significant economic conditions existing at the time in the equipment dealer's trade area, and the equipment dealer does not make a good faith effort to complete such construction or renovation plans within one (1) year.

(6) Discriminate in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers in this state where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in a line of commerce. The provisions of this subsection do not prevent the use of differentials which make only due allowance for differences in the cost of manufacture, sale or delivery of equipment resulting from the differing methods or quantities in which such equipment is sold or delivered; provided that nothing shall prevent a supplier from offering a lower price in order to meet an equally low price of a competitor, or the services or facilities furnished by a competitor;

(7) Unreasonably withhold consent for an equipment dealer to change the capital structure of the equipment dealership or the means by which it is financed, provided that the equipment dealer meets the reasonable capital requirements of the supplier;

(8) Prevent, by contract or otherwise, any equipment dealer or any officer, member, partner or stockholder of an equipment dealership from selling, assigning, or transferring any interest or portion thereof held by any of them in the equipment dealership to any other person or party; provided, however, that no equipment dealer, officer, partner, member or stockholder shall have the right to sell, transfer, or assign the equipment dealership or the power of management or control thereof without the written consent of the supplier, except that such consent shall not be unreasonably withheld if the buyer, transferee, or assignee meets the reasonable financial, business experience and character standards of the supplier;

(9) Require an equipment dealer to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed by this chapter;

(10) (a) Unreasonably withhold consent, in the event of the death of the equipment dealer or the principal owner of the equipment dealership, to the transfer of the equipment dealer's or the principal owner's interest in the equipment dealership to a member or members of the family of the equipment dealer or of the principal owner or to another qualified individual, if the family member or other qualified individual meets the reasonable financial, business experience and character standards of the supplier. A supplier shall have sixty (60) days to consider a request to make a transfer to a family member or other qualified individual. If, within that period, the supplier determines that the designated family member or other qualified individual does not meet the reasonable financial, business experience and character standards of the supplier, it shall provide the designated family member or other qualified individual with written notice of its objection and the specific reasons for withholding its consent. If the family member or other qualified individual reasonably satisfies the supplier's objections within sixty (60) days after notice thereof, the supplier shall approve the transfer. As used in this paragraph, "family" means and includes a spouse, parents, siblings, children, step-children, sons-in-law, daughters-in-law, and lineal descendants, including those by adoption of the equipment dealer or principal owner of the equipment dealership. Nothing in this paragraph shall entitle a family member or other qualified individual to continue to operate the dealership without the consent of the supplier.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, in the event that a supplier and equipment dealer have duly executed an agreement concerning succession rights prior to the equipment dealer's death, and if such agreement has not been revoked, such agreement shall be observed.

28-24-104. TERMINATION OF DEALER AGREEMENT OR CHANGE OF EQUIPMENT DEALER'S COMPETITIVE CIRCUMSTANCES -- NOTICE -- GOOD CAUSE. (1) A supplier shall provide written notice to the equipment dealer of any proposed termination or nonrenewal of a dealer agreement or substantial change in the competitive circumstances of a dealer agreement. The notice shall state the reason(s) constituting good cause for the action proposed to be taken. Except where good cause is alleged under

the provisions of paragraphs (a) through (e) of subsection (2) of this section, such notice shall be provided to the equipment dealer not less than ninety (90) days before the proposed action is to become effective. Except where good cause is alleged under paragraphs (a) through (d) of subsection (2) of this section, the equipment dealer shall be given sixty (60) days within which to cure any claimed deficiency, and the notice shall advise the dealer of his right to cure. If the claimed deficiency is rectified within sixty (60) days, the notice shall be void and the proposed action shall not become effective. Notwithstanding the equipment dealer's failure to cure the deficiency or deficiencies claimed, where a ninety (90) day notice is required to be given by the supplier, the contractual term of the dealer agreement shall not expire, nor shall the dealer agreement be otherwise terminated or cancelled, nor shall the equipment dealer's competitive circumstances be substantially changed prior to the expiration of at least ninety (90) days following such notice without the written consent of the equipment dealer.

(2) As used in this chapter, "good cause" shall exist, but not be limited to the following circumstances when the equipment dealer has:

(a) Transferred a controlling ownership interest in the equipment dealership without the supplier's consent;

(b) Made a material misrepresentation to the supplier;

(c) Filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against the equipment dealer which has not been discharged within sixty (60) days after the filing; is in default under the provisions of a security agreement in effect with the supplier; or is insolvent or in receivership;

(d) Been convicted of a crime, punishable for a term of imprisonment for one (1) year or more;

(e) Failed to operate in the normal course of business for ten (10) consecutive business days or has terminated said business;

(f) Relocated the equipment dealer's place of business without the supplier's consent;

(g) Consistently engaged in business practices which are detrimental to the consumer or supplier by way of excessive pricing, misleading advertising, failure to provide service and replacement parts or perform warranty obligations;

(h) Inadequately represented the supplier over one (1) year or such time period specified in the dealer agreement causing lack of performance in sales, service or warranty areas and failed to achieve market penetration at levels consistent with similarly situated equipment dealerships in the state based on available record information;

(i) Consistently failed to meet building and housekeeping requirements, or has failed to provide adequate sales, service or parts personnel commensurate with the dealer agreement;

(j) Failed to comply with the applicable licensing laws pertaining to the products and services being represented for and on supplier's behalf;

(k) Materially failed to comply with the terms of the dealer agreement.

28-24-105. REMEDIES AND ENFORCEMENT. Monetary damages may be

recovered for losses sustained as a consequence of any violation of the provisions of this chapter. Such recovery may also include a requirement that the supplier repurchase at fair market value any data processing hardware and specialized repair tools and equipment previously purchased from the supplier or approved vendor of the supplier pursuant to requirements of the supplier. Injunctive relief may also be granted against any actual or threatened violation of the provisions of this chapter. In any action brought under this chapter the prevailing party shall be entitled to recover reasonable attorney fees and costs. The remedies set forth in this section shall not be deemed exclusive and shall be in addition to any other remedies permitted by law.

28-24-106. 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.

28-24-107. EFFECTIVE DATE -- APPLICATION TO AGREEMENTS. This act shall take effect on July 1, 1990, and shall apply to any dealer agreement then in effect which has no expiration date and which is a continuing agreement and all other dealer agreements entered into or renewed on or after such effective date.

Approved April 5, 1990.

CHAPTER 268
(S.B. No. 1472, As Amended in the House)

AN ACT

RELATING TO FIXED MINIMUM SENTENCES IN DRUG CASES; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2739B, IDAHO CODE, TO PROVIDE FIXED MINIMUM SENTENCES FOR CONTROLLED SUBSTANCE TRAFFICKING, TO PROVIDE SENTENCING FOR PERSONS GUILTY OF CONTROLLED SUBSTANCE TRAFFICKING, TO PROVIDE CONDITIONS FOR INCARCERATION AND PAROLE OF OFFENDERS, AND TO PROVIDE FINES IMPOSED UPON OFFENDERS; AMENDING SECTION 37-2737, IDAHO CODE, TO PROVIDE CLASSIFICATIONS; AMENDING SECTION 37-2739, IDAHO CODE, TO PROVIDE AGAINST OVERLAP OF THE FIXED MINIMUM TERM; AMENDING SECTION 37-2739A, IDAHO CODE, TO PROVIDE AGAINST OVERLAP OF THE FIXED MINIMUM TERM; AND AMENDING SECTION 16-1806A, IDAHO CODE, TO PROVIDE CERTAIN CONTROLLED SUBSTANCES ACT VIOLATIONS ON OR NEAR SCHOOL PREMISES OR FUNCTIONS TO THE LISTS OF CRIMES FOR WHICH A JUVENILE MAY BE CHARGED AS AN ADULT.

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 37-2739B, Idaho Code, and to read as follows:

37-2739B. FIXED MINIMUM SENTENCES IN DRUG CASES. (a) The legislature intends to allow fixed minimum sentences for certain aggravating factors found in cases brought under the uniform controlled substances act. The legislature hereby finds and declares that trafficking in controlled substances in the state of Idaho is a primary contributor to a societal problem that causes loss of life, personal injury and theft of property, and exacts a tremendous toll on the citizens of this state. To afford better protection to our citizens from those who traffic in controlled substances, the fixed minimum sentencing contained in subsections (b) and (c) of this section is enacted. By enacting fixed minimum sentences, the legislature does not seek to limit a court's power to impose a greater sentence pursuant to section 19-2513, Idaho Code.

(b) Any person who is found guilty of violating the provisions of section 37-2732(a)(1)(A), Idaho Code, or of any attempt or conspiracy to commit such a crime, may be sentenced to a fixed minimum term of confinement to the custody of the state board of correction, which term shall be at least five (5) years and may extend to life, for each of the following aggravating factors found by the trier of fact:

(1) That the defendant has previously been found guilty of or convicted of a violation of section 37-2732(a)(1)(A), Idaho Code, or of an attempt or conspiracy to commit such a crime, or an offense committed in another jurisdiction which, if committed in this jurisdiction, would be punishable as a violation of section 37-2732(a)(1)(A), Idaho Code, or as an attempt or conspiracy to commit such an offense.

(2) That the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school.

(3) That the violation consisted of the delivery or attempted delivery of a controlled substance to a minor child under the age of eighteen (18) years.

(c) The fixed minimum terms provided in this section may be imposed where the aggravating factors are separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at the trial of the substantive crime; provided, however, that the prosecutor shall give notice to the defendant of intent to seek a fixed penalty at least fourteen (14) days prior to trial. During a fixed minimum term of confinement imposed under this section, the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct except for meritorious service. Each fixed minimum term imposed shall be served consecutively to the others, and consecutively to any minimum term of confinement imposed for the substantive offense.

(d) Any person who is found guilty of violating the provisions of section 37-2732(a)(1)(A), Idaho Code, or of any attempt or conspiracy

to commit such a crime, and who is sentenced to serve at least one (1) minimum term of confinement under this section, may be fined an amount up to twice that otherwise provided for the substantive offense.

SECTION 2. That Section 37-2737, Idaho Code, be, and the same is hereby amended to read as follows:

37-2737. DISTRIBUTION TO PERSONS UNDER AGE 18. Any person eighteen (18) years of age or over who violates section 37-2732(a), Idaho Code, by distributing ~~a-controlled-substance-listed-in-schedule--I--or II--which-is-a-narcotic-drug~~ any nonnarcotic drug classified in schedule I, or any controlled substance classified in schedule III, IV, V, or VI, to a person under eighteen (18) years of age who is at least three (3) years his junior is punishable by the fine authorized by section 37-2732(a)(1)(~~A~~B), (C) or (D), Idaho Code, by a term of imprisonment of up to twice that authorized by section 37-2732(a)(1)(~~A~~B), (C) or (D), Idaho Code, or by both. ~~Any--person eighteen--(18)--years--of-age-or-over-who-violates-section-37-2732(a), Idaho-Code,-by-distributing-any-other-controlled-substance--listed--in schedules--I,-II,-III,-IV,-and-V-to-a-person-under-eighteen-(18)-years of-age-who-is-at-least-three-(3)-years-his-junior-is-punishable-by-the fine-authorized-by-section-37-2732(a)(1)(B),-(C),-or-(D),-Idaho--Code, by--a--term--of--imprisonment--up--to-twice-that-authorized-by-section 37-2732(a)(1)(B),-(C),-or-(D),-Idaho-Code,-or-both.~~

SECTION 3. That Section 37-2739, Idaho Code, be, and the same is hereby amended to read as follows:

37-2739. SECOND OR SUBSEQUENT OFFENSES. (a) Any person convicted of a second or subsequent offense under this act, who is not subject to a fixed minimum term under section 37-2739B, Idaho Code, may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

(b) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this act or under any statute of the United States or of any state relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs.

SECTION 4. That Section 37-2739A, Idaho Code, be, and the same is hereby amended to read as follows:

37-2739A. MANDATORY MINIMUM PENALTY. Any person who is convicted of violating the felony provisions of section 37-2732(a), Idaho Code, by distributing controlled substances to another person, who is not subject to a fixed minimum term under section 37-2739B, Idaho Code, and who has previously been convicted within the past ten (10) years in a court of the United States, any state or a political subdivision of one or more felony offenses of dealing, selling or trafficking in controlled substances on an occasion or occasions different from the felony violation of section 37-2732(a), Idaho Code, and which offense or offenses were punishable in such court by imprisonment in excess of one (1) year, shall be sentenced to the custody of the state board of

correction for a mandatory minimum period of time of not less than three (3) years or for such greater period as the court may impose up to a maximum of life imprisonment. The mandatory minimum period of three (3) years incarceration shall not be reduced and shall run consecutively to any other sentence imposed by the court.

SECTION 5. That Section 16-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

16-1806A. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS. (1) Any person, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes:

(a) Murder of any degree or attempted murder;

(b) Robbery;

(c) Rape, but excluding statutory rape;

(d) Forcible sexual penetration by the use of a foreign object;

(e) Infamous crimes against nature, committed by force or violence;

(f) Mayhem;

(g) Assault or battery with the intent to commit any of the above serious felonies;

(h) A violation of the provisions of section 37-2732(a)(1)(A)(B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any person proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that person were an adult defendant.

(2) Once a juvenile has been charged or indicted pursuant to this section or has been transferred for criminal prosecution pursuant to a waiver hearing, or information and has been found to have committed the offense for which he or she was charged, indicted or transferred, the juvenile shall thereafter be handled in every respect as if he or she were an adult for any subsequent violation of Idaho law.

(3) The sentencing judge of any person convicted pursuant to this section may choose to sentence the convicted person in accordance with the juvenile sentencing options set forth in this act, if a finding is made that adult sentencing measures would be inappropriate.

Approved April 5, 1990.

CHAPTER 269
(S.B. No. 1615, As Amended in the House)

AN ACT

RELATING TO PESTICIDES AND PESTICIDE APPLICATORS; AMENDING SECTION 22-3401, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS AND TO PROVIDE PROPER REFERENCES; AMENDING SECTION 22-3406, IDAHO CODE, TO PROVIDE RESTRICTIONS ON THE SALE OF GENERAL USE AND RESTRICTED USE PESTICIDES, TO REQUIRE KEEPING OF RECORDS AND TO PROVIDE FOR EXEMPTIONS; AND AMENDING SECTION 22-3423, IDAHO CODE, TO PROVIDE FOR CIVIL PENALTY AUTHORITY.

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

SECTION 1. That Section 22-3401, Idaho Code, be, and the same is hereby amended to read as follows:

22-3401. DEFINITIONS. When used in this act:

(1) "Department" means Idaho department of agriculture.

(2) "Director" means the director of the department of agriculture of the state of Idaho.

(3) "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.

(4) "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.

(5) "Device" means an instrument or contrivance, other than a firearm, intended to trap, destroy, control, repel or mitigate any pest or any other form of plant or animal life, other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals, but does not include equipment used for the application of pesticides when sold separately therefrom.

(6) "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(7) "Person" means any individual, partnership, association, fiduciary corporation, or any organized group of persons whether incorporated or not.

(8) "Plant regulator" means any substance or mixture of substances intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant

nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments.

(9) "Defoliant" means any substance or mixture of substances intended for causing the foliage to drop from a plant, with or without causing abscission.

(10) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(11) "EPA" means the United States Environmental Protection Agency.

(12) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

(13) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and, having so received, deliver or offer to deliver, pesticides in this state.

(14) "Label or labeling" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappers. It would also include all other written, printed or graphic material that accompanies the pesticide or device at any time.

(15) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a separate container from that of the pesticide with which it is to be used.

(16) "Pest control consultant" means an individual who offers or supplies technical advice, or recommendations respecting the use of an agricultural pesticide.

(17) "Commercial applicator" means an individual who owns or operates a business engaged in the application of pesticides upon the land or property of another.

(18) "Commercial operator" means an individual who uses pesticides and is employed by a licensed commercial applicator.

(19) "Limited applicator" means (a) an individual who is a federal employee, pesticide industry representative, state of Idaho employee or agent, counties, cities, municipal corporations, irrigation districts, drainage districts, and public utilities employees or agents who uses or supervises the application of restricted-use pesticides which are restricted to use only by certified applicators and does not hold himself out as a commercial applicator, and (b) an individual who is not a commercial applicator, commercial operator, or a private applicator, and who uses or supervises the use of a restricted-use pesticide, restricted to use only by a certified applicator on land owned or rented by him, and (c) an employee of a business, who uses, applies or supervises the application of any restricted-use pesticide which is restricted to use only by certified applicators on land owned by the business for purposes other than the production of agricultural commodities.

(20) "Pesticide industry representative" means an individual who is a pesticide manufacturer's representative, distributor's representative, or any field representative of any company or organization that deals in agricultural commodities, who uses or supervises the

application of restricted-use pesticides which are restricted to use only by certified applicators solely for the purpose of demonstrating the use of the restricted-use pesticide.

(21) "Private applicator" means an individual who uses or supervises the use of any restricted-use pesticides restricted to use only by certified applicators for the purpose of producing agricultural commodities or forest crops on land owned or rented by him or his employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the property of another person.

(22) "Certified applicator" means an individual who has qualified as a commercial applicator, commercial operator, limited applicator, or private applicator under the provisions of this act and the regulations promulgated by the director.

(23) "Pesticide equipment" means any equipment, machinery, or apparatus used in the actual application of pesticides including aircraft and ground-spraying equipment.

(24) "Under the direct supervision of a certified applicator" means unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(25) "Pesticide dealer" means an individual who distributes any restricted-use pesticide or general use pesticide except those exempted in section 22-3406, Idaho Code, or any pesticide whose uses or distribution are further restricted by the director by regulation.

(26) "Restricted-use pesticide" means any pesticide or pesticide use classified for restricted use by the administrator of EPA.

(27) "Restricted area" means an area established under the provisions of section 22-3420~~19~~, Idaho Code, to prohibit or restrict the application of pesticides in order to prevent injury to land, people, animals, crops or the environment.

(28) "State restricted pesticide use" means any pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, may be further restricted when the director determines, subsequent to a hearing, that additional restrictions are needed for that use to prevent unreasonable adverse effects on the environment including man, lands, beneficial insects, animals, crops and wildlife, other than pests.

(29) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(30) "Wildlife" means all living things that are neither human, domesticated, nor as defined in this act, pests including, but not limited to, mammals, birds and aquatic life.

(31) "Designated agent" means an employee or agent of the state authorized by the director to perform various duties in connection with enforcement of this act.

(32) "Misbranded" shall apply to (a) any pesticide or device if its labeling bears any false or misleading statement, design or

graphic representation, and (b) any pesticide if such pesticide is not labeled as required by section 22-3402, Idaho Code, and (c) any pesticide if the labeling bears any reference to the registration provisions of section 22-3402, Idaho Code, unless such reference is required by regulations promulgated by the director.

(33) "Adulterated" means a pesticide is adulterated for the purpose of this act if the strength or purity of the pesticide is below the purported or professed standard of quality as expressed in its labeling, or any substance has been substituted wholly or in part for any ingredient of the pesticide, or any valuable constituent thereof has been omitted wholly or in part.

(34) "General use pesticide" means any pesticide which is not a restricted-use pesticide.

SECTION 2. That Section 22-3406, Idaho Code, be, and the same is hereby amended to read as follows:

22-3406. PESTICIDE DEALERS. No individual shall act as a pesticide dealer without first obtaining a pesticide dealer's license issued by the department.

(1) Licensing:

(a) Application for a pesticide dealer's license shall be on a form prescribed by the department and shall be accompanied by a fee as prescribed by regulation; and

(b) an applicant who sells restricted-use pesticides must pass the department's examination in order to demonstrate his knowledge of how to use and handle pesticides in areas relevant to the operation he intends to undertake; and

(c) such application shall be due on or before July 1 of each year; and

(d) a license shall be required for each location, outlet, or warehouse ~~located within this state~~ from which such pesticides are distributed; and

(e) for an applicant selling restricted-use pesticides an examination fee will be charged as prescribed by regulation and an additional examination fee of five dollars ($5.00) shall be charged when an exam is requested at other than a regularly scheduled examination date.

(2) Records and Reports:

(a) ~~The director shall require a pesticide dealer to keep accurate records which contain the trade name or brand name and distribution of restricted use pesticides or devices within the state. The director may also require a pesticide dealer to maintain other records and furnish reports that he determines necessary to implement the provisions of this act; and~~

~~(b) these records shall be available for inspection and reproduction by the director at all reasonable times.~~ Restricted-use pesticides or devices: The director shall require a pesticide dealer to keep accurate sale and distribution records as prescribed by regulation of restricted-use pesticides or devices;

(i) The director may also require a pesticide dealer to maintain other records and furnish reports for restricted-use pesticides or devices he determines necessary to implement

the provisions of this act; and

(ii) Records shall be maintained for three (3) years and be available for inspection and reproduction by the director at all reasonable times; and

(iii) The dealer shall be required to post total sales of each restricted-use pesticide by county and shall not include detailed customer sales records or customer invoice records. This report shall be furnished to the director no more than two (2) times per year as prescribed by regulation.

(b) General use pesticides: The director shall require a pesticide dealer to keep accurate sale and distribution records as prescribed by regulation of general use pesticides except those exempted in subsection (4) of this section.

(i) Records shall be maintained for three (3) years and be available for inspection and reproduction by the director at all reasonable times; and

(ii) The dealer shall be required to report total sales of each general use pesticide by county and shall not include detailed customer sales records or customer invoice records. This report shall be furnished to the director no more than two (2) times per year as prescribed by regulation; and

(iii) The director may require dealers to furnish other reports of these records in the case of emergency as provided by regulation.

(3) Pesticide dealers shall sell restricted-use pesticides restricted to use only by certified applicators only to licensed commercial applicators, limited applicators, private applicators, and dealers.

(4) Exemptions:

(a) A manufacturer's representative or wholesale distributor shall be exempt from subsection (1) of this section provided such representative or distributor does not have a warehouse in Idaho that pesticides are sold, stored or distributed from; and

(b) the director may exempt a pesticide from the provisions of subsection (1) or (2) of this section by regulation if it is determined that licensing or recordkeeping is not necessary for selling the pesticide.

SECTION 3. That Section 22-3423, Idaho Code, be, and the same is hereby amended to read as follows:

22-3423. PENALTY FOR VIOLATIONS. (1) Any ~~individual~~ person who shall forge, alter, counterfeit, simulate or falsely represent, or who shall without proper authority use any license issued by the director under this act, or who shall violate or fail to comply with any provisions of this act ~~or any regulations promulgated thereunder~~ shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any provision of this act or any regulations promulgated under this act may be

assessed a civil penalty by the department or its duly authorized agent of not more than three thousand dollars ($3,000) for each offense and shall be liable for reasonable attorney fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedures act. If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under this section may, within thirty (30) days of the final agency action making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred. Moneys collected for violation of a rule or regulation shall be deposited in the state treasury and credited to the pesticide account of the department.

(3) Nothing in this chapter shall be construed as requiring the director to report minor violations for prosecution when he believes that the public interests will be best served by suitable warnings or other administrative action.

Approved April 5, 1990.

CHAPTER 270
(S.B. No. 1646)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE IN ADDITION TO THE APPROPRIATION MADE BY SECTION 3, CHAPTER 390, LAWS OF 1989; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 3, Chapter 390, Laws of 1989, there is hereby appropriated to the Department of Agriculture the following amounts to be expended for the specified programs according to the designated expense classes from the listed accounts for the period July 1, 1989, through June 30, 1990:

A. AGRICULTURAL INSPECTIONS:

FOR:	
Personnel Costs	$500,000
Operating Expenditures	50,000
Trustee and Benefit Payments	20,000
TOTAL	$570,000
FROM:	
Fresh Fruit and Vegetable Inspection Account	$570,000

B. PLANT INDUSTRY:

FOR:	
Personnel Costs	$ 1,000
Trustee and Benefit Payments	11,200
TOTAL	$ 12,200
FROM:	
General Account	$ 12,200

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 April 5, 1990.

CHAPTER 271
(S.B. No. 1457, As Amended in the House)

AN ACT

RELATING TO DAY CARE; AMENDING SECTION 39-1113, IDAHO CODE, TO PROVIDE ADDITIONAL CONDITIONS WHERE THE DEPARTMENT OF HEALTH AND WELFARE MAY DENY, SUSPEND OR REVOKE A LICENSE.

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

SECTION 1. That Section 39-1113, Idaho Code, be, and the same is hereby amended to read as follows:

39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) A license may be denied, suspended or revoked by the department if the department finds that the applicant or licensee does not comply with the provisions of this chapter.

(2) No person who has been found guilty of <u>or received a withheld judgment for</u> any offense involving neglect or any physical injury to, or other abuse of a child including, but not limited to: a sex crime, as defined in chapter 66, title 18, Idaho Code; rape, as defined in chapter 61, title 18, Idaho Code; injuring a child as defined in section 18-1501, Idaho Code; selling or bartering a child as defined in section 18-1511, Idaho Code; sexually abusing a child, as defined in section 18-1506, Idaho Code; sexually exploiting a child, as defined in section 18-1507 or 18-1508<u>7A</u>, Idaho Code; <u>lewd conduct with a minor or child under sixteen (16) years of age as defined in section 18-1508, Idaho Code;</u> or a similar provision in another jurisdiction, shall be eligible for a license under this chapter.

(3) The denial, suspension or revocation of a license under this chapter may be appealed to the district court of the county in which the affected day care center is located and the appeal shall be heard de novo in the district court.

Approved April 5, 1990.

CHAPTER 272
(S.B. No. 1652)

AN ACT

RELATING TO SCHOOL DISTRICTS RECEIVING PUPILS; AMENDING SECTION 33-1404, IDAHO CODE, AS AMENDED BY SECTION 3, CHAPTER 43, LAWS OF 1990, TO CLARIFY TUITION REQUIREMENTS FOR NONRESIDENT PUPILS AND HOMELESS CHILDREN.

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

SECTION 1. That Section 33-1404, Idaho Code, as amended by Section 3, Chapter 43, Laws of 1990, be, and the same is hereby amended to read as follows:

33-1404. DISTRICTS TO RECEIVE PUPILS. Every school district shall receive and admit pupils transferred thereto, where payment of their tuition is to be paid by the home district, or waived by the receiving district, except when any such transfer would work a hardship on the receiving district. Each receiving school district shall be governed by written policy guidelines, adopted by the board of trustees, which define hardship impact upon the district or upon an individual school within the district. The policy shall provide specific standards for acceptance and rejection of applications for accepting out of district pupils. Standards may include the capacity of a program, class, grade level or school building. Standards may not include previous academic achievement, athletic or other extracurricular ability, handicapping conditions, or proficiency in the English language.

Nonresident pupils who are placed by court order under provisions of the Idaho youth rehabilitation or child protective acts and reside in licensed group homes, agencies and institutions shall be received and admitted by the school district in which the facility is located without payment of tuition.

Homeless children and youth as defined by the Stewart B. McKinney homeless assistance act (P.L. 100-77), may attend any school district or school within a district without payment of tuition when it is determined to be in the best interest of that child.

Approved April 5, 1990.

CHAPTER 273
(S.B. No. 1439, As Amended, As Amended)

AN ACT

RELATING TO THE IDAHO CONSUMER PROTECTION ACT; AMENDING SECTION 48-601, IDAHO CODE, TO STATE PURPOSE OF THE ACT; AMENDING SECTION 48-603, IDAHO CODE, TO PROVIDE THAT IT IS A PROHIBITED ACT FOR A PERSON TO REPRESENT THAT HE HAS QUALIFICATIONS OR A LICENSE HE DOES NOT HAVE, AND TO PROHIBIT UNCONSCIONABLE METHODS, ACTS OR

PRACTICES IN THE CONDUCT OF TRADE OR COMMERCE; AMENDING TITLE 48, CHAPTER 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 48-603C, IDAHO CODE, TO PROVIDE THAT THE COURT SHALL CONSIDER CERTAIN CIRCUMSTANCES IN DETERMINING WHETHER A METHOD, ACT OR PRACTICE IS UNCONSCIONABLE; AMENDING SECTION 48-606, IDAHO CODE, TO CLARIFY THE RELIEF THE ATTORNEY GENERAL MAY SEEK FROM THE DISTRICT COURT, TO PROVIDE FOR THE USE OF CONSENT JUDGMENTS, AND TO PROVIDE FOR THE CREATION OF THE CONSUMER PROTECTION ACCOUNT; AMENDING SECTION 48-607, IDAHO CODE, TO CLARIFY THE RELIEF THAT MAY BE GRANTED BY THE DISTRICT COURT; AMENDING SECTION 48-608, IDAHO CODE, TO INCREASE THE MINIMUM DAMAGES IN A PRIVATE CAUSE OF ACTION, TO PROVIDE FOR CLASS ACTIONS, TO PROVIDE THAT THE CLERK OF THE COURT SEND A COPY OF COMPLAINTS FILED PURSUANT TO THIS SECTION TO THE ATTORNEY GENERAL FOR INFORMATIONAL PURPOSES ONLY, AND TO CLARIFY THE ORDERS OF THE COURT THAT SHALL BE ADMISSIBLE IN A PRIVATE CAUSE OF ACTION BROUGHT UNDER THIS SECTION; AMENDING SECTION 48-610, IDAHO CODE, TO CLARIFY WHAT AN ASSURANCE OF VOLUNTARY COMPLIANCE CAN PROVIDE; AMENDING SECTION 48-612, IDAHO CODE, TO DELETE LANGUAGE CONCERNING THE GIVING OF TESTIMONY AND DISCLOSURE OF INFORMATION; AMENDING SECTION 48-614, IDAHO CODE, TO PROVIDE THAT CONTEMPT PENALTIES SUED FOR AND RECOVERED BY THE ATTORNEY GENERAL SHALL BE REMITTED TO THE CONSUMER PROTECTION ACCOUNT; AMENDING SECTION 48-615, IDAHO CODE, TO PROVIDE THAT VIOLATION OF A CONSENT JUDGMENT APPROVED BY THE COURT SHALL SUBJECT THE VIOLATOR TO MONETARY PENALTIES AND THAT PENALTIES SUED FOR AND RECOVERED BY THE ATTORNEY GENERAL SHALL BE REMITTED TO THE CONSUMER PROTECTION ACCOUNT; AND AMENDING SECTION 48-617, IDAHO CODE, TO PROVIDE THAT LOCAL LAW ENFORCEMENT OFFICIALS PROVIDE ASSISTANCE, UPON REQUEST OF THE ATTORNEY GENERAL, IN THE INVESTIGATION, COMMENCEMENT AND PROSECUTION OF ACTIONS UNDER THIS CHAPTER.

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

SECTION 1. That Section 48-601, Idaho Code, be, and the same is hereby amended to read as follows:

48-601. SHORT TITLE <u>AND PURPOSE.</u> This act shall be known and may be cited as the "Idaho consumer protection act". <u>The purpose of this act is to protect both consumers and businesses against unfair methods of competition and unfair or deceptive acts and practices in the conduct of trade or commerce, and to provide efficient and economical procedures to secure such protection. It is the intention of the legislature that this chapter be remedial and be so construed.</u>

SECTION 2. That Section 48-603, Idaho Code, be, and the same is hereby amended to read as follows:

48-603. UNFAIR METHODS AND PRACTICES. The following unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared to be unlawful, where a person knows, or in the exercise of due care should know, that he has in the past, or is:

(1) Passing off goods or services as those of another;

(2) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;

(3) Causing likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;

(4) Using deceptive representations or designations of geographic origin in connection with goods or services;

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, ~~or~~ connection, qualifications or license that he does not have;

(6) Representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand;

(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(8) Disparaging the goods, services, or business of another by false or misleading representation of fact;

(9) Advertising goods or services with intent not to sell them as advertised;

(10) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(11) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

(12) Obtaining the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed;

(13) Failing to deliver to the consumer at the time of the consumer's signature a legible copy of the contract or of any other document which the seller or lender has required or requested the buyer to sign, and which he has signed, during or after the contract negotiation;

(14) Making false or misleading statements of fact concerning the age, extent of use, or mileage of any goods;

(15) Promising or offering to pay, credit or allow to any buyer or lessee, any compensation or reward in consideration of his giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease;

(16) Representing that services, replacements or repairs are needed if they are not needed, or providing services, replacements or repairs that are not needed;

(17) Engaging in any act or practice which is otherwise misleading, false, or deceptive to the consumer;

(18) Engaging in any unconscionable method, act or practice in the conduct of trade or commerce, as provided in section 48-603C, Idaho Code, provided, however, that the provisions of this subsection shall not apply to a regulated lender as that term is defined in subsection (37) of section 28-41-301, Idaho Code.

SECTION 3. That Chapter 6, Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 48-603C, Idaho Code, and to read as follows:

48-603C. UNCONSCIONABLE METHODS, ACTS OR PRACTICES. (1) Any unconscionable method, act or practice in the conduct of any trade or commerce violates the provisions of this chapter whether it occurs before, during, or after the conduct of the trade or commerce.

(2) In determining whether a method, act or practice is unconscionable, the following circumstances shall be taken into consideration by the court:

(a) Whether the alleged violator knowingly or with reason to know, took advantage of a consumer reasonably unable to protect his interest because of physical infirmity, ignorance, illiteracy, inability to understand the language of the agreement or similar factor;

(b) Whether, at the time the consumer transaction was entered into, the alleged violator knew or had reason to know that the price grossly exceeded the price at which similar goods or services were readily available in similar transactions by similar persons, although price alone is insufficient to prove an unconscionable method, act or practice;

(c) Whether the alleged violator knowingly or with reason to know, induced the consumer to enter into a transaction that was excessively one-sided in favor of the alleged violator;

(d) Whether the sales conduct or pattern of sales conduct would outrage or offend the public conscience, as determined by the court.

SECTION 4. That Section 48-606, Idaho Code, be, and the same is hereby amended to read as follows:

48-606. PROCEEDINGS BY ATTORNEY GENERAL. (1) Whenever the attorney general has probable cause to believe that any person is using, has used, or is about to use any method, act or practice declared by this ~~act~~ chapter to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the state against such person ~~to-restrain-by-temporary-restraining-order-or-preliminary-or-permanent-injunction-the-use-of-such-method,-act-or--practice,-upon-the-giving-of-appropriate-notice-to-that-person-as-provided in--the--Idaho--rules-of-civil-procedure.-The-action-may-be-brought-in the-district-court-of-the-county-in-which-such-person-resides--or--has his--principal--place-of-business,-or-with-consent-of-the-parties,-may be-brought-in-the-district-court-of-Ada-County.-The--said--courts--are authorized--to--issue--temporary--restraining-orders-or-preliminary-or permanent-injunctions-to-restrain-and-prevent-violations-of-this--act, and-such-injunctions-shall-be-issued-without-bond.~~:

(a) To obtain a declaratory judgment that a method, act or practice violates the provisions of this chapter;

(b) To enjoin any method, act or practice that violates the provisions of this chapter by issuance of a temporary restraining order or preliminary or permanent injunction, upon the giving of

appropriate notice to that person as provided by the Idaho rules of civil procedure;

(c) To recover on behalf of consumers actual damages or restitution of money, property or other things received from such consumers in connection with a violation of the provisions of this chapter;

(d) To order specific performance by the violator;

(e) To recover from the alleged violator civil penalties of up to five thousand dollars ($5,000) per violation for violation of the provisions of this chapter; and

(f) To recover from the alleged violator reasonable expenses, investigative costs and attorney's fees incurred by the attorney general.

(2) The action may be brought in the district court of the county in which such person resides or has his principal place of business, or with consent of the parties, may be brought in the district court of Ada county. The said courts are authorized to issue temporary restraining orders or preliminary or permanent injunctions to restrain and prevent violations of the provisions of this chapter, and such injunctions shall be issued without bond.

(~~2~~3) Unless the attorney general finds in writing that the purposes of this ~~act~~ chapter will be substantially and materially impaired by delay in instituting legal proceedings, he shall, before initiating any legal proceedings as provided in this section, give notice in writing that such proceedings are contemplated to the person against whom proceedings are contemplated and allow such person a reasonable opportunity to appear before the attorney general and execute an assurance of voluntary compliance as in this ~~act~~ chapter provided.

(4) In lieu of instigating or continuing an action or proceeding, the attorney general may accept a consent judgment with respect to any act or practice alleged to be a violation of the provisions of this chapter, and it may include a stipulation for the payment by such person of reasonable expenses, investigative costs and attorney's fees incurred by the attorney general. The consent judgment may also include a stipulation for civil penalties to be paid, not in excess of five thousand dollars ($5,000) per alleged violation; a stipulation to pay to consumers actual damages or to allow for restitution of money, property or other things received from such consumers in connection with a violation of the provisions of this chapter; and/or a stipulation for specific performance. Before any consent judgment entered into pursuant to this section shall be effective, it must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of such consent judgment shall be treated as a violation of a court order, and shall be subject to all penalties provided by law therefor, including the penalties set forth in section 48-615, Idaho Code.

(5) All penalties, costs and fees recovered by the attorney general shall be remitted to the consumer protection account which is hereby created in the state operating fund. Moneys in the account may be expended pursuant to appropriation and shall be used for the furtherance of the attorney general's duties and activities under this chapter.

SECTION 5. That Section 48-607, Idaho Code, be, and the same is hereby amended to read as follows:

48-607. ADDITIONAL RELIEF BY COURT AUTHORIZED. In any action brought by the attorney general, ~~the court may make such additional orders or judgments as may be necessary to restore to any person in interest any moneys or property, real or personal, which may have been acquired by means of any practice in this act declared to be unlawful, including in the case of repeated violations the revocation of a license or certificate authorizing that person to engage in business in this state, or both.~~ wherein the state prevails, the court shall, in addition to the relief granted pursuant to section 48-606, Idaho Code, award reasonable costs, investigative expenses and attorney's fees to the attorney general. These costs and fees shall be remitted to the consumer protection account created in section 48-606, Idaho Code, and shall be used for the furtherance of the attorney general's duties and activities under this chapter. In addition, the court may:

(1) Make such orders or judgments as may be necessary to prevent the use or employment by a person of any method, act or practice declared to be a violation of the provisions of this chapter;

(2) Make such orders or judgments as may be necessary to compensate any consumers for actual damages sustained or to provide for restitution to any consumers of money, property or other things received from such consumers in connection with a violation of the provisions of this chapter;

(3) Make such orders or judgments as may be necessary to carry out a transaction in accordance with consumers' reasonable expectations;

(4) Appoint a master, receiver or escrow agent to oversee assets or order sequestration of assets whenever it shall appear that the defendant threatens or is about to remove, conceal or dispose of property to the damage of persons to whom restoration would be made under this subsection and assess the expenses of a master, receiver or escrow agent against the defendant;

(5) Revoke any license or certificate authorizing that person to engage in business in this state;

(6) Enjoin any person from engaging in business in this state; and/or

(7) Grant other appropriate relief.

SECTION 6. That Section 48-608, Idaho Code, be, and the same is hereby amended to read as follows:

48-608. LOSS FROM PURCHASE OR LEASE -- ACTUAL AND PUNITIVE DAMAGES. (1) Any person who purchases or leases goods or services and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by this act, may treat any agreement incident thereto as voidable or, in the alternative, may bring an ~~individual but not a class~~ action ~~under the Idaho rules of civil procedure in the district court of the county in which the seller or lessor resides or has his principal place of business or is doing business,~~ to recover actual damages or ~~five hundred~~ one thousand

dollars ($~~5~~1,000), whichever is the greater; provided, however, that in the case of a class action, the class may bring an action for actual damages or a total for the class that may not exceed one thousand dollars ($1,000), whichever is the greater. Any such person or class may also seek restitution, an order enjoining the use or employment of methods, acts or practices declared unlawful under this chapter and any other appropriate relief which the court in its discretion may deem just and necessary. The court may, in its discretion, award punitive damages and may provide such equitable relief as it deems necessary or proper in cases of repeated or flagrant violations.

(2) An action brought under subsection (1) of this section may be brought in the county in which the person against whom it is brought resides, has his principal place of business, or is doing business, or in the county where the transaction or any substantial portion thereof occurred.

(3) Upon commencement of any action brought under this section, the clerk of the court shall, for informational purposes only, mail a copy of the complaint or other initial pleading to the attorney general and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the attorney general.

(~~3~~4) Costs shall be allowed to the prevailing party unless the court otherwise directs. In any action brought by a person under this section, the court shall award, in addition to the relief provided in this section, reasonable attorney's fees to the plaintiff if he prevails. The court in its discretion may award attorney's fees to a prevailing defendant if it finds that the plaintiff's action is spurious or brought for harassment purposes only.

(~~4~~5) Any permanent injunction, judgment or order of the court made under section 48-606(1) through (3) or section 48-607, Idaho Code, shall be admissible as evidence in an action brought under section 48-608, Idaho Code, that the respondent used or employed a method, act or practice declared unlawful by this ~~act~~ chapter.

SECTION 7. That Section 48-610, Idaho Code, be, and the same is hereby amended to read as follows:

48-610. VOLUNTARY COMPLIANCE -- DISTRICT COURT APPROVAL. (1) In the administration of this ~~act~~ chapter, the attorney general may accept an assurance of voluntary compliance with respect to any method, act or practice deemed to be violative of the ~~act~~ provisions of this chapter from any person who has engaged or was about to engage in such method, act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the district court of the county in which the alleged violator resides or has his principal place of business or of the district court of Ada County and shall be deemed an order of the court enforceable by contempt proceedings.

(2) Such assurance of voluntary compliance shall not be considered an admission of violation for any purpose.

(3) The assurance of voluntary compliance shall provide for the discontinuance by the person entering into the same of any method, act or practice alleged to be a violation of this chapter, and it may include a stipulation for the payment by such person of reasonable

expenses, investigative costs and attorney's fees incurred by the attorney general. The recovered expenses, costs and fees shall be remitted to the consumer protection account created in section 48-606, Idaho Code, and shall be used for the furtherance of the attorney general's duties and activities under this chapter. The assurance may also include: a stipulation for payment to consumers of actual damages or for restitution of money, property, or other things received from consumers in connection with a violation of the provisions of this chapter; and a stipulation for specific performance.

(4) A violation of such assurance of voluntary compliance shall prima facie establish that the person subject thereto knows, or in the exercise of due care should know, that he has in the past violated or is violating the provisions of this ~~act~~ chapter.

(~~4~~5) Matters thus closed may at any time be reopened by the attorney general for further proceedings in the public interest, pursuant to section 48-606, Idaho Code.

SECTION 8. That Section 48-612, Idaho Code, be, and the same is hereby amended to read as follows:

48-612. ADDITIONAL POWERS OF ATTORNEY GENERAL. To accomplish the objectives and to carry out the duties prescribed by this ~~act~~ chapter, the attorney general, in addition to other powers conferred upon him by this ~~act~~ chapter, may issue subpoenas to any person and conduct hearings in aid of any investigation or inquiry~~;-provided-that-none-of the-powers-conferred-by-this-act-shall-be-used-for-the-purpose-of-compelling--any--natural--person--to--furnish-testimony-or-evidence-which might-tend-to-incriminate-him-or-subject-him-to-a-penalty--or--forfeiture;--and--provided-further-that-information-obtained-pursuant-to-the powers-conferred-by-this-act-shall-not-be-made-public-or-disclosed--by the--attorney-general-or-his-employees-beyond-the-extent-necessary-for law-enforcement-purposes-in-the-public-interest~~.

SECTION 9. That Section 48-614, Idaho Code, be, and the same is hereby amended to read as follows:

48-614. FAILURE TO OBEY ATTORNEY GENERAL -- APPLICATION TO DISTRICT COURT. If any person fails or refuses to file any statement or report, or obey any subpoena or investigative demand issued by the attorney general, the attorney general may, after notice, apply to a district court of the county in which the person resides and, after hearing thereon, request an order:

(1) Ordering such person to file such statement or report, or to comply with the subpoena or investigative demand issued by the attorney general;

(2) Granting injunctive relief to restrain the person from engaging in the advertising or sale of any merchandise or the conduct of any trade or commerce that is involved in the alleged or suspected violation; and

(3) Granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena or investigative demand.

Any disobedience of any final order entered under this section by

any court shall be punished as a contempt thereof. Contempt penalties sued for and recovered by the attorney general shall be remitted to the consumer protection account created in section 48-606, Idaho Code, and shall be used for the furtherance of the attorney general's duties and activities under this chapter.

SECTION 10. That Section 48-615, Idaho Code, be, and the same is hereby amended to read as follows:

48-615. VIOLATION OF INJUNCTION -- CIVIL PENALTY. Any person who violates the terms of an injunction issued ~~under~~ or consent order entered into pursuant to section 48-606, Idaho Code, shall forfeit and pay to the state a civil penalty of not more than ten thousand dollars ($10,000) per violation, the amount of the penalty to be determined by the district court issuing the injunction. For the purposes of this section, the district court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for recovery of civil penalties. Said civil penalties sued for and recovered by the attorney general shall be remitted to the consumer protection account created in section 48-606, Idaho Code, and shall be used for the furtherance of the attorney general's duties and activities under this chapter.

SECTION 11. That Section 48-617, Idaho Code, be, and the same is hereby amended to read as follows:

48-617. ~~COUNTY--ATTORNEYS~~ LOCAL LAW ENFORCEMENT OFFICIALS -- DUTIES. It shall be the duty of ~~the--county--attorneys~~ local law enforcement officials to ~~lend--to~~ provide the attorney general such assistance as the attorney general may request in the investigation, commencement and prosecution of actions pursuant to this ~~act~~ chapter.

Approved April 5, 1990.

CHAPTER 274
(S.B. No. 1448)

AN ACT

RELATING TO THE IDAHO TRADE SECRETS ACT; AMENDING SECTION 48-802, IDAHO CODE, TO PROVIDE THAT IN EXCEPTIONAL CIRCUMSTANCES, AN INJUNCTION MAY CONDITION FUTURE USE UPON PAYMENT OF A ROYALTY; AMENDING SECTION 48-803, IDAHO CODE, TO PROVIDE MEASUREMENTS OF DAMAGES FOR MISAPPROPRIATION; AND AMENDING SECTION 48-806, IDAHO CODE, TO PROVIDE WHICH LAWS DO, AND DO NOT APPLY IN MISAPPROPRIATION OF TRADE SECRET CASES.

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

SECTION 1. That Section 48-802, Idaho Code, be, and the same is hereby amended to read as follows:

48-802. INJUNCTIVE RELIEF. (1) Actual or threatened misappropriation may be enjoined. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.

(2) ~~If the court determines that it would be unreasonable to prohibit future use~~ In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time ~~the~~ for which use could have been prohibited. Exceptional circumstances include, but are not limited to, a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.

(3) In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.

SECTION 2. That Section 48-803, Idaho Code, be, and the same is hereby amended to read as follows:

48-803. DAMAGES. (1) ~~In addition to or in lieu of injunctive relief~~ Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant ~~may~~ is entitled to recover damages for ~~the actual loss caused by~~ misappropriation. ~~A complainant also may recover for~~ Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing ~~damages for~~ actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.

(2) If willful and malicious misappropriation exists, the court ~~may~~ award exemplary damages in an amount not exceeding twice any award made under subsection (1) of this section.

SECTION 3. That Section 48-806, Idaho Code, be, and the same is hereby amended to read as follows:

48-806. EFFECT ON OTHER LAW. (1) Except as provided in subsection (2) of this section, t~~T~~his chapter displaces conflicting tort, restitutionary, and other law of this state ~~pertaining to~~ providing civil liability remedies for misappropriation of a trade secret.

(2) This chapter does not affect:

(a) Contractual ~~or other civil liability or relief that is~~ remedies, whether or not based upon misappropriation of a trade secret; or

(b) ~~Criminal liability for~~ Other civil remedies that are not based upon misappropriation of a trade secret; or

(c) Criminal remedies, whether or not based upon misappropriation of a trade secret.

Approved April 5, 1990.

CHAPTER 275
(S.B. No. 1536)

AN ACT

RELATING TO PERSONAL PROPERTY WHICH IS EXEMPT FROM ATTACHMENT OR LEVY; AMENDING SECTION 11-605, IDAHO CODE, TO INCREASE THE VALUE FOR MOTOR VEHICLE EXEMPTION.

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

SECTION 1. That Section 11-605, Idaho Code, be, and the same is hereby amended to read as follows:

11-605. EXEMPTIONS OF PERSONAL PROPERTY SUBJECT TO VALUE LIMITATIONS. (1) An individual is entitled to exemption of the following property to the extent of a value not exceeding five hundred dollars ($500) on any one (1) item of property and not to exceed a total value of four thousand dollars ($4,000) per household for all items exempted under this subsection:

(a) furnishings and appliances reasonably necessary for one (1) household, including one (1) firearm;

(b) if reasonably held for the personal use of the individual or a dependent, wearing apparel, household pets, books, and musical instruments; and

(c) family portraits and heirlooms of particular sentimental value to the individual.

(2) An individual is entitled to exemption of jewelry, not exceeding two hundred fifty dollars ($250) in aggregate value, if held for the personal use of the individual.

(3) An individual is entitled to exemption, not exceeding one thousand dollars ($1,000) in aggregate value, of implements, professional books, and tools of the trade; and to an exemption of one (1) motor vehicle to the extent of a value not exceeding <u>one thousand</u> five hundred dollars ($<u>1,</u>500).

(4) All courthouses, jails, public offices and buildings, school houses, lots, grounds and personal property appertaining thereto, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this state, or for the use of schools, and all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this state. No article or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a mortgage thereon.

(5) All arms, uniforms and accouterments required for the use of an individual as a peace officer, a member of the national guard or military service.

(6) A water right not to exceed one hundred sixty (160) inches of

water used for the irrigation of lands actually cultivated by the individual, and the crop or crops growing or grown on fifty (50) acres of land, leased, owned or possessed by an individual cultivating the same, provided, that the amount of the crops so exempted shall not exceed the value of one thousand dollars ($1,000).

Approved April 5, 1990.

CHAPTER 276
(S.B. No. 1436, As Amended)

AN ACT

RELATING TO LAW ENFORCEMENT PERSONNEL RETIREMENT; AMENDING SECTION 59-1302A, IDAHO CODE, TO CLARIFY POLICE OFFICER MEMBERSHIP STATUS FOR RETIREMENT PURPOSES.

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

SECTION 1. That Section 59-1302A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302A. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.

(3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:

(a) (i) The director, deputy director of the department of law enforcement and the superintendent of the Idaho state police~~;~~ division, the assistant directors of the alcohol beverage control division and police services division.

(ii) Commissioned ~~and uniformed Idaho state police officers~~ personnel of the state police division, police services division and alcohol beverage control division holding positions which involve active law enforcement services, for which current POST certification is required to continue in employment in the position, POST instructors, and department of law enforcement training instructors~~;~~.

(iii) Brand inspectors and brand inspector supervisors~~;~~.

(iv) ~~The division administrator, regional supervisors and investigators in the police services division of the department of law enforcement, and the administrator and investigators in the alcohol beverage control division of the department of law enforcement;~~

~~(v) The bureau chief, supervisor, and specialists in the bureau of criminal identification in the department of law~~

~~enforcement;~~

~~(vi)~~ Employees of the department of law enforcement serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

(b) (i) County sheriffs;

(ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; deputy county sheriffs holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in county law enforcement activities pertaining to crime prevention or reduction; deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

(c) (i) City police chiefs;

(ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; city police officers holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in city law enforcement activities pertaining to crime prevention or reduction; police officers, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

(d) Employees of the department of fish and game serving in a conservation officer position for which current POST certification is necessary to continue in employment in that position and which position has as its primary accountability the enforcement of wildlife protection laws and regulations.

(e) (i) The director of the department of correction, the deputy director for probation and parole, and wardens of institutions;

(ii) Employees of the department of correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;

(iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;

(iv) Correctional peace officer training instructors;

(v) Employees of the department of correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

(f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.

(g) Magistrates of the district court, and court employees designated by court order to have primary responsibility for court security or transportation of prisoners.

(h) Paramedics and paramedic trainees.

(i) Criminal investigators of the attorney general's office, and criminal investigators of a prosecuting attorney's office.

(4) A member may be designated by the retirement board as a police officer member for retirement purposes if the position held is one in which the principal duties involve hazardous law enforcement duties.

(a) For purposes of this section, "hazardous law enforcement duties" mean principal duties which:

(i) Will reasonably expect to increase the probability of early superannuation;

(ii) Is associated with life-threatening risk or presents a position of peril either to the member or to others, or which can place the public safety in jeopardy; and

(iii) Either compels others to observe the law, pertains to crime prevention, or pertains to crime reduction, including police, courts, prosecution, correction, or rehabilitation.

(b) If continued employment in a position is conditioned on maintaining current POST certification, such condition shall be evidence to be considered that the employee is a police officer member for retirement purposes.

(i) After July 1, 1985, a requirement for POST certification for classified state employees may be made only by the personnel commission.

(c) Occasional assignments to hazardous law enforcement duties does not create a condition for designation as a police officer member for retirement purposes.

(5) Any employer or agency that believes that any employee, not specifically designated as a police officer by law, is incorrectly classified as a nonpolice officer member, may petition the retirement board for inclusion of that employee's position as one to be filled by a police officer member for retirement purposes. The petition shall be in writing and shall explain in detail the principal duties of the position and include written evidence which establishes that the criteria of subsection (4) are met. The board shall review the petition and evidence, together with such information and evidence as may be presented by the staff of the retirement system. The board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the board. The decision of the board shall be final, but a similar petition may be resubmitted after six (6) months.

(6) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board.

(7) An active member classified as a police officer for retirement purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements of this chapter for police officer status for retirement purposes shall become a general member but shall not lose retirement benefits earned and accrued prior to the reclassification. If that member continues to be employed in that same position until retired, that member then will be deemed to be a police officer member for the purposes of retirement eligibility.

Approved April 5, 1990.

CHAPTER 277
(S.B. No. 1629, As Amended)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1991; AMENDING CHAPTER 25, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2511, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE; AMENDING SECTION 33-2504, IDAHO CODE, TO AUTHORIZE THE STATE LIBRARY BOARD TO ADMINISTER A GRANT PROGRAM FOR THE PROMOTION OF SCIENCE EDUCATION; AMENDING CHAPTER 25, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2512, IDAHO CODE, TO PROVIDE FOR A MATCHING GRANT PROGRAM TO ENCOURAGE SCIENCE EDUCATION PROGRAMS AND TO ESTABLISH GRANT CRITERIA; AND PROVIDING FOR A ONE-TIME PAYMENT FOR A SCIENCE EDUCATION PROGRAM.

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$1,100,200	$453,600	$224,100	$ 45,700	$1,823,600
Library Services and Construction Act Account	190,000	163,300	55,000	565,300	973,600
Interagency Billing and Receipts Account		10,000	7,000	58,000	75,000
TOTAL	$1,290,200	$626,900	$286,100	$669,000	$2,872,200

SECTION 2. That Chapter 25, 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 33-2511, Idaho Code, and to read as follows:

33-2511. STATEMENT OF PUBLIC PURPOSE. The Idaho constitution established a system of free common schools recognizing that "the stability of a republican form of government depends mainly upon the intelligence of the people." The legislature finds that there is a need for expanded educational experiences including a need for additional positive science education experiences for the youth of this state. The legislature finds that it is in the public interest to encourage science education opportunities through cooperative efforts with private nonprofit organizations offering science education programs.

SECTION 3. That Section 33-2504, Idaho Code, be, and the same is hereby amended to read as follows:

33-2504. POWERS AND DUTIES OF THE BOARD. In addition to the powers hereinbefore set out, the Idaho ~~S~~state ~~L~~library ~~B~~board shall have the following powers:

1. To accept, receive, administer, and expend, in accordance with the terms thereof, any moneys, materials or other aid granted, appropriated, or made available to Idaho by the United States, or any of its agencies, or by any other source, public or private, for library purposes. The ~~B~~board is authorized to file any accounts required with reference to receiving and administering all such moneys, materials, and other aid.

2. To assist in the establishment and financing of a statewide program of regional public library service, which may be in cooperation with any taxing unit, or public or private agency.

3. To contract with other libraries or agencies, within or without the ~~S~~state of Idaho, to render library services to people of the ~~S~~state of Idaho. The ~~S~~state ~~L~~library ~~B~~board shall have authority to reasonably compensate such other library unit or agency for the cost of the services it renders under any such contract.

4. To administer a program of grants for the promotion of science

education as provided in this act.

SECTION 4. That Chapter 25, 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 33-2512, Idaho Code, and to read as follows:

33-2512. MATCHING GRANTS FOR SCIENCE EDUCATION PROGRAMS -- GRANT CRITERIA. The Idaho state library board shall administer a program of matching grants to encourage the establishment, expansion or maintenance of science education programs in the state of Idaho. Matching grants shall only be made to nonprofit corporations incorporated or registered in the state of Idaho. Grants shall require the applicant to provide at least one-half (1/2) of the financial support for the science education program with money or in-kind contributions.

"Science education programs" include, but are not limited to, demonstration programs intended to encourage knowledge of and interest in the disciplines of science among Idaho's elementary and secondary school students.

The state library board shall administer this program with such funds as are appropriated to the science education program. Competing grant applications shall be evaluated and funding decisions shall be made based upon the board's judgment as to the probable effectiveness of the various proposals in furthering the purposes of this act.

SECTION 5. For the period July 1, 1990, through June 30, 1991, the State Library Board shall utilize an amount not exceeding $25,000, from the General Account Appropriation made in Section 1 for trustee and benefit payments for one-time support for the science education program.

Approved April 5, 1990.

CHAPTER 278
(S.B. No. 1637, As Amended)

AN ACT
EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

FROM:	
General Account	$ 2,465,000
Federal Vocational Rehabilitation Account	8,217,700
Vocational Rehabilitation Cost Recovery Account	287,000
Interagency Billing and Receipts Account	2,000
TOTAL	$10,971,700

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, 1990, through June 30, 1991:

A. RENAL DISEASE:	
FROM:	
General Account	$ 438,200
FOR:	
Trustee and Benefit Payments	$ 438,200
B. VOCATIONAL REHABILITATION:	
FROM:	
General Account	$ 2,026,800
Federal Vocational Rehabilitation Account	8,217,700
Vocational Rehabilitation Cost Recovery Account	287,000
Interagency Billing and Receipts Account	2,000
TOTAL	$10,533,500
FOR:	
Personnel Costs	$ 3,557,300
Operating Expenditures	667,800
Capital Outlay	143,000
Trustee and Benefit Payments	6,165,400
TOTAL	$10,533,500
GRAND TOTAL	$10,971,700

Approved April 5, 1990.

CHAPTER 279
(S.B. No. 1642, As Amended)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1991; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; EXPRESSING LEGISLATIVE INTENT; AND TRANSFERRING MONEYS FROM THE ARSON, FIRE AND FRAUD PREVENTION ACCOUNT TO THE GENERAL ACCOUNT.

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, 1990, through June 30, 1991:

FROM:	
General Account	$22,469,300
Carl Perkins Vocational Education Act Account	4,333,100
Interagency Billing and Receipts Account	263,700
Displaced Homemaker Account	140,000
State Council on Vocational Education Account	124,200
TOTAL	$27,330,300

SECTION 2. There is hereby appropriated to the State Board of Education for Vocational Education the following amount, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND SUPERVISION:					
FROM:					
General Account	$1,196,100	$185,800	$ 8,900		$ 1,390,800
Carl Perkins Vocational Education Act Account	47,400	153,500			200,900
TOTAL	$1,243,500	$339,300	$ 8,900		$ 1,591,700
B. GENERAL PROGRAMS:					
FROM:					
General Account	$ 80,000	$ 30,000	$15,000	$ 2,831,800	$ 2,956,800
Carl Perkins Vocational Education Act Account				3,626,400	3,626,400
Interagency Billing and Receipts Account				128,700	128,700
TOTAL	$ 80,000	$ 30,000	$15,000	$ 6,586,900	$ 6,711,900
C. POST-SECONDARY PROGRAMS:					
FROM:					
General Account				$18,121,700	$18,121,700
Carl Perkins Vocational Education Act Account				180,000	180,000
Interagency Billing and Receipts Account				135,000	135,000
TOTAL				$18,436,700	$18,436,700
D. DISPLACED HOMEMAKER PROGRAM:					
FROM:					
Displaced Homemaker Account		$ 5,000		$ 135,000	$ 140,000
Carl Perkins Vocational Education Act Account				$ 325,800	$ 325,800
TOTAL		$ 5,000		$ 460,800	$ 465,800
E. IDAHO STATE COUNCIL ON VOCATIONAL EDUCATION:					
FROM:					
State Council on Vocational Education Account	$ 77,000	$ 47,200			$ 124,200
GRAND TOTAL	$1,400,500	$421,500	$23,900	$25,484,400	$27,330,300

SECTION 3. There is hereby reappropriated to the State Board of Education for Vocational Education, any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 379, Laws of 1989, to be used for nonrecurring expenditures only for the period of July 1, 1990, through June 30, 1991.

SECTION 4. It is legislative intent that up to $10,000 of the moneys appropriated for the Administration and Supervision Program may be used for developing a plan for restructuring vocational education programs in the public schools.

SECTION 5. Notwithstanding any other provision of law, there is hereby appropriated from the Arson, Fire and Fraud Prevention Account and transferred to the General Account the sum of $125,000 for the period July 1, 1990, through June 30, 1991.

Approved April 5, 1990.

CHAPTER 280
(S.B. No. 1567, As Amended in the House)

AN ACT

RELATING TO AGE VIOLATIONS OF IDAHO'S ALCOHOL AND TOBACCO LAWS; AMENDING SECTION 18-1502, IDAHO CODE, TO PROVIDE NOMENCLATURE, TO REDEFINE THE AGE OF MINORITY, TO ESTABLISH THE MAXIMUM PERIODS FOR WHICH DRIVERS' LICENSES MAY BE SUSPENDED, TO PERMIT RESTRICTED DRIVING PRIVILEGES AS DEEMED NECESSARY BY THE COURT, TO PERMIT THE SEIZURE OF DRIVERS' LICENSES WHICH HAVE BEEN SUSPENDED, AND TO REVOKE THE AUTHORITY OF A COURT TO TREAT PERSONS UNDER THE AGE OF EIGHTEEN UNDER THE YOUTH REHABILITATION ACT.

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

SECTION 1. 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 his 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) 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~~ pleads guilty or is found guilty of violating any law pertaining to 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~~, and such person was under eighteen (18) years of age at the time of such violation, then in addition to the penalty provided in subsection (b) of this section:

(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~~ shall suspend the person's driving privileges for a period of not more than one (1) year. 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~~ as deemed appropriate by the court.

~~(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~~ If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. 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 as deemed appropriate by the court.

(3) The person shall surrender his license or permit to the court.

(4) 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~~

(5) The court, ~~it~~ in its discretion, may also order the ~~individual~~ person 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.~~

Approved April 5, 1990.

CHAPTER 281
(S.B. No. 1541, As Amended)

AN ACT

RELATING TO GAME BIRDS; AMENDING SECTION 36-2205, IDAHO CODE, TO PROVIDE THAT ARTIFICIALLY PROPAGATED BIRDS MAY BE EITHER MARKED WITH A HEALED CLIP OR BANDED WITH A LEG BAND.

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

SECTION 1. That Section 36-2205, Idaho Code, be, and the same is hereby amended to read as follows:

36-2205. GAME BIRDS. (a) Game which may be hunted under this act shall be confined to artificially propagated upland game birds.

(b) A minimum release of two hundred (200) upland game birds of each species to be hunted on each shooting preserve must be made on the licensed area during the shooting preserve season.

(c) Artificially propagated upland game birds released on a shooting preserve must be:

(1) Marked by clipping the terminal joint of a single toe on either foot as evidenced by a healed scar, or

(2) B~~b~~anded with a leg band of a type not removable without breaking or mutilating, such tag to be supplied by the fish and game department at cost. One (1) such band shall be securely affixed to one (1) leg of each bird released and shall remain affixed on the bird until bird is prepared for consumption.

(d) Any wild upland game bird incidentally taken upon a shooting preserve, at any time other than the general open season therefor, must be marked then and there with a tag that has been issued to the shooting preserve licensee by the Idaho fish and game department. Said bird shall count as part of the permittee's shooting preserve limit. The fee for such tags shall be three dollars ($3.00) per bird.

During the general hunting season for the taking of upland game birds, all wild birds harvested on shooting preserves will be subject to the laws applicable to such wild birds and related regulations of the Idaho fish and game commission.

Approved April 5, 1990.

CHAPTER 282
(S.B. No. 1372, As Amended in the House,
As Amended in the House)

AN ACT

RELATING TO WILDLIFE HELD CAPTIVE; AMENDING SECTION 36-701, IDAHO CODE, TO PROVIDE THAT IT IS UNLAWFUL TO PROPAGATE OR HOLD IN CAPTIVITY BIG GAME ANIMALS WITHOUT A PERMIT, THAT ALL OTHER SPECIES OF MAMMALS, BIRDS OR REPTILES FOUND WILD IN THE STATE THAT ARE NOT SPECIES OF SPECIAL CONCERN OR THREATENED AND ENDANGERED SPECIES MAY BE HELD IN CAPTIVITY WITHOUT A PERMIT SO LONG AS PROOF IS RETAINED THAT THE WILDLIFE WAS LAWFULLY OBTAINED, PROVIDING EXCEPTIONS, AND PROVIDING THAT IT IS A MISDEMEANOR FOR ANY PERSON TO IMPORT INTO THE STATE OR RELEASE INTO THE WILD, ANY SPECIES OF WILDLIFE WITHOUT A PERMIT; AMENDING SECTION 36-703, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL OBTAIN, POSSESS, PRESERVE OR PROPAGATE ANY SPECIES OF BIG GAME ANIMALS FOUND WILD IN THE STATE FOR THE PURPOSE OF SELLING SUCH WILDLIFE WITHOUT A COMMERCIAL WILDLIFE FARM LICENSE, TO PROVIDE THAT COMMERCIAL FARMS MUST BE CONSTRUCTED SO AS NOT TO CONTAIN LAND WHERE BIG GAME ANIMALS ABOUND, TO PROVIDE THAT COMMERCIAL WILDLIFE FARMS MUST BE ENCLOSED TO PREVENT ESCAPE OF BIG GAME COMMERCIAL FARM ANIMALS OR ENTRY OF PUBLICLY OWNED BIG GAME ANIMALS, TO DELETE THE REQUIREMENT THAT THE FARM BE APPROVED BY THE IDAHO DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE THAT SUCH LICENSE EXPIRES JUNE 30 IN EACH EVEN-NUMBERED YEAR AND TO DELETE REFERENCE TO BIRDS; AMENDING SECTION 36-706, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL POSSESS, PROPAGATE AND PROCESS FOR HIS OWN PERSONAL PLEASURE, ANY FISH APPROVED BY THE COMMISSION, OR BIG GAME ANIMALS FOUND WILD IN THIS STATE WITHOUT A PERMIT, TO DELETE REFERENCE TO GAME BIRDS, TO DELETE THE REQUIREMENT THAT FACILITIES BE APPROVED BY THE IDAHO DEPARTMENT OF HEALTH AND WELFARE, AND TO PROVIDE THAT PERMITS SHALL EXPIRE JUNE 30 IN EACH EVEN-NUMBERED YEAR FOLLOWING THE DATE OF ISSUANCE; AMENDING SECTION 36-707, IDAHO CODE, TO PROVIDE THAT IT IS UNLAWFUL TO MAINTAIN ANY FISH OR BIG GAME ANIMALS FOUND WILD IN THIS STATE WITHOUT A PERMIT; REPEALING SECTION 36-708, IDAHO CODE; AMENDING SECTION 36-709, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE THAT THE COMMISSION IS AUTHORIZED TO PROMULGATE REGULATIONS RELATING TO STANDARDS OF HUMANE TREATMENT FOR ANY SPECIES OF BIG GAME FOUND WILD IN THIS STATE THAT IS HELD IN CAPTIVITY INCLUDING WILDLIFE HELD UNDER LICENSES OR PERMITS ISSUED UNDER THIS CHAPTER OR OTHER REGULATIONS ISSUED BY THE COMMISSION, TO PROVIDE THAT FAILURE TO COMPLY WITH THE REGULATIONS IS A MISDEMEANOR, AND TO DELETE REFERENCE TO BIRDS AND REPTILES; AMENDING SECTION 36-710, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OR HIS DULY AUTHORIZED REPRESENTATIVE SHALL HAVE THE RIGHT TO INSPECT ANY FACILITIES AND WILDLIFE HELD IN CAPTIVITY UNDER PERMIT, TO PROVIDE THAT THE DIRECTOR OR HIS DULY AUTHORIZED REPRESENTATIVE SHALL HAVE THE RIGHT TO INSPECT ANY FUR FARM OR ANY OTHER FACILITY WHERE ANY WILDLIFE, INCLUDING BIRDS, IS HELD IN CAPTIVITY WITHOUT A PERMIT, TO PROVIDE THAT ACCURATE RECORDS SHALL BE KEPT AS TO THE DATES, NAMES AND ADDRESSES OF PERSONS OR FACILITIES FROM WHICH THE WILDLIFE WAS

OBTAINED AS WELL AS DISPOSAL, PURCHASE OR SALE OF WILDLIFE IN POSSESSION OR POSSESSED DURING THE PAST FIVE YEARS, AND THAT SUCH RECORDS SHALL BE PRODUCED AT THE REQUEST OF THE DIRECTOR OR HIS DULY AUTHORIZED REPRESENTATIVE, AND THAT FAILURE TO MAINTAIN OR TO PRODUCE RECORDS OR TO REFUSE REASONABLE INSPECTION ON REQUEST SHALL BE A MISDEMEANOR; AMENDING SECTION 36-711, IDAHO CODE, TO REDESIGNATE THE SECTION, AND TO PROVIDE THAT WILDLIFE HELD WITHOUT PROPER RECORDS SHALL BE DISPOSED OF AS DETERMINED BY THE COURT; AND AMENDING CHAPTER 7, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-711, IDAHO CODE, TO PROVIDE THAT REGULATION OF DOMESTIC FUR-BEARING ANIMALS AND THEIR PRODUCTS IS VESTED IN THE DEPARTMENT OF AGRICULTURE AND TO DEFINE DOMESTIC FUR-BEARING ANIMAL.

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

SECTION 1. That Section 36-701, Idaho Code, be, and the same is hereby amended to read as follows:

36-701. WILDLIFE HELD CAPTIVE WITHOUT LICENSE OR PERMIT UNLAWFUL -- EXCEPTIONS. (a) ~~Possession-of-Live-Wildlife-Without-License-or-Permit--Unlawful.~~ It is a misdemeanor for any person to engage in any ~~wildlife~~ propagation or to hold in captivity ~~or-to-release-in-the-wild~~ any ~~protected~~ species of ~~wildlife~~ big game animal found wild in this state ~~except-by,~~ unless the person has been issued a license or permit ~~issued~~ by the director as hereinafter provided.

(b) All other species of mammals, birds or reptiles that are found in the wild in this state and are not species of special concern or threatened and endangered species, may be held in captivity without permit so long as the possessor retains proof that such wildlife was lawfully obtained. Such proof shall be maintained and presented to department representatives in accordance with section 36-709, Idaho Code.

(c) Exceptions. 1. No such license or permit shall be required of any municipal, county, state or other publicly owned zoo or wildlife exhibit or of any ~~regularly-organized~~ traveling circus, menagerie or trained act of wild animals not permanently located within the state of Idaho nor of any bona fide pet store displaying lawfully acquired wildlife for sale nor of any fur farm regulated and inspected pursuant to chapter 30, title 25, Idaho Code.

2. Except for the provisions of paragraph (d) below and section 36-7~~10(b)~~09, Idaho Code, relating to inspection and records of same, nothing in this chapter shall be so construed as to apply to any exotic wildlife, or domestic fur farm operated under the provisions of title 25, Idaho Code, or any ~~live~~ tropical fish ~~of--a--type--commonly held--and/or--sold-for~~ or other aquaria~~,~~ or ornamental ~~ponds,-or-other such-containers-of-ornamental~~ fish which the commission determines do not pose a threat to native fish if released into the public waters of the state.

(d) It is a misdemeanor for any person to import into this state or release in the wild any species of wildlife except by permit issued by the director.

SECTION 2. That Section 36-703, Idaho Code, be, and the same is hereby amended to read as follows:

36-703. COMMERCIAL WILDLIFE FARMS -- RESTRICTIONS -- LICENSE. No person shall obtain, possess, preserve, or propagate ~~wild~~ any species of big game animals ~~or wild birds~~ found wild in this state for the purpose of selling the same unless he has first secured a commercial wildlife farm license from the director.

(a) License Provisions. Such license may be issued by the director upon his finding that:

1. Such commercial wildlife farm is located entirely on private property owned or leased by the applicant.

2. Said farm is constructed so as not to contain any land where wild big game animals ~~or wild game birds~~ naturally abound.

3. Said farm is so ~~fenced~~ enclosed as to prevent escape of big game commercial farm animals ~~or -- birds~~ therefrom and prevent entry thereon of the same species of publicly owned big game animals ~~or game birds~~.

4. The application for such license is made upon a form provided by the department which sets forth such information as may be required by the director.

5. The property boundaries are posted as being a commercial wildlife farm in at least three (3) separate, conspicuous places in addition to all entrance roadways.

6. ~~All pertinent facilities of the farm have been approved by the Idaho department of health and welfare as being -- adequate -- to -- protect the -- public's health, and said facilities meet all requirements of the commission regulations promulgated pursuant to section -- 36-709, -- Idaho Code.~~

~~7.~~ The approved application is accompanied by a license fee of ~~ten~~ twenty-five dollars (~~$10~~25.00).

(b) Separate Locations to Be Licensed. A license must be had for each and every separate location. Said license shall expire ~~December~~ June 3~~1~~0 ~~next following the date of -- issuance~~ in each even-numbered year.

(c) Records of Transactions Required. A current record shall be made by the licensee of each and every sale, purchase or shipment and such records shall be kept for two (2) years and shall be subject to inspection by the director upon his request.

(d) Receipt Required. A receipt shall be issued to each purchaser identifying the wildlife farm source and specifying the number and kinds of animals ~~or birds~~ and the date of sale.

SECTION 3. That Section 36-706, Idaho Code, be, and the same is hereby amended to read as follows:

36-706. PRIVATE PARKS AND PONDS -- NONCOMMERCIAL -- PERMIT REQUIRED. ~~Any~~ No person ~~may~~ shall establish and maintain a private park or pond on premises owned or leased by him and obtain, possess, propagate and process for his own personal pleasure and use any ~~wildlife provided~~ fish approved by the commission, or any big game animals found wild in this state unless he has first obtained a permit ~~as specified herein~~ from the director.

(a) Permit Requirements. Such permit may be issued by the director upon his finding that:

1. Such private park or pond is not constructed in or across any natural stream bed, lake, or other watercourse containing wild fish, or on lands where wildlife abounds, except when it has been determined by the commission that the water flow and volume of wildlife concerned in such proposed private ponds, waters or parks are not a significant part of the wildlife resource of the state.

2. The private park or pond is located entirely on private property owned or leased by the applicant.

3. Any dam constructed to divert water into such private pond meets all requirements as provided in section 36-906(a), Idaho Code.

4. All inlets to such private pond are screened at the point of diversion as provided in section 36-906(b), Idaho Code, to prevent the entrance of wild fish into the private pond.

5. The application for such permit is made upon a form provided by the department which sets forth such information as may be required by the director.

6. The lands proposed for use as a park are so fenced as to prevent the escape of private wildlife therefrom and prevent the entry thereon of publicly owned big game animals ~~or game birds~~.

7. ~~The facilities for propagation of fish and wildlife have been approved by the Idaho department of health and welfare as adequate to protect the health and welfare of the public and said facilities meet all requirements of commission regulations promulgated pursuant to section 36-709, Idaho Code.~~

~~8.~~ Said park or pond shall be posted in three (3) separate conspicuous places and all entrance roads.

(b) Separate Locations -- Permits Required. Such a park or pond permit must be had for each and every location. Said permit shall expire ~~December 31 next following the date of issuance~~ June 30 in each even-numbered year.

SECTION 4. That Section 36-707, Idaho Code, be, and the same is hereby amended to read as follows:

36-707. UNLAWFUL TO MAINTAIN, SELL OR PURCHASE WILDLIFE FROM PRIVATE PARKS OR PONDS. It is a misdemeanor for any person to maintain a private park or pond without having a valid permit, or to sell or purchase any ~~wildlife~~ fish or big game animals found wild in this state which is possessed or propagated in such private park or pond. Any person who shall trespass upon a private park or pond posted in accordance with ~~subsection 36-706(a)8, Idaho Code,~~ this chapter shall be guilty of a misdemeanor.

SECTION 5. That Section 36-708, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 36-709, Idaho Code, be, and the same is hereby amended to read as follows:

36-709~~8~~. HUMANE TREATMENT -- COMMISSION AUTHORIZED TO MAKE RULES. The commission is hereby authorized to promulgate regulations relating

to standards of sanitation, humane treatment, proper care, and the maintenance of any species of big game animals found wild ~~animals, wild birds, and reptiles~~ in this state that is held in captivity~~,~~ including ~~such~~ wildlife held ~~in private and public wildlife exhibits which have been issued~~ under licenses or permits issued under the provisions of this chapter~~, and the~~ or other regulations issued by the commission. The failure of ~~such~~ a licensee or permittee to comply with said regulations shall be a misdemeanor and shall be grounds for the director to revoke such license or permit.

SECTION 7. That Section 36-710, Idaho Code, be, and the same is hereby amended to read as follows:

36-7~~1~~09. REASONABLE INSPECTION -- NOTICE OF VIOLATION -- REQUIRED RECORDS. (a) Inspection ~~by--Director~~ of Facilities Operated Under License or Permit. As a condition to the issuance of a license or permit for the confinement of wildlife as hereinbefore provided in this chapter, the director or his duly authorized representative shall have the right at any reasonable time to enter upon and inspect ~~the~~ any facilit~~ies~~y and ~~captive~~ wildlife ~~covered by--such--license--or--permit~~ held in captivity. The director shall give written notice of any violation and shall specify a reasonable time of not less than ten (10) days to remove or eliminate the violation. If upon the expiration of such time the violation has not been removed or eliminated, he may issue a citation and pursue the matter in a court of competent jurisdiction.

(b) ~~Fur--Farm~~ Inspection of Other Facilities. The director or his duly authorized representatives shall have the right at any time to go upon and inspect any fur farm operated under the provisions of title 25, Idaho Code, as amended, ~~in discharging said department's powers and duties relating to the capture or taking of nondomestic--fur-bearing--animals~~ or any other facilities where wildlife, including birds, is held in captivity without a permit.

(c) Records Required. Any person who imports, possesses or sells any wildlife, exotic or found wild in this state, shall keep accurate records as to the dates, names and addresses of persons or facilities from which the wildlife was obtained, as well as records of disposal, purchase or sale of any wildlife in their possession or possessed during the past five (5) years. Such records shall be produced at the request of the director or his duly authorized representative.

(d) Failure to Allow Inspection or to Produce Records. It shall be a misdemeanor for any person to refuse reasonable inspection or to fail to maintain or to produce records for the director or his representative on request.

SECTION 8. That Section 36-711, Idaho Code, be, and the same is hereby amended to read as follows:

36-71~~1~~0. PENALTY. Except where a higher penalty is otherwise prescribed, any person who shall violate any of the provisions of this chapter or commission regulations promulgated pursuant hereto shall be guilty of a misdemeanor. Provided further, any licensee or permittee who shall be convicted of violating any of the provisions of this

chapter may have his license or permit revoked by the court for a period of not to exceed twelve (12) months next following such conviction. All wildlife held under said license or permit so revoked or held without proper records shall be disposed of as determined by the court.

SECTION 9. That Chapter 7, Title 36, Idaho Code, be and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-711, Idaho Code, and to read as follows:

36-711. REGULATION OF DOMESTIC FUR-BEARING ANIMALS. The authority to regulate the breeding, raising, producing, marketing or any other phase of the production or distribution, of domestic fur-bearing animals or the products thereof, is vested in the department of agriculture. Nothing in this section shall limit or affect the powers or duties of the fish and game commission and the department of fish and game relating to nondomestic fur-bearing animals or the capture and taking thereof. As used in this section, "domestic fur-bearing animal" means fox, mink, chinchilla, karakul, marten, fisher, muskrat, nutria, beaver, and all other fur-bearing animals raised in captivity for breeding or other useful purposes.

Approved April 5, 1990.

CHAPTER 283
(H.B. No. 674)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-239, IDAHO CODE, TO DELETE THE PROVISION ALLOWING A PARTY TO A HEARING BEFORE THE DEPARTMENT OF INSURANCE TO INVOKE THE FORMAL RULES OF PLEADING OR EVIDENCE, INCLUDING THE RULE RELATING TO EXCLUSION OF WITNESSES, AND PROVIDING THAT THE PROVISIONS OF CHAPTER 52, TITLE 67, IDAHO CODE, SHALL OPERATE.

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

SECTION 1. That Section 41-239, Idaho Code, be, and the same is hereby amended to read as follows:

41-239. HEARING PROCEDURE. (1) The director shall preside at the hearing and, unless a stenographic record is made as hereinbelow provided, shall keep a true and concise record of the proceedings thereat.

(2) The director shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary and other evidence and to examine and cross-examine witnesses, to present evidence in support of his interest and to have subpoenas issued by

the director to compel attendance of witnesses and production of evidence in his behalf. The testimony may be taken orally or by deposition, and any party shall have such right of introducing evidence by deposition as may obtain in the district courts.

(3) Upon good cause shown the director shall permit to become a party to the hearing by intervention, if timely, only such persons who were not original parties thereto and whose interests are to be directly and immediately affected by the director's order made upon the hearing.

(4) Any person heard shall make full disclosure of facts pertinent to the subject of inquiry as requested by the director or by any party to the hearing.

(5) ~~Formal--rules-of-pleading-or-of-evidence-need-not-be-observed in-the-hearing,-except-that-the-right-of--any--party--to--invoke--such rules--and--the--rule-of-exclusion-of-witnesses-is-preserved.~~ Hearings shall be conducted in accordance with the rules of pleading and evidence contained in chapter 52, title 67, Idaho Code.

(6) Upon written request seasonably made by a party to the hearing and at such person's expense, the director shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, two (2) copies of such stenographic record shall be furnished to the director without cost to the director or the state, and one of such copies shall be a part of the director's record of the hearing. If so transcribed a copy of such stenographic record shall be furnished to any other party to the hearing at the request and expense of such other party.

Approved April 5, 1990.

CHAPTER 284
(H.B. No. 534)

AN ACT

RELATING TO INSURANCE; REPEALING SECTION 41-2855, IDAHO CODE; AND AMENDING CHAPTER 28, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2855, IDAHO CODE, TO PROVIDE THAT A MUTUAL INSURER MAY BECOME A STOCK INSURER UNDER SUCH PLAN AND PROCEDURE AS MAY BE APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AFTER A HEARING THEREON, AND PROVIDING REQUIREMENTS FOR SUCH PLAN AND PROCEDURE.

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

SECTION 1. That Section 41-2855, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 28, 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 41-2855, Idaho Code, and to read as follows:

41-2855. CONVERSION OF MUTUAL INSURER TO STOCK INSURER. (1) A mutual insurer may become a stock insurer under such plan and procedure as may be approved by the director after a hearing thereon.

(2) The director shall not approve any conversion plan or procedure unless:

(a) It is equitable to the insurer's members;

(b) It is subject to approval by vote of not less than a majority of the insurer's current members voting thereon in person, by proxy, or by mail at a meeting of members called for the purpose pursuant to such reasonable notice and procedure as may be approved by the director. If a life insurer, the right to vote may be limited to members who hold policies other than term or group policies and whose policies have been in force for not less than one (1) year;

(c) The equity of each policyholder in the insurer is determinable under a fair formula approved by the director, which equity shall be based upon not less than the insurer's entire surplus, after deducting contributed or borrowed surplus funds, plus a reasonable present equity in its reserves and in all nonadmitted assets;

(d) The policyholders entitled to participate in the purchase of stock or distribution of assets shall include all current policyholders and all existing persons who had been policyholders of the insurer within three (3) years prior to the date such plan was submitted to the director;

(e) The plan gives to each policyholder of the insurer, as specified in paragraph (d) of this subsection, a preemptive right to acquire his proportionate part of all of the proposed capital stock of the insurer within a designated reasonable period, and to apply upon the purchase thereof the amount of his equity in the insurer as determined under paragraph (c) of this subsection;

(f) Shares are so offered to policyholders at a price not greater than to be thereafter offered to others but at not more than double the par value of such shares;

(g) The plan provides for payment of cash in the amount of not less than fifty percent (50%) of the amount of the policyholder's equity not so used for the purchase of stock to each policyholder not electing to exercise his preemptive right to apply his equity in the insurer toward the purchase of capital stock as provided in paragraph (e) of this subsection. The cash payment together with stock so purchased, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of such mutual insurer;

(h) The plan, when completed, would provide for the converted insurer paid-up capital stock and additional surplus in amounts not less than the minimum paid-up capital and surplus required of a domestic stock insurer transacting like kinds of insurance, as provided in section 41-313, Idaho Code; and

(i) It contains additional provisions or standards as the director may reasonably require.

(3) No director, officer, agent or employee of the insurer, nor any other person, shall receive any fee, commission or other valuable consideration whatsoever for aiding, promoting, or assisting therein

except as set forth in the plan as approved by the director.

Approved April 5, 1990.

CHAPTER 285
(H.B. No. 696)

AN ACT

RELATING TO LONG-TERM CARE INSURANCE; AMENDING SECTION 41-4603, IDAHO CODE, TO INCLUDE IN THE DEFINITION OF "LONG-TERM CARE INSURANCE" POLICIES OR RIDERS PROVIDING FOR PAYMENT OF BENEFITS BASED ON COGNITIVE IMPAIRMENT OR THE LOSS OF FUNCTIONAL CAPACITY; AMENDING SECTION 41-4605, IDAHO CODE, TO PRECLUDE POLICY CONDITIONS REQUIRING PRIOR HOSPITALIZATION, TO PROVIDE FOR IMMEDIATE AND CLEAR DISCLOSURE WHERE A LONG-TERM CARE INSURANCE POLICY OR RIDER CONDITIONS ELIGIBILITY FOR NONINSTITUTIONAL BENEFITS ON PRIOR RECEIPT OF INSTITUTIONAL CARE, TO REQUIRE THAT AN OUTLINE OF COVERAGE BE PROVIDED AT THE TIME OF INITIAL SOLICITATION FOR LONG-TERM CARE INSURANCE COVERAGE, TO REQUIRE THAT THE OUTLINE OF COVERAGE INCLUDE THE TERMS UNDER WHICH THE POLICY OR COVERAGE MAY BE DISCONTINUED, TO PROVIDE CONVERSION PROVISIONS, TO PROVIDE A DESCRIPTION OF THE TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND THE PREMIUM REFUNDED, AND A DESCRIPTION OF THE RELATIONSHIP OF COST OF CARE AND BENEFITS, TO REQUIRE THAT A POLICY SUMMARY BE DELIVERED FOR AN INDIVIDUAL LIFE INSURANCE POLICY WHICH PROVIDES LONG-TERM CARE BENEFITS AND TO SPECIFY THE CONTENTS OF SUCH SUMMARY, AND TO REQUIRE MONTHLY REPORTS TO POLICYHOLDERS WHEN A LONG-TERM CARE BENEFIT IS FUNDED THROUGH A LIFE INSURANCE VEHICLE AND IS IN BENEFIT PAYMENT STATUS AND TO SPECIFY THE CONTENTS OF SUCH REPORT; AMENDING SECTIONS 41-3245, 41-3434 AND 41-3931, IDAHO CODE, TO PROVIDE THAT CHAPTER 46, TITLE 41, IDAHO CODE, SHALL APPLY TO FRATERNAL BENEFIT SOCIETIES, PROFESSIONAL SERVICE CORPORATIONS AND HEALTH MAINTENANCE ORGANIZATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-4603, Idaho Code, be, and the same is hereby amended to read as follows:

41-4603. DEFINITIONS. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means:

(a) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(b) In the case of a group long-term <u>care</u> insurance policy, the proposed certificate holder.

(2) "Certificate" means, for the purposes of this chapter, any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

(3) "Director" means the director of the Idaho department of insurance.

(4) "Group long-term care insurance" means a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(a) One or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations; or

(b) Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(i) Is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

(ii) Has been maintained in good faith for purposes other than obtaining insurance; or

(c) An association or a trust or the trustee(s) of a fund established, created or maintained for the benefit of members of one or more associations. Prior to advertising, marketing or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the director that the association or associations have at the outset a minimum of one hundred (100) persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one (1) year; and have a constitution and by-laws which provide that:

(i) The association or associations hold regular meetings not less than annually to further purposes of the members;

(ii) Except for credit unions, the association or associations collect dues or solicit contributions from members; and

(iii) The members have voting privileges and representation on the governing board and committees.

Sixty (60) days after such filing the association or associations will be deemed to satisfy such organizational requirements, unless the director makes a finding that the association or associations do not satisfy those organizational requirements.

(d) A group other than as described in subsections (4)(a), (4)(b) and (4)(c), subject to a finding by the director that:

(i) The issuance of the group policy is not contrary to the best interest of the public;

(ii) The issuance of the group policy would result in economies of acquisition or administration; and

(iii) The benefits are reasonable in relation to the premiums charged.

(5) "Long-term care insurance" means any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, pro-

vided in a setting other than an acute care unit of a hospital. Such term includes group and individual policies or riders whether issued by insurers, fraternal benefit societies, nonprofit health, hospital and medical service corporations, prepaid health plans, health maintenance organizations or any similar organization. Such term also includes a policy or rider which provides for payment of benefits based on cognitive impairment or the loss of functional capacity. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

(6) "Policy" means, for the purposes of this chapter, any policy, contract, subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, nonprofit health, hospital, or medical service corporation, prepaid health plan, health maintenance organization or any similar organization.

SECTION 2. That Section 41-4605, Idaho Code, be, and the same is hereby amended to read as follows:

41-4605. DISCLOSURE AND PERFORMANCE STANDARDS FOR LONG-TERM CARE INSURANCE. (1) The director may adopt regulations that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms.

(2) No long-term care insurance policy may:

(a) Be cancelled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(b) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

(c) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

(3) Preexisting condition:

(a) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, shall use a definition of "preexisting condition" which is more restrictive than the following: Preexisting condition means a condition for which medical advice or treatment was recommended by, or received from a pro-

vider of health care services, within six (6) months preceding the effective date of coverage of an insured person.

(b) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, may exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six (6) months following the effective date of coverage of an insured person.

(c) The director may extend the limitation periods set forth in paragraphs (a) and (b) of this subsection as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(d) The definition of "preexisting condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in paragraph (b) of this subsection expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in paragraph (b) of this subsection.

(4) Prior hospitalization institutionalization:

(a) No long-term care insurance policy ~~which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty (30) days after discharge from the institution.~~ may be delivered or issued for delivery in this state if such policy:

(i) Conditions eligibility for any benefits on a prior hospitalization requirement;

(ii) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

(iii) Conditions eligibility for any benefits other than waiver of premium, post confinement, post acute care or recuperative benefits on a prior institutionalization requirement.

(b) (i) A long-term care insurance policy containing post confinement, post acute care or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "limitations or conditions on eligibility for benefits" such limitations or conditions including any required number of days of confinement;

(ii) A long-term care policy or rider which conditions eligibility for noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty (30) days.

(5) The director may adopt regulations establishing loss ratio

standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

(6) Right to return - free look:

(a) Individual long-term care insurance policyholders shall have the right to return the policy within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. Individual long-term care insurance policies shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder shall have the right to return the policy within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

(b) A person insured under a long-term care insurance policy issued pursuant to a direct response solicitation shall have the right to return the policy within thirty (30) days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason. Long-term care insurance policies issued pursuant to a direct response solicitation shall have a notice prominently printed on the first page or attached thereto stating in substance that the insured person shall have the right to return the policy within thirty (30) days of its delivery and to have the premium refunded if after examination the insured person is not satisfied for any reason.

(7) (a) An outline of coverage shall be delivered to an applicant for ~~an individual~~ long-term care insurance ~~policy~~ at the time of ~~application--for--an--individual--policy.--In--the--case-of-direct response-solicitations,-the-insurer-shall-deliver-the--outline--of coverage--upon--the-applicant's-request,-but-regardless-of-request shall-make-such-delivery-not-later-than--at--the--time--of--policy delivery.--Such-outline-of-coverage-shall-include:~~ initial solicitation through means which prominently direct the attention of the recipient to the document and its purpose.

(i) The commissioner shall prescribe a standard format, including style, arrangement and overall appearance, and the content of an outline of coverage.

(ii) In the case of agent solicitations, an agent must deliver the outline of coverage prior to the presentation of an application or enrollment form.

(iii) In the case of direct response solicitations, the outline of coverage must be presented in conjunction with any application or enrollment form.

(b) The outline of coverage shall include:

(~~a~~i) A description of the principal benefits and coverage provided in the policy;

(~~b~~ii) A statement of the principal exclusions, reductions and limitations contained in the policy;

(~~c~~iii) A statement of the ~~renewal-provisions~~ terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change premiums~~;-and~~. Continuation or conversion provisions of group coverage shall be specifically

described;

(div) 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;

(v) A description of the terms under which the policy or certificate may be returned and premiums refunded; and

(vi) A brief description of the relationship of cost of care and benefits.

(8) A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions and limitations contained in the policy; and

(c) A statement that the group master policy determines governing contractual provisions.

(9) At the time of policy delivery, the policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, this summary shall also include:

(a) An explanation of how long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(b) An illustration of the amount of benefits, the length of a benefit, and the guaranteed lifetime benefits, if any, for each covered person;

(c) Any exclusions, reductions and limitations on benefits of long-term care; and

(d) If applicable to the policy type, the summary shall also include:

(i) A disclosure of the effects of exercising other rights under the policy;

(ii) A disclosure of guarantees related to long-term care costs of insurance; and

(iii) Current and projected maximum lifetime benefits.

(10) Any time a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to the policyholder. Such report shall include:

(a) Any long-term care benefits paid out during the month;

(b) An explanation of any changes in the policy, e.g., death benefits or cash values, due to long-term care benefits being paid out; and

(c) The amount of long-term care benefits existing or remaining.

(9~~11~~) No policy may be advertised, marketed or offered as long-term care or nursing home insurance unless it complies with the provisions of this chapter.

SECTION 3. That Section 41-3245, Idaho Code, be, and the same is hereby amended to read as follows:

41-3245. OTHER PROVISIONS APPLICABLE. The following chapters and provisions of this code shall also apply to fraternal benefit societies (who for the purpose shall be deemed also to be "insurers") to the extent so applicable and not inconsistent with the express provisions of this chapter and the reasonable implications of such express provisions:

(1) Chapter 1 (scope of code);

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

(3) Section 41-308(2) (general eligibility for certificate of authority), and for the purpose the annual license of a fraternal benefit society is deemed to be its "certificate of authority";

(4) Sections 41-1201 (representing or aiding unauthorized insurer prohibited), 41-1202 (penalty), and 41-1203 (suits by unauthorized insurer prohibited);

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

(6) The following sections of chapter 18 (the insurance contract):

(a) Section 41-1828 (payment discharges insurer -- payment to marital community);

(b) Section 41-1829 (minor may give acquittance);

(c) Section 41-1830 (life policy as separate property of married woman);

(d) Section 41-1838 (venue of suits against insurers);

(e) Section 41-1839 (allowance of attorney fees in suits against insurers);

(7) Section 41-1934 (prohibited policy plans);

(8) Section 41-2837 (prohibited pecuniary interest of officials);

(9) Chapter 33 (rehabilitation and liquidation);

(10) Sections 799 to 809 of chapter 330 of the session laws of 1961 (transitory provisions);

(11) Section 41-332 (foreign insurers exempt from corporation laws governing admission of foreign corporations);

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

(13) Section 41-1927A; and

(14) Chapter 46 (long-term care insurance).

SECTION 4. That Section 41-3434, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Chapter 1 (scope of code);

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

(3) Section 41-308(2) (general eligibility for certificate of

authority--competence, affiliations of management);

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) Section 41-1839 (attorney fees); and

(18) Chapter 46 (long-term care insurance).

SECTION 5. That Section 41-3931, Idaho Code, be, and the same is hereby amended to read as follows:

41-3931. OTHER PROVISIONS APPLICABLE. In addition to those contained or referred to heretofore in this act, the following chapters and provisions of title 41, Idaho Code, shall also apply with respect to health maintenance organizations to the extent applicable and not in conflict with the express provisions of this act and the reasonable implications of such express provisions; and for the purposes of such application such health maintenance organizations shall be deemed to be mutual "insurers":

(a) chapter 2 (the director of the department of insurance);

(b) chapter 13 (trade practices and frauds);

(c) Ssection 41-2141 (coordination with social security benefits); and

(d) chapter 46 (long-term care insurance).

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 5, 1990.

CHAPTER 286
(H.B. No. 803)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1991; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED.

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

SECTION 1. It is legislative intent that the expenditures for the Idaho Transportation Department not exceed the following amount for the period July 1, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$ 61,484,000
Operating Expenditures	37,241,800
Capital Outlay	146,478,200
Trustee & Benefit Payments	2,547,800
TOTAL	$247,751,800
FROM:	
State Highway Account	$244,418,500
Idaho Traffic Safety Commission Account	836,000
State Aeronautics Account	1,344,200
Interagency Billing and Receipts	1,153,100
TOTAL	$247,751,800

SECTION 2. There is hereby appropriated to the Idaho Transportation Department the following amount, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. GENERAL SUPPORT:					
FROM:					
State Highway Account	$14,976,800	$ 6,696,000	$ 1,155,300	$ 338,100	$ 23,166,
B. HIGHWAYS:					
FROM:					
State Highway Account	$45,760,500	$29,043,000	$145,294,900		$220,098,
Idaho Traffic Safety Commission Account				$ 836,000	836,
TOTAL	$45,760,500	$29,043,000	$145,294,900	$ 836,000	$220,934,
C. AERONAUTICS:					
FROM:					
State Aeronautics Account	$ 501,000	$ 415,200	$ 28,000	$ 400,000	$ 1,344,

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Account	$ 105,100	$ 75,100		$ 973,700	$ 1,153,900
E. INTER AND INTRA-DEPARTMENTAL SERVICES:					
FROM:					
Interagency Billing and Receipts	$ 140,600	$ 1,012,500			$ 1,153,100
GRAND TOTAL	$61,484,000	$37,241,800	$146,478,200	$2,547,800	$247,751,800

SECTION 3. It is legislative intent that all moneys transferred to the local bridge inspection account, to the local highway needs assessment account, and to the railroad grade crossing protection account are hereby continuously appropriated to the Idaho Transportation Department for that purpose.

Approved April 5, 1990.

CHAPTER 287
(H.B. No. 834)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR REMEDIAL ACTION CLEANUP OF THE LOWMAN PROCESSING SITE AND VICINITY PROPERTIES FOR FISCAL YEAR 1991; AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO NEGOTIATE AND EXECUTE AGREEMENTS FOR REMEDIAL ACTION, AND EXEMPTING CERTAIN PARTIES FROM CIVIL LIABILITY; AND PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS OF THE GENERAL ACCOUNT.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare the following amount to be expended according to the designated expense class from the listed accounts for the period July 1, 1990, through June 30, 1991:

FOR:	
Operating Expenditures	$4,654,000
FROM:	
General Account	$ 465,400
Cooperative Welfare Account	4,188,600
TOTAL	$4,654,000

SECTION 2. The Director of the Department of Health and Welfare is hereby authorized to negotiate and execute agreements to receive nonfederal/nonstate funds from record owners of designated uranium mill processing sites as defined pursuant to Section 39-3028, Idaho Code, and Section 101(6) of Public Law 95-604, 42 U.S.C. Section 7901, et. seq. (the Uranium Mill Tailings Radiation Control Act of 1978). Upon receipt by the Director, said funds shall be deposited in the Health and Welfare Trust Account for use in paying the actual cost of remedial action at designated uranium mill processing sites and related vicinity properties.

In the event a designated uranium mill processing site is acquired by the Director as provided for pursuant to Section 39-3028(3)(d), Idaho Code, notwithstanding any provision of law to the contrary, no owner, past or present of any processing site as specified above shall be subject to civil liability under Idaho law arising out of, caused by or associated with any material including, but not limited to, residual radioactive material as defined in Section 101(7) of Public Law 95-604, 42 U.S.C. Section 7901, et. seq., located at the processing site or removed from the processing site to any other location; provided, however, that for other than the state of Idaho, this provision shall not become effective until payment of nonfederal/nonstate funds is made pursuant to an agreement with the Director as defined above.

SECTION 3. 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.

Approved April 5, 1990.

CHAPTER 288
(H.B. No. 840)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1991; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 391, LAWS OF 1989; AND DECLARING AN EMERGENCY FOR SECTION 4 OF THIS ACT.

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, 1990, through June 30, 1991:

FROM:

General Account $ 7,982,200

Dedicated Accounts	7,833,200
Federal Accounts	291,200
Interagency Billing and Receipts Account	288,200
TOTAL	$16,394,800

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. SUPPORTING SERVICES:					
FROM:					
General Account	$ 922,700	$ 436,200	$ 60,000		$ 1,418,900
Interagency Billing and Receipts Account		14,600	800		15,400
Fire Presuppression Account	239,000	24,000			263,000
Lands Federal Account		36,900			36,900
TOTAL	$1,161,700	$ 511,700	$ 60,800		$ 1,734,200
B. FOREST RESOURCES MANAGEMENT:					
FROM:					
General Account	$2,107,900	$ 369,300	$146,500		$ 2,623,700
Scaling Practices Operations Account	698,200	59,000	49,400		806,600
Water Pollution Control Account	30,100	4,200			34,300
Forest Practices Administration Account	129,300	25,800			155,100
Road Maintenance Account	160,000	359,700	12,500		532,200
10% Timber Lease Account	1,101,500	908,400	51,100		2,061,000
Forest Pest Account	33,300	61,300			94,600
Forest Practices Rehabilitation Account	97,700				97,700
Lands Federal Account	55,400	29,300			84,700
TOTAL	$4,413,400	$1,817,000	$259,500		$ 6,489,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. LAND, RANGE AND MINERAL RESOURCE MANAGEMENT:					
FROM:					
General Account	$1,314,100	$ 204,100	$ 43,800		$ 1,562,000
Interagency Billing and Receipts Account		44,600			44,600
10% Grazing Lease Account	80,500	85,700	50,300		216,500
Oil and Gas Commission Account		3,700			3,700
Dredge and Placer Mining Account	16,900	6,800			23,700
10% Recreation Lease Account	68,200	31,900			100,100
Pilgrim Cove Water System Account		5,300			5,300
TOTAL	$1,479,700	$ 382,100	$ 94,100		$ 1,955,900
D. SOIL & WATER CONSERVATION:					
FROM:					
General Account	$ 383,700	$ 49,100	$ 1,000	$221,100	$ 654,900
Interagency Billing and Receipts Account	211,700	16,500			228,200
Lands Federal Account	120,300	9,300		40,000	169,600
Water Pollution Control Account				250,000	250,000
Resource Conservation and Rangeland Loan Account	6,000	17,200			23,200
TOTAL	$ 721,700	$ 92,100	$ 1,000	$511,100	$ 1,325,900
E. SCALING PRACTICES:					
FROM:					
Scaling Practices Account	$ 184,500	$ 32,000	$ 10,500		$ 227,000
F. FOREST & RANGE PROTECTION:					
FROM:					
General Account					$ 1,722,700
Keep Idaho Green Account					10,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fire Suppression Account					100,700
Fire Presuppression Account					1,255,000
State District Hazard Management Account					681,000
Clearwater Potlatch Hazard Management Account					695,200
Southern Idaho Hazard Management Account					197,200
TOTAL					$ 4,661,900
GRAND TOTAL					$16,394,800

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 391, Laws of 1989, to be used for nonrecurring expenditures only, for the period July 1, 1990, through June 30, 1991.

SECTION 4. In addition to the appropriation made by Section 2, Chapter 391, Laws of 1989, there is hereby appropriated to the Department of Lands the following amount to be expended for the Forest Resources Management Program according to the designated expense class from the listed account for the period July 1, 1989, through June 30, 1990:

FOR:	
Personnel Costs	$150,000
FROM:	
Scaling Practices Operations Account	$150,000

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 4 of this act shall be in full force and effect on and after its passage and approval.

Approved April 5, 1990.

CHAPTER 289
(H.B. No. 563)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; REPEALING SECTION 16-1846, IDAHO CODE; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE

APPLICATION.

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

SECTION 1. That Section 16-1846, Idaho Code, be, and the same is hereby repealed.

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 15, 1990.

Approved April 5, 1990.

CHAPTER 290
(H.B. No. 586)

AN ACT

RELATING TO ACCOUNTS TO THE COURT BY CONSERVATORS; AMENDING SECTION 15-5-419, IDAHO CODE, TO PROVIDE THAT EVERY CONSERVATOR MUST SUBMIT ANNUAL ACCOUNTS TO THE COURT.

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

SECTION 1. 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~~ annually, or as otherwise directed by the court, and upon his resignation or removal. On termination of the protected person's minority or disability, a conservator shall account to the court 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 April 5, 1990.

CHAPTER 291
(H.B. No. 642)

AN ACT
RELATING TO MALE RAPE; REPEALING SECTION 18-6108, IDAHO CODE; 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 Section 18-6108, Idaho Code, be, and the same is hereby repealed.

SECTION 2. 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. Male rape is defined as the penetration, however, slight, of the oral or anal opening of another male, with the perpetrator's penis, for the purpose of sexual arousal, gratification or abuse, under any of the following circumstances:

1. Where the victim is incapable, through lunacy or any other unsoundness of mind, whether temporary or permanent, of giving consent.
2. Where the victim resists but his resistance is overcome by force or violence.
3. Where the victim is prevented from resistance by threats of immediate and great bodily harm, accompanied by apparent power of execution.
4. Where the victim is prevented from resistance by the use of any intoxicating, narcotic, or anaesthetic substance administered by or with the privity of the accused.
5. Where the victim is at the time unconscious of the nature of the act, and this is known to the accused.

Approved April 5, 1990.

CHAPTER 292
(H.B. No. 861)

AN ACT
APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. STATE ATHLETIC DIRECTOR:				
FROM:				
General Account		$ 2,800		$ 2,800
Athletic Account		5,900		5,900
TOTAL		$ 8,700		$ 8,700
B. BOARD OF PHARMACY:				
FROM:				
General Account	$ 34,700			$ 34,700
Pharmacy Board Account	210,500	$ 137,400	$ 22,600	370,500
TOTAL	$ 245,200	$ 137,400	$ 22,600	$ 405,200
C. BOARD OF ACCOUNTANCY:				
FROM:				
State Board of Accountancy Account	$ 126,600	$ 141,200	$ 4,000	$ 271,800
D. BOARD OF DENTISTRY:				
FROM:				
State Board of Dentistry Account	$ 91,200	$ 47,700	$ 1,000	$ 139,900
E. BOARD OF ENGINEERING EXAMINERS:				
FROM:				
Professional Engineers Account	$ 105,800	$ 92,900	$ 5,000	$ 203,700
F. BOARD OF MEDICINE:				
FROM:				
State Board of Medicine Account	$ 192,400	$ 147,800	$ 3,300	$ 343,500
G. BOARD OF NURSING:				
FROM:				
State Board of Nursing Account	$ 208,700	$ 119,300	$ 6,500	$ 334,500
H. BUREAU OF OCCUPATIONAL LICENSES:				
FROM:				
Occupational License Account	$ 418,100	$ 264,000	$ 9,100	$ 691,200
I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:				
FROM:				
Public Works Contractors State License Board Account	$ 158,400	$ 86,300	$ 3,500	$ 248,200
J. IDAHO REAL ESTATE COMMISSION:				
FROM:				
Idaho Real Estate Brokers Commission Account	$ 459,100	$ 220,700	$ 34,500	$ 714,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
K. PROFESSIONAL GEOLOGISTS BOARD:				
FROM:				
Professional Geologists Account	$ 15,200	$ 13,800		$ 29,000
L. BOARD OF OPTOMETRY:				
FROM:				
State Board of Optometry Account	$ 2,500	$ 11,700		$ 14,200
M. IDAHO CERTIFIED SHORTHAND REPORTERS BOARD:				
FROM:				
State Certified Shorthand Reporters Account	$ 6,100	$ 9,700		$ 15,800
N. OUTFITTERS AND GUIDES BOARD:				
FROM:				
Outfitters and Guides Board Account	$ 141,200	$ 99,300	$ 5,100	$ 245,600
O. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Board of Veterinary Medicine Account	$ 22,700	$ 37,600		$ 60,300
GRAND TOTAL	$2,193,200	$1,438,100	$ 94,600	$3,725,900

Approved April 5, 1990.

CHAPTER 293
(H.B. No. 747)

AN ACT

RELATING TO DOMESTIC VIOLENCE CRIME PREVENTION; AMENDING SECTION 39-6311, IDAHO CODE, TO PROVIDE FOR UNIFORMITY OF ORDERS ISSUED UNDER THE AUTHORITY OF THE CHAPTER.

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

SECTION 1. 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) The orders issued under sections 39-6306 and 39-6308, Idaho Code, shall be in a form approved by the supreme court of the state of Idaho to be effective January 1, 1991.

(2) (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~~3) 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~~4) 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 April 5, 1990.

CHAPTER 294
(H.B. No. 822, As Amended)

AN ACT
APPROPRIATING MONEYS FOR THE OFFICE ON AGING FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Account	$197,200	$ 53,300	$1,379,900	$1,630,400
Office on Aging Non-Federal Account		16,000		16,000
Office on Aging Federal Account	342,000	97,000	4,325,000	4,764,000
TOTAL	$539,200	$166,300	$5,704,900	$6,410,400

Approved April 5, 1990.

CHAPTER 295
(H.B. No. 853)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-123, IDAHO CODE, TO DEFINE GLIDER KIT VEHICLE AND TO SPECIFY THAT A GLIDER KIT VEHICLE IS NOT A RECONSTRUCTED VEHICLE.

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

SECTION 1. 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, 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 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) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) 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~~h) 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~~i) Reconstructed vehicle. Every vehicle 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. A glider kit vehicle is not a reconstructed vehicle.

(~~i~~j) 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~~k) 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~~l) 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.

Approved April 5, 1990.

CHAPTER 296
(H.B. No. 768)

AN ACT

RELATING TO COMMISSIONERS OF HIGHWAY DISTRICTS; AMENDING SECTION 40-1314, IDAHO CODE, TO MODIFY THE AMOUNT OF COMPENSATION THAT COMMISSIONERS MAY RECEIVE, TO PROVIDE WHEN A COMMISSIONER IS AN OFFICER AND/OR AGENT OF THE DISTRICT, AND TO PROVIDE THAT COMMISSIONERS SHALL BE CONSIDERED EMPLOYEES OF HIGHWAY DISTRICTS.

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

SECTION 1. That Section 40-1314, Idaho Code, be, and the same is hereby amended to read as follows:

40-1314. COMPENSATION OF HIGHWAY DISTRICT COMMISSIONERS, OFFICERS, AGENTS AND EMPLOYEES. (1) The highway district commissioners shall be compensated as provided by section 59-509(~~f~~g), Idaho Code, but the total amount to be received as ~~per-diem~~ compensation shall not exceed the sum of two thousand five hundred dollars ($2,~~0~~500) per year. Actual expenses shall be paid in addition to their ~~per-diem~~ compensation. The payment for expenses shall be paid from the funds of the highway district upon the presentation of itemized vouchers, signed by the commissioners and under oath made to the secretary of the district.

(2) When ~~the secretary is~~ a commissioner is an officer and/or agent of the district, the two (2) remaining commissioners may fix the compensation to be paid him for his services as ~~secretary. The secretary~~ an officer and/or agent. A commissioner acting as an officer and/or agent of the district shall be entitled to his necessary and actual expenses in addition to his salary, but shall not be entitled to draw ~~per--diem~~ compensation as a commissioner when placed upon a salary. The board shall fix the compensation to be paid to the other officers and agents and employees of the highway district, to be paid out of the treasury of the highway district.

(3) Commissioners are considered employees of the district. The district shall be liable and responsible for the actions of the commissioners, officers, agents and/or employees of the district when the commissioners, officers, agents and/or employees are performing their duties on behalf of the district.

Approved April 5, 1990.

CHAPTER 297
(H.B. No. 657, As Amended)

AN ACT

RELATING TO THE SALE OF PETROLEUM PRODUCTS; AMENDING SECTION 71-241, IDAHO CODE, TO PROVIDE FOR THE SALES PRICE OF PETROLEUM PRODUCTS

DELIVERED INTO THE FUEL TANK OF A VEHICLE DISPLAYING A HANDICAPPED LICENSE OR CARD, TO PROVIDE AN EXCEPTION, AND TO PROVIDE FOR NOTICES.

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

SECTION 1. That Section 71-241, Idaho Code, be, and the same is hereby amended to read as follows:

71-241. PETROLEUM PRODUCTS -- HOW SOLD -- MEASUREMENT. (1) All petroleum products shall be sold by liquid measure or by net weight in accordance with the provisions of section 71-232, Idaho Code, and in accordance with regulations to be made by the director.

(2) Sellers of motor fuel within this state shall offer to prospective purchasers the option to buy the product either by gross gallons or on the assumption that the temperature of the product is sixty degrees (60) fahrenheit or the centigrade equivalent. This purchaser option may be exercised only on an annual basis and applied only to single deliveries of eight thousand (8,000) gallons or more or the metric equivalent. Any adjustments to volumes during the temperature compensation process shall be made in accordance with the standards set by the American society of testing materials.

(3) The department of agriculture may purchase and use measuring devices for monitoring bulk deliveries.

(4) Any retail outlet offering both attendant dispensed motor fuels and self-dispensed motor fuels will, during those hours that attendant dispensed motor fuels are available, provide attendant dispensed motor fuels at the same price as for self-dispensed motor fuels when such fuel is delivered at the self-service pump into the fuel tank of a vehicle displaying a handicapped license or card, but this requirement shall not apply when such vehicle carries an able-bodied adult.

(a) Notification of the law's provisions shall be provided, by the Idaho transportation department, to all operators of facilities offering gasoline or other motor vehicle fuels for sale, and to every person who is issued a handicapped or a disabled veteran's registration plate, or other authorized designation.

(b) The following notice shall be posted on each pump in a manner and location which is visible to any driver seeking refueling service:

SERVICE TO THE DISABLED

Disabled individuals driving an automobile properly displaying a handicapped parking placard or plate, or other authorized designation, are entitled to request and receive refueling service at a self-service pump at this gas station for which they may not be charged more than the self-service price.

Approved April 5, 1990.

CHAPTER 298
(H.B. No. 852)

AN ACT

RELATING TO UNDERGROUND STORAGE TANK TECHNICIANS; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-276, IDAHO CODE, TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-277, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-278, IDAHO CODE, TO REQUIRE CERTIFICATION OF UNDERGROUND STORAGE TANK TECHNICIANS, TO PROVIDE FOR INTERIM CERTIFICATION AND TO PROVIDE EXEMPTIONS FROM CERTIFICATION; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-279, IDAHO CODE, TO CREATE THE UNDERGROUND STORAGE TANK TECHNICIAN CERTIFICATION BOARD; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-280, IDAHO CODE, TO PROVIDE DUTIES OF THE BOARD; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-281, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR CERTIFICATION, TO PROVIDE FOR RECIPROCAL CERTIFICATION, AND TO PROVIDE FOR WAIVER OF EXAMINATION REQUIREMENTS FOR CERTAIN QUALIFIED PERSONS; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-282, IDAHO CODE, TO PROVIDE FOR SUSPENSION, REVOCATION, DENIAL OR NONRENEWAL OF CERTIFICATION; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-283, IDAHO CODE, TO PROVIDE FOR IMMUNITY FROM PERSONAL LIABILITY FOR BOARD MEMBERS, THE STATE FIRE MARSHAL AND STATE EMPLOYEES FOR ACTS OR OMISSIONS IN CARRYING OUT THE PROVISIONS OF THE ACT; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-284, IDAHO CODE, TO PROVIDE PENALTIES; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-285, IDAHO CODE, TO ESTABLISH THE UNDERGROUND STORAGE TANK TECHNICIAN CERTIFICATION ACCOUNT; AND APPROPRIATING MONEYS FROM THE UNDERGROUND STORAGE TANK TECHNICIAN CERTIFICATION ACCOUNT TO THE STATE FIRE MARSHAL.

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

SECTION 1. That Chapter 2, 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 41-276, Idaho Code, and to read as follows:

41-276. SHORT TITLE. This act shall be known as the "Underground Storage Tank Technician Certification Act."

SECTION 2. That Chapter 2, 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 41-277, Idaho Code, and to read as follows:

41-277. DEFINITIONS. As used in sections 41-276 through 41-285, Idaho Code:

(1) "Board" means the underground storage tank technician certification board.

(2) "Certificate" means a document issued by the board to a person who has met the certification requirements of this chapter.

(3) "Installation" means the work involved in placing an underground storage tank in position and preparing it to be placed in service or the movement of an underground storage tank to a new position and preparing it to be placed in service.

(4) "Person" means any individual, partnership, association, corporation, joint venture or commercial entity, commission, interstate body, consortium, municipality, county, state, or any agency or political subdivision of the state.

(5) "Petroleum" and/or "petroleum products" mean crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure (i.e., at sixty (60) degrees fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). The term includes motor gasoline, gasohol, other alcohol blended fuels, diesel fuel, heating oil and aviation fuel.

(6) "Removal or closure" means permanently taking an underground storage tank out of service by either closing it in place, removing it from the ground, or converting it to store a substance other than petroleum or petroleum products.

(7) "Repair" means the correction, restoration, modification, or upgrading of a tank system including, but not limited to, the addition of cathodic protection systems; the replacement of piping, valves, fill pipes, or vents; the lining of a tank through the application of materials such as epoxy resins; and other similar activities that may affect the integrity of the tank system.

(8) "Storage tank project" means the installation, repair, or removal of an underground storage tank.

(9) "Testing" means the performance of tests upon an underground storage tank including, but not limited to, the performance of a tank tightness test.

(10) "Underground storage tank" means any one (1) or combination of tanks, including underground pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. This term does not include any:

(a) Farm or residential tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes;

(b) Tank located above the ground and used solely for storing heating oil for consumptive use on the premises where stored;

(c) Septic tank;

(d) Pipeline facility including gathering lines regulated under:

(i) The natural gas pipeline safety act of 1968 (49 U.S.C. app. 1671, et seq.); or

(ii) The hazardous liquid pipeline safety act of 1979 (49 U.S.C. app. 2001, et seq.); or

(iii) State laws comparable to the provisions of the law referred to in paragraph (d)(i) or (d)(ii) of this subsection as an intrastate pipeline facility;

(e) Surface impoundment, pit, pond or lagoon;
(f) Storm water or wastewater collection system;
(g) Flow-through process tank;
(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
(i) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor;
(j) Tanks with a capacity of one hundred ten (110) gallons or less. The term "underground storage tank" does not include any pipes connected to any tank which is described in paragraphs (a) through (i) of this definition.

(11) "Underground storage tank technician" means any person who installs, repairs, removes, inspects or tests an underground storage tank.

SECTION 3. That Chapter 2, 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 41-278, Idaho Code, and to read as follows:

41-278. CERTIFICATION OF UNDERGROUND STORAGE TANK TECHNICIANS REQUIRED -- INTERIM CERTIFICATION -- EXEMPTIONS. (1) Effective July 1, 1991, no person shall perform a storage tank project or engage in the practice of testing or inspecting an underground storage tank or hold himself out as being certified or qualified to perform a storage tank project or engage in the testing or inspection of underground storage tanks or use the title "certified underground storage tank technician" unless he is certified pursuant to this act.

(2) Effective July 1, 1990, no person shall perform a storage tank project or engage in the practice of testing or inspecting an underground storage tank or hold himself out as certified or qualified to perform a storage tank project or engage in the practice of testing or inspecting an underground storage tank or use the title "certified underground storage tank technician" unless he shall have filed with the board on a form prescribed by it, documentation demonstrating that during the previous two (2) years he has been regularly engaged in the performance of storage tank projects or the testing or inspection of underground storage tanks. Upon receipt of such information, the board may issue an interim certificate, which shall be designated as such and which will automatically expire on June 30, 1991.

(3) Certification shall not be required of workers performing labor in conjunction with a storage tank project, provided that a person certified under this act is present at the job site not less than seventy-five percent (75%) of the time during the progress of the work and such person exercises supervisory control over the work.

(4) An owner performing a storage tank project on an underground storage tank or tank system owned by him shall not be subject to the certification requirements of this act, provided that the project shall be subject to and the owner shall comply with all applicable state and federal laws and regulations relating to performance of and inspections of the project.

SECTION 4. That Chapter 2, 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 41-279, Idaho Code, and to read as follows:

41-279. UNDERGROUND STORAGE TANK TECHNICIAN CERTIFICATION BOARD. (1) There is hereby created in the office of the state fire marshal the underground storage tank technician certification board. Members of the board shall be appointed by the governor and shall serve for a term of three (3) years. The state fire marshal shall be an ex officio member of the board. One representative from each of the following shall be appointed to the board:

(a) A major oil company;

(b) An Idaho domiciled petroleum jobber;

(c) An Idaho domiciled service station dealer;

(d) A petroleum equipment marketer/installer;

(e) The Idaho department of health and welfare, division of environmental quality.

(2) The terms of the members of the board first appointed shall expire as follows: three (3) members two (2) years later, two (2) members three (3) years later. Thereafter, appointments shall be for three (3) 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. At its first meeting of every calendar year, the board shall elect a president from its members, and a secretary who may or may not be a member of the board. Members of the board shall serve without compensation. The staff of the office of the state fire marshal shall provide such assistance as the board may require.

SECTION 5. That Chapter 2, 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 41-280, Idaho Code, and to read as follows:

41-280. DUTIES OF THE BOARD. In addition to any other duties imposed upon it by this act or any other provision of law, the board shall have the following duties and responsibilities:

(1) To promulgate rules and regulations to implement the provisions of this act including rules and regulations for the certification of underground storage tank technicians. Such rules and regulations shall be promulgated in compliance with the provisions of chapter 52, title 67, Idaho Code, and shall include provision for application, examination, and renewal fees. Fees to accompany any application for certification shall not exceed twenty-five dollars ($25.00), and fees to take an examination for certification shall not exceed fifty dollars ($50.00).

(2) To determine the course of study required to prepare for the certification examination, including what study materials shall be used.

(3) To conduct examinations at least two (2) times per year and to insure that passing scores of such examinations are set to determine the minimum level of competency necessary to engage in the prac-

tice of underground storage tank technician.

(4) To certify as an underground storage tank technician any person who meets the requirements specified in this act.

(5) To suspend, revoke, or deny, or deny renewal of the certification of any underground storage tank technician who violates the provisions of this act or any rules and regulations promulgated pursuant to this act.

SECTION 6. That Chapter 2, 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 41-281, Idaho Code, and to read as follows:

41-281. REQUIREMENTS FOR CERTIFICATION. (1) The board shall certify as an underground storage tank technician any person who meets the following requirements:

(a) Has filed a written application on a form prescribed by the board containing all required information, including whether he has ever been disciplined for an action relating to the installation, repair, removal, testing or inspection of an underground storage tank in any other state or jurisdiction;

(b) Has paid a nonrefundable application fee;

(c) Has passed a written examination and paid any required examination fee;

(d) The applicant or his employer has commercial insurance, surety bonds, or liquid company assets which, in combination, represent a value of not less than five hundred thousand dollars ($500,000); provided that this requirement shall not apply to applicants for certification employed by the state of Idaho or any agency thereof, or any city, county or other political subdivision of the state, or the United States.

(2) A certificate issued under this section shall be valid for a period of one (1) year and may be renewed thereafter upon application to the board and payment of a renewal fee, if the applicant is in compliance with all other provisions of this act.

(3) The board may provide for reciprocal certification of underground storage tank technicians who have successfully completed examinations and otherwise qualified for a license or certification in another state pursuant to requirements substantially equivalent to those specified in this act and the rules and regulations promulgated thereunder.

(4) The board may provide for waiver of the examination requirements for certification for persons meeting the qualifications provided in regulations of the environmental protection agency, code of federal regulations, title 40, part 280, for cathodic protection tester and corrosion expert, and for such other persons having special qualifications, expertise, training, accreditation or certification as it may deem appropriate.

SECTION 7. That Chapter 2, 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 41-282, Idaho Code, and to read as follows:

41-282. SUSPENSION, REVOCATION OR DENIAL OF CERTIFICATION OR RENEWAL. (1) The board may deny an application for certification or renewal of a certificate or suspend or revoke a certificate on any of the following grounds:

(a) The practice of any fraud or material misrepresentation or aiding or abetting another in the practice of any fraud or material misrepresentation in obtaining or attempting to obtain a certificate pursuant to the provisions of this act.

(b) The practice of any fraud or material misrepresentation or an attempt to practice any fraud or material misrepresentation with respect to any activity covered by the provisions of this act.

(c) Any act or omission failing to meet the standards of practice determined by the board for the performance of storage tank projects or the testing or inspection of underground storage tanks;

(d) Violation of any provision of this act or any rule or regulation promulgated pursuant thereto.

(2) Action to revoke or suspend any certificate shall be conducted by the board pursuant to the provisions of chapter 52, title 67, Idaho Code, for contested cases.

SECTION 8. That Chapter 2, 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 41-283, Idaho Code, and to read as follows:

41-283. IMMUNITY FROM PERSONAL LIABILITY. The members of the board, the state fire marshal and any personnel they employ or state employees they utilize shall be immune from civil personal liability for any act performed or omitted in the course of carrying out the provisions of this act.

SECTION 9. That Chapter 2, 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 41-284, Idaho Code, and to read as follows:

41-284. PENALTIES. (1) Any person violating any provision of this act shall, upon conviction be guilty of a misdemeanor and shall be sentenced to a fine of not to exceed one thousand dollars ($1,000) or to a term of not to exceed one (1) year in the county jail, or to both such fine and imprisonment.

SECTION 10. That Chapter 2, 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 41-285, Idaho Code, and to read as follows:

41-285. UNDERGROUND STORAGE TANK TECHNICIAN CERTIFICATION ACCOUNT. There is hereby created in the dedicated fund of the state treasury the underground storage tank technician certification account. All fees collected pursuant to the provisions of this act shall be remitted to the state treasurer who shall credit the same to the underground storage tank technician certification account. Moneys

in the account shall be expended pursuant to appropriation and may be utilized by the state fire marshal in carrying out and administering the provisions of this act.

SECTION 11. The sum of $20,000 is hereby appropriated from the underground storage tank technician account to the state fire marshal for the purposes of this act for the period July 1, 1990, through June 30, 1991.

Approved April 5, 1990.

CHAPTER 299
(H.B. No. 456)

AN ACT

RELATING TO THE STATE BOARD OF OPTOMETRY; AMENDING SECTION 54-1501, IDAHO CODE, TO PROVIDE FOR AN EQUIVALENT EXAMINATION AS MAY BE APPROVED BY THE STATE BOARD OF OPTOMETRY.

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

SECTION 1. That Section 54-1501, Idaho Code, be, and the same is hereby amended to read as follows:

54-1501. PRACTICE OF OPTOMETRY DEFINED. Optometry is defined as the science which relates to the examination of the eyes, the analysis of their function and the employment of preventive or corrective measures to insure maximum vision and comfort. The practice of optometry is declared to be a learned profession. The practice of optometry affects the public health, welfare and safety and the public interest requires regulation and control of the practice of optometry and limitation of the practice to qualified persons. Any person, not expressly exempted from the provisions of this chapter, shall be deemed to be practicing optometry within the meaning of this chapter who shall:

1. Engage in the profession of examining, testing, measuring, treating, correcting, developing, or improving the human visual apparatus;

2. Display any sign, circular, advertisement, or device purporting or offering in any manner to examine eyes, test eyes, fit glasses, adjust frames or prescribe lenses, or by any means or method set himself forth as an optometrist, doctor of optometry, optical doctor, doctor of optical science, O.D., Opt. D., optician, optical specialist, eye specialist, or refractionist, or any other designation of like import, with intent to induce people to patronize himself or any other persons for examination, diagnosis, development, or correction of the human visual apparatus;

3. Employ in the examination, diagnosis, or treatment of another, any means, including the use of topically applied diagnostic pharmaceutical agents, but excluding pharmaceutical agents for therapeutic use, for the measurement, improvement, or development of any or all

functions of human vision or the assistance of the powers of range of human vision or the determination of the accommodative or refractive status of human vision or the scope of its functions in general. Provided however, notwithstanding the provisions of this subsection, the state board of optometry may, pursuant to regulations adopted by it, issue a certificate to optometrists licensed in this state authorizing the optometrist to prescribe, administer and dispense such topically applied therapeutic pharmaceutical ophthalmic agents as jointly agreed upon by the board of optometry and either the board of medicine or the board of pharmacy and as identified in rules and regulations adopted by the board of optometry. Such certificate shall only be issued to an optometrist who: (1) has successfully passed the "treatment and management of ocular disease" section of the optometrist examination approved by the international association of boards of examination in optometry, inc. or ~~ocular-therapy-for-optometric-practitioners,-No.-750B,-final-exam~~ an equivalent examination as may be approved by the state board of optometry; (2) is the holder of a certificate for the use of diagnostic pharmaceutical agents issued by the state board of optometry; and (3) has completed such appropriate additional educational and clinical experience requirements as shall be established by the state board of optometry pursuant to section 54-1509, Idaho Code. Nothing contained herein shall be construed to authorize the use of beta-blockers except in consultation with a physician licensed pursuant to chapter 18, title 54, Idaho Code;

4. Sell or offer for sale, otherwise than on prescription, any lens with spherical, prismatic or cylindrical power for the aid of human vision;

5. Prescribe or adapt lenses, including contact lenses, exercises, orthoptics, vision therapy, or other physical means to correct defects or adjust human vision to the conditions of a special occupation; or

6. Do or offer to do any of the foregoing with intent of receiving therefor, either directly or indirectly, any fee, gift, remuneration, or compensation whatsoever.

Approved April 5, 1990.

CHAPTER 300
(H.B. No. 519)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 21, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2143, IDAHO CODE, TO PROHIBIT POLICY PROVISION IN AN INDIVIDUAL DISABILITY POLICY WHICH WOULD EXCLUDE COVERAGE FOR SERVICES RENDERED IN A STATE INSTITUTION OR FOR BENEFITS PROVIDED BY THE DEPARTMENT OF HEALTH AND WELFARE EXCEPT WHERE CHARGES WOULD VARY OR BE AFFECTED BY THE EXISTENCE OF INSURANCE COVERAGE; AMENDING CHAPTER 22, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2217, IDAHO CODE, TO PROHIBIT POLICY PROVISION IN A GROUP OR BLANKET DISABILITY INSURANCE POLICY

WHICH WOULD EXCLUDE COVERAGE FOR SERVICES RENDERED IN A STATE INSTITUTION OR FOR BENEFITS PROVIDED BY THE DEPARTMENT OF HEALTH AND WELFARE EXCEPT WHERE CHARGES WOULD VARY OR BE AFFECTED BY THE EXISTENCE OF INSURANCE COVERAGE; AMENDING CHAPTER 34, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3440, IDAHO CODE, TO PROHIBIT PROVISION IN A HOSPITAL OR PROFESSIONAL SERVICE CORPORATION CONTRACT WHICH WOULD EXCLUDE COVERAGE FOR SERVICES RENDERED IN A STATE INSTITUTION OR FOR BENEFITS PROVIDED BY THE DEPARTMENT OF HEALTH AND WELFARE EXCEPT WHERE CHARGES WOULD VARY OR BE AFFECTED BY THE EXISTENCE OF COVERAGE UNDER A SUBSCRIBER CONTRACT; AMENDING CHAPTER 39, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3935, IDAHO CODE, TO PROHIBIT PROVISION IN A HEALTH MAINTENANCE ORGANIZATION CONTRACT WHICH WOULD EXCLUDE COVERAGE FOR SERVICES RENDERED IN A STATE INSTITUTION OR FOR BENEFITS PROVIDED BY THE DEPARTMENT OF HEALTH AND WELFARE EXCEPT WHERE CHARGES WOULD VARY OR BE AFFECTED BY THE EXISTENCE OF A HEALTH MAINTENANCE ORGANIZATION CONTRACT; AMENDING CHAPTER 40, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4024, IDAHO CODE, TO PROHIBIT PROVISION IN A SELF-FUNDED HEALTH CARE PLAN WHICH WOULD EXCLUDE COVERAGE FOR SERVICES RENDERED IN A STATE INSTITUTION OR FOR BENEFITS PROVIDED BY THE DEPARTMENT OF HEALTH AND WELFARE EXCEPT WHERE CHARGES WOULD VARY OR BE AFFECTED BY THE EXISTENCE OF COVERAGE UNDER A SELF-FUNDED HEALTH CARE PLAN.

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

SECTION 1. That Chapter 21, 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 41-2143, Idaho Code, and to read as follows:

41-2143. SERVICES PROVIDED BY GOVERNMENTAL ENTITIES. (1) From and after July 1, 1990, no disability insurance policy shall be issued in Idaho which excludes from coverage services rendered the insured while a resident in an Idaho state institution, provided the services to the insured would be covered by the disability insurance policy if rendered to him outside an Idaho state institution.

(2) From and after July 1, 1990, no disability insurance policy shall be issued in Idaho which contains any provision denying or reducing benefits otherwise provided under the policy for the reason that the person insured is receiving health or mental health care or developmental services provided by the department of health and welfare, whether or not the department of health and welfare bases its charges for such services on the recipient's ability to pay. Provided, nothing in this section shall prevent the issuance of a policy which excludes or reduces benefits where the charge level or amount of the charge levied by a governmental entity for such services would vary or be affected in any way by the existence of insurance coverage.

SECTION 2. That Chapter 22, 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 41-2217, Idaho Code, and to read as follows:

41-2217. SERVICES PROVIDED BY GOVERNMENTAL ENTITIES. (1) From and after July 1, 1990, no group or blanket disability insurance policy shall be issued in Idaho which excludes from coverage services rendered the insured while a resident in an Idaho state institution, provided the services to the insured would be covered by the policy if rendered to him outside an Idaho state institution.

(2) From and after July 1, 1990, no group or blanket disability insurance policy may contain any provision denying or reducing benefits otherwise provided under the policy for the reason that the person insured is receiving health or mental health care or developmental services provided by the department of health and welfare, whether or not the department of health and welfare bases its charges for such services on the recipient's ability to pay. Provided, nothing in this section shall prevent the issuance of a policy which excludes or reduces benefits where the charge level or amount of the charge levied by a governmental entity for such services would vary or be affected in any way by the existence of insurance coverage.

SECTION 3. That Chapter 34, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-3440, Idaho Code, and to read as follows:

41-3440. SERVICES PROVIDED BY GOVERNMENTAL ENTITIES. (1) From and after July 1, 1990, no hospital or professional service corporation subscriber's contract shall be issued in Idaho which excludes from coverage services rendered the subscriber while a resident in an Idaho state institution, provided the services to the subscriber would be covered by the contract if rendered to him outside an Idaho state institution.

(2) From and after July 1, 1990, no hospital or professional service corporation subscriber's contract may contain any provision denying or reducing benefits otherwise provided under the policy for the reason that the person insured is receiving health or mental health care or developmental services provided by the department of health and welfare, whether or not the department of health and welfare bases its charges for such services on the recipient's ability to pay. Provided, nothing in this section shall prevent the issuance of a contract which excludes or reduces benefits where the charge level or amount of the charge levied by a governmental entity for such services would vary or be affected in any way by the existence of coverage under a hospital or professional service corporation subscriber contract.

SECTION 4. That Chapter 39, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-3935, Idaho Code, and to read as follows:

41-3935. SERVICES PROVIDED BY GOVERNMENTAL ENTITIES. (1) From and after July 1, 1990, no health maintenance organization contract shall be issued in Idaho which excludes from coverage services rendered the subscriber while a resident in an Idaho state institution,

provided the services to the subscriber would be covered by the contract if rendered to him outside an Idaho state institution.

(2) From and after July 1, 1990, no health maintenance organization contract may contain any provision denying or reducing benefits otherwise provided under the policy for the reason that the person insured is receiving health or mental health care or developmental services provided by the department of health and welfare, whether or not the department of health and welfare bases its charges for such services on the recipient's ability to pay. Provided, nothing in this section shall prevent the issuance of a contract which excludes or reduces benefits where the charge level or amount of the charge levied by a governmental entity for such services would vary or be affected in any way by the existence of coverage under a health maintenance organization contract.

SECTION 5. That Chapter 40, 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 41-4024, Idaho Code, and to read as follows:

41-4024. SERVICES PROVIDED BY GOVERNMENTAL ENTITIES. (1) From and after July 1, 1990, no self-funded plan shall be issued in Idaho which excludes from coverage services rendered the subscriber while a resident in an Idaho state institution, provided the services to the subscriber would be covered by the contract if rendered to him outside an Idaho state institution.

(2) From and after July 1, 1990, no self-funded plan may contain any provision denying or reducing benefits otherwise provided under the policy for the reason that the person insured is receiving health or mental health care or developmental services provided by the department of health and welfare, whether or not the department of health and welfare bases its charges for such services on the recipient's ability to pay. Provided, nothing in this section shall prevent the issuance of a contract which excludes or reduces benefits where the charge level or amount of the charge levied by a governmental entity for such services would vary or be affected in any way by the existence of coverage under a self-funded plan.

Approved April 5, 1990.

CHAPTER 301
(H.B. No. 851)

AN ACT

RELATING TO DEFINITIONS FOR WORKER'S COMPENSATION INSURANCE PURPOSES; AMENDING SECTION 72-205, IDAHO CODE, TO PROVIDE AN ADDITIONAL DEFINITION FOR PUBLIC EMPLOYMENT PROGRAMS; 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) 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) 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 compensible under federal law.

(6<u>7</u>) 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.

<u>(8) Every person who participates in a youth employment program funded in whole or in part by state or federal money and administered by a state or federal agency or a nonprofit corporation or entity.</u>

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, 1990.

CHAPTER 302
(H.B. No. 846)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1991; 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, 1990, through June 30, 1991:

FROM:	
General Account	$ 960,000
Job Training Partnership Act Account	130,100
Federal Program Administration Account	1,107,300
TOTAL	$2,197,400

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, 1990, through June 30, 1991:

I. GOVERNOR'S OFFICE ADMINISTRATION:	
FROM:	
General Account	$ 875,200
Job Training Partnership Act Account	130,100
TOTAL	$1,005,300
II. GOVERNOR'S RESIDENCE:	
FROM:	
General Account	$ 5,900
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	$ 56,900
Federal Program Administration Account	1,107,300
TOTAL	$1,164,200
V. GOVERNOR ELECT TRANSITION:	
FROM:	
General Account	$ 15,000
GRAND TOTAL	$2,197,400

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 324, Laws of 1989, for the period July 1, 1990, through June 30, 1991.

Approved April 5, 1990.

CHAPTER 303
(H.B. No. 733, As Amended)

AN ACT

RELATING TO REGULATION OF SKILLED AND INTERMEDIATE CARE FACILITIES; AMENDING CHAPTER 1, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-134A, IDAHO CODE, TO PROVIDE REMEDIES AVAILABLE UPON A FINDING OF DEFICIENT CARE; AND PROVIDING AN EFFECTIVE DATE.

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 56-134A, Idaho Code, and to read as follows:

56-134A. REMEDIES FOR DEFICIENT CARE. If the director finds that a facility is deficient in, or no longer meets, any of the requirements of participation set forth in 42 U.S.C. 1396r(b), (c) and (d), which are hereby incorporated by reference, the director has the authority, as provided in title XIX of the social security act, to:

(1) terminate the facility's participation in the medicaid program;
(2) deny payment;
(3) assess and collect a civil money penalty with interest;
(4) appoint temporary management of the facility;
(5) close the facility and/or transfer residents to another certified facility;
(6) direct a plan of correction;
(7) ban admission of persons with certain diagnoses or requiring specialized care;
(8) ban all admissions to the facility;
(9) assign monitors to the facility; or
(10) reduce the licensed bed capacity.

SECTION 2. This act shall be in full force and effect on and after October 1, 1990.

Approved April 5, 1990.

CHAPTER 304
(H.B. No. 772, As Amended)

AN ACT

RELATING TO THE LICENSING AND REGULATION OF RESIDENTIAL CARE ADMINISTRATORS WITHIN THE STATE OF IDAHO; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 42, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE THAT A FACILITY MUST BE SUPERVISED BY A LICENSED ADMINISTRATOR, TO CREATE A BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS,

TO PROVIDE FOR FUNCTIONS AND DUTIES OF THE BOARD AND FOR A LICENSING FEE, TO PROVIDE QUALIFICATIONS FOR AN EXAMINATION FOR A LICENSE, TO PROVIDE FOR THE SUBJECT MATTER OF THE EXAMINATION, TO PROVIDE FOR ISSUANCE OF LICENSES, EXEMPTIONS AND EDUCATIONAL PROGRAMS, TO PROVIDE FOR CERTIFICATES OF REGISTRATION, CONTINUING EDUCATION PROGRAMS, REVOCATION OR SUSPENSION, RENEWAL OF LAPSED REGISTRATIONS, AND FOR A REGISTER OF APPLICATIONS, TO PROVIDE FOR INTERSTATE RECIPROCAL ENDORSEMENT OF LICENSES, TO PROVIDE FOR TEMPORARY PERMITS AND EXCEPTIONS, TO PROVIDE PENALTIES, TO PROVIDE FOR REVOCATION OR SUSPENSION OF LICENSES OR OTHER DISCIPLINE, TO PROVIDE FOR REISSUANCE OF A REVOKED LICENSE OR REGISTRATION, TO PROVIDE FOR APPEAL FROM BOARD RULINGS, AND PROVIDING FOR DISPOSITION OF RECEIPTS AND AUTHORITY FOR PAYMENT OF CLAIMS AGAINST THE FUND.

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 42, Title 54, Idaho Code, and to read as follows:

CHAPTER 42
IDAHO RESIDENTIAL CARE ADMINISTRATORS ACT

54-4201. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Residential Care Administrators Act."

54-4202. DEFINITIONS. As used in this chapter:

(1) "Board" means the board of examiners of residential care facility administrators of the state of Idaho.

(2) "Examiner" means a member of the board of examiners of residential care facility administrators of the state of Idaho.

(3) "Executive secretary" means the secretary of the board of examiners of residential care facility administrators of the state of Idaho.

(4) "Practice of residential care facility administration" means that planning, organizing, directing, and control of the operation of a residential care facility.

(5) "Provisional license" means a temporary license issued to a provisional residential care facility administrator under and pursuant to the provisions of this chapter.

(6) "Provisional residential care facility administrator" means an individual who has been licensed as such under and pursuant to the provisions of this chapter.

(7) "Residential care facility" means a facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals and lodging to three (3) or more elderly, developmentally disabled, physically disabled and/or mentally ill adults not related to the owner.

(8) "Residential care facility administrator" means any individual responsible for planning, organizing, directing, and controlling the operation of a residential care facility, or who in fact performs

such functions, whether or not such functions are shared by one (1) or more other persons.

54-4203. FACILITY SUPERVISION BY LICENSED ADMINISTRATOR REQUIRED -- PRACTICE BY UNLICENSED PERSON PROHIBITED -- PROVISIONAL LICENSE. Effective July 1, 1991, no residential care facility in the state shall be operated unless it is under the supervision of an administrator who holds a currently valid residential care facility administrator's license and registration, or provisional license, issued pursuant to this chapter. No person shall practice or offer to practice residential care facility administration in this state or use any title, sign, card, or device to indicate that he is a residential care facility administrator unless such person shall have been duly licensed and registered as a residential care facility administrator or licensed as a provisional residential care facility administrator as required by this chapter.

54-4204. BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS. (1) There is hereby created in the department of self-governing agencies a board of examiners of residential care facility administrators, which board shall consist of five (5) members, and composed of two (2) residential care facility administrators, duly licensed and registered under this chapter, and three (3) other members as hereinafter described, except that such members of the initial board shall be required only to possess the qualifications and be eligible for licensure as required under this chapter, one (1) member shall be selected from any other profession or agency or institution concerned with the care of persons requiring assistance with the daily activities of living; one (1) licensed nurse from the nursing profession; and one (1) member representative of the public at large; but no more than two (2) of the members of the board shall be officials or full-time employees of state or local governments. All members of the board shall be citizens of the United States or shall have declared their intent to become citizens of the United States and shall be residents of this state.

(2) One (1) member of the initial board shall be appointed for a one (1) year term of office, two (2) members of the initial board shall be appointed for a two (2) year term of office, and two (2) members of the initial board shall be appointed for a three (3) year term of office. Thereafter, the term of office for each member of the board shall be three (3) years.

(3) (a) Appointments to the board shall be made by the governor after consultation with the executive board of any organized and generally recognized group concerned with residential care facility administration. Each member of the board shall hold office until his successor is duly appointed and qualified. Dismissals shall be by the governor, for reasonable cause.

(b) The two (2) residential care facility administrators must be appointed from a list of three (3) submitted by any organized and generally recognized group concerned with residential care facility administration.

(c) Members of the board shall be compensated as provided in section 59-509(f), Idaho Code.

(4) The board shall elect annually from its membership a chairman and vice chairman. The board shall hold two (2) or more meetings each year. A majority of the board membership shall constitute a quorum.

(5) The board shall exercise its powers and perform its duties and functions specified by this chapter.

(6) The board may appoint an executive secretary. He shall be the executive officer to the board but shall not be a member of the board. He shall have such powers and shall perform such duties as are prescribed by law and the rules and regulations of the board. A clerk and sufficient deputy clerks to adequately assist the board and the executive secretary in the keeping of the records and in the performance of their duties may be appointed by the board. All employees of the board shall be appointed, and serve in accordance with the provisions of law.

(7) The board may, by written agreement, authorize the bureau of occupational licenses, or other appropriate body as provided by law, as agent to act in its interest.

54-4205. FUNCTIONS AND DUTIES OF THE 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 chapter which shall be met by individuals in order to receive and retain a license as a residential care facility administrator which standards shall be designed to ensure that residential care facility 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 residential care facility 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 designed to ensure that individuals licensed as residential care facility 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 residential care facility administrator has failed to comply with the requirements of such standards;

(f) Conduct a continuing study and investigation of administrators of residential care facilities 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 residential care facilities who have been licensed as such;

(g) The board shall establish by rule a fee schedule not to exceed one hundred dollars ($100) each for applications for licenses, provisional licenses, annual recertification of registration and applications for a reciprocal endorsement of a license issued by the proper authorities in another state.

(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.

54-4206. QUALIFICATIONS FOR EXAMINATION FOR LICENSE. (1) The board shall admit to the examination for licensure as a residential care facility administrator any candidate who pays a fee as determined by the board, and submits evidence of good moral character and suitability prescribed by the board, is at least twenty-one (21) years old except:

(a) That on and after July 1, 1991, no applicant for a license as a residential care facility administrator shall be admitted to such licensing examination nor shall such applicant be entitled to or be granted a license as a residential care facility administrator unless such applicant shall submit written evidence, on forms provided for such purpose by the board, that he has successfully completed a course of study and has been graduated from a high school approved and recognized by the educational authorities of the state in which such school is located, or a political division thereof or has submitted a certificate indicating that he has obtained high school or secondary school equivalency, such certificate being duly certified by a state educational authority or a political division thereof, and except that he shall have complied with the provisions of subsection (2) of this section.

(b) On or after July 1, 1991, each applicant who has not completed a regular course of study or program which course of study or program shall have been approved by the board as being adequate academic preparation for residential care facility administration, shall submit evidence satisfactory to the board that he has successfully completed specialized courses or a program of study in the area of residential care facility administration as required and approved by the rules of the board.

(2) A candidate who applies for examination under and pursuant to subsection (1) of this section, in lieu of the educational requirements provided for therein, may submit evidence satisfactory to the board that such applicant has obtained two (2) years of satisfactory practical experience in residential care facility administration or in a related health administration area for each year of high school education.

54-4207. SUBJECT MATTER OF EXAMINATION -- FREQUENCY. (1) The board shall determine the subjects of examination for applicants for

licensure as residential care facility administrators and the scope, content, and format of such examinations which in any examination shall be the same for all candidates; except that such examination shall include examination of the applicant to demonstrate his proficiency in the practice of, and knowledge of, applicable rules of health and safety within the state.

(2) Examinations shall be held at least semiannually at such times and places as the board shall designate.

54-4208. ISSUANCE OF LICENSE -- EXEMPTION -- EDUCATIONAL PROGRAMS. (1) An applicant for a license as a residential care facility administrator who has successfully complied with the requirements of section 54-4206, Idaho Code, and the standards provided for therein, has passed the examination provided for in section 54-4207, Idaho Code, and, where applicable, has complied with the requirements of section 54-4211, Idaho Code, shall be issued a license, on a form provided for that purpose by the board, certifying that such applicant has met the requirements of the laws and rules entitling him to serve, act, practice, and otherwise hold himself out as a duly licensed residential care facility administrator.

(2) (a) The board shall issue a provisional license to any individual applying therefor who has served as a residential care facility administrator for all of the calendar year immediately preceding July 1, 1991, meets the standards of the board and of this chapter relating to good character, suitability, age, and citizenship, and has paid the fee as set by the board. No license shall be issued under the provisions of this section prior to July 1, 1991.

(b) Such provisional license shall terminate two (2) years from date of issuance but shall be subject to the payment of the annual fee, and shall be canceled and be of no legal force or effect except that if, prior to the expiration of such provisional license, such provisional residential care facility administrator shall have passed a qualifying examination and otherwise complied with the provisions of section 54-4206, Idaho Code, as required by the board, a residential care facility administrator license shall be issued to him.

(3) Any license issued by the board under or pursuant to the provisions of this section shall be under the hand and seal of the chairman and executive secretary of the board.

(4) If the board finds that programs of training and instruction conducted within the state are not sufficient in number or content to enable applicants for residential care facility administrators' licenses and residential care facility administrators to meet requirements established pursuant to this chapter, it shall institute and conduct or arrange with others to conduct one (1) or more such programs, and shall make provision for their accessibility to appropriate residents of this state. The board may approve programs conducted within and without this state as sufficient to meet education and training requirements established pursuant to this chapter.

54-4209. CERTIFICATE OF REGISTRATION -- ATTENDANCE AT CONTINUING EDUCATION PROGRAM -- REVOCATION OR SUSPENSION -- RENEWAL OF LAPSED

REGISTRATIONS -- REGISTER OF APPLICATIONS. (1) Every individual who holds a valid license as a residential care facility administrator issued by the board under section 54-4208(1), Idaho Code, shall immediately upon issuance thereof be deemed registered with the board and be issued a certificate of registration. Thereafter, such individual shall annually be required to apply to the board for a recertification of registration and report any facts requested by the board on forms provided for such purpose.

(2) Upon making an application for a recertification of registration, such individual shall pay an annual registration fee, and at the same time shall submit evidence satisfactory to the board that during the twelve (12) month period immediately preceding such application for recertification of registration he has successfully attended a continuing education program or course of study as may be provided in the rules of the board.

(3) Upon receipt of such application for recertification of registration, the registration fee, and the evidence required with respect to continuing education, the board shall issue a recertification of registration to such residential care facility administrator.

(4) The license of a residential care facility administrator who fails to comply with the provisions of this section, and who continues to act as a residential care facility administrator, shall be suspended or revoked by the board, in accordance with the provisions of this chapter.

(5) A residential care facility administrator who has been duly licensed and registered in this state and whose license shall not have been revoked or suspended, and whose registration has expired for a period of not longer than five (5) years, may reregister within the state upon complying with the provisions of this section for recertification of registration and also filing with the board an affidavit in accordance with the rules of the board, and payment of a twenty-five dollar ($25.00) reinstatement fee together with fees for back years.

(6) A residential care facility administrator whose license has been expired for five (5) or more years, must reapply for licensure under the provisions of section 54-4206, Idaho Code.

(7) The board shall maintain a register of all applications for licensing and registration of residential care facility administrators, which register shall show: The place of residence, name and address of each applicant, the name and address of employer or business connection of each applicant, the date of application, complete information of educational and experiential qualifications, the action taken by the board, the serial number of the license and of registration certificates issued to the applicant, the date on which the board reviewed and acted upon the application, and such other pertinent information as the board may deem necessary.

54-4210. INTERSTATE RECIPROCAL ENDORSEMENT OF LICENSES. The board, in its discretion, and otherwise subject to the provisions of this chapter, and the rules of the board promulgated thereunder prescribing the qualifications for a residential care facility administrator license, may endorse a residential care facility administrator license issued by the proper authorities of any other state upon pay-

ment of a fee and upon submission of evidence satisfactory to the board that such other state maintained a system and standard of qualifications and examinations for a residential care facility administrator license which were substantially equivalent to those required in this state at the time such other license was issued by such other state.

54-4211. TEMPORARY PERMITS -- EXCEPTIONS. (1) Pending issuance of a license, the board may issue a temporary permit for a period not exceeding six (6) months, without an examination to an applicant who files a written application for a temporary permit and who is otherwise qualified but does not meet the experience requirements or who is applying to fill a vacancy on an emergency basis.

(2) Any individual who holds a valid Idaho nursing home administrator's license and is in good standing according to the provisions of chapter 16, title 54, Idaho Code, shall be deemed to meet the requirements for issuance of a residential care facility administrator's license and shall be issued one, upon application and payment of appropriate fees.

54-4212. MISDEMEANORS LISTED -- PENALTIES. (1) It shall be a misdemeanor for any person to:

(a) Sell or fraudulently obtain or furnish any license or aid or abet therein; or

(b) Practice as a residential care facility administrator under cover of any license or registration illegally or fraudulently obtained or unlawfully issued; or

(c) Practice as a residential care facility administrator or use in connection with his or her name any designation tending to imply that he or she is a residential care facility administrator unless duly licensed and registered to so practice under the provisions of this chapter; or

(d) Practice as a residential care facility administrator during the time his or her license or registration issued under the provisions of this chapter shall be suspended or revoked; or

(e) Otherwise violate any of the provisions of this chapter.

(2) Such misdemeanor shall be punishable by a fine of not more than five hundred dollars ($500) or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment.

54-4213. REVOCATION OR SUSPENSION OF LICENSE OR REGISTRATION, REPRIMAND, CENSURE, OR OTHER DISCIPLINE. (1) The license or registration of any person practicing or offering to practice residential care facility administration, or the license of a provisional residential care facility administrator, may be revoked or suspended, or such licensee may be reprimanded, censured, or otherwise disciplined in accordance with the provisions of this section upon decision and after due hearing in any of the following cases:

(a) Upon proof that such licensee is reasonably unfit to operate a residential care facility;

(b) Upon proof that such licensee has willfully or repeatedly violated any of the provisions of this chapter or the rules

enacted in accordance with, or willfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the home in which he is the administrator;

(c) Upon proof that such licensee is guilty of fraud or deceit in the practice of residential care facility administration or related activities, or in his or her admission to such practice.

(2) The board, or a hearing officer designated by it, shall have jurisdiction to hear all charges brought under the provisions of this section against persons licensed and registered as residential care facility administrators, or licensed as provisional residential care facility administrators, and upon such hearings shall determine such charges upon their merits. If the board determines that such person is guilty of the charges, the board may revoke his or her license and registration, suspend him or her from practice, or reprimand, censure, or otherwise discipline such licensee.

(3) Proceedings under this section shall be initiated by filing with the board, charges in writing and under oath. The board on its own motion may conduct an investigation and initiate charges. The procedures for notification and the hearing on such charges, unless dismissed by the board as unfounded or trivial, shall be conducted pursuant to the provisions of Idaho law.

54-4214. REISSUANCE OF REVOKED LICENSE OR REGISTRATION. (1) The board may, in its discretion, reissue a license or registration to any person whose license or registration has been revoked.

(2) Application for the reissuance of a license or registration shall be made in such manner as the board may direct in accordance with its rules.

54-4215. APPEAL FROM BOARD RULINGS. Anyone dissatisfied with a ruling of the board may appeal to the district court of the county in which said applicant resides, with said matter being heard as a de novo proceeding.

54-4216. DISPOSITION OF RECEIPTS -- EXPENSE -- REFUND. All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational license account and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the account for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter, the provisions of other law notwithstanding. In no instance will the occupational license account be obligated to pay any claims which in aggregate with claims already paid exceed the income to the occupational license account which has been derived by the application of this chapter.

The money paid into the occupational license account 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 chapter.

Approved April 5, 1990.

CHAPTER 305
(H.B. No. 686)

AN ACT

RELATING TO ANTIDEGRADATION OF IDAHO'S WATERS; AMENDING SECTION 39-3617, IDAHO CODE, TO PROVIDE THAT INTERIM STATUS OR SPECIAL PROTECTION SHALL NOT BE PROVIDED TO STREAMS RECOMMENDED BY THE BOARD OF HEALTH AND WELFARE PRIOR TO LEGISLATIVE DESIGNATION AS AN OUTSTANDING RESOURCE WATER AND PROVIDING APPLICATION TO STATE AGENCIES REGARDING PERMITS FOR NONPOINT SOURCE ACTIVITIES; AND AMENDING SECTION 39-3618, IDAHO CODE, TO APPROVE CERTAIN RULES AND REGULATIONS ADOPTED BY THE BOARD OF HEALTH AND WELFARE ON JANUARY 31, 1990, RELATING TO WATER QUALITY.

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

SECTION 1. That Section 39-3617, Idaho Code, be, and the same is hereby amended to read as follows:

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. Interim status or special protection shall not be provided to streams recommended by the board prior to legislative designation as an outstanding resource water. No state agency shall delay actions, or deny or delay the processing or approval of any permit for a nonpoint source activity based on nomination of a segment for designation as an outstanding resource water, or while the legislature is considering such designation.

SECTION 2. That Section 39-3618, Idaho Code, be, and the same is hereby amended to read as follows:

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. The rules and regulations promulgated within the authority conferred by this act and adopted by the board of health and welfare on January 31, 1990, and contained in IDAPA sections 16.01.2003,30 and 31 and 16.01.2503,01 through 16.01.2503,07 are hereby approved by the legislature.

Approved April 5, 1990

CHAPTER 306
(H.B. No. 830)

AN ACT

RELATING TO THE REFUND OR CREDIT OF AD VALOREM TAXES; AMENDING CHAPTER 22, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2202A, IDAHO CODE, TO PROVIDE A PROCESS FOR THE REFUND OF AD VALOREM TAXES PAID, OR FOR GRANTING A CREDIT FOR AD VALOREM TAXES PAID.

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

SECTION 1. That Chapter 22, 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 63-2202A, Idaho Code, and to read as follows:

63-2202A. REFUND OR CREDIT OF TAXES. (1) When any court or the board of tax appeals orders a refund of any taxes imposed under chapters 1 through 22 of this title, the board of county commissioners of the county or counties which collected the taxes may either refund taxes or apply the amount to be refunded as a credit against taxes due from the taxpayer in the following year. The board of county commissioners may use a combination of both a payment and a credit to effect the refund.

(2) In the event a refund is paid, payments must be made by warrants drawn on the county's current expense fund by the county auditor. The auditor shall apportion the amount of taxes cancelled as credit to the tax collector. The auditor shall charge the various funds and taxing districts with their proportionate share of the refund and credit the current expense account.

(3) If a credit is given the following year, the credit shall be allowed against actual taxes assessed to the taxpayer by the taxing districts which received the taxes ordered to be refunded.

(4) Amounts equal to the refunds or credits allowed in this section may be included in amounts certified pursuant to sections 63-621 through 63-625, Idaho Code, but shall not be a part of the operating budget within the meaning of section 63-2220, Idaho Code.

(5) As used in this section, "refund" includes tax described in subsection (1) of this section found by the court or the board of tax appeals to have been overpaid and not lawfully due, interest due on the refund of such tax, costs and other amounts ordered paid by a court or the board of tax appeals.

Approved April 5, 1990.

CHAPTER 307
(H.B. No. 778)

AN ACT

RELATING TO THE STATE INCOME TAX; AMENDING SECTION 63-3022, IDAHO CODE, TO REVISE REQUIREMENTS FOR CLAIMING A NET OPERATING LOSS FOR TAXABLE YEARS BEGINNING ON AND AFTER JANUARY 1, 1990; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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, but prior to January 1, 1990, 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, but prior to January 1, 1990, 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. A net operating loss for any taxable year commencing on and after January 1, 1990, shall be a net operating loss carryback not to exceed one hundred thousand dollars ($100,000) to the three (3) immediately preceding taxable years, and any loss not entirely absorbed by the income of those years may be subtracted from taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in the order until exhausted. At the election of the taxpayer, the three (3) year carryback may be foregone and the loss subtracted from taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3)(c) of the Internal Revenue Code. 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, but prior to January 1, 1990, 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 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; 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 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 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.

(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, 1990.

Approved April 5, 1990.

CHAPTER 308
(H.B. No. 564)

AN ACT

RELATING TO PEACE OFFICER STANDARDS AND TRAINING COUNCIL; AMENDING SECTION 19-5102, IDAHO CODE, TO ADD AN ADDITIONAL SHERIFF REPRESENTATIVE TO THE COUNCIL AND TO PROVIDE THAT THE EXECUTIVE DIRECTORS OF THE IDAHO ASSOCIATION OF COUNTIES AND ASSOCIATION OF IDAHO CITIES SHALL BE EX OFFICIO NONVOTING MEMBERS.

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

SECTION 1. That Section 19-5102, Idaho Code, be, and the same is

hereby amended to read as follows:

19-5102. COUNCIL ESTABLISHED -- CHAIRMAN -- MEMBERS. There is hereby established in the department of law enforcement the Idaho police officer standards and training council. The chairman of the council shall be ~~chaired by a chairman~~ appointed by the governor and shall be a voting member of the council which shall be composed of the following members, ~~who~~ and which shall reflect a reasonable geographic balance throughout the state:

(a) Three (3) city chiefs of police or their designees;

(b) ~~Two (2)~~ Three (3) county sheriffs or their designees;

(c) The director of the department of law enforcement or his designee;

(d) A county prosecuting attorney or his designee;

(e) The attorney general or his designee;

(f) The special agent in charge of the Idaho division of the federal bureau of investigation or his designee;

(g) The director of the department of corrections or his designee; ~~and~~

(h) The director of the fish and game department or his designee~~.~~; and

(i) In addition, there shall be advisory to the council, as ex officio nonvoting members of the council, the executive ~~secretaries~~ directors of the Idaho association of counties and association of Idaho cities.

Approved April 5, 1990.

CHAPTER 309
(H.B. No. 644)

AN ACT

RELATING TO THE DESTRUCTION, ALTERATION, OR CONCEALMENT OF EVIDENCE; AMENDING SECTION 18-2603, IDAHO CODE, TO PROVIDE CONDITIONS PERTINENT TO UNLAWFUL DESTRUCTION OF EVIDENCE.

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

SECTION 1. That Section 18-2603, Idaho Code, be, and the same is hereby amended to read as follows:

18-2603. DESTRUCTION, ALTERATION OR CONCEALMENT OF EVIDENCE. Every person who, knowing that any book, paper, record, instrument in writing, or other object, matter or thing, is about to be produced, used or discovered as evidence upon any trial, proceeding, inquiry, or investigation whatever, authorized by law, wilfully destroys, alters or conceals the same, with intent thereby to prevent it from being produced, used or discovered, is guilty of a misdemeanor, unless the trial, proceeding, ~~or~~ inquiry or investigation is criminal in nature and involves a felony offense, in which case said person is guilty of

a felony and subject to a maximum fine of ten thousand dollars ($10,000) and a maximum sentence of five (5) years in prison.

Approved April 5, 1990.

CHAPTER 310
(H.B. No. 638)

AN ACT
RELATING TO THE EXAMINATION, TREATMENT AND QUARANTINE OF PRISONERS; AMENDING SECTION 39-604, IDAHO CODE, TO PROVIDE CODE CITATIONS.

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 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, <u>18-1508, 18-6101</u> or 18-6104<u>8</u>, 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 April 5, 1990.

CHAPTER 311
(H.B. No. 639)

AN ACT

RELATING TO THE PENALTIES FOR POSSESSION AND USE OF CONTROLLED SUBSTANCES; AMENDING SECTION 37-2734A, IDAHO CODE, TO REMOVE AGE RESTRICTIONS FOR PERTINENT OFFENDERS.

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

SECTION 1. That Section 37-2734A, Idaho Code, be, and the same is hereby amended to read as follows:

37-2734A. PROHIBITED ACTS D -- PENALTIES. (1) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

(2) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(3) Any person who is in violation of the provisions of subsections (1) and/or (2) of this section is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than one thousand dollars ($1,000), or both.

~~(4) Any person eighteen (18) years of age or over who is in violation of the provisions of section 37-2734B, Idaho Code, by delivering drug paraphernalia to a person under eighteen (18) years of age~~

~~who-is-at-least-three-(3)-years-his-junior-is-guilty-of-a--misdemeanor and--upon-conviction-may-be-imprisoned-for-not-more-than-one-(1)-year, fined-not-more-than-twenty-five-thousand-dollars-($25,000),-or-both.~~

Approved April 5, 1990.

CHAPTER 312
(H.B. No. 640)

AN ACT

RELATING TO FORFEITURE OF PROPERTY IN CONJUNCTION WITH UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCES; AMENDING SECTION 37-2744, IDAHO CODE, TO DELETE REFERENCE TO PERSONS TRANSPORTING LSD BEING IMMUNE FROM FORFEITURE.

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

SECTION 1. That Section 37-2744, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Property subject to forfeiture under this chapter may be seized by the director, or any peace officer of this state, upon process issued by any district court, or magistrate's division thereof, having jurisdiction over the property. Seizure without process may be made if:

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

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

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

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

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

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

(A) Place the property under seal;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(IV) An owner, co-owner or claimant of any right, title, or interest in the conveyance may prove that his right, title, or interest, whether under a lien, mortgage, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged;

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

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

such sale shall be distributed as follows in the order indicated;

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

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

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

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

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

(iii) In any case, the director may, within thirty (30) days after judgment, pay the balance due to the bona fide lien holder, mortgagee or conditional sales vendor and thereby purchase the conveyance for use to enforce this act.

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

(1) Retain it for official use;

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

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

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

fees, transcripts, printing, traveling and investigation.

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

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

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

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

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

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

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

feited to the state.

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

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

Approved April 5, 1990.

CHAPTER 313
(H.B. No. 643)

AN ACT

RELATING TO ESCAPE; AMENDING SECTION 18-2505, IDAHO CODE, TO DELETE THE WORDS "AT WORK" AND TO PROVIDE THAT A PERSON ON PROBATION MAY BE CHARGED WITH THE CRIME OF ESCAPE.

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

SECTION 1. That Section 18-2505, Idaho Code, be, and the same is hereby amended to read as follows:

18-2505. ESCAPE BY ONE CHARGED WITH ~~OR~~, CONVICTED OF, OR ON PROBATION FOR A FELONY. Every prisoner charged with ~~or~~, convicted of, or on probation for a felony who is confined in any jail or prison including the state penitentiary, or who while outside the walls of such jail or prison in the proper custody of any officer or person, or while ~~at work~~ in any factory, farm of other place without the walls of such jail or prison, who escapes or attempts to escape from such officer or person, or from such jail or prison, or from such factory, farm or other place without the walls of such jail or prison, shall be guilty of a felony, and upon conviction thereof, any such second term of imprisonment shall commence at the time he would otherwise have been discharged.

Approved April 5, 1990.

CHAPTER 314
(H.B. No. 646)

AN ACT

RELATING TO FUGITIVES FROM IDAHO; AMENDING SECTION 19-4522, IDAHO CODE, TO REVISE A DEFINITION OF FUGITIVE; AND AMENDING SECTION 19-4523, IDAHO CODE, TO CATEGORIZE APPLICATION OF REQUISITION, TO PROVIDE CONDITIONS OF REQUISITION, TO INCLUDE TERMS OF REQUISI-

TION, AND PROVIDE PERSONS RESPONSIBLE FOR REQUISITION.

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

SECTION 1. That Section 19-4522, Idaho Code, be, and the same is hereby amended to read as follows:

19-4522. FUGITIVES FROM THIS STATE. Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state from the chief executive of any other state, or from the chief justice or an associate justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

SECTION 2. That Section 19-4523, Idaho Code, be, and the same is hereby amended to read as follows:

19-4523. MANNER OF APPLYING FOR REQUISITION. (a) When the return to this state of a person charged with crime in this state is required, the prosecuting attorney of the county in which the offense is committed shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, and the approximate time, place and circumstances of its committal, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim.

(b) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the commission of pardons and parole, or the warden of the institution or sheriff of the county from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole and the state in which he is believed to be, including the location of the person therein at the time application is made.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two (2) certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, commission of pardons and

parole, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One (1) copy of the application with the action of the governor indicated by indorsement thereon, and one (1) of the certified copies of the indictment or complaint or information and affidavit, shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

Approved April 5, 1990.

CHAPTER 315
(H.B. No. 578)

AN ACT

RELATING TO POSSESSION OF WILD GAME; AMENDING SECTION 36-502, IDAHO CODE, TO PROVIDE THAT IT IS A MISDEMEANOR FOR ANY PERSON TO GIVE ANOTHER PERSON WILDLIFE TO POSSESS OR TRANSPORT UNLESS THEY ALSO GIVE THE TRANSPORTER A PROXY STATEMENT, AND TO PROVIDE PROCEDURES FOR TRANSPORT OF ANADROMOUS FISH.

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

SECTION 1. That Section 36-502, Idaho Code, be, and the same is hereby amended to read as follows:

36-502. POSSESSION -- TRANSPORTATION -- SHIPMENT OF WILDLIFE -- RESTRICTIONS -- EXCEPTIONS. It is a misdemeanor for any person to possess, transport or ship in any manner, or accept for transportation or shipment any wildlife except as hereinafter provided.

(a) Possession and Transportation.

1. The possession and transportation of any legally taken wildlife shall be lawful when the same is in the possession of or is being transported by the taker of said wildlife and is accompanied by the appropriate licenses, tags, and/or permits attached and/or validated in the manner prescribed by the provisions of sections 36-409(e) and 36-410(a), Idaho Code.

2. Possession or transportation of any legally taken wildlife by any person other than the taker shall be lawful when such wildlife is accompanied by a written statement prepared and signed by the taker showing the number, kind, and date taken and the name, address and license number of the taker and other such information as may be specified by the commission. In addition to such statements said wildlife shall be accompanied by the appropriate validated tag therefor and/or such permits as may be required under the provisions of this title except, for anadromous fish, the permit need not accompany the fish so long as the permit number is written on the proxy statement. Provided, however, that no person may lawfully claim, be granted or assume ownership of more game animals, game birds, or game fish taken within the state than allowed by possession limits established by the commission.

3. It shall be lawful for a person to ship or a common carrier to accept for shipment any legally taken wildlife provided that all packages containing such wildlife shall be plainly labeled designating numbers, sex and species of wildlife contained therein and the name and address of the consignor and consignee.

4. It is a misdemeanor for any person to give another person wildlife to possess or transport unless they also give the transporter a proxy statement as provided in subsection 2. of this section.

(b) Unlawful Possession. It is a misdemeanor for any person to have in his possession any wildlife or parts thereof protected by the provisions of this title and the taking or killing of which is unlawful.

Approved April 5, 1990.

CHAPTER 316
(H.B. No. 652)

AN ACT

RELATING TO MINERAL RIGHTS IN STATE LANDS; AMENDING SECTION 47-703, IDAHO CODE, TO PROVIDE LANGUAGE TO ALLEVIATE THE CONFUSION BETWEEN A FEDERAL MINING CLAIM AND A STATE LOCATION; AND AMENDING SECTION 47-704, IDAHO CODE, TO INCREASE THE MINIMUM RENTAL PER ACRE AND TO PROVIDE FOR RESOLVING SIMULTANEOUS FILINGS.

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

SECTION 1. That Section 47-703, Idaho Code, be, and the same is hereby amended to read as follows:

47-703. ~~MINING~~ EXPLORATION LOCATIONS ON STATE LANDS. (1) Location ~~of mineral claims, either lode or placer depending upon the type of deposit discovered by the locator,~~ for exploration purposes may be made upon lands belonging to the state of Idaho in which the mineral rights are reserved or belong to the state, including the beds of all navigable rivers in the state of Idaho and all portions of said navigable rivers between the natural or ordinary high water marks, providing that no ~~mining~~ exploration location may be made on any lands for which a mineral lease application has been made and is pending as provided in section 47-704, Idaho Code; providing further, that no exploration location may be made for salable minerals as that term is used in section 47-701, Idaho Code.

(2) Such locations when made upon surveyed land shall conform to legal subdivisions. When made upon ~~unsurveyed land or in or on~~ the beds of navigable rivers they shall ~~be marked and described as set forth in section 47-602 or 47-617, Idaho Code~~ not exceed one-half (1/2) river mile. When made ~~upon unsurveyed land they shall in no case exceed twenty (20) acres in extent, and when made~~ on surveyed land they shall not exceed twenty (20) acres except that when made upon surveyed land designated as a lot, they may equal one-half (1/2) of

said lot. Descriptions of ~~claims located~~ locations made on the beds of navigable rivers, the boundaries of which shall have been meandered, shall be described ~~and staked in conformity~~ as near as may be with the lotting of the fractional subdivisions bordering upon the navigable rivers, and the description of the ~~claim~~ location shall be so accurately drawn and tied to the government corners that the ground may be accurately located and so described that the ~~claim~~ location may be accurately platted upon the books of the state board of land commissioners.

(3) The discoverer of a mineral deposit, or a person desiring to prospect for mineral shall immediately post conspicuously on each twenty (20) acre tract ~~or claim~~ or fraction ~~of either~~ thereof or each one-half (1/2) river mile, that he desires to locate, ~~a notice~~ an exploration certificate of location declaring that he has made such discovery, or/and declaring that he desires to prospect for mineral, together with the date of such discovery or declaration. Said certificate shall be in such form as the board may prescribe. The locator shall be allowed twenty (20) days from such date to file an exact copy of exploration certificate of location with the state board of land commissioners and pay the appropriate fees. Said certificate shall designate the legal subdivisions ~~claimed, if on surveyed land, or describe said claim if upon unsurveyed land, as provided for herein~~ located, and shall be recorded in the office of said board as of the date of filing, and an entry of such location shall be made upon the plat and tract books.

(4) The locator shall be entitled to hold said ~~claim~~ location for a period of two (2) years from the first of ~~July next succeeding its location~~ the month following the date of recording and by performing one hundred dollars ($100) worth of work during each year for each ~~twenty (20) acre tract or fraction thereof~~ location.

(5) Work, within the meaning of this section shall consist of tunnels, shafts, or other mining excavations or development, ~~and~~ including drilling by conventional methods and pits or shafts sunk to determine the value of the gravels. Work shall not include roads, trails, buildings, machinery, or other surface improvement. All such work may be done at one (1) place on the ~~claim,~~ location or at as many places as the locator may desire, and in case two (2) or more ~~claims~~ locations are under the same ownership, then said work may be performed on any one or more ~~claims~~ locations. Work so performed as annual assessment ~~on either lode or placer claims~~, where performed for the benefit of a group contiguous and under common ownership, shall be such that it shall be of material benefit to each and every ~~claim~~ location forming the contiguous group~~, and in the case of placer claims drilling by the conventional method and pits or shafts sunk to determine the value of the gravels shall be considered good assessment and valid improvement. If the claim is located within the ninety (90) days next preceding July first of any year, development work must be begun before that July first, but the locator may have till the succeeding July first to complete one hundred dollars ($100) worth of work for each twenty (20) acre tract or fraction thereof.~~

(6) Written proof that such work has been done shall be filed with the state board of land commissioners, on such forms and in such manner as they shall prescribe. Such procedure shall empower the

locator to retain possession of and prospect said ~~claim~~ location for a period of two (2) years, at the end of which time he shall be required to take a lease upon such terms as may be agreed upon by the state board of land commissioners. Provided, that the right granted under this section to prospect for mineral and to make locations shall not extend to lands in the possession of a purchaser under contract of sale from the state.

SECTION 2. That Section 47-704, Idaho Code, be, and the same is hereby amended to read as follows:

47-704. LEASES OF MINERAL RIGHTS IN STATE LANDS. (1) The state board of land commissioners may lease in tracts not exceeding six hundred forty (640) acres for prospecting and mining purposes, and mineral deposits, except for leases for oil, gas and other hydrocarbons, that may be contained in any portion of the unsold lands of the state or that may be contained in state lands sold with a reservation of mineral deposits or belong to the state of Idaho by reason of being situate between the high water marks of navigable rivers of the state, for such annual rental, not less than ~~twenty-five cents (25¢)~~ one dollar ($1.00) per acre per annum, and for such royalty upon the product as the board may deem fair and in the interest of the state, except in the case of state oil and gas leases wherein the royalty to the state shall be not less than twelve and one-half per cent (12 1/2%), and provided that the minimum royalty shall not be less than two and one-half per cent (2 1/2%). The rental paid for any year shall be deducted from the royalties as they accrue for that year.

(2) All mineral leases, except leases for oil, gas, and other hydrocarbons, and geothermal resources of state school lands and for lands belonging to the state of Idaho, other than school lands, shall be for a term of ten (10) years, and so long thereafter as precious metals, minerals, salable minerals, and ores, or any of them, are produced in paying quantities, or as much longer thereafter as the lessee in good faith shall conduct mining operations thereon, together with the right to use and occupy so much of the surface of said land as may be required for all purposes reasonably incident to the prospecting for, exploration for, development of, production, refining, processing and marketing of said precious metals, minerals, salable minerals, and ores produced from said lands, including the right to construct and maintain thereon all works, buildings, plants, waterways, roads, communication lines, reservoirs, tanks or other structures necessary to the full enjoyment thereon for the purpose of the lease.

(3) Provided, that the leaseholder of any mineral lease except leases for oil, gas, and other hydrocarbons, and geothermal resources heretofore or hereafter issued, upon the expiration of the initial lease and all renewals thereof, shall be given the preferential right to renew such lease or renewal leases under such readjustment of the terms and conditions as the board may determine to be necessary in the interest of the state.

(4) All applications received, whether by mail or by personal delivery over the counter, shall be immediately stamped with the date and hour of filing. Simultaneous filings ~~will be resolved by a drawing within thirty (30) days thereafter~~ result when two (2) or more

applications are received for the same lands during the same hour of the same day. Simultaneous filings shall be resolved by competitive bidding. This provision does not apply to applications received from an applicant having a preferential right under subsection (5) of this section. In the absence of a simultaneous filing, and except for lands and resources which may be designated for competitive bidding, right of priority to a mineral lease shall be determined by the first qualified applicant who shall file a completed, signed application on the form of the department of lands or exact copy thereof between the hours of eight and five during any business day, together with the application fee set by the board.

(5) Applications for mineral leases shall be made under oath in such form as the board may prescribe, and the applicant shall describe the land, ~~indicate the annual rental and royalty offered by him,~~ specify the particular mineral or minerals, and give such additional information as may be required by the rules and regulations of the board. If the applicant for a lease has previously filed a certificate of location, as provided in section 47-703, Idaho Code, upon any part of the land desired to be leased, such application shall be given a preferential right to the land covered by his location; that no lands upon which a mineral location has been duly made and recorded as provided in section 47-703, Idaho Code, shall be leased for mining purposes during the two (2) year periods to any applicant except the person having made such location; provided, however, that no locations may be made for oil and gas deposits or lands, or geothermal resources.

(6) Any exploration with heavy motorized equipment as defined in section 47-703, Idaho Code, on the lands between the ordinary high watermarks of any navigable river of the state shall be prohibited except after award of a lease by the board and submission of a bond to the department in the form and amount set by the board; and if applicable, an operator shall also comply with the dredge and placer mining act, chapter 13, title 47, Idaho Code; provided, that in all instances an operator shall comply with the stream channel alteration act, and all other applicable laws and rules of the state.

(7) Upon receipt by the state board of land commissioners of an application to lease any lands which may belong to the state of Idaho by reason of being situate between the high water marks of navigable rivers of the state, the board shall cause at the expense of the applicant, a notice of such application to be published once a week for two (2) issues in a newspaper of general circulation in the county or counties in which said lands described in said application are situated. The board or its authorized representative shall hold a public hearing on the application, if requested in writing no later than thirty (30) days after the last published notice by ten (10) persons whose lawful rights to use the waters applied for may be injured thereby, or by an association presenting a petition with signatures of not less than ten (10) such aggrieved parties; provided that the board may order a public hearing in the first instance. The board shall consider fully all written and oral submissions respecting the application.

(8) Provided, however, that the state board of land commissioners shall send notice of any such application for leasing the bed of navi-

gable rivers to the director of the department of water resources, who, if ~~he~~ the director thinks advisable, shall at the expense of the applicant make an investigation. If said investigation shows that the rights of interested parties may be jeopardized by the issuance of the proposed lease, ~~he~~ the director shall give notice of such applications to parties affected thereby. If it shall appear to the state board of land commissioners that the leasing of any lands between the high water marks of any navigable river will be injurious to the rights of any person or persons having the right to the use of the waters thereof for irrigation, power, or any other lawful purpose, the state board of land commissioners shall deny such application.

Approved April 5, 1990.

CHAPTER 317
(H.B. No. 762)

AN ACT

RELATING TO MINERAL RIGHTS IN STATE LANDS; AMENDING SECTION 47-703A, IDAHO CODE, TO FURTHER CLARIFY THE DIFFERENCE BETWEEN CASUAL EXPLORATION AND EXPLORATION USING MOTORIZED EQUIPMENT AND TO REQUIRE AN EXPLORATION PLAN; AND AMENDING SECTION 47-704, IDAHO CODE, TO PERMIT EXPLORATION OF A RIVERBED PRIOR TO LEASE WITH WRITTEN APPROVAL.

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

SECTION 1. That Section 47-703A, Idaho Code, be, and the same is hereby amended to read as follows:

47-703A. EXPLORATION ~~PRIOR--TO-LEASE~~ ON STATE LANDS -- BOND. (1) With the exception of casual exploration as defined in section 47-703A(4)(a), Idaho Code, ~~P~~prior to any entry or exploration with ~~heavy~~ motorized equipment on state lands, an operator shall first submit to the director of the department of lands, an exploration and reclamation plan and a bond in such form as prescribed by the board not to exceed seven hundred and fifty dollars ($750) per affected acre conditioned on the payment of all damages to the land and resources thereon caused by the entry and/or exploration, with ~~heavy~~ motorized equipment; provided, that where applicable, an operator shall also comply with the dredge and placer mining act, chapter 13, title 47, Idaho Code. Written approval by the board is required for motorized exploration prior to entry.

(2) Weather permitting, the board shall deliver to the operator within sixty (60) days after the receipt of any exploration and reclamation plan a notice of rejection or notice of approval of said plan, as the case may be; provided, however, that if the board fails to deliver a notice of approval or notice of rejection within said time period, the plan submitted shall be deemed approved under subsection (1) of this section, and the operator may, upon furnishing a bond to

the board that meets the requirements of subsection (1) of this section, commence and conduct his exploration operations with motorized equipment on the lands covered by such plan as if a notice of approval of said plan had been received from the board; provided, however, that if weather conditions prevent the board from inspecting the lands to obtain information needed to approve or reject a submitted plan, it may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection. Any notice of rejection issued by the director of the department of lands or his properly authorized designated officer may be appealed by the operator to the board.

(~~2~~3) The operator shall reclaim the surface damaged by the entry and/or exploration with ~~heavy~~ motorized equipment to the approximate previous contour and condition insofar as is reasonably possible.

(~~3~~4) The following definitions shall apply to this chapter:

(a) "Casual exploration" means ~~without the use of heavy motorized equipment~~ entry and/or exploration which does not appreciably disturb or damage the land or resources thereon. Casual exploration includes, but is not limited to, geochemical and/or geophysical exploration techniques, sampling with hand tools, and entry using wheeled vehicles for transportation to conduct such exploration. Exploration using suction dredges having an intake diameter of two (2) inches or less shall be considered casual exploration when operated in a perennial stream and authorized under the stream protection act, chapter 38, title 42, Idaho Code.

(b) "~~Heavy-m~~Motorized ~~equipment~~ exploration" means ~~that~~ exploration which may appreciably disturb or damage the land or resources thereon ~~including--without--limitation--backhoes,--cats,--dozers, roadgraders,--draglines--and-motorized-shovels~~. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques which employ the use of earth moving or other motorized equipment, seismic operations using explosives, and sampling with suction dredges having an intake diameter greater than two (2) inches when operated in a perennial stream. When operated in an intermittent stream, suction dredges shall be considered motorized exploration regardless of the intake size.

SECTION 2. That Section 47-704, Idaho Code, be, and the same is hereby amended to read as follows:

47-704. LEASES OF MINERAL RIGHTS IN STATE LANDS. (1) The state board of land commissioners may lease in tracts not exceeding six hundred forty (640) acres for prospecting and mining purposes, and mineral deposits, except for leases for oil, gas and other hydrocarbons, that may be contained in any portion of the unsold lands of the state or that may be contained in state lands sold with a reservation of mineral deposits or belong to the state of Idaho by reason of being situate between the high water marks of navigable rivers of the state, for such annual rental, not less than twenty-five cents (25¢) per acre per annum, and for such royalty upon the product as the board may deem fair and in the interest of the state, except in the case of state oil and gas leases wherein the royalty to the state shall be not less than twelve and one-half per cent (12 1/2%), and provided that the minimum

royalty shall not be less than two and one-half per cent (2 1/2%). The rental paid for any year shall be deducted from the royalties as they accrue for that year.

(2) All mineral leases, except leases for oil, gas, and other hydrocarbons, and geothermal resources of state school lands and for lands belonging to the state of Idaho, other than school lands, shall be for a term of ten (10) years, and so long thereafter as precious metals, minerals, salable minerals, and ores, or any of them, are produced in paying quantities, or as much longer thereafter as the lessee in good faith shall conduct mining operations thereon, together with the right to use and occupy so much of the surface of said land as may be required for all purposes reasonably incident to the prospecting for, exploration for, development of, production, refining, processing and marketing of said precious metals, minerals, salable minerals, and ores produced from said lands, including the right to construct and maintain thereon all works, buildings, plants, waterways, roads, communication lines, reservoirs, tanks or other structures necessary to the full enjoyment thereon for the purpose of the lease.

(3) Provided, that the leaseholder of any mineral lease except leases for oil, gas, and other hydrocarbons, and geothermal resources heretofore or hereafter issued, upon the expiration of the initial lease and all renewals thereof, shall be given the preferential right to renew such lease or renewal leases under such readjustment of the terms and conditions as the board may determine to be necessary in the interest of the state.

(4) All applications received, whether by mail or by personal delivery over the counter, shall be immediately stamped with the date and hour of filing. Simultaneous filings will be resolved by a drawing within thirty (30) days thereafter. In the absence of a simultaneous filing, and except for lands and resources which may be designated for competitive bidding, right of priority to a mineral lease shall be determined by the first qualified applicant who shall file a completed, signed application on the form of the department of lands or exact copy thereof between the hours of eight and five during any business day, together with the application fee set by the board.

(5) Applications for mineral leases shall be made under oath in such form as the board may prescribe, and the applicant shall describe the land, indicate the annual rental and royalty offered by him, specify the particular mineral or minerals, and give such additional information as may be required by the rules and regulations of the board. If the applicant for a lease has previously filed a certificate of location, as provided in section 47-703, Idaho Code, upon any part of the land desired to be leased, such application shall be given a preferential right to the land covered by his location; that no lands upon which a mineral location has been duly made and recorded as provided in section 47-703, Idaho Code, shall be leased for mining purposes during the two (2) year periods to any applicant except the person having made such location; provided, however, that no locations may be made for oil and gas deposits or lands, or geothermal resources.

(6) Any <u>motorized</u> exploration ~~with heavy motorized equipment~~ as defined in section 47-703, Idaho Code, on the lands between the ordinary high ~~watermarks~~ <u>water marks</u> of any navigable river of the state

shall be prohibited except ~~after--award--of--a--lease~~ upon written approval by the board and submission of a bond to the department in the form and amount set by the board; and if applicable, an operator shall also comply with the dredge and placer mining act, chapter 13, title 47, Idaho Code; provided, that in all instances an operator shall comply with the stream ~~channel-alteration~~ protection act, and all other applicable laws and rules of the state.

(7) Upon receipt by the state board of land commissioners of an application to lease any lands which may belong to the state of Idaho by reason of being situate between the high water marks of navigable rivers of the state, the board shall cause at the expense of the applicant, a notice of such application to be published once a week for two (2) issues in a newspaper of general circulation in the county or counties in which said lands described in said application are situated. The board or its authorized representative shall hold a public hearing on the application, if requested in writing no later than thirty (30) days after the last published notice by ten (10) persons whose lawful rights to use the waters applied for may be injured thereby, or by an association presenting a petition with signatures of not less than ten (10) such aggrieved parties; provided that the board may order a public hearing in the first instance. The board shall consider fully all written and oral submissions respecting the application.

(8) Provided, however, that the state board of land commissioners shall send notice of any such application for leasing the bed of navigable rivers to the director of the department of water resources, who, if he thinks advisable, shall at the expense of the applicant make an investigation. If said investigation shows that the rights of interested parties may be jeopardized by the issuance of the proposed lease, he shall give notice of such applications to parties affected thereby. If it shall appear to the state board of land commissioners that the leasing of any lands between the high water marks of any navigable river will be injurious to the rights of any person or persons having the right to the use of the waters thereof for irrigation, power, or any other lawful purpose, the state board of land commissioners shall deny such application.

Approved April 5, 1990.

CHAPTER 318
(H.B. No. 459)

AN ACT

RELATING TO THE WATER SUPPLY BANK; AMENDING SECTIONS 42-1762, 42-1763 AND 42-1764, IDAHO CODE, TO PROVIDE THAT WATER RIGHTS CREDITED TO THE WATER SUPPLY BANK ARE NOT SUBJECT TO FORFEITURE FOR NONUSE WHILE RETAINED IN OR RENTED FROM THE WATER SUPPLY BANK, AND MAKING ORGANIZATIONAL AND LANGUAGE CHANGES TO CLARIFY THE DISTINCTION BETWEEN THE FUNCTIONS OF LEASING WATER INTO THE WATER SUPPLY BANK AND RENTING WATER FROM THE WATER SUPPLY BANK.

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

SECTION 1. That Section 42-1762, Idaho Code, be, and the same is hereby amended to read as follows:

42-1762. RULES AND REGULATIONS -- ACQUISITION OF WATER RIGHTS. (1) The water resource board shall adopt rules and regulations ~~in~~ governing the management, control, delivery and use and distribution of water to and from the water supply bank in compliance with chapter 52, title 67, Idaho Code.

(2) The board may contract with lessors and lessees ~~and~~ to act as an intermediary in facilitating ~~leasing or~~ the rental of water. The board may purchase, lease, ~~rent~~ or otherwise obtain decreed, licensed or permitted water rights to be credited to the water supply bank. The use to which the owner is entitled under the water right shall be reduced by the portion of the water right leased to the bank. The water rights may be retained in the water supply bank for a period as determined by the board, all under such provisions as are specified in the terms of the purchase or lease.

SECTION 2. That Section 42-1763, Idaho Code, be, and the same is hereby amended to read as follows:

42-1763. ~~LEASE--OF--WATER-RIGHTS~~ RENTALS FROM BANK -- APPROVAL BY DIRECTOR. ~~Decreed, licensed or permitted water rights may be leased or rented. The use to which the owner is entitled under his water right shall be reduced by the quantity of the leased or rented water right.~~ The terms and conditions of any ~~such lease or~~ rental of water from the water supply bank must be approved by the director of the department of water resources. The director of the department of water resources may reject and refuse approval for or may partially approve for a less quantity of water or may approve upon conditions any proposed ~~leases or~~ rentals of water from the water supply bank where the proposed use is such that it will reduce the quantity of water available under other existing water rights, the water supply involved ~~in the lease~~ is insufficient for the purpose for which it is sought, the ~~lease~~ rental would cause the use of water to be ~~expended~~ enlarged beyond that authorized under the water right to be ~~leased~~ rented, or it will conflict with the local public interest where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use. Such ~~leases or~~ rentals shall be approved only for uses within the state of Idaho. ~~The approval of a lease or rental may be a substitute for the requirements of section 42-222, Idaho Code.~~

SECTION 3. That Section 42-1764, Idaho Code, be, and the same is hereby amended to read as follows:

42-1764. SUBSTITUTION FOR TRANSFER PROCEEDING -- ~~LEASES~~ RIGHTS NOT SUBJECT TO FORFEITURE -- NO DEDICATION OF RIGHTS. (1) The approval of a ~~lease or~~ rental of water from the water supply bank may be a substitute for the transfer proceeding requirements of section 42-222, Idaho Code.

(2) ~~Leases or rental of water rights acquired pursuant to~~

~~section-42-1763,--Idaho-Code,--shall--not--be--subject-to---forfeiture under--section--42-222(2),-Idaho-Code,-provided-that-the-rental-agreements--have--been--approved~~ Water rights obtained by the board or by a local committee appointed by the board and credited to the water supply bank are not subject to forfeiture for nonuse pursuant to section 42-222(2), Idaho Code, while retained in or rented from the water supply bank. The five (5) year period of nonuse for forfeiture of a water right shall begin to accrue upon removal of a right from the bank by the owner of the right if a period of nonuse did not occur prior to the date of acceptance of the right into the bank. The five (5) year period of nonuse shall continue to accrue if a period of nonuse occurred prior to the effective date of acceptance of the right into the bank and the right was not beneficially used while in the bank.

(3) The ~~lease-or~~ rental of ~~such~~ water rights from the water supply bank shall not constitute a dedication to the lands of any ~~lessee or~~ renter since the rental~~,--sale,~~ or distribution of water by the water bank is only incidental to its primary purposes listed in section 42-1761, Idaho Code.

Approved April 5, 1990.

CHAPTER 319
(H.B. No. 461, As Amended)

AN ACT

RELATING TO WATER RIGHTS; AMENDING SECTIONS 42-111, 42-221, 42-230, 42-242, 42-243 AND 42-1401A, IDAHO CODE, TO PROVIDE UNIFORM DEFINITIONS OF DOMESTIC PURPOSES.

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

SECTION 1. That Section 42-111, Idaho Code, be, and the same is hereby amended to read as follows:

42-111. DOMESTIC PURPOSES DEFINED. ~~The-phrase-"domestic-purposes" as-contained-in-this-title-shall-be-construed-to-include-water-for-the household,-and-a-sufficient-amount-for-the--use--of--domestic--animals kept--with--and-for-the-use-of-the-household.~~ For purposes of sections 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243 and 42-1401A, Idaho Code, the phrase "domestic purposes" or "domestic uses" means:

A. The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or

B. Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

For purposes of these sections, domestic purposes or domestic uses shall not include water for multiple ownership subdivisions, mobile

home parks, commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in subsection B. of this section.

SECTION 2. That Section 42-221, Idaho Code, be, and the same is hereby amended to read as follows:

42-221. FEES OF DEPARTMENT. The department of water resources shall collect the following fees which shall constitute a fund to pay for legal advertising, the publication of public notices and for investigations required of the department in connection with the issuance of permits and licenses as provided in this chapter:

A. For filing an application for a permit to appropriate the public waters of this state:

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less $30.00

2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s. or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet $45.00

3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet ..... $45.00 plus $20.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 1.0 c.f.s. or 100 acre feet.

4. For a quantity greater than 20.0 c.f.s. but not exceeding 100 c.f.s. or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet ..... $425.00 plus $10.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.

5. For a quantity greater than 100.0 c.f.s. but not exceeding 500.0 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet ..... $1,225.00 plus $5.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 100 c.f.s. or 10,000 acre feet.

6. For a quantity greater than 500 c.f.s., or for a storage volume greater than 50,000 acre feet ..... $3,225.00 plus $1.00 for each additional 1.0 c.f.s. or part thereof or 100 acre feet or part thereof over the first 500.0 c.f.s. or 50,000 acre feet.

B. For filing application for change of point of diversion, place, period, or nature of use of water of established rights; or for an extension of time within which to resume the use of water under a vested right:

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less $30.00

2. For all other amounts $50.00

C. For filing application for amendment of permit $20.00

D. For filing claim to use right under section 42-243, Idaho Code $30.00

E. For filing a late claim to use a right under section 42-243, Idaho Code, where the date filed with the department of water

resources, or if mailed to the department of water resources the postmark is:

1. After June 30, 1983, but not later than June 30, 1984..$100.00

2. After June 30, 1984, but not later than June 30, 1988..$200.00

F. For readvertising application for permit, change, exchange, or extension to resume use $20.00

G. For certification, each document $1.00

H. For making photo copies of office records, maps and documents for public use .... A reasonable charge as determined by the department.

I. For filing request for extension of time within which to submit proof of beneficial use on a water right permit $15.00

J. For tasks requiring in excess of one (1) hour research or for computerized data provided for public use .... A reasonable charge as determined by the department.

K. For filing proof of beneficial use of water and requests for water right license examinations, a fee based upon the rate of diversion claimed in the proof of beneficial use:

1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20 acre feet or less ..... $50.00 except no fee shall be charged for ~~single-family~~ domestic use for which a permit is not required.

2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s., or for a storage volume greater than 20 acre feet, but not exceeding 100 acre feet $100.00

3. For a quantity greater than 1.0 c.f.s., or for a storage volume greater than 100 acre feet ..... $100.00 plus $25.00 for each additional c.f.s. or part thereof, or 100 acre feet or part thereof, over the first 1.0 c.f.s. or 100 acre feet with a maximum fee not to exceed $600.00.

~~K~~L. For receipt of all notices of application within a designated area, a reasonable annual charge as determined by the department.

All fees received by the department of water resources under the provisions of this chapter shall be transmitted to the state treasurer for deposit in the water administration account.

SECTION 3. That Section 42-230, Idaho Code, be, and the same is hereby amended to read as follows:

42-230. DEFINITIONS. (a) "Ground water" is all water under the surface of the ground whatever may be the geological structure in which it is standing or moving.

(1) All ground water having a temperature of greater than eighty-five (85) degrees Fahrenheit and less than two hundred twelve (212) degrees Fahrenheit in the bottom of a well shall be classified and administered as a low temperature geothermal resource pursuant to section 42-233, Idaho Code.

(2) All ground water having a temperature of two hundred twelve (212) degrees Fahrenheit or more in the bottom of a well shall be classified as a geothermal resource pursuant to section 42-4002, Idaho Code, and shall be administered as a geothermal resource pursuant to chapter 40, title 42, Idaho Code.

(b) "Well" is an artificial excavation or opening in the ground

more than eighteen (18) feet in vertical depth below land surface by which ground water of any temperature is sought or obtained.

(c) "Well driller" is any person or group of persons who excavate or open a well or wells for compensation or otherwise upon the land of the well driller or upon other land. Well driller does not include those persons who construct a well on their own property for their own use without the aid of any power driven mechanical equipment.

(d) "Well drilling" or "drilling" for purposes of this chapter is the act of constructing a new well or deepening or modifying an existing well by any percussion, rotary, boring, digging, jetting, or augering method.

(e) ~~"Domestic-purposes"-is-water-for-household-use--or--livestock and--water--used--for-all-other-purposes-including-irrigation-of-up-to one-half-(1/2)-acre-of-land-in-connection-with--said--household--where total--use--is-not-in-excess-of-thirteen-thousand-(13,000)-gallons-per day.-For-the-purposes-of-the-exception-in-section-42-227,-Idaho--Code, "domestic--purposes"--shall--not--include-water-for-multiple-ownership subdivisions,-mobile-home-parks,--commercial--or--business--establishments.~~

~~(f)~~ "Water right" is the legal right, however acquired, to the use of water for beneficial purposes.

(g~~f~~) "Operator" is the employee of the well driller who, through his work at the drilling site, causes the well to be drilled.

(h~~g~~) "Low temperature geothermal resource well" means a well which is capable of producing a low temperature geothermal resource from which fluids can be produced which have value by virtue of the heat contained therein.

SECTION 4. That Section 42-242, Idaho Code, be, and the same is hereby amended to read as follows:

42-242. DEFINITIONS. Whenever used in this act, the terms:

(1) "Person" shall mean an individual, partnership, association, public or private corporation, city or other municipality, county, state agency, or the state of Idaho, and the United States of America when claiming water rights established under the laws of the state of Idaho.

(2) "Notice in writing" means a notice substantially in the following form:

WATER RIGHTS NOTICE

Every person, including but not limited to an individual, partnership, association, public or private corporation, city or other municipality, county, state agency or the state of Idaho, and the United States of America, when claiming water rights established under the laws of the state of Idaho, is hereby notified that all water rights or claimed water rights relating to the withdrawal or diversion of public surface or ground waters of the state for uses other than domestic purposes ~~as-defined-in-section-42-230(d),-Idaho-Code~~, except those water rights based upon authority of permit or license issued by the department of water resources or one of its predecessors or water rights which have previously been adjudicated by a court having jurisdiction of such matters, must be registered with the department of water resources, Boise, Idaho, not later than June 30, 1983. FAILURE

TO REGISTER AS REQUIRED BY LAW WILL BE GROUNDS FOR INSTITUTING AN ACTION FOR FORFEITURE OF THE CLAIMED WATER RIGHT. For further information contact the Department of Water Resources, Boise, Idaho, for a copy of the act and an explanation thereof.

SECTION 5. That Section 42-243, Idaho Code, be, and the same is hereby amended to read as follows:

42-243. FILING OF CLAIMS OF RIGHTS ESTABLISHED BY DIVERSION AND USE -- FORM AND CONTENT OF CLAIM. In order to allow for the recording of historic uses of the waters of this state, any person using or claiming rights to the use of water for uses other than domestic purposes ~~as defined in section 42-230(d), Idaho Code~~, which have heretofore been established by diversion and application to a beneficial use shall file a claim of such right with the department of water resources not later than June 30, 1983, or if mailed, shall be postmarked not later than June 30, 1983. Such claim shall be in affidavit form on forms furnished by the department of water resources and shall set forth:

a. The name and post-office address of the claimant.

b. The quantity of water claimed to have been used.

c. The source of the water supply.

d. The location of the point or points of diversion.

e. The nature of the use and the period during each year when the water is used for such purposes.

f. The priority of the right claimed which shall be determined by the date when the water was first applied to a beneficial use provided there has been no period of abandonment or nonuse or forfeiture of the water right since that date.

g. If water is claimed for irrigation, the legal description of the lands irrigated.

h. Such other information as shall be required by the blank form furnished by the department.

Such claim may be accompanied by maps showing the place of use, affidavits of witnesses familiar with the uses claimed, measurements of the water diverted and used, and such other information as the claimant may wish to submit.

If the claim is filed with the department of water resources later than June 30, 1983, or if it is mailed to the department of water resources and the postmark is later than June 30, 1983, the claim shall be classified as follows:

a. If the only use identified on the claim is domestic purposes ~~as defined in subsection (d) of section 42-230, Idaho Code~~, then the claim will be considered to be filed in a timely manner.

b. If the use(s) identified on the claim includes other than domestic purposes ~~as defined in subsection (d) of section 42-230, Idaho Code~~, then the claim shall be considered to be a late claim, with a unique filing fee as set forth in section 42-221, Idaho Code. Late claims shall not be accepted if filed with the department of water resources later than June 30, 1988, or if mailed to the department of water resources with a postmark later than June 30, 1988.

This section shall not apply to any water rights which are based

on the authority of a permit or license issued by the department of water resources or one of its predecessors or water rights which have previously been adjudicated by a court having jurisdiction of such matters.

SECTION 6. That Section 42-1401A, Idaho Code, be, and the same is hereby amended to read as follows:

42-1401A. DEFINITIONS. The following terms are defined for purposes of this chapter as follows:

(1) "Claimant" means any person asserting ownership of rights to the use of water within the state of Idaho or on whose behalf ownership of rights to the use of water is asserted.

(2) "Consumptive use" means the amount of water that does not remain in the water system after use or is not returned to the water system through return flows or seepage, whether or not treatment for purposes of maintaining water quality is required before the water may be returned to the water system. "Consumptive use" for an irrigation water right shall be based upon the most water consumptive crop that can be grown in the area during the period of the year when water is used for irrigation. "Consumptive use" is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code.

(3) "Department" means the Idaho department of water resources.

(4) "Director" means the director of the Idaho department of water resources.

(5) "Domestic use" ~~means the use of water for homes, organization camps, public campgrounds, livestock, and for any other purpose in connection therewith, including irrigation of up to one half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day. Domestic use shall not include water for multiple ownership subdivisions, mobile home parks, commercial or business establishments~~ is defined in section 42-111, Idaho Code.

(6) "General adjudication" means an action for the judicial determination of the extent and priority of the rights of all persons to use water from any water system within the state of Idaho that binds all persons, including unknown parties, except as provided in section 42-1420, Idaho Code.

(7) "Party" means the director, any person who is a claimant, or any person who is served or joined.

(8) "Person" means an individual, a partnership, a trust, an estate, a corporation, a municipal corporation, the state of Idaho or any political subdivision, the United States, an Indian tribe, or any other public or private entity.

(9) "Private adjudication" means an action commenced in accordance with section 42-1404, Idaho Code, for the judicial determination of the extent and priority of the rights of named parties to the use of water from any water system within the state of Idaho, for which a general adjudication has not been commenced or completed, that binds only those persons joined as parties.

(10) "Purchaser" means any successor in interest of a claimant, whether the interest is acquired by purchase, gift, inheritance, or other means.

(11) "Supplemental adjudication" means an action commenced in accordance with section 42-1405, Idaho Code, for the judicial determination of the extent and priority of the rights of the plaintiff(s) to the use of water from any water system within the state of Idaho which has been adjudicated in a general adjudication or in a private adjudication.

(12) "Stock watering use" means the use of water solely for livestock or wildlife where the total use is not in excess of thirteen thousand (13,000) gallons per day.

(13) "Water system" includes all rivers, streams, lakes, springs, ground waters, or other sources within this state, including all water subject to claims based upon federal law, including any river system or other source, as used in 43 U.S.C. section 666.

Approved April 5, 1990.

CHAPTER 320
(H.B. No. 654)

AN ACT

RELATING TO THE RETAIL SALE OF LIQUOR BY THE DRINK; AMENDING SECTION 23-944, IDAHO CODE, TO PROVIDE ADDITIONAL EXCEPTIONS TO THE RESTRICTION ON ENTERING OR REMAINING AT CERTAIN LICENSED PLACES.

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

SECTION 1. That Section 23-944, Idaho Code, be, and the same is hereby amended to read as follows:

23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed to restrict, any person under the age of twenty-one (21) years from entering or being:

(a) upon the premises of any restaurant, as herein defined, or in any railroad observation or club car or any airplane of a commercial airline, notwithstanding that such premises may also be licensed for the sale of liquor by the drink or for the sale of beer for consumption on the premises or that alcoholic beverages, or beer, or both, are prepared, mixed or dispensed and served and consumed therein.

(b) in any building, a part or portions of which is used as a place, as herein defined, provided such place is separated or partitioned from the remainder of said building and access to such place through a doorway or doorways or other means of ingress can be controlled to prevent persons under the ages specified with respect thereto in section 23-943, Idaho Code, from entering therein.

(c) in any baseball park, sports arena or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed for the sale of beer for consumption on the premises or that beer is dispensed and served and consumed therein.

(d) upon the premises of any licensed winery notwithstanding that

such premise or any portion thereof may also be licensed for the sale of beer or wine for consumption on the premise or that wine is dispensed and served and consumed therein.

(e) upon the licensed premises of a wine retailer, wholly owned and operated by a licensed winery which retails exclusively the products of that winery.

Approved April 5, 1990.

CHAPTER 321
(H.B. No. 658)

AN ACT

RELATING TO REGISTRATION OF PILOTS AND AIRCRAFT; AMENDING SECTION 21-114, IDAHO CODE, TO PROVIDE THAT AIRCRAFT REGISTRATION FEES SHALL BE BASED UPON GROSS WEIGHT ASSESSED AT ONE CENT PER POUND RATHER THAN UPON USEFUL LOAD ASSESSED AT TWO AND ONE-HALF CENTS PER POUND.

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

SECTION 1. That Section 21-114, Idaho Code, be, and the same is hereby amended to read as follows:

21-114. REGISTRATION OF PILOTS AND AIRCRAFT -- REQUISITES. (a) Pilot Registration--Fees. Subject to the limitation of subsections (c) and (d) of this section, the department is authorized to require that every individual who pilots an aircraft within this state is to register with the department and to renew such registration every other year thereafter in which he pilots an aircraft within this state. The department may charge for each such registration, and for each biennial renewal thereof, a fee of twelve dollars ($12.00). Such income shall be used for search and rescue of lost aircraft and airmen, which said search and rescue shall be under the direction and supervision of the director of the department.

(b) Aircraft Registration--Fees.

(1) Private Aircraft. Subject to the limitations of subsections (c) and (d) of this section, every aircraft operating within this state and/or holding a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency, shall be registered with the department for each annual registration year in which the aircraft is operated within this state. The annual registration year shall commence on the date provided by regulation and the holding of a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency shall be considered prima facie evidence that the aircraft is operating within this state. The department may shall charge for each such registration, and for each annual renewal thereof, the fees at the rate of two

~~and one half cents (2 1/2¢)~~ one cent (1¢) per pound of ~~useful load, being the difference between the weight of an aircraft empty and the~~ gross weight authorized in the ~~license~~ aircraft listing, aircraft specification or type certificate data sheet of said aircraft issued by the federal aviation agency, and in no case to exceed ~~one~~ two hundred dollars ($~~1~~200) upon any one (1) aircraft, provided that such fee shall be in lieu of all personal property taxes on such aircraft.

Registration certificates shall be kept in the aircraft at all times. In addition to the registration certificate, an identifying decal shall be issued and placed on the left side of the aircraft either upon the vertical stabilizer thereof or upon a window nearest to the rear of the aircraft, fully visible from the outside of the aircraft.

Registration certificates issued after expiration of the first six (6) months of the annual registration year, as prescribed by the department, shall be issued at the rate of fifty per cent (50%) of the annual fee. Those aircraft that have been found in violation of the provisions of this section after the first six (6) months will pay the full year's fee.

(2) Manufacturers and Dealers License. It shall be unlawful for any person to carry on or conduct the business of buying, selling, or dealing in aircraft unless registered with the department, as such manufacturer or dealer. Any manufacturer or dealer in aircraft owning, having an interest in, or having in his possession an aircraft for the purpose of sale, shall upon the registration and payment of fees as in this act required, acquire one (1) registration certificate which shall bear the distinctive registration number issued to such manufacturer or dealer, and any number of identifying decals. The registration certificate shall be kept at the main office of the manufacturer or dealer and an identifying decal shall be placed upon the left side of every aircraft that the manufacturer or dealer may have an interest in which is held for sale, on the left side thereof either upon the vertical stabilizer or upon a window nearest to the rear of the aircraft.

An identifying decal issued to a manufacturer or dealer during the calendar year for which issued can be transferred from an aircraft no longer in the possession of the dealer or manufacturer for sale or demonstration to one acquired for the purpose of sale or demonstration during the calendar year.

No identifying decal issued to a manufacturer or dealer as herein provided may be transferred to an aircraft owned or in the possession of such manufacturer or dealer when such aircraft is used solely for commercial purposes.

The fee to be paid by a manufacturer or dealer in aircraft shall be forty dollars ($40.00) for the registration certificate and one dollar ($1.00) for each identifying decal issued to such manufacturer or dealer.

(c) Requirements for Registration, Issuance of Certificate. Possession of the appropriate effective federal certificate, permit, rating or license relating to competency of the pilot or ownership and airworthiness of the aircraft, as the case may be, and payment of the fee duly required pursuant to the provisions of this section shall be

the only requisites for registration of a pilot or an aircraft under this section. Registration shall be effected by filing with the department a written statement containing the information reasonably required by the department for such purpose. It shall not be necessary for the registrant to provide the department with originals or copies of federal certificates, permits, ratings or licenses. The department may issue certificates of registration, or such other evidences of registration or payment of fees as it may deem proper, and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences similar to the requirements of section 21-113(b), Idaho Code, for the possession and exhibition of federal airman and aircraft certificates, permits, ratings or licenses. Failure to register, if required, shall be unlawful.

(d) Exemptions. The provisions of this section shall not apply to:

(1) An aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(2) An aircraft which is owned by a bona fide nonresident of this state; provided, however, that this exemption shall not apply to such aircraft operated in the transportation of persons or property for hire, in dusting, seeding, or spraying for hire, or in any other activity for hire in this state, whether such aircraft so operated be engaged casually or continuously;

(3) An aircraft engaged principally in commercial airline or air freight flying constituting an act of interstate or foreign commerce while operating under a certificate, permit or license issued by the ~~civil aeronautics board or other~~ appropriate agency of the United States government;

(4) An individual piloting an aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(5) An individual piloting any aircraft registered under the laws of a foreign country;

(6) A bona fide nonresident of this state piloting aircraft in this state; provided, however, that this exemption shall not apply to any nonresident piloting an aircraft in this state for hire whether such nonresident is so engaged casually or continuously;

(7) An individual piloting an aircraft engaged principally in commercial airline or air freight flying constituting an act of interstate or foreign commerce, while such aircraft is being operated under a certificate, permit or license issued by the ~~civil aeronautics board or other~~ appropriate agency of the United States government;

(8) An individual operating model aircraft;

(9) An individual piloting an aircraft which is equipped with fully functioning dual controls when a properly certified pilot is

in full charge of one (1) set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser.

(e) Transfer of Aircraft. When the ownership of an aircraft registered under the provisions of this section is transferred, the new owner will be required to register the aircraft under the provisions of this section. If the transferor wishes to register another aircraft he shall pay the registration fee required by this section less the amount of registration fee already paid on the aircraft which was sold, or if the transferor shall have an aircraft to be registered with a useful load less than the aircraft that was sold, he shall pay a transfer fee of one dollar ($1.00).

Approved April 5, 1990.

CHAPTER 322
(H.B. No. 449, As Amended)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-319, IDAHO CODE, TO PROVIDE AN ADDITIONAL PENALTY FOR SECOND OR THIRD INSTANCES OF FAILURE TO SECURE COMPENSATION.

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

SECTION 1. That Section 72-319, Idaho Code, be, and the same is hereby amended to read as follows:

72-319. PENALTY FOR FAILURE TO SECURE COMPENSATION. (1) Any employer required to secure the payment of compensation under this law who fails to secure the payment thereof shall be guilty of a misdemeanor. In any case where the employer is a corporation, any officer or employee of the corporation who had authority to secure payment of compensation on behalf of the corporation and failed to do so shall individually be guilty of a misdemeanor.

(2) Such officer or employee shall be personally liable jointly and severally with such corporation for any compensation which may accrue under this law in respect to any injury or occupational disease suffered by any employee of such corporation while it shall so fail to secure the payment of compensation.

(3) Any employer who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes or destroys any property or records belonging to such employer, after one (1) of his employees has been afflicted by any injury or occupational disease, with intent to avoid the payment of compensation to such employee or his dependents, shall be guilty of a misdemeanor. In any case where such employer is a corporation, any officer or employee thereof, if knowingly participating or acquiescing in any such act, shall also be individually guilty of a misdemeanor.

(4) Any employer required to secure the payment of compensation

under this law, who wilfully failed to do so, shall be liable to a penalty for each day during which such failure continues of two dollars ($2.00) for each employee, and in cases where the employer is a corporation and is unable to pay the fine, any officer or employee of the corporation who had authority to secure payment of compensation on behalf of the corporation and wilfully failed to do so, shall be liable for a like penalty, to be recovered for the time during which such failure continued, but for not more than three (3) consecutive years, in an action brought by the commission in the name of the state of Idaho; any amount so collected shall be paid into the industrial administration fund; for this purpose the district court of any county in which the employer carries on any part of his trade or occupation shall have jurisdiction. In determining whether the employer willfully failed to secure the payment of compensation, or whether penalties should be assessed or collected for the employer's failure to secure the payment of compensation, the commission may consider the following factors:

(a) When the employer was notified that his workmen's compensation insurance coverage had been cancelled or that such insurance was required;

(b) The length of time that elapsed between when the employer was notified that workmen's compensation insurance coverage was required or that his coverage had been cancelled, and the date that such coverage was put into effect;

(c) Whether the employer is able to document attempts to secure workmen's compensation insurance coverage during the period of time that he was without such coverage;

(d) Whether there were prior instances in which the employer failed to keep workmen's compensation insurance in effect or such coverage was cancelled, and the reasons for such failure or cancellation;

(e) The reasons that the employer is unable to obtain or keep in effect workmen's compensation insurance coverage;

The above-enumerated factors are not to be taken as exclusive.

(5) If any employer required to secure the payment of compensation under this law shall be in default under section 72-301, Idaho Code, for a period of thirty (30) days, he may be enjoined by the district court of any county in which such employer carries on any part of his trade or occupation from carrying on his business while such default continues. All proceedings in the courts under this section are to be brought by the industrial commission in the name of the state of Idaho.

(6) An employer who willfully fails to secure the payment of compensation and who has been assessed a penalty within the previous three (3) years pursuant to section 72-319(4), Idaho Code, shall be liable for the following penalty in addition to the penalty provided by section 72-319(4), Idaho Code:

(a) Five hundred dollars ($500) for the second willful failure to secure the payment of compensation;

(b) One thousand dollars ($1,000) for the third and any subsequent failure to secure the payment of compensation.

Approved April 5, 1990.

CHAPTER 323
(H.B. No. 694, As Amended)

AN ACT

RELATING TO MEDICARE SUPPLEMENT INSURANCE; AMENDING SECTION 41-4402, IDAHO CODE, TO DEFINE APPLICANT; AMENDING SECTION 41-4404, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR SHALL ISSUE REGULATIONS REGARDING MARKETING AND REPORTING PRACTICES, AND COMPENSATION ARRANGEMENTS; AMENDING SECTION 41-4405, IDAHO CODE, TO STRIKE PROVISIONS PERTAINING TO COMPENSATION OF AGENTS UNDER CERTAIN CONDITIONS; AMENDING CHAPTER 44, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4411, IDAHO CODE, TO PROVIDE PENALTIES; AMENDING CHAPTER 44, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4412, IDAHO CODE, TO PROVIDE SEVERABILITY; 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) "Applicant" means:

(a) In the case of an individual medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) In the case of a group medicare supplement policy or subscriber contract, the proposed certificate holder.

(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.

(~~1~~4) "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 associations:

(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.

SECTION 2. 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~~ AUTHORITY TO PROMULGATE REGULATIONS. (1) The director shall issue ~~reasonable~~ regulations to establish minimum standards for benefits ~~and~~, claims payments ~~under~~, marketing practices, compensation arrangements and reporting practices which are in accordance with the model regulation of the national association of insurance commissioners for medicare supplement policies.

(2) The director shall prescribe the method of identification of medicare supplement policies based upon coverages provided.

SECTION 3. That Section 41-4405, Idaho Code, be, and the same is hereby amended to read as follows:

41-4405. LOSS RATIO STANDARDS. (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 4. 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 41-4411, Idaho Code, and to read as follows:

41-4411. PENALTIES. In addition to any other applicable penalties for violations of the insurance code, the director may require insurers who violate any provision of this chapter or regulations promulgated pursuant to this chapter, to cease marketing any medicare supplement policy or certificate in this state which is related directly or indirectly to a violation or may require such insurer to take such actions as are necessary to comply with the provisions of this chapter, or both.

SECTION 5. 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 41-4412, Idaho Code, and to read as follows:

41-4412. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this chapter.

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 5, 1990.

CHAPTER 324
(S.B. No. 1591, As Amended in the House)

AN ACT

RELATING TO CONSTRUCTION STANDARDS FOR ENERGY CONSERVATION; EXPRESSING LEGISLATIVE INTENT; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE 44, IDAHO CODE, TO PROVIDE DEFINITIONS, TO ADOPT ENERGY-EFFICIENT CONSTRUCTION STANDARDS FOR NEW RESIDENTIAL BUILDINGS, TO PROVIDE FOR ADMINISTRATION, ENFORCEMENT, CERTIFICATION, PERMITS AND FEES, TO PROVIDE FOR ISSUANCE OF A PERMIT PRIOR TO INSTALLATION OF ELECTRIC SERVICE, TO PROVIDE FOR RELEASE FROM LIABILITY AND TO PROVIDE THAT THE PUBLIC UTILITIES COMMISSION'S ANNUAL REPORT SHALL CONTAIN CERTAIN INFORMATION ON THE EFFECTS OF NEW RESIDENTIAL CONSTRUCTION STANDARDS.

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

SECTION 1. The legislature of the state of Idaho finds that conservation measures associated with the construction of residential buildings are among the most efficient methods of providing for the

future energy needs of Idaho; that the construction of residential buildings to certain standards of energy efficiency provides the least costly investment for residential building occupants and owners and represents one of the most economical methods of achieving long-term energy conservation savings; and that the state does not have standards that adequately provide for energy standards in new residential building construction in Idaho.

Therefore it is hereby declared that the purposes of the provisions of this chapter are:

(1) To express the legislature's belief that acquiring energy conservation in the construction of residential buildings requires that the state establish energy-efficient construction standards for new residential buildings; and

(2) To provide for enforcement of the standards by the department of labor and industrial services or by counties and cities which elect to provide enforcement.

SECTION 2. That Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 23, Title 44, Idaho Code, and to read as follows:

CHAPTER 23
CONSTRUCTION STANDARDS FOR ENERGY CONSERVATION

44-2301. DEFINITIONS. In this chapter:

(1) "Conservation measures" mean materials and techniques used in residential buildings to reduce energy consumption, and which result in increased efficiency of energy use.

(2) "Conservation provider" means only rural electric cooperatives, municipal electric systems, and public utilities as defined in chapter 1, title 61, Idaho Code, who provide equipment, funding, products or services for the purpose of increasing the efficient use of energy within a building.

(3) "Contaminant" means the presence in the atmosphere of a building of asbestos, biological elements, combustion products, formaldehyde, radon gas and volatile organic compounds.

(4) "Department" means the Idaho department of labor and industrial services.

(5) "Director" means the director of the Idaho department of labor and industrial services.

(6) "Dwelling unit" means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one (1) family.

(7) "Energy" means coal, electricity, natural gas, liquified petroleum gas, oil, wood or any other material used to cool or heat a residential building.

(8) "Residential building" means any building permanently sited in Idaho which consists of one (1) or more dwelling units and is of three (3) stories or less. Residential buildings shall not include manufactured homes as defined in section 39-4105, Idaho Code, or log homes.

(9) "R-value" or "thermal resistance" means the ability of a material to resist the flow of heat. Mathematically it is the recip-

rocal of the U-value. Nominal R-values mean thermal resistance of insulation, excluding structural components, as specified by the manufacturer according to recognized trade and engineering standards or other approved source.

(10) "U-value, thermal transmittance" means the amount of heat measured in British thermal units (BTU) that will pass through one (1) square foot of building section per hour per degree Fahrenheit of temperature difference (BTU/ft hr °F).

(11) "U-value, overall (U), thermal transmittance" means the average heat transmission of a gross area of the exterior residential building envelope expressed in BTU/ft hr °F. The overall U-value applies to the combined effect of the time rate of heat flows through the various parallel paths, such as windows, doors and opaque construction areas, comprising the gross area of one or more exterior residential building components, such as walls, floors or roof/ceiling.

44-2302. ADOPTION OF ENERGY-EFFICIENT CONSTRUCTION STANDARDS. The following minimum energy-efficient construction standards are hereby adopted in Idaho for all newly constructed residential buildings started after January 1, 1991.

(1) A residential building minimum energy-efficient construction standard with measures:

Component	Standard
Ceilings	
Vented Attic	R - 38
Vaulted Ceiling	R - 30
Walls	
Above Grade	R - 19
Below Grade	R - 10
Doors (excluding main entry door)	U - .22
Floors Over Unheated Space	R - 19
Crawl Space Foundation Wall (alternative to floor insulation)	R - 19
Slab on Grade Perimeter	R - 10
Windows	U - .65
Maximum Glazed Area (% of floor)	17%

(2) The director, or a city or county official in a certifying jurisdiction, may accept the certification of alternative construction configurations which meet the overall thermal transmittance level as provided in this section.

44-2303. ADMINISTRATION, ENFORCEMENT, CERTIFICATION, PERMITS AND FEES. (1) Any builder who begins construction on a residential building in Idaho after January 1, 1991, shall certify in writing to the director or to the appropriate incorporated city or county official that the residential building will be constructed in compliance with the energy-efficient construction standards established by the provisions of section 44-2302, Idaho Code.

(2) The director is hereby authorized and directed to provide for

the administration and enforcement of the provisions of this chapter and to issue permits for residential dwellings which have been certified by the builder thereof as complying with the energy-efficient construction standards established by the provisions of section 44-2302, Idaho Code. The director may establish and collect fees for the issuance of such permits, which fee shall not exceed twenty-five dollars ($25.00).

(3) The provisions of this section relating to state issuance of permits for residential dwellings shall not apply within the corporate limits of incorporated cities or within the boundaries of counties which have elected to accept residential building certifications from builders and which issue permits therefor.

(4) Incorporated cities and counties may elect to establish by ordinance or building code, energy-efficient construction standards comparable to or more stringent than the standards established by the provisions of this chapter, provided that at a minimum such standards shall be enforced through builder certifications and the issuance of permits as provided in this section.

(5) The director may, in accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate rules necessary to implement the provisions of this chapter. 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.

44-2304. PERMIT REQUIRED FOR ELECTRIC SERVICE. No electric cooperative, municipal electric system or public utility, shall provide electric service to a residential building constructed after January 1, 1991, unless a permit has been issued for the residential building from the director or incorporated city or county as provided in section 44-2303, Idaho Code. The provisions of this section shall not create any duty or obligation on the part of such electric cooperatives, municipal electric systems or public utilities to inspect residential buildings or determine the validity or propriety of permits issued therefor.

44-2305. RELEASE FROM LIABILITY. (1) Any conservation provider engaged in or responsible for the alteration, construction or improvement of any residential building in this state for the purpose of increasing the efficient use of energy therein, wherein any residential building contains contaminants which are found to be damaging to human health as a result of exposure to such contaminants, does not:

(a) Extend any assurance that the residential building is free of contaminants that may be damaging to human health; or

(b) Assume responsibility for or incur liability for any injury to person or property caused by the presence within the residential building of contaminants found to be damaging to human health.

(2) The builder of a residential building shall provide the building owner or occupants with a written notice of the potential

risks to human health by indoor air contaminants in the manner prescribed by the director. The director shall prescribe such form of written notice within one hundred eighty (180) days of the effective date of this chapter (July 1, 1990).

(3) Nothing in this section shall be construed to create a duty of care or liability for injury to persons or property.

(4) Nothing in this section shall be construed to relieve any conservation provider of liability for complying with the laws, rules and regulations of the United States and the state of Idaho relative to contaminants within buildings.

44-2306. IDAHO PUBLIC UTILITIES COMMISSION REPORT. The Idaho public utilities commission shall include in its annual report to the legislature an evaluation of the implementation of the provisions of this chapter and the effects of such implementation on the conservation of energy. The commission's report may also include recommendations for any changes in this law.

Approved April 9, 1990.

CHAPTER 325
(S.B. No. 1651)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATURE OF THE STATE OF IDAHO FOR LEGISLATIVE AREA REMODELING AND REFURBISHING FOR FISCAL YEAR 1991.

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

SECTION 1. There is hereby appropriated $176,000 from the Public Building Account to the Legislature of the State of Idaho, for legislative area remodeling and refurbishing, for the period July 1, 1990, through June 30, 1991.

Approved April 9, 1990.

CHAPTER 326
(S.B. No. 1377)

AN ACT

RELATING TO PERSONAL CARE SERVICES; AMENDING SECTION 39-A4701, IDAHO CODE, TO REDESIGNATE, AND TO CLARIFY LEGISLATIVE INTENT; AMENDING SECTION 39-A4702, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 39-A4703, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE ADDITIONAL STANDARDS FOR PERSONAL CARE SERVICES; AMENDING SECTION 39-A4704, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE FOR BACKGROUND CHECKS FOR PROVIDERS OF PERSONAL

CARE SERVICES; AMENDING SECTION 39-A4705, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE FOR TRAINING OF PROVIDERS; AMENDING SECTION 39-A4706, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE FOR PAYMENTS TO PROVIDERS; AMENDING SECTION 39-A4707, IDAHO CODE, TO REDESIGNATE, AND TO PROVIDE PROPER REFERENCES; AND AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE PROPER REFERENCES.

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

SECTION 1. That Section 39-A4701, Idaho Code, be, and the same is hereby amended to read as follows:

39-~~A475~~601. LEGISLATIVE INTENT. The purpose and intent of this chapter is to authorize personal care services for medicaid eligible recipients in the recipient's home. It is further the purpose of this chapter to help maintain these eligible recipients in their own homes in order to ~~avoid institutionalization~~ provide for the greatest degree of independence possible.

Personal care services are an integral component of the long-term care service delivery system and they are to be designed to provide a range of services for persons who are elderly and for persons with disabilities. These services are to help individuals compensate for functional limitations and are to be delivered over a sustained period of time to persons who lost or never acquired some degree of functional capacity. Personal care services will be viewed as services which enhance the quality of life, individual choice, independence and community integration.

Community centered, in-home, medically related services shall be provided, for as long as possible, that will maintain the privacy, and dignity of the individual in the least restrictive setting.

The family of the recipient, if available, and/or the recipient shall be involved in the development of the plan of care to insure the plan will enhance the existing base of support provided by the family.

SECTION 2. That Section 39-A4702, Idaho Code, be, and the same is hereby amended to read as follows:

39-~~A475~~602. DEFINITIONS. As used in this chapter, the following terms shall have the following meaning:

(1) "Case management" means a service which coordinates multiple services for individual clients through a process of assessment, planning, arranging for and monitoring services.

(2) "Department" means the department of health and welfare of the state of Idaho.

(~~2~~3) "Director" means the director of the department of health and welfare.

(~~3~~4) "Eligible recipient" or "recipient" means an individual determined eligible by the department for the services provided in the state plan for medicaid, as authorized by title XIX, of the social security act, as amended.

(5) "Independent provider" means a personal care attendant that provides personal care services as an independent contractor.

(6) "Personal care attendant" means a person whose name appears

on the Idaho state board of nurse's registry of certificated nurse aid's (CNA) or is determined by the director to meet equivalent requirements and holds, or works for a provider agency that holds, a valid Idaho medicaid provider agreement; and provides hands-on personal care services.

(~~4~~7) "Personal care services" mean services that involve personal and medically orientated tasks dealing with the physical requirements of the patient ~~and that can be~~ performed ~~on an outpatient rather than an inpatient or institutional basis~~ in the patient's home and accommodating the patient's needs for long-term maintenance or supportive care.

(8) "Plan of care" means a document which outlines all services, including but not limited to, personal care services, required to maintain the individual in his or her community.

(9) "Provider agency" means an entity that recruits, hires, fires, trains, supervises, schedules, oversees quality of work, takes responsibility for care given, and provides payroll and benefits for care providers working for them.

(~~5~~10) "Representative" means an employee of the department of health and welfare.

SECTION 3. That Section 39-A4703, Idaho Code, be, and the same is hereby amended to read as follows:

39-~~A475~~603. STANDARDS FOR PROVISION OF PERSONAL CARE. The director ~~of the department of health and welfare~~ shall have the power and it shall be his duty to promulgate and adopt appropriate rules and regulations necessary to implement and enforce ~~the following~~ standards for provision of personal care services~~:~~.

The following standards for provision of personal care services and other provisions contained throughout this chapter and rules and regulations shall apply to recipients and providers receiving or providing personal care services either as a medicaid option service or a waivered service, unless prohibited by federal law or contents of the federal waiver agreement.

(1) Personal care services shall be included as a state plan service under medicaid. Services under a waiver shall be available to those individuals who would not qualify for medicaid in the absence of a waiver or to those whose needs cannot be met with personal care services under the plan.

(2) Personal care services shall be ordered by a physician.

(3) The department will establish by regulation maximum hours per month of personal care services available to the individual recipient.

(4) The department shall enter into contracts and/or provider agreements with provider agencies and independent providers for the provision of personal care services. They may deny provider status or revoke that status when a provider is found to endanger the health, person or property of the recipient.

(5) A provider agency shall have the responsibility for the following:

(a) Recruitment, hiring, firing, training, supervision, scheduling, payroll, and the assurance of quality of service, of its personal care attendants;

(b) Participation in provision of workmen's compensation, unemployment compensation, and all other required state and federal tax withholdings;

(c) Maintaining liability insurance coverage;

(d) Provision of an appropriately qualified nurse to complete the plan of care and on-going supervision of the recipients care;

(e) Assignment of a qualified personal care attendant to each authorized recipient after consultation with and prior approval of that recipient;

(f) Assuring all personal care attendants providing services as their agent, meet the standards and qualifications of this chapter;

(g) Billing medicaid for services approved and authorized by them; and

(h) Making referrals for personal care service recipients to case management services based on established criteria.

(6) An independent provider shall provide services when a provider agency is unavailable or when based on an initial assessment involving the recipient, his family, and the department's regional medicaid staff, it is determined that use of an independent provider will best promote the intent of this chapter. The assessment shall include consideration of the recipient's ability to select a provider and manage and evaluate the care he receives. The independent provider will not be considered an employee of the state or the recipient, but will be considered an independent contractor. As such he shall be responsible to:

(a) Obtain the required training, certifications, agreements, knowledge, and information needed to function as an independent provider;

(b) Obtain any benefits; such as life, disability and/or unemployment insurance, that he may desire;

(c) Maintain liability insurance;

(d) Report all income to the appropriate authorities, pay social security and all other state and federal taxes, as an independent contractor;

(e) Bill medicaid for services approved and authorized by them;

(f) Provide for care by a fully trained and qualified replacement when they are unable to provide services for any reason; and

(g) Provide unanticipated service, that is part of the plan of care, when requested to do so by the recipient.

The department will provide a qualified nurse to establish a plan of care and on-going care supervision, where an independent provider is providing service.

(7) Case management shall be made available to personal care service recipients where and when appropriate. In order to avoid a conflict of interest, case management shall not be provided by the same agency that provides personal care services to the recipient. Services provided by case managers include but are not limited to:

(a) Comprehensive assessment;

(b) Assistance with eligibility and application processes;

(c) Service plan development;

(d) Service plan implementation;

(e) Reassessment and service termination planning; and

(f) Supportive functions which may include client advocacy, assistance, consultation, including training to enable the recipient to manage and evaluate the care they receive, family support, crisis intervention or follow-up after termination from case management when necessary.

(8) The department's regional medicaid staff shall participate in the development of the plan of care, authorize personal care services, the hours of service, and make appropriate referrals for case management for eligible individuals. There shall be a personal interview with each applicant as part of this process.

(9) The department shall establish a community awareness program that will educate Idaho citizens regarding the purpose and function of all long-term care alternatives including, but not limited to, personal care services and individual recipient rights. This program will be developed in cooperation with other state agencies including, but not limited to, the office on aging and the division of vocational rehabilitation.

(1~~2~~0) It shall be the responsibility of the recipient, his parents or guardian, when possible, to ~~arrange with~~ select the provider of personal care services ~~for such services~~.

(~~2~~11) The department shall provide the recipient, his parents or guardian with a list of available providers of personal care services; however, this does not relieve the recipient, his parents or guardian of the responsibility of ~~making arrangements for personal care services~~ provider selection.

(~~3~~12) In those cases where ~~for reasons beyond the control of~~ the recipient, his parents or guardian~~, and the recipient, his parents or guardian~~ cannot arrange for personal care services or asks for help in making arrangements, a representative of the department may arrange for or help arrange for personal care services on behalf of the recipient.

SECTION 4. That Section 39-A4704, Idaho Code, be, and the same is hereby amended to read as follows:

39-~~A475~~604. PROVIDERS OF PERSONAL CARE SERVICES. ~~Except for those providers required to have licenses or certifications under other provisions of the Idaho Code, providers are not required to have any special licenses or certifications under the provisions of this chapter~~ The director shall require, for both personal care attendants and provider agencies, health tests or screens, criminal background checks, licenses and/or certifications necessary to protect the health, person and property of the recipient to be served. He may deny provider status or revoke that status when a care provider is found to endanger the health, person or property of the recipient.

SECTION 5. That Section 39-A4705, Idaho Code, be, and the same is hereby amended to read as follows:

39-~~A475~~605. TRAINING OF PROVIDERS. The director ~~of the department of health and welfare~~ may require a provider to successfully complete a training program established by the rules ~~of the director~~ before beginning to provide personal care services. Those providing personal

care service when the rule is established will be given a reasonable period of time to obtain the required training. The director may establish different training requirements for providers serving recipients with special needs. The department shall conduct training to include, but not limited to, administrative rules and regulations, billing procedures and service requirements.

SECTION 6. That Section 39-A4706, Idaho Code, be, and the same is hereby amended to read as follows:

39-~~A475~~606. PAYMENT TO BE MADE TO PROVIDER. Within the appropriations provided by law, the department shall reimburse the independent provider or provider agency, for personal care services received by the recipient. To qualify for reimbursement, personal care services must be prescribed by a physician delivered in accordance with the recipient's plan of ~~treatment~~ care and be provided by an individual who is:

(a) ~~Qualified to provide the services~~ A personal care attendant;

(b) Supervised by a registered nurse; and

(c) Not a member of the recipient's family~~, unless:~~

~~(i) A member of the family is determined by the director to be the best qualified person to provide services under the circumstances surrounding the recipient's need for personal care services; or~~

~~(ii) The financial circumstances of the recipient's family are such that it is more advantageous to the state and to the recipient to utilize a member of the recipient's family.~~

The department will establish annually uniform reimbursement rates for provider agencies and independent contractors. This rate will be based on the prevailing hourly rate paid for comparable positions in the state for nursing home industry employees. Provider agencies shall also receive a fifty-five percent (55%) supplemental component to cover travel, administration, training and all payroll taxes and fringe benefits. Independent contractor rates will have a supplemental component to cover training, worker's compensation, social security and liability insurance.

The director shall promulgate and adopt such necessary rules and regulations to implement the requirements of this section.

SECTION 7. That Section 39-A4707, Idaho Code, be, and the same is hereby amended to read as follows:

39-~~A475~~607. LIABILITY OF ACTIONS UNDER THIS CHAPTER. (1) The recipient, his parents or guardians, if such are responsible, shall be liable for any acts of the recipient performed or committed while receiving personal care services under the provisions of this chapter.

(2) The department shall not be held liable for any actions under this chapter, except pursuant to section 39-~~A4703(3)~~5603(11), Idaho Code, when the representative of the department is acting in behalf of the recipient, his parents or guardian; however, the provisions of section 39-~~A4708(1)~~5603(9), Idaho Code, shall remain in force.

(3) Nothing in this chapter shall exempt the provider of personal care services from any liability caused by such providers' negligence,

abuse, or other improper action of the provider.

SECTION 8. 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 sub-

tracted 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 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; 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 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 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.

(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 ~~47~~56, 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 ~~47~~56, 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 ~~47~~56, 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 ~~47~~56, 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.

Approved April 9, 1990.

CHAPTER 327
(S.B. No. 1404)

AN ACT

RELATING TO MODIFICATION OF CHILD SUPPORT ORDER BY THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 56-203A, IDAHO CODE, TO AUTHORIZE THE DEPARTMENT TO SEEK MODIFICATION OF CHILD SUPPORT ORDERS.

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

SECTION 1. That Section 56-203A, Idaho Code, be, and the same is hereby amended to read as follows:

56-203A. AUTHORITY OF DEPARTMENT TO ENFORCE CHILD SUPPORT -- SUPPORT ENFORCEMENT SERVICES. Whenever the department receives an application for public assistance on behalf of a child and it shall appear to the satisfaction of the department that said child has been abandoned by its parents, or that the child and one (1) parent have been abandoned by the other parent, or that the parent or other person who has a responsibility for the care, support or maintenance of such child has failed or neglected to give proper care or support to such child, the department shall take appropriate action under the provisions of this chapter, the abandonment or nonsupport statutes, or other appropriate statutes of this state to ensure that such parent or other person responsible shall pay for the care, support or maintenance of said dependent child.

The department may accept applications for support enforcement services on behalf of persons who are not recipients of public assistance and may take action as it deems appropriate to establish, modify or enforce support obligations against persons owing a duty to pay support. Action to establish support obligations may be taken under the abandonment or nonsupport statutes or other appropriate statutes of this state. The board of health and welfare may establish, by regulation, such reasonable standards as it deems necessary to limit applications for support enforcement services. Said standards shall take into account the income, property or other resources already available to support said person for whom a support obligation exists.

The department may charge fees to compensate it for services rendered in establishment of or enforcement of support obligations. The board of health and welfare shall, by regulation, establish reasonable

fees for support enforcement services, and said schedules of fees shall be made available to all applicants for support enforcement services. The department may, on showing of necessity, waive or defer any such fee.

Approved April 9, 1990.

CHAPTER 328
(H.B. No. 881, As Amended in the Senate)

AN ACT

RELATING TO PROHIBITED CONDUCT BY PUBLIC SERVANTS; AMENDING SECTION 18-1351, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING CHAPTER 13A, TITLE 18, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 18-1359, 18-1360, 18-1361 AND 18-1362, IDAHO CODE, TO PROVIDE A PROHIBITION AGAINST A PUBLIC SERVANT USING A PUBLIC POSITION FOR PERSONAL GAIN, TO PROVIDE PENALTIES, TO PROHIBIT SELF-INTERESTED CONTRACTS AND TO PROVIDE AN EXCEPTION, AND TO PROVIDE FOR A CAUSE OF ACTION; AMENDING SECTION 18-1356, IDAHO CODE, TO REVISE STANDARDS FOR GIFTS TO LEGISLATORS AND PERSONS EMPLOYED BY THE LEGISLATURE, TO PROVIDE AN ENHANCED MISDEMEANOR PENALTY; AMENDING CHAPTER 2, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-208, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATIONS; AND REPEALING SECTION 59-706, IDAHO CODE, AS ENACTED IN H.B. 858, SECOND REGULAR SESSION, CENTENNIAL LEGISLATURE.

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

SECTION 1. That Section 18-1351, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he is interested, but not an advantage promised generally to a group or class of voters as a consequence of public measures which a candidate engages to support or oppose.

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

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

(~~3~~4) "Harm" means loss, disadvantage or injury, ~~or anything so regarded by the person affected,~~ including loss, disadvantage or injury to any other person or entity in whose welfare he is interested.

(~~4~~5) "Official proceeding" means a proceeding heard or which may be heard before any legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.

(~~5~~6) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which he directs or conducts, or participates in directing or conducting party affairs at any level of responsibility.

(~~6~~7) "Pecuniary benefit" is any benefit to a public official or member of his household in the form of money, property~~,~~ or commercial interests ~~or anything else,~~ the primary significance of which is economic gain.

(~~7~~8) "Public servant" means any officer or employee of government, including legislators and judges, and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function; but the term does not include witnesses.

(~~8~~9) "Administrative proceeding" means any proceeding, other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law, or in which law or regulation is particularized in application to individuals.

SECTION 2. That Chapter 13A, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 18-1359, 18-1360, 18-1361 and 18-1362, Idaho Code, and to read as follows:

18-1359. USING PUBLIC POSITION FOR PERSONAL GAIN. (1) No public servant shall:

(a) Without the specific authorization of the governmental entity for which he serves, use his official position or public funds or property to obtain a pecuniary benefit from sources other than lawful compensation as a public servant.

(b) Solicit, accept or receive a pecuniary benefit as payment for services, advice, assistance or conduct customarily exercised in the course of his official duties. This prohibition shall not include trivial benefits not to exceed a value of fifty dollars ($50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

(c) Use or disclose confidential information gained in the course of or by reason of his official position or activities in any manner with the intent to obtain a pecuniary benefit for himself or any other person or entity in whose welfare he is interested or with the intent to harm the governmental entity for which he serves.

(d) Be interested in any contract made by him in his official capacity, or by any body or board of which he is a member, except

as provided in section 18-1361, Idaho Code.

(e) Appoint or vote for the appointment of any person related to him by blood or marriage within the second degree, to any clerkship, office, position, employment or duty, when the salary, wages, pay or compensation of such appointee is to be paid out of public funds or fees of office, or appoint or furnish employment to any person whose salary, wages, pay or compensation is to be paid out of public funds or fees of office, and who is related by either blood or marriage within the second degree to any other public servant when such appointment is made on the agreement or promise of such other public servant or any other public servant to appoint or furnish employment to anyone so related to the public servant making or voting for such appointment. Any public servant who pays out of any public funds under his control or who draws or authorizes the drawing of any warrant or authority for the payment out of any public fund of the salary, wages, pay, or compensation of any such ineligible person, knowing him to be ineligible, is guilty of a misdemeanor and shall be punished as provided in this chapter.

(2) The prohibitions contained within this section shall not include conduct defined by the provisions of section 59-703(4), Idaho Code.

(3) The prohibitions within this section and section 18-1356, Idaho Code, as it applies to part-time public servants, does not include those actions or conduct involving the public servant's business, profession or occupation and unrelated to the public servant's official conduct, and does not apply to a pecuniary benefit received in the normal course of a legislator's business, profession or occupation and unrelated to any bill, legislation, proceeding or official transaction.

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

18-1361. SELF-INTERESTED CONTRACTS -- EXCEPTION. Where there are less than two (2) suppliers of a good or a service within a fifteen (15) mile radius of where the good or service is to be provided, it shall not constitute a violation of the provisions of subsection (4) of section 18-1359, Idaho Code, for a public servant to contract with the public body of which he is a member if the contract is reasonably necessary to respond to a disaster as defined in chapter 10, title 46, Idaho Code, or if he strictly observes the following procedure:

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

(2) The public servant takes no part in the preparation of the contract or bid specifications, or voting on or approval of the con-

tract or bid specifications; and

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

(4) The public servant has not violated any provision of Idaho law pertaining to competitive bidding or improper solicitation of business.

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

SECTION 3. That Section 18-1356, Idaho Code, be, and the same is hereby amended to read as follows:

18-1356. GIFTS TO PUBLIC SERVANTS BY PERSONS SUBJECT TO THEIR JURISDICTION. (1) Regulatory and law enforcement officials. No public servant in any department or agency exercising regulatory functions, or conducting inspections or investigations, or carrying on civil or criminal litigation on behalf of the government, or having custody of prisoners, shall solicit, accept or agree to accept any pecuniary benefit from a person known to be subject to such regulation, inspection, investigation or custody, or against whom such litigation is known to be pending or contemplated.

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

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

(4) Legislative officials. No legislator or public servant employed by the legislature or by any committee or agency thereof shall solicit, accept or agree to accept any pecuniary benefit <u>in return for action on a bill, legislation, proceeding or official transaction</u> from any person known to be interested in a bill, <u>legislation, official</u> transaction or proceeding, pending or contemplated before the legislature or any committee or agency thereof.

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

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

(b) gifts or other benefits conferred on account of kinship or

other personal, professional or business relationship independent of the official status of the receiver; or

(c) trivial benefits not to exceed a value of fifty dollars ($50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

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

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

SECTION 4. That Chapter 2, 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 59-208, Idaho Code, and to read as follows:

59-208. VIOLATION. A violation of the provisions of this chapter is a misdemeanor and shall be punished by a fine not exceeding one thousand dollars ($1,000), or incarceration in the county jail for a period not exceeding one (1) year, or by both such fine and incarceration.

SECTION 5. That Section 59-706, Idaho Code, as enacted in H.B. 858, Second Regular Session, Centennial Legislature, be, and the same is hereby repealed.

Approved April 9, 1990.

CHAPTER 329
(H.B. No. 858)

AN ACT

RELATING TO ETHICS IN GOVERNMENT; REPEALING CHAPTER 7, TITLE 59, IDAHO CODE; AMENDING TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 7, TITLE 59, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF POLICY AND PURPOSE FOR ETHICS IN GOVERNMENT, TO PROVIDE DEFINITIONS, TO PROVIDE FOR REQUIRED ACTION IN CONFLICTS, TO PROVIDE PENALTIES, AND TO DISALLOW THE CLAIMS OF INELIGIBLE EMPLOYEES.

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

SECTION 1. That Chapter 7, Title 59, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 7, Title 59, Idaho Code, and to read as follows:

CHAPTER 7
ETHICS IN GOVERNMENT

59-701. SHORT TITLE. This act shall be known and may be cited as the "Ethics in Government Act of 1990."

59-702. POLICY AND PURPOSE. It is hereby declared that the position of a public official at all levels of government is a public trust and it is in the public interest to:

(1) Protect the integrity of government throughout the state of Idaho while at the same time facilitating recruitment and retention of personnel needed within government;

(2) Assure independence, impartiality and honesty of public officials in governmental functions;

(3) Inform citizens of the existence of personal interests which may present a conflict of interest between an official's public trust and private concerns;

(4) Prevent public office from being used for personal gain contrary to the public interest;

(5) Prevent special interests from unduly influencing governmental action; and

(6) Assure that governmental functions and policies reflect, to the maximum extent possible, the public interest.

59-703. DEFINITIONS. For purposes of this chapter:

(1) "Administrative action" means any decision on, or proposal, consideration, enactment, defeat, or making of any rule, regulation, rate-making proceeding or policy action or nonaction by a governmental body or any other policy matter which is within the official jurisdiction of the governmental body.

(2) "Business" means any undertaking operated for economic gain, including, but not limited to, a corporation, partnership, trust, proprietorship, firm, association or joint venture.

(3) "Business with which a public official is associated" means any business of which the public official or member of his household is a director, officer, owner, partner, employee or holder of stock over five thousand dollars ($5,000) or more at fair market value.

(4) "Conflict of interest" means any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or a member of the person's household, or a business with which the person or a member of the person's household is associated, unless the pecuniary benefit arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position;

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged;

(c) Any interest which the person has by virtue of his profession, trade or occupation where his interest would be affected to

the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation;

(d) Any action by a public official upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.

(5) "Economic gain" means increase in pecuniary value from sources other than lawful compensation as a public official.

(6) "Governmental entity" means:

(a) The state of Idaho and all agencies, commissions and other governmental bodies of the state; and

(b) Counties and municipalities of the state of Idaho, all other political subdivisions including, but not limited to, highway districts, planning and zoning commissions or governmental bodies not specifically mentioned in this chapter.

(7) "Members of a household" mean the spouse and dependent children of the public official and/or persons whom the public official is legally obligated to support.

(8) "Person" means an individual, proprietorship, partnership, association, trust, estate, business trust, group or corporation, whether operated for profit or not, and any other legal entity, or agent or servant thereof, or a governmental entity.

(9) "Public office" means any position in which the normal and usual duties are conducted on behalf of a governmental entity.

(10) "Public official" means any person holding public office in the following capacity:

(a) As an elected public official meaning any person holding public office of a governmental entity by virtue of an elected process, including persons appointed to a vacant elected office of a governmental entity, excluding members of the judiciary; or

(b) As an elected legislative public official meaning any person holding public office as a legislator; or

(c) As an appointed public official meaning any person holding public office of a governmental entity by virtue of formal appointment as required by law; or

(d) As an employed public official meaning any person holding public office of a governmental entity by virtue of employment, or a person employed by a governmental entity on a consultive basis.

59-704. REQUIRED ACTION IN CONFLICTS. A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as provided in this section. Disclosure of a conflict does not affect an elected public official's authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the public official requests to be excused from debate and voting at his or her discretion. In order to determine whether a conflict of interest exists relative to any matter within the scope of the official functions of a public official, a public official may seek legal advice from the attorney representing that governmental entity or from the attorney general or from independent counsel. If the legal advice is that no real or

potential conflict of interest exists, the public official may proceed and shall not be subject to the prohibitions of this chapter. If the legal advice is that a real or potential conflict may exist, the public official:

(1) If he is an elected legislative public official, he shall disclose the nature of the potential conflict of interest and/or be subject to the rules of the body of which he/she is a member and shall take all action required under such rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue.

(2) If he is an elected state public official, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall file such statement with the secretary of state prior to acting on the matter. A public official may seek legal advice from the attorney representing that agency or from the attorney general or from independent counsel. The elected public official may then act on the advice of the agency's attorney, the attorney general or independent counsel.

(3) If he is an appointed or employed state public official, he shall prepare a written statement describing the matter to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney general or from the attorney representing that agency. The public official may then act on the advice of the attorney general, the agency's attorney or independent counsel.

(4) If he is an elected public official of a county or municipality, he shall disclose the nature of a potential conflict of interest prior to acting on a matter and shall be subject to the rules of the body of which he/she is a member and take all action required by the rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue. The public official may obtain an advisory opinion from the attorney general or the attorney for the county or municipality or from independent counsel. The public official may then act on the advice of the attorney general or attorney for the county or municipality or his independent counsel.

(5) If he is an appointed or employed public official of a county or municipality, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney for the appointing authority, or, if none, the attorney general. The public official may then act on the advice of the attorney general or attorney for the appointing authority or independent counsel.

(6) Nothing contained herein shall preclude the executive branch of state government or a political subdivision from establishing an

ethics board or commission to perform the duties and responsibilities provided for in this chapter. Any ethics board or commission so established shall have specifically stated powers and duties including the power to:

(a) Issue advisory opinions upon the request of a public official within its jurisdiction;

(b) Investigate possible unethical conduct of public officials within its jurisdiction and conduct hearings, issue findings, and make recommendations for disciplinary action to a public official's appointing authority;

(c) Accept complaints of unethical conduct from the public and take appropriate action.

59-705. CIVIL PENALTY. (1) Any public official who intentionally fails to disclose a conflict of interest as provided for in section 59-704, Idaho Code, shall be guilty of a civil offense, the penalty for which may be a fine not to exceed five hundred dollars ($500), provided that the provisions of this subsection shall not apply to any public official where the governmental entity on which said official serves has put into operation an ethics commission or board described in section 59-704(6), Idaho Code.

(2) The penalty prescribed in subsection (1) of this section does not limit the power of either house of the legislature to discipline its own members, nor limit the power of governmental entities, including occupational or professional licensing bodies, to discipline their members or personnel. A violation of the provisions of this chapter shall not preclude prosecution and conviction for any criminal violation that may have been committed.

59-706. ALLOWANCE OF CLAIMS OF INELIGIBLES. An officer of this state or any district, county, city, or other municipal subdivision of the state who pays out of any public funds under his control or who draws or authorizes the drawing of any warrant or authority for the payment out of any public fund of the salary, wages, pay, or compensation of any such ineligible person, knowing him to be ineligible, is guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars ($1,000), or by incarceration in the county jail for a period not exceeding one (1) year, or by both such fine and incarceration.

Approved April 9, 1990.

CHAPTER 330
(S.B. No. 1445)

AN ACT

RELATING TO SELF-GOVERNING AGENCIES; AMENDING SECTION 67-2603, IDAHO CODE, TO PROVIDE THAT THE BUREAU CHIEF OF THE DEPARTMENT SHALL BE APPOINTED BY THE GOVERNOR FOR A SIX YEAR TERM, TO PROVIDE FOR FILLING VACANCIES, AND TO PROVIDE FOR REAPPOINTMENT.

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

SECTION 1. That Section 67-2603, Idaho Code, be, and the same is hereby amended to read as follows:

67-2603. BUREAU CHIEF -- EXPENSES. (1) The chief administrative officer of the bureau of occupational licenses shall be the bureau chief who shall be appointed by the governor ~~subject to the provisions of chapter 53, title 67, Idaho Code~~ for a term of six (6) years. The expenses of the bureau chief, and such secretarial, technical or other personnel as he may deem necessary for the conduct of the affairs of the bureau, shall be paid from the occupational licenses fund.

(2) If a vacancy occurs in the position of bureau chief, the governor shall fill it by appointment. The person appointed shall hold the position for the unexpired term of his predecessor. Any person holding the position of bureau chief may be reappointed by the governor for additional terms of office.

Approved April 10, 1990.

CHAPTER 331
(S.B. No. 1434, AS Amended)

AN ACT

RELATING TO THE TRANSPORTATION OF HAZARDOUS WASTES AND HAZARDOUS MATERIALS; AMENDING SECTIONS 49-2202 AND 49-2203, IDAHO CODE, TO PROVIDE THAT NEGLIGENT OPERATION OF A VEHICLE SUBJECT TO THE PROVISIONS OF THESE SECTIONS SHALL BE A VIOLATION OF THE PROVISIONS OF THE CHAPTER.

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.

(6) The operation of a vehicle, which is subject to the permit requirements of this section in a negligent manner is a violation of the provisions of this chapter.

SECTION 2. That Section 49-2203, Idaho Code, be, and the same is hereby amended to read as follows:

49-2203. ENDORSEMENT REQUIREMENTS FOR TRANSPORTERS OF HAZARDOUS MATERIALS. (1) Every person, including a private carrier or a common or contract carrier, who operates a vehicle on any highway of this state transporting hazardous material in such quantity and under such conditions that such vehicle is required to be placarded pursuant to title 49, code of federal regulations, part 172, or such vehicle's cargo is regulated by title 49, code of federal regulations, part 171, or is required to meet the manifest requirements as set forth under the rules of the bureau of hazardous materials, department of health and welfare, shall first procure from the department an annual vehicle registration endorsement or single trip vehicle registration endorsement for each vehicle so driven. This registration endorsement shall be available for examination and shall be displayed in accordance with rules adopted by the department. The provisions of this section shall not apply to vehicles owned by any city, county, state or federal governmental department or agency or special purpose district created pursuant to law.

(2) The fee for an annual vehicle registration endorsement for the transportation of hazardous materials shall be three dollars ($3.00) if purchased at the time of registration or renewal, or five

dollars ($5.00) if purchased at any time thereafter and the fee for a single trip vehicle registration endorsement shall be five dollars ($5.00). Any carrier required to pay the fee assessed pursuant to this section is authorized to pass along such fee to the shipping party. Vendors selling endorsements on behalf of the board shall be reimbursed at the rate of forty cents (40¢) per endorsement. No portion of the annual endorsement fee shall be prorated, reduced or transferred to another vehicle.

(3) The operation of a vehicle, which is subject to the endorsement requirements of this section, in a negligent manner is a violation of the provisions of this chapter.

Approved April 10, 1990.

CHAPTER 332
(S.B. No. 1418)

AN ACT

RELATING TO SCHOOL DISTRICT TRUSTEE ELECTIONS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-502B, IDAHO CODE, TO PROVIDE THAT NO ELECTION SHALL BE REQUIRED WHEN ONLY ONE NOMINATION FOR A POSITION ON THE BOARD OF TRUSTEES HAS BEEN SUBMITTED, AND THE CLERK SHALL CERTIFY THAT THE NOMINEE IS ELECTED.

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 33-502B, Idaho Code, and to read as follows:

33-502B. 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 a position to be filled and if no declaration of intent has been filed as provided by section 33-502A, Idaho Code, no election shall be held for that position, and the board of trustees shall within three (3) days before the scheduled date of the election declare such candidate elected as a trustee, and the school district clerk shall immediately prepare and deliver to the 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 school district election.

Approved April 10, 1990.

CHAPTER 333
(S.B. No. 1514)

AN ACT

RELATING TO THE STATE WATER PLAN; EXTENDING THE TIME PERIOD OF THE INTERIM PROTECTED RIVER STATUS FOR THE HENRY'S FORK OF THE SNAKE RIVER FOR A PERIOD OF EIGHTEEN MONTHS.

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

SECTION 1. That the time period of the interim protected river status for the Henry's Fork of the Snake River from its point of origin at Henry's Lake to the point of its confluence with the backwaters of Ashton Reservoir, designated by resolution of the Idaho Water Resource Board on July 1, 1988, pursuant to Section 42-1734H, Idaho Code, is hereby extended pursuant to Section 42-1734D(4)(b), Idaho Code, for an additional period of eighteen (18) months extending through December 31, 1991.

Approved April 10, 1990.

CHAPTER 334
(S.B. No. 1379, As Amended)

AN ACT

RELATING TO TAX INFORMATION; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3077B, IDAHO CODE, TO PROVIDE FOR AGREEMENTS FOR EXCHANGE OF INFORMATION BETWEEN THE TAX COMMISSION AND THE INDUSTRIAL COMMISSION, AND SPECIFYING THE INFORMATION WHICH MAY BE PROVIDED BY THE TAX COMMISSION.

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

63-3077B. AGREEMENTS FOR EXCHANGE OF INFORMATION WITH INDUSTRIAL COMMISSION. The state tax commission and the industrial commission may enter into a written agreement for exchange of information relating to persons, firms, corporations, partnerships or associations who are or may be conducting business operations in this state. Such information shall be confidential to the recipient and may be used only for purposes of determining whether the person to whom the information relates may have an undischarged duty or obligation under the tax laws administered by the tax commission or may have an obligation to secure worker's compensation insurance coverage under the laws administered by the industrial commission. No such information shall be public

information unless it is used in the course of a judicial proceeding arising under the laws of this state. The information provided by the tax commission shall be limited to the following:

(1) Names of individuals operating the business.
(2) The business name.
(3) The mailing address.
(4) The physical location of the business.
(5) The effective date of the withholding tax permit.
(6) The contact person.
(7) The telephone number of the contact person.

Approved April 10, 1990.

CHAPTER 335
(S.B. No. 1416, As Amended)

AN ACT

RELATING TO THE WORKER'S COMPENSATION LAW; AMENDING SECTION 72-102, IDAHO CODE, TO DEFINE THE TERM WORK EXPERIENCE STUDENT; AND AMENDING SECTION 72-205, IDAHO CODE, TO PROVIDE FOR WORKER'S COMPENSATION COVERAGE OF A WORK EXPERIENCE STUDENT BY THE SCHOOL DISTRICT UNDER ITS POLICY IF THE STUDENT DOES NOT RECEIVE WAGES AS PART OF THE WORK EXPERIENCE PROGRAM.

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

SECTION 1. 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.

(7) "Death" means death resulting from an injury or occupational disease.

(8) 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.

(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.

(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.

(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.

(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.

(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.

(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.

(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.

(16) "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.

(17) "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.

(18) "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_2) dust.

(19) "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.

(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.

(21) "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.

(22) "Secretary" means the secretary of the commission.

(23) "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.

(24) "State" includes any state, district, commonwealth, zone or territory of the United States or any province of Canada.

(25) "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.

(26) "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.

(27) "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.

(28) "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.

(29) "Work experience student" means any person enrolled in the public school districts of this state and who, as part of his instruction, is enrolled in a class or program for academic credit and for which the student is employed by, or works for, a private or governmental entity. The student need not receive wages from the private or governmental entity in order to be classified as a work experience student.

(30) "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 2. 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) 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) 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 compensible under federal law.

(6~~7~~) 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.

(8) A work experience student, as that term is defined in section 72-102, Idaho Code, who does not receive wages while participating in the school's work experience program shall be covered by the school district's policy with the state insurance fund.

Approved April 10, 1990.

CHAPTER 336
(S.B. No. 1449, As Amended)

AN ACT

RELATING TO DIVORCE ACTIONS; AMENDING SECTION 32-705, IDAHO CODE, TO PROVIDE THAT WHERE A DIVORCE IS DECREED, THE COURT MAY GRANT A MAINTENANCE ORDER UPON CERTAIN FINDINGS AND TO PROVIDE FOR AN ADDITIONAL FACTOR FOR CONSIDERATION BY A COURT REGARDING A MAINTENANCE ORDER.

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

SECTION 1. That Section 32-705, Idaho Code, be, and the same is hereby amended to read as follows:

32-705. MAINTENANCE. 1. Where a divorce is ~~granted,--for-an offense-of-either-spouse,-including-a-divorce-granted--upon--the--complaint--of--the--party-at-fault~~ decreed, the court may grant a maintenance order ~~for-the-innocent-spouse~~ if it finds that the ~~innocent~~ spouse seeking maintenance:

(a) Lacks sufficient property to provide for his or her reasonable needs; and

(b) Is unable to support himself or herself through employment.

2. The maintenance order shall be in such amounts and for such periods of time that the court deems just, after considering all relevant factors which may include:

(a) The financial resources of the spouse seeking maintenance, including the marital property apportioned to said spouse, and said spouse's ability to meet his or her needs independently;

(b) The time necessary to acquire sufficient education and training to enable the spouse seeking maintenance to find employment;

(c) The duration of the marriage;

(d) The age and the physical and emotional condition of the spouse seeking maintenance;

(e) The ability of the spouse from whom maintenance is sought to meet his or her needs while meeting those of the spouse seeking maintenance;

(f) The tax consequences to each spouse;

(g) The fault of either party.

Approved April 10, 1990.

CHAPTER 337
(S.B. No. 1647)

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 PERMANENT BUILDING ACCOUNT TO THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR THE PURPOSE SPECIFIED; APPROPRIATING MONEYS FROM THE PERMANENT BUILDING ACCOUNT TO THE STATE BOARD OF EDUCATION FOR BOISE STATE UNIVERSITY FOR THE PURPOSE SPECIFIED; APPROPRIATING MONEYS FROM THE PERMANENT BUILDING ACCOUNT TO THE GOVERNOR'S RESIDENCE ACCOUNT; REAPPROPRIATING THE MONEYS APPROPRIATED BY CHAPTER 250, LAWS OF 1980, FOR THE PURPOSE SPECIFIED; APPROPRIATING MONEYS FROM THE STATE HIGHWAY ACCOUNT TO THE PERMANENT BUILDING ACCOUNT; APPROPRIATING MONEYS FROM THE INDUSTRIAL ADMINISTRATION ACCOUNT TO THE PERMANENT BUILDING ACCOUNT; APPROPRIATING MONEYS FROM THE FISH AND GAME ACCOUNT TO THE PERMANENT BUILDING ACCOUNT; EXPRESSING

LEGISLATIVE INTENT FOR THE USE OF MONEYS APPROPRIATED BY SECTION 2 OF THIS ACT; EXPRESSING LEGISLATIVE INTENT FOR THE ISU - U OF I CENTER FOR HIGHER EDUCATION; EXPRESSING LEGISLATIVE INTENT FOR THE DEPARTMENT OF PARKS AND RECREATION; 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 FOR SECTIONS 1, 2, 3, 4, 5, 9, 10, 11, 12, 13 AND 14 OF THIS ACT.

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	$ 75,000
Blind Commission	35,000
Department of Administration	268,600
Department of Agriculture	40,000
Department of Correction	634,900
State Board of Education	5,092,300
Department of Health and Welfare	2,347,000
Department of Employment	16,200
Industrial Commission	250,000
Department of Fish and Game	170,000
Department of Parks and Recreation	160,000
Department of Lands	45,000
Idaho Transportation Department	750,000
Contingency	131,000
TOTAL	$10,015,000

B. ASBESTOS ABATEMENT PROJECTS:

Department of Administration	$ 20,000
Department of Correction	20,000
State Board of Education	665,700
Department of Health and Welfare	240,000
Albion School	35,000
Contingency	19,300
TOTAL	$ 1,000,000

C. UNDERGROUND STORAGE TANKS: $ 500,000

D. OFFICE OF THE GOVERNOR/MILITARY DIVISION:

Emmett Armory	$ 450,000
E. DEPARTMENT OF CORRECTION:	
St. Anthony Work Camp	$ 400,000
Womens' Prison, Planning and Design	900,000
200-Bed Unit, ISCI-Boise	3,596,000
Food Service Remodel, ISCI-Boise	505,000
Food Service Remodel, NICI-Cottonwood	266,000
F. DEPARTMENT OF LAW ENFORCEMENT:	
Department of Law Enforcement Building and POST Academy, Land Purchase and Planning and Design	$ 1,752,500
G. STATE BOARD OF EDUCATION:	
ISU - U of I Center for Higher Education, Idaho Falls, Planning and Design	$ 375,000
Idaho State University, Museum of Natural History, Renovation	869,700
Idaho State University, Baldwin Hall, Renovation	2,947,800
College of Southern Idaho, Development Center	1,938,000
Lewis-Clark State College, Old Library Remodel, Planning	150,000
Boise State University, Library and Social Science Renovation	4,000,000
Lewis-Clark State College, Sam Glenn Center Completion	520,000
H. DEPARTMENT OF HEALTH AND WELFARE:	
Lewiston Veterans Home	$ 1,600,000
I. DEPARTMENT OF FISH AND GAME:	
Region One Office	$ 650,000
Region Three Office	650,000
Pocatello Storage Building	57,000
J. DEPARTMENT OF LANDS:	
McCall Office	$ 200,000
TOTAL	$21,827,000

SECTION 2. There is hereby appropriated $9,369,600 from the Permanent Building Account to the Board of Regents of the University of Idaho for the library addition and remodel.

SECTION 3. There is hereby appropriated $914,600 from the Permanent Building Account to the State Board of Education for Boise State University for remodel of Campus School and Administration Building.

SECTION 4. There is hereby appropriated $778,800 from the Permanent Building Account to the Governor's Residence Account.

SECTION 5. From the balance of moneys remaining unexpended from the appropriation made by Section 1, Paragraph B., Chapter 250, Laws of 1980, for Remodel Idaho Security Medical Facility, there is hereby appropriated for the Department of Correction, to the Permanent Building Fund Advisory Council and the Division of Public Works, the sum of

$40,000 for Contingency.

SECTION 6. There is hereby appropriated $750,000 from the State Highway Account to the Permanent Building Account.

SECTION 7. There is hereby appropriated $250,000 from the Industrial Administration Account to the Permanent Building Account.

SECTION 8. There is hereby appropriated $500,000 from the Fish and Game Account to the Permanent Building Account.

SECTION 9. It is legislative intent that while expending the funds appropriated by Section 2 of this act for the University of Idaho library addition and remodel, the University of Idaho use the accounting controls and reporting systems normally used by the Division of Public Works for auditing purposes, and that the interest accrued remain in an account for use in fiscal year 1992 for the library addition and remodel project.

SECTION 10. It is legislative intent that the ISU - U of I Center for Higher Education be designed for construction at University Place in Idaho Falls, and that the building be operated under joint proprietorship by Idaho State University and the University of Idaho.

SECTION 11. It is legislative intent that the Department of Parks and Recreation be allowed to use funds from previous appropriations, the U.S. Department of Energy, and the sale of the headquarters property, to lease office facilities. It is further legislative intent that prior to the purchase of any property the Department receive approval from the Joint Senate Finance-House Appropriations Committee.

SECTION 12. 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 13. 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 14. 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 limita-

tions provided in those sections, in the same manner as though the revenues in the General Account were being anticipated.

SECTION 15. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4, 5, 9, 10, 11, 12, 13 and 14 of this act shall be in full force and effect on and after its passage and approval.

Approved April 10, 1990.

CHAPTER 338
(S.B. No. 1644)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING ACCOUNT TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSE SPECIFIED; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED BY THIS ACT; EXEMPTING THE APPROPRIATION 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 amount, or so much thereof as may be necessary, for the purpose of paying the cost of building and equipping the facility named.

DEPARTMENT OF AGRICULTURE:

Quality Assurance Laboratory $2,000,000

SECTION 2. It is the express intention of the Legislature that the moneys appropriated by this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance. It is further the intention of the Legislature that this authority be effective from the effective date of this act.

SECTION 3. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 4. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Account by the issuance of tax anticipation notes in accordance with authority conferred in 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 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 10, 1990.

CHAPTER 339
(S.B. No. 1650, As Amended)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1991; APPROPRIATING MONEYS TO THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE FOR FISCAL YEAR 1991; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS FOR DEPOSIT IN THE LEGISLATIVE ACCOUNT; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS TO THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE; APPROPRIATING MONEYS TO THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE FOR THE LEGISLATIVE BUDGET OFFICE; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE PRIORITY OF THE APPROPRIATION IN SECTION 5 OF THIS ACT.

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 from the listed accounts for the period July 1, 1990, through June 30, 1991:

FROM:

General Account	$777,600
Interagency Billing and Receipts Account	42,800
TOTAL	$820,400

SECTION 2. There is hereby appropriated to the Joint Senate Finance-House Appropriations Committee, the following amount to be expended for the designated programs from the listed accounts for the period July 1, 1990, through June 30, 1991:

A. LEGISLATIVE AUDITOR:

FROM:

General Account	$ 704,700
Interagency Billing and Receipts Account	707,300
TOTAL	$1,412,000

B. LEGISLATIVE BUDGET OFFICE:

FROM:

General Account	$ 562,400

C. JOINT SENATE FINANCE-HOUSE APPROPRIATIONS INTERIM COMMITTEE:
FROM:

General Account	$ 31,500
GRAND TOTAL	$2,005,900

SECTION 3. There is hereby reappropriated any unexpended and unencumbered balance of moneys appropriated in Section 1, Chapter 283, Laws of 1989, to be deposited in the Legislative Account and to be used for nonrecurring expenditures only.

SECTION 4. 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 and Section 3, Chapter 283, Laws of 1989, for the period July 1, 1990, through June 30, 1991, to be used for nonrecurring expenditures only.

SECTION 5. There is hereby appropriated from the unencumbered and unexpended balance in the General Account, in excess of $23,600,000, as of June 30, 1990, the sum of $30,000, or so much as may be available, to the Joint Senate Finance-House Appropriations Committee for the Legislative Budget Office, to be used for office remodeling and refurbishing, for the period July 1, 1990, through June 30, 1991.

SECTION 6. It is legislative intent that the appropriation in Section 5 of this act, shall be next in priority after the appropriation made by Section 1 of Senate Bill No. 1639, as amended, Second Regular Session, Centennial Idaho Legislature.

Approved April 10, 1990.

CHAPTER 340
(S.B. No. 1605, As Amended)

AN ACT

RELATING TO ANNEXATION OF LANDS TO IRRIGATION DISTRICTS; AMENDING SECTION 43-1001, IDAHO CODE, TO STRIKE REFERENCE TO THE NECESSITY OF LANDS BEING ADJACENT TO AN IRRIGATION DISTRICT TO BE ANNEXED, AND TO PROVIDE CONDITIONS FOR A PETITION TO ANNEX LANDS; AMENDING SECTION 43-1003, IDAHO CODE, TO PROVIDE FOR A NOTICE OF PETITION; AMENDING SECTION 43-1004, IDAHO CODE, TO PROVIDE CONDITIONS FOR FAILURE TO APPEAR AND OBJECT; AMENDING SECTION 43-1006, IDAHO CODE, TO PROVIDE CONDITIONS FOR A BOARD TO ACCEPT OR REJECT A PETITION; REPEALING SECTION 43-1007, IDAHO CODE; AMENDING SECTION 43-1008, IDAHO CODE, TO PROVIDE CONDITIONS FOR HOLDING AN ELECTION ON THE ANNEXATION; AMENDING SECTION 43-1009, IDAHO CODE, TO PROVIDE FOR ORDERS OF THE BOARD CHANGING BOUNDARIES; AND AMENDING SECTION 43-1010, IDAHO CODE, TO PROVIDE FOR RECORDING OF THE BOARD'S ORDER.

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

SECTION 1. That Section 43-1001, Idaho Code, be, and the same is hereby amended to read as follows:

43-1001. PETITION FOR ANNEXATION OF ~~ADJACENT~~ LAND. The holder or holders of any title, or evidence of title, representing ~~one-half (1/2) or more of~~ any body of lands ~~adjacent to the boundary of an irrigation district~~, may file with the board of directors of ~~said~~ an irrigation district a petition in writing praying that said land may be annexed. The petition shall ~~describe the lands, and shall also describe the several parcels owned by the petitioners~~ contain a legal description of the lands, the proposed method by which water will be delivered and any other information the district may require, and the petitioners shall state under oath that petitioners hold the title of one-half (1/2) or more of said lands.

SECTION 2. That Section 43-1003, Idaho Code, be, and the same is hereby amended to read as follows:

43-1003. NOTICE OF PETITION. The secretary must cause a notice of the filing of such petition to be published three (3) weeks in the manner of notices of special elections. The notice shall state the filing of such petition, and the names of the petitioners, a description of the lands mentioned in the said petition, ~~and the prayer of said petition;~~ and it shall notify all persons interested in or that may be affected by such change of boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the lands mentioned should not be annexed to said district. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this chapter.

SECTION 3. That Section 43-1004, Idaho Code, be, and the same is hereby amended to read as follows:

43-1004. HEARING OF PETITION. The board of directors, at the time mentioned in said notice or at such other time to which the hearing may be adjourned, shall hear the petition and all the objections thereto~~, showing cause, as aforesaid~~. The failure of any person to ~~show cause as aforesaid~~ appear and object shall be taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands.

SECTION 4. That Section 43-1006, Idaho Code, be, and the same is hereby amended to read as follows:

43-1006. ORDER ACCEPTING OR REJECTING PETITION. The board of directors, if they deem it not for the best interest of the district to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interest of the district, ~~and if no person interested shall show cause why~~

~~the--proposed--change-be-not-made,-or-if-having-shown-cause,-withdraws the-same,~~ the board may order~~,-without-any-election,--that~~ the lands mentioned in said petition or some part thereof be annexed to said district. The order shall describe the lands to be annexed to said district and the board may cause a survey thereof to be made if deemed necessary, and said order will not become effective until the ninety (90) day period for presentation of an election petition shall have expired without such petition being presented or until approval of the annexation at an election.

SECTION 5. That Section 43-1007, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 43-1008, Idaho Code, be, and the same is hereby amended to read as follows:

43-1008. ELECTION TO DETERMINE CHANGE. ~~Upon-the-adoption-of-the resolution-mentioned-in-the-last-preceding-section,~~ If within ninety (90) days of board approval of an order allowing annexation a petition signed by either ten (10) landowners or by two percent (2%) of the landowners, whichever number is greater, of the district is presented to the board which petition states that those signing request an election to approve or disapprove said annexation, then the board shall order ~~that~~ an election be held within said district to determine whether the boundaries of the district shall be changed as mentioned in said ~~resolution~~ order; and shall fix the time at which such election shall be held. Notice thereof shall be given and published, and such election shall be held, and all things pertaining thereto conducted, in the manner prescribed by this title in case of an election to determine whether bonds of the district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the lands to be annexed to said district.

SECTION 7. That Section 43-1009, Idaho Code, be, and the same is hereby amended to read as follows:

43-1009. ORDER CHANGING BOUNDARIES. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall ~~proceed--no further-in-the-matter~~ rescind its order and it shall be of no force or effect. But if a majority of such votes be in favor of such change, the ~~board-shall-thereupon-order-that--the--boundaries--be--changed--in accordance--with-said-resolution.-The-order-shall-describe-the-land-so annexed-to-said-district,-and~~ order shall have full force and effect. ~~T~~thereafter such land so annexed shall be subject to such assessments from time to time as the board of directors shall deem right under the circumstances, and such assessments shall be deemed to be assessments for benefits to said lands by reason of their annexation to said district. ~~Immediately-after-the-recording--of--the--order--annexing--said lands--to-the-district,-t~~The directors shall state on their minutes ~~to~~ at their next regular meeting which division and election precinct in

said district the said lands so annexed shall be attached, and, if necessary, the board shall make an an order redividing the district into divisions and election precincts, in the same manner and to like effect, as near as may be, as provided for that purpose on the formation of a district.

SECTION 8. That Section 43-1010, Idaho Code, be, and the same is hereby amended to read as follows:

43-1010. ORDER TO BE RECORDED. Upon a change of the boundaries of a district ~~being made~~ <u>becoming effective,</u> a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries as aforesaid, had been included therein at the original organization of the district.

Approved April 10, 1990.

CHAPTER 341
(S.B. No. 1627)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 1991; 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, 1990, through June 30, 1991:

FROM:

General Account	$4,590,300
State School for the Deaf and the Blind Income Account	51,800
Federal Deaf and Blind Children Account	84,700
Interagency Billing and Receipts Account	19,700
TOTAL	$4,746,500

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 225, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

Approved April 10, 1990.

CHAPTER 342
(S.B. No. 1626)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES FOR FISCAL YEAR 1991.

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, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$2,931,500
Operating Expenditures	862,000
Capital Outlay	89,600
TOTAL	$3,883,100
FROM:	
General Account	$ 418,900
Electrical Board Account	1,528,500
Plumbing Board Account	667,600
Idaho Building Code Account	489,000
Manufactured Housing Account	50,200
Interagency Billing and Receipts Account	624,900
Mine Safety Training Grant Account	104,000
TOTAL	$3,883,100

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Account	$ 42,700	$ 4,200	$ 100	$ 47,000
Electrical Board Account	176,900	21,500	500	198,900
Plumbing Board Account	82,300	11,600	300	94,200
Idaho Building Code Account	61,800	8,800	200	70,800
Interagency Billing and Receipts Account	52,400	18,300	100	70,800
TOTAL	$ 416,100	$ 64,400	$ 1,200	$ 481,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
B. SAFETY COMPLIANCE:				
FROM:				
General Account	$ 42,500	$ 10,700		$ 53,200
Electrical Board Account	976,300	300,300	$53,000	1,329,600
Plumbing Board Account	432,600	138,700	2,100	573,400
Idaho Building Code Account	326,800	75,400	16,000	418,200
Manufactured Housing Account	35,600	14,600		50,200
Mine Safety Training Grant Account	29,200	15,900		45,100
TOTAL	$1,843,000	$555,600	$71,100	$2,469,700
C. INDUSTRIAL RELATIONS AND SAFETY:				
FROM:				
General Account	$ 249,300	$ 69,400		$ 318,700
Interagency Billing and Receipts Account	386,400	150,400	$17,300	554,100
Mine Safety Training Grant Account	36,700	22,200		58,900
TOTAL	$ 672,400	$242,000	$17,300	$ 931,700
GRAND TOTAL	$2,931,500	$862,000	$89,600	$3,883,100

Approved April 10, 1990.

CHAPTER 343
(S.B. No. 1628)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1991; 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, 1990, through June 30, 1991:

FROM:	
General Account	$1,100,200
State Historical Society Foundation Account	228,000
Historical Preservation Account	589,200
TOTAL	$1,917,400

SECTION 2. There is hereby appropriated to the State Board of Education for the Idaho State Historical Society the following amount, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1990, through June 30, 1991:

A. HISTORICAL PRESERVATION AND EDUCATION:

FROM:	
General Account	$ 998,000
State Historical Society Foundation Account	104,200
Historical Preservation Account	589,200
TOTAL	$1,691,400

B. HISTORIC SITES MAINTENANCE AND INTERPRETATION:

FROM:	
General Account	$ 102,200
State Historical Society Foundation Account	123,800
TOTAL	$ 226,000

GRAND TOTAL	$1,917,400

SECTION 3. There is hereby reappropriated to the State Board of Education for the Idaho State Historical Society any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 225, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

Approved April 10, 1990.

CHAPTER 344
(S.B. No. 1428)

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-612, IDAHO CODE, RELATING TO THE POSSESSION OR CONSUMPTION OF ALCOHOL ON PUBLIC SCHOOL PROPERTY, TO PROVIDE THAT PERSONS UNDER TWENTY-ONE YEARS OF AGE ARE TO BE PUNISHED UNDER SECTION 18-1502, IDAHO CODE.

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

SECTION 1. That Section 23-612, Idaho Code, be, and the same is hereby amended to read as follows:

23-612. BEER, WINE OR OTHER ALCOHOLIC BEVERAGES ON PUBLIC SCHOOL GROUNDS. Every person who possesses or consumes any beer, wine or other alcoholic beverage while present at any public school function

on the property of a school district is guilty of a misdemeanor. Persons under twenty-one (21) years of age who are found to be in violation of the provisions of this section because of their age shall be ~~subject--to--fines-and-imprisonment~~ punished according to ~~the-schedule set-out-in~~ section 18-1502, Idaho Code.

Approved April 10, 1990.

CHAPTER 345
(S.B. No. 1571)

AN ACT

RELATING TO THE INDUSTRIAL COMMISSION; AMENDING SECTION 72-503, IDAHO CODE, TO PROVIDE THAT ALL MEMBERS OF THE INDUSTRIAL COMMISSION WILL RECEIVE A SALARY EQUAL TO NINETY PER CENT OF THE SALARY OF A DISTRICT JUDGE.

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

SECTION 1. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. The annual salary of each member of the industrial commission shall ~~be--as-follows:-for-a-commissioner-with-less than-ten-(10)-years-of-service-as-a--member--of--the--commission,--the annual-salary-shall-be-eighty-per-cent-(80%)-of-the-annual-salary-of-a district-judge;-for-a-commissioner-whose-years-of-service-as-member-of the-commission-are-more-than-ten-(10)-years-but-less-than-fifteen-(15) years,--the--annual--salary-shall-be-eighty-five-per-cent-(85%)-of-the annual-salary-of-a-district-judge;-for-a-commissioner-whose--years--of service--as-member-of-the-commission-are-more-than-fifteen-(15)-years, the-annual-salary-shall~~ be ninety per cent (90%) of the annual salary of a district judge, notwithstanding the provisions of section 59-510, Idaho Code, and shall be paid from sources set by the legislature.

Approved April 10, 1990.

CHAPTER 346
(S.B. No. 1618, As Amended)

AN ACT

RELATING TO DEBT COUNSELING AND COLLECTION AGENCIES; AMENDING SECTION 26-2222, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 26-2223, IDAHO CODE, TO FURTHER DEFINE DEBT COUNSELOR AND COLLECTION AGENCY; AMENDING SECTION 26-2231, IDAHO CODE, TO CHANGE THE ANNUAL RENEWAL DATES FOR PERMITS; AMENDING SECTION 26-2232A, IDAHO CODE, TO PROVIDE ALTERNATE BONDING FOR DEBT COUNSELORS;

AMENDING SECTION 26-2235, IDAHO CODE, TO CLARIFY PROVISIONS GOVERNING PERMITTEE DISCIPLINARY ACTIONS; AMENDING SECTION 26-2239, IDAHO CODE, TO CLARIFY EXEMPTIONS; AMENDING SECTION 26-2240, IDAHO CODE, TO CHANGE THE ANNUAL RENEWAL DATE FOR LICENSES; AMENDING SECTION 26-2242, IDAHO CODE, TO CLARIFY PROVISIONS GOVERNING LICENSEE DISCIPLINARY ACTIONS; AMENDING SECTION 26-2244, IDAHO CODE, TO PROVIDE FOR CEASE AND DESIST ORDERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 26-2222, Idaho Code, be, and the same is hereby amended to read as follows:

26-2222. DEFINITIONS. As used in this ~~act~~ chapter:

(1) "Agent" means any person who is compensated on a commission basis or by salary, or both, by any permittee.

(2) "Business funds" means all moneys belonging to or due the permittee in connection with the operation of a collection agency business.

(3) "Collection agency," "collection bureau" or "collection office" shall be a person who engages in any of the activities enumerated in section 26-2223, Idaho Code.

(4) "Director" means the director of the department of finance.

(5) "Creditor" means any person who transfers to a permittee accounts due and owing for collection purposes.

(6) "Creditors' account" means all funds due and owing a creditor within the definition of this ~~act~~ chapter.

(7) "Licensee" means any person licensed by the director who is employed by a collection agency, debt counselor, or credit counselor ~~and whose primary function is as a solicitor~~ engaged in ~~collection--or receiving payment or soliciting the receiving or collection of payment for--others of any account; bill or other indebtedness for the collection agency~~ any of the activities enumerated in section 26-2223, Idaho Code.

(8) "Net collections" means all funds that are due to creditors from the permittee pursuant to the contract between the permittee and creditor, or permittee and debtor without taking into account any offset or funds due from the creditor to the permittee, because of the creditor having collected any part of the account due, plus all funds that the permittee agreed to return to debtors or that were not to be applied to debts.

(9) "Permittee" means a person who has a permit to do business as a collection agency, or debt counselor, or credit counselor in Idaho.

(10) "Person" means any permittee, licensee, agent, solicitor, individual, corporation, association, co-partnership, trust, company or unincorporated organization.

(11) "Debt counselor" means any person engaged in any of the activities enumerated in subsection (6) of section 26-2223. Idaho Code.

(12) "Credit counselor" means any person engaged in any of the activities enumerated in subsections (6) and (7) of section 26-2223, Idaho Code, which is exempt from federal income taxes as provided in

section 501 (c) (3) of the internal revenue code.

SECTION 2. That Section 26-2223, Idaho Code, be, and the same is hereby amended to read as follows:

26-2223. COLLECTION AGENCY, DEBT COUNSELOR, OR CREDIT COUNSELOR PERMITS. No person shall without complying with the terms of this act and obtaining a permit from the director:

(1) ~~Conduct~~ Operate as a collection agency, collection bureau, or collection office, debt counselor, or credit counselor in this state.

(2) Engage, either directly or indirectly in this state in the business of collecting or receiving payment for others of any account, bill, claim or other indebtedness.

(3) Solicit or advertise for the right to collect or receive payment for another of any account, bill, claim or other indebtedness.

(4) Sell or otherwise distribute any system or systems of collection letters and similar printed matter where the name of any person other than the particular creditor to whom the debt is owed appears.

(5) Engage in any activity which indicates, directly or indirectly, that a third party may be involved in effecting any collections.

(6) Engage or offer to engage in the business of receiving money from debtors for application to or payment of or prorating of any creditor or creditors of such debtor.

(7) Engage or offer to engage for compensation in the business of credit counseling.

(8) Engage or offer to engage in the business of credit repair which includes obtaining, for others, improvements in credit records, extensions of credit for clients, or causing the removal of documents from the credit records of a client maintained by a credit reporting agency.

(9) Engage or offer to engage in this state, directly or indirectly, in the business of collecting any form of indebtedness for that person's own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired.

SECTION 3. That Section 26-2231, Idaho Code, be, and the same is hereby amended to read as follows:

26-2231. RENEWAL OF PERMIT. Upon application made prior to the ~~twentieth~~ fifteenth day of ~~December~~ March of each year, the holder of any permit issued under the provisions of this act shall be entitled to have such permit renewed for the succeeding calendar year upon payment of the annual permit fee as fixed by the director, but not to exceed fifty dollars ($50.00), compliance with the bond requirements of this act, the filing of a financial statement in the form required by section 26-2224(7), Idaho Code, showing a net worth of at least two thousand five hundred dollars ($2,500) for each place of business for which a permit is sought, filing of all other documents required by section 26-2224, Idaho Code, and approval by the director of all literature to be employed by the permittee during the course of the business year, except no annual permit renewal fee need be paid by a non-

profit corporation or association conducting credit counseling or debt prorating activities.

SECTION 4. That Section 26-2232A, Idaho Code, be, and the same is hereby amended to read as follows:

26-2232A. ALTERNATE BONDING. (1) A ~~nonprofit-consumer~~ debt counselor or credit counseling~~or service-corporation-which-is-exempt-from federal-income-taxes-as-provided-in-section-501(c)(3)--of--the--United States--Internal--Revenue--Code-of-1954-and~~ which holds a valid permit under this chapter and is engaged in the activities described in sections 26-2223(6) ~~and~~ or 26-2223(7), Idaho Code, may, upon approval of the director of the department of finance, supply the director, upon renewal of its permit, in lieu of the bond required in section 26-2232(a), Idaho Code, a bond in the minimum amount of ten thousand dollars ($10,000) or two (2) times the average monthly net of unremitted ~~collections~~ funds received from debtors for the preceding year, computed to the next highest one thousand dollars ($1,000), whichever is greater.

(2) Such bonds shall be subject to the same conditions and requirements as the bond set forth in section 26-2232(a), Idaho Code, and shall be in addition to the bond required by section 26-2232(b), Idaho Code.

(3) Application for approval by the director of the department of finance shall be on a form provided by the director and shall include such information as the director shall require.

(4) ~~The~~ A credit counselor applicant shall furnish with the application a certified copy of applicant's determination as an exempt corporation under section 501(c)(3) of the Internal Revenue Code, made by the district director of internal revenue, or in the subsequent renewal of its permit and bond, evidence of continuance of its exempt determination by the district director of internal revenue.

(5) Upon approval by the director of the department of finance of the alternate bond and so long thereafter as the ~~nonprofit-consumer~~ credit counselingor or debt counselor service shall continue operations under the alternate bond herein provided for, it shall furnish to the director of the department of finance, ~~each--month,~~ not later than the fifteenth day of ~~the-succeeding-month~~ March of each year, a statement containing the following information:

~~1.~~(a) The amount of net unremitted ~~collections~~ funds received from debtors it held on the first day of ~~the~~ each calendar month which was collected or received in any prior month or months showing the exact month received and the amount for such month.

~~2.~~(b) The amount of money received during ~~the~~ each calendar month from debtors.

~~3.~~(c) The amount of money remitted to creditors or returned to debtors during ~~the~~ each calendar month.

~~4.~~(d) The moneys, fees, or commissions retained from the moneys received during ~~the~~ each calendar month.

~~5.~~(e) The amount of net unremitted funds due creditors or debtors at the end of ~~the~~ each calendar month.

(6) For the purposes of this section money or moneys remitted shall mean money which has actually been conveyed or transferred to

the creditor or debtor or his designated agent by physical transfer of cash or by certified or cashier's check or other means so that actual ownership of such funds shall have passed to the creditor or debtor or his agent and no right or interest shall remain in the ~~consumer~~ credit counseling service. A check or bank draft issued but not actually paid, without recourse shall not constitute a remittance.

(7) At any time that the director of the department of finance shall deem that the alternate bond provided for in this section shall be inadequate he may withdraw and cancel approval for the "in lieu" bond and require the bond provided in section 26-2232(a), Idaho Code, or cancel or suspend the permit of the consumer credit counseling service as provided in section 26-2236, Idaho Code.

SECTION 5. That Section 26-2235, Idaho Code, be, and the same is hereby amended to read as follows:

26-2235. DENIAL, REVOCATION, CANCELATION, OR REFUSAL TO RENEW PERMIT. (1) A permit ~~must~~ may be refused and, after notice and hearing, may be denied, revoked, canceled, or the renewal thereof refused by the director if he finds that the holder of or the applicant for, or any member or manager of an applicant or holder, or any officer or manager of an applicant or holder of such permit:

(a) has ~~wilfully~~ violated any provision of this ~~act~~ chapter or any rule or order of the director authorized under this chapter; or

(b) has ~~intentionally~~ made a material misstatement in the application for such permit; or

(c) has obtained or attempted to obtain a permit by fraud or misrepresentation; or

(d) has misappropriated or converted to his own use or illegally withheld moneys collected or held for any other person; or

(e) has ~~intentionally and~~ without properly qualifying as herein provided represented himself as a permittee for the purpose of soliciting for or representing any business covered by this ~~act~~ chapter; or

(f) has been convicted of, found guilty of, pled guilty to, or has received a withheld judgment by a court of competent jurisdiction for forgery, embezzlement, fraud, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or other like offense, any theft offense, a crime involving moral turpitude, or violating any provision of this ~~act~~ chapter or is currently disbarred from the practice of law in any state; provided, the director may, in his discretion, issue a permit to any person convicted of any of the above enumerated crimes providing a period of five (5) years has elapsed from the date of his conviction, finding of guilty, plea of guilty, or withheld judgment; or

(g) has had a permit revoked, canceled, or denied ~~by any other state;~~ or

(h) owes outstanding, unpaid, delinquent and undisputed accounts or judgments.

(2) Permits shall be issued hereunder only to persons who are, and to partnerships, firms, companies, and associations whose members and managers are, and to corporations whose managers are~~, citizens of~~

he ~~United States of America and~~ over twenty-one (21) years of age.

SECTION 6. That Section 26-2239, Idaho Code, be, and the same is ereby amended to read as follows:

26-2239. EXEMPTIONS. The provisions hereof shall not apply to any ttorney-at-law duly authorized to practice in this state, or to any ~~ational bank, or to any bank~~ regulated lender or any trust company ~~ncorporated under the laws of~~ authorized to do business in this tate, nor to any real estate broker or real estate salesman licensed nder the laws of and residing within this state when engaged in the egular practice of a real estate business, ~~nor to building and loan ssociations, savings and loan associations,~~ nor abstract and title ompanies doing an escrow business, nor any court appointed trustee, eceiver or conservator.

SECTION 7. That Section 26-2240, Idaho Code, be, and the same is ereby amended to read as follows:

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

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

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

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

(2) Upon application made prior to ~~December 20th~~ March 15 of each year, the holder of any license issued shall be entitled to a renewal for the succeeding calendar year upon payment of the renewal fee as fixed by the director, but not to exceed twenty dollars ($20.00). Application for renewal made after ~~December 20th~~ March 15 shall be made in the same manner as is required for a license in the first instance.

(3) A licensee may act for or be employed by more than one (1) permittee at one (1) time only if each permittee is owned by the same person and only if the licensee obtains a license for each permittee. Upon termination of any employment of a licensee he shall notify the director and surrender his license within ten (10) days of such termi-

nation.

(4) No license to act as a solicitor may be issued to a person who is not an employee of a permit holder as employee is defined in section 63-3018, Idaho Code.

SECTION 8. That Section 26-2242, Idaho Code, be, and the same is hereby amended to read as follows:

26-2242. GROUNDS FOR REFUSAL TO ISSUE LICENSE. A license may be refused and, after notice and hearing, be denied, revoked or the renewal thereof refused by the director if he finds that the holder of or the applicant for such license:

(1) Has ~~wilfully~~ violated any provision of this ~~act~~ chapter; or

(2) Has ~~intentionally~~ made a material misstatement in the application for such license; or

(3) Has obtained or attempted to obtain a license by fraud or misrepresentation; or

(4) Has misappropriated or converted to his own use or illegally withheld moneys collected or held for any other persons; or

(5) Has ~~intentionally and~~ without properly qualifying as herein provided represented himself as a licensee for the purpose of soliciting for or representing any business covered by this ~~act~~ chapter; or

(6) Has within the preceding five (5) years, been disbarred from the practice of law without reinstatement, been found guilty of, pled guilty to or been convicted of or received a withheld judgment for forgery, embezzlement, fraud, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, any theft offense, a crime involving moral turpitude, or violating any provision of this ~~act~~ chapter; or

(7) Had a license revoked, canceled or denied ~~by any other state~~; or

(8) Is not a bona fide resident of this state; or

(9) Owes outstanding, unpaid, delinquent and undisputed accounts or judgments.

SECTION 9. That Section 26-2244, Idaho Code, be, and the same is hereby amended to read as follows:

26-2244. CEASE AND DESIST ORDERS. Whenever it appears to the director that it is in the public interest, he may order ~~a permittee or a licensee~~ any person to cease and desist from acts, practices, or omissions which constitute a violation of this ~~act~~ chapter.

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 10, 1990.

CHAPTER 347
(H.B. No. 769, As Amended)

AN ACT

RELATING TO PUBLICATION OF COUNTY COMMISSIONERS' PROCEEDINGS; AMENDING SECTION 31-819, IDAHO CODE, TO ELIMINATE ARCHAIC NEWSPAPER REQUIREMENT REFERENCES AND TO CLARIFY NEWSPAPER CIRCULATION REQUIREMENTS.

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

SECTION 1. 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 which newspaper also has the largest average paid circulation in the county for the last six (6) months of the prior calendar year of the year in which such statements and other public notices of proceedings are required to be made by this act.

Approved April 10, 1990.

CHAPTER 348
(H.B. No. 518)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 48, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4816, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF PREMIUM TAXES FOR COVERAGE OF RISKS RESIDENT OR LOCATED IN THIS STATE BY A PURCHASING GROUP OR ANY MEMBERS OF A PURCHASING GROUP.

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

SECTION 1. That Chapter 48, 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 41-4816, Idaho Code, and to read as follows:

41-4816. PURCHASING GROUP TAXATION. Premium taxes and taxes on premiums paid for coverage of risks resident or located in this state by a purchasing group or any members of the purchasing group shall be:

(1) Imposed at the same rate and subject to the same interest, fines and penalties as that applicable to premium taxes and taxes on premiums paid for similar coverage from a similar insurance source by other insureds; and

(2) Paid first by such insurance source, and if not by such source by the agent or broker for the purchasing group, and if not by such agent or broker then by the purchasing group, and if not by such purchasing group then by each of its members.

Approved April 10, 1990.

CHAPTER 349
(H.B. No. 866)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE ACCOUNT FOR THE ASSEMBLY ON THE LEGISLATURE MEETING FOR FISCAL YEAR 1990; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated $25,000 from the General Account to be deposited in the Legislative Account for the period July 1, 1989, through June 30, 1990.

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 10, 1990.

CHAPTER 350
(H.B. No. 845)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1991; 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 ublic Utilities Commission not exceed the following amount for the eriod July 1, 1990, through June 30, 1991:

OR:	
ersonnel Costs	$1,970,500
perating Expenditures	1,081,400
apital Outlay	39,600
TOTAL	$3,091,500
ROM:	
eneral Account	$ 214,700
ublic Utilities Commission Account	2,876,800
TOTAL	$3,091,500

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Account	$ 214,700			$ 214,700
Public Utilities Commission Account	504,000	$ 142,300	$ 9,600	655,900
TOTAL	$ 718,700	$ 142,300	$ 9,600	$ 870,600
B. UTILITIES REGULATION:				
FROM:				
Public Utilities Commission Account	$ 931,900	$ 732,800	$16,500	$1,681,200
C. REGULATED CARRIERS:				
FROM:				
Public Utilities Commission Account	$ 319,900	$ 206,300	$13,500	$ 539,700
GRAND TOTAL	$1,970,500	$1,081,400	$39,600	$3,091,500

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 $214,700 for the period July 1, 1990, through June 30, 1991.

Approved April 10, 1990.

CHAPTER 351
(H.B. No. 887, As Amended)

AN ACT

RELATING TO THE PREVENTION OF DAMAGE TO CERTAIN UNDERGROUND FACILITIES; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 22, TITLE 55, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT;

TO PROVIDE DEFINITIONS; TO PROVIDE FOR NOTICE OF EXCAVATION, RESPONSE TO NOTICE OF EXCAVATION, COMPENSATION FOR FAILURE TO COMPLY AND EXEMPTIONS; TO PROVIDE FOR ESTABLISHMENT OF A ONE-NUMBER LOCATOR SERVICE, TO REQUIRE PARTICIPATION AND TO PROVIDE FOR FUNDING; TO PROVIDE REQUIREMENTS FOR EXCAVATION CONTRACTS, TO PROHIBIT CERTAIN CONTRACTUAL TERMS, TO PROVIDE DUTIES OF EXCAVATORS TO AVOID DAMAGE AND TO PROVIDE FOR CIVIL LIABILITY AND DAMAGES; TO PROVIDE DUTIES IN THE EVENT OF DAMAGE TO UNDERGROUND FACILITIES; TO PROVIDE DUTIES OF A PUBLIC AGENCY ISSUING AN EXCAVATION PERMIT; TO EXEMPT CERTAIN EXCAVATIONS; TO PROVIDE FOR CIVIL PENALTIES AND TREBLE DAMAGES AND TO PROVIDE THAT OTHER REMEDIES REMAIN UNIMPAIRED; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 22, Title 55, Idaho Code, and to read as follows:

CHAPTER 22
UNDERGROUND FACILITIES DAMAGE PREVENTION

55-2201. LEGISLATIVE INTENT. It is the intent of the legislature in enacting this chapter to assign responsibilities for locating and keeping accurate records of underground facility locations, for protecting and repairing damage to existing underground facilities, and for protecting the public health and safety from interruption in services caused by damage to existing underground facilities.

55-2202. DEFINITIONS. As used in this chapter:

(1) "Business day" means any day other than Saturday, Sunday, or a legal, local, state, or federal holiday.

(2) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected underground facility owner determines that repairs are required.

(3) "Emergency" means any condition constituting a clear and present danger to life or property, or a customer service outage.

(4) "Excavation" means any operation in which earth, rock, or other material in the ground is moved or otherwise displaced by any means including, but not limited to, explosives, except:

(a) the tilling of soil less than fifteen (15) inches in depth for agricultural purposes;

(b) the extraction of minerals;

(c) normal maintenance of roads, streets and highways, including replacement of guardrail posts, sign posts, delineator posts, pipe culverts and traffic control device supports that lie outside of underground facility permit limits, provided that such maintenance does not change the original grade thereof or reduce the depth of cover of an underground facility;

(d) normal maintenance of railroad rights-of-way, except where they intersect or cross public roads, streets, highways or rights-of-way adjacent thereto.

(5) "Excavator" means any person who engages directly in excavation.

(6) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

(7) "Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.

(8) "Locatable underground facility" means an underground facility which can be field-marked with reasonable accuracy.

(9) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.

(10) "One-number locator service" means a service through which a person can notify owners of underground facilities and request field-marking of their underground facilities.

(11) "Person" means an individual, partnership, association, corporation, a state, a city, a county, or any subdivision or instrumentality of a state, and its employees, agents, or legal representatives.

(12) "Reasonable accuracy" means location within twenty-four (24) inches of the outside dimensions of both sides of an underground facility.

(13) "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water, unless being delivered primarily for irrigation, sewage, electronic, telephonic or telegraphic communications, cable television, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground.

55-2203. NOTICE OF EXCAVATION -- RESPONSE TO NOTICE -- COMPENSATION FOR FAILURE TO COMPLY -- EXEMPTIONS. (1) Before commencing any excavation, the excavator shall provide notice of the scheduled commencement of excavation to all owners of underground facilities through a one-number locator service. If no one-number locator service is available, notice shall be provided individually to those owners of underground facilities known to have or suspected of having underground facilities within the area of proposed excavation. The notice shall be communicated to the owners of underground facilities not less than two (2) business days nor more than ten (10) business days before the scheduled date for commencement of excavation, unless otherwise agreed by the parties.

(2) Upon receipt of the notice provided for in this section, the owner of the underground facility shall provide the excavator with reasonably accurate information as to its locatable underground facilities by surface-marking the location of the facilities. If there are

identified but unlocatable underground facilities, the owner of such facilities shall provide the excavator with the best available information as to their locations. The owner of the underground facility providing the information shall respond no later than two (2) business days after the receipt of the notice or before the excavation time, at the option of the owner, unless otherwise agreed by the parties. Excavators shall not excavate until all known facilities have been marked. Once marked by the owner of the underground facility, the excavator is responsible for maintaining the markings.

(a) Excavators shall have the right to receive compensation from the owner of the underground facility for costs incurred if the owner of the underground facility does not locate its facilities in accordance with this section.

(b) The owner of the underground facility shall have the right to receive compensation for costs incurred in responding to excavation notices given less than two (2) business days prior to the excavation.

(3) Emergency excavations are exempt from the time requirements for notification provided in this section.

(4) If the excavator, while performing the excavation, discovers underground facilities (whether active or abandoned) which are not identified, the excavator shall cease excavating in the vicinity of the facility and immediately notify the owner or operator of such facilities, or the one-number locator service.

55-2204. ONE-NUMBER LOCATOR SERVICE -- ESTABLISHMENT -- PARTICIPATION REQUIRED -- FUNDING. Two (2) or more persons who own or operate underground facilities in a county may voluntarily establish or contract with a third person to provide a one-number locator service to maintain information concerning underground facilities within a county. Upon the establishment of the first such one-number service, all others operating and maintaining underground facilities within said county shall participate and cooperate with the service, and no duplicative service shall be established pursuant to this chapter. The activities of the one-number locator service shall be funded by all of the underground facility owner/operators required by the provisions of this section to participate in and cooperate with the service.

55-2205. EXCAVATION CONTRACTS -- LIMITATIONS -- PRECAUTIONS TO AVOID DAMAGE -- LIABILITY FOR DAMAGE. (1) Project owners shall indicate in bid or contract documents the existence of underground facilities known by the project owner to be located within the proposed area of excavation.

(2) An excavator shall use reasonable care to avoid damaging underground facilities. An excavator shall:

(a) Determine by hand digging, in the area twenty-four (24) inches or less from the facilities, the precise actual location of underground facilities which have been marked;

(b) Plan the excavation to avoid damage to or minimize interference with underground facilities in and near the excavation area; and

(c) Provide such support for underground facilities in and near the construction area, including during backfill operations, as

may be reasonably necessary for the protection of such facilities.

(3) If an underground facility is damaged and such damage is the consequence of the failure to fulfill an obligation under this chapter, the party failing to perform that obligation shall be liable for any damages to the underground facility owner. Nothing in this chapter prevents the parties to an excavation contract from contracting with respect to the allocation of risk for changed or differing site conditions.

(4) In any action brought under this section, the prevailing party is entitled to reasonable attorney's fees.

55-2206. DAMAGE TO UNDERGROUND FACILITIES -- DUTIES OF EXCAVATOR AND OWNER. (1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the utility owning or operating such facility and the one-number locator service. If the damage causes an emergency condition, the excavator causing the damage shall also alert the appropriate local public safety agencies and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

(2) The owner of the underground facilities damaged shall arrange for repairs or relocation as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

55-2207. DUTIES OF PUBLIC AGENCY ISSUING EXCAVATION PERMITS. (1) Any public agency issuing permits authorizing excavation operations shall notify persons seeking such permits of the existence of this chapter and the one-call locator service telephone number.

(2) Compliance with the provisions of this chapter shall not relieve or excuse excavators from compliance with other applicable law or permit requirements.

55-2208. EXCAVATIONS EXEMPT. An excavation of less than fifteen (15) inches in vertical depth within the boundaries of an underground facility easement of public record on private property shall be exempt from the requirements of section 55-2203, Idaho Code, if the excavation is being performed by the person or an employee of the person who owns or occupies the property on which the excavation is being performed.

55-2209. VIOLATION -- CIVIL PENALTY -- TREBLE DAMAGES -- OTHER REMEDIES UNIMPAIRED. (1) Any person who violates any provision of this chapter, and which violation results in damage to underground facilities, is subject to a civil penalty of not more than one thousand dollars ($1,000) for each violation. All penalties recovered in such actions shall be deposited in the state general account.

(2) Any excavator who willfully or maliciously damages a field-marked underground facility shall be liable for treble the costs incurred in repairing or relocating the facility.

(3) Unless expressly provided herein, nothing in this chapter eliminates, alters or otherwise impairs common law, statutory or other preexisting rights and duties of persons affected by the provisions of this chapter; nor does anything in this chapter, unless expressly so

provided, eliminate, alter or otherwise impair other remedies, state or federal, including those at common law, of an underground facility owner whose facility is damaged; nor do the provisions of this chapter affect any civil remedies for personal injury or property damage except as expressly provided for herein.

55-2210. WAIVER PERMITTED BY OWNER OF UNDERGROUND FACILITY. The notification and marking provisions of this chapter may be waived for one or more designated persons by an underground facility owner with respect to all or part of that underground facility owner's own underground facilities.

SECTION 2. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

SECTION 3. This act shall be in full force and effect on and after July 1, 1991.

Approved April 10, 1990.

CHAPTER 352
(H.B. No. 737)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3613, IDAHO CODE, TO PROVIDE DEFINITIONS FOR MANUFACTURER'S DISCOUNT COUPONS AND MANUFACTURER'S REBATES, AND TO PROVIDE THAT ALL SUMS ALLOWED ON MERCHANDISE ACCEPTED IN PAYMENT OF OTHER MERCHANDISE SHALL NOT BE INCLUDED IN THE SALES PRICE.

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

SECTION 1. That Section 63-3613, Idaho Code, be, and the same is hereby amended to read as follows:

63-3613. SALES PRICE. (a) The term "sales price" means the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold. However, in accordance with such rules and regulations as the state tax commission may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale or rental, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of

the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

2. The cost of materials used, labor or service cost, losses, or any other expense.

3. The cost of transportation of the property prior to its sale.

4. The face value of manufacturer's ~~refund~~ discount coupons. A manufacturer's discount coupon is a price reduction coupon presented by a consumer to a retailer upon purchase of a manufacturer's product, the face value of which may only be reimbursed by the manufacturer to the retailer.

(b) The term "sales price" does not include any of the following:

1. Retailer discounts allowed and taken on sales, but only to the extent that such retailer discounts represent price adjustments as opposed to cash discounts offered only as an inducement for prompt payment.

2. Any sums allowed on merchandise accepted in ~~part~~ payment of other merchandise, provided that this allowance shall not apply to the sale of a "new manufactured home" or a "modular building" as defined herein.

3. The amount charged for property returned by customers when the amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

4. The amount charged for labor or services rendered in installing or applying the property sold, provided that said amount is stated separately and such separate statement is not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property; except that charges by a manufactured homes dealer for set up of a manufactured home shall be included in the "sales price" of such manufactured home.

5. The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

6. The amount charged for finance charges, carrying charges, service charges, time-price differential, or interest on deferred payment sales, provided such charges are not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.

7. Charges for transportation of tangible personal property after sale; except that charges by a manufactured homes dealer for transportation of a manufactured home shall be included in the "sales price" of such manufactured home.

8. Manufacturers' rebates when used at the time of a retail sale as a down payment on or reduction to the retail sales price of a motor vehicle to which the rebate applies. A manufacturer's rebate is a cash payment made by a manufacturer to a consumer who has purchased or is purchasing the manufacturer's product from the retailer.

(c) The sales price of a "new manufactured home" or a "modular building" as defined in this act shall be limited to and include only fifty-five per cent (55%) of the sales price as otherwise defined herein.

(d) For sales made on and after January 1, 1967, taxes previously paid on amounts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax herein provided or, if no such tax is due, refunded; provided, however, that such credit or refund may be claimed only upon that sales tax returned for the month following the filing date of the taxpayer's state income tax return in which a deduction is claimed for such worthless accounts. If such accounts are thereafter collected, a tax shall be paid upon the amount so collected.

(e) Tangible personal property when sold at retail for more than eleven cents ($.11) but less than one dollar and one cent ($1.01) through a vending machine shall be deemed to have sold at a sales price equal to one hundred seventeen per cent (117%) of the price which is paid for such tangible personal property and/or its component parts including packaging by the owner or operator of the vending machines.

Approved April 10, 1990.

CHAPTER 353
(S.B. No. 1581)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1312, IDAHO CODE, TO CORRECT THE REFERENCE TO APPROVED JOB TRAINING; AMENDING SECTION 72-1365, IDAHO CODE, TO REMOVE REFERENCES TO SPOUSAL SUPPORT IN THE PROCEDURES FOR INVOLUNTARY WITHHOLDING OF CERTAIN DELINQUENT CHILD SUPPORT OBLIGATIONS FROM DEBTORS' UNEMPLOYMENT COMPENSATION UPON NOTIFICATION AND ORDER OF THE DEPARTMENT OF HEALTH AND WELFARE, BUREAU OF CHILD SUPPORT ENFORCEMENT; AMENDING SECTION 72-1366, IDAHO CODE, TO UPDATE THE CRITERIA FOR ALLOWING CLAIMANTS WHO LACK SKILLS TO ATTEND JOB TRAINING, AND TO MODIFY THE DESCRIPTIONS OF THE THREE CATEGORIES OF ALIENS WHO ARE ELIGIBLE TO HAVE BASE PERIOD WAGES USED IN A MONETARY DETERMINATION ON A CLAIM FOR UNEMPLOYMENT BENEFITS; AND AMENDING SECTION 72-1369, IDAHO CODE, TO CLARIFY THAT THE STATUTE OF LIMITATIONS FOR CIVIL ACTIONS TO COLLECT OVERPAYMENTS OF UNEMPLOYMENT BENEFITS IN THE CASE OF OVERPAYMENT DEBTS CAUSED BY FRAUD IS EIGHT YEARS FROM THE DATE OF THE FINAL DETERMINATION ESTABLISHING LIABILITY TO REPAY, AND IN THE CASE OF OVERPAYMENT DEBTS CAUSED BY OTHER THAN FRAUD IS FIVE YEARS FROM THE DATE OF THE FINAL DETERMINATION ESTABLISHING LIABILITY TO REPAY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-1312, Idaho Code, be, and the same is

hereby amended to read as follows:

72-1312. COMPENSABLE WEEK. (a) A week of unemployment with respect to which an eligible benefit claimant shall be entitled to benefits shall be known as a compensable week; provided, however, that no person shall be deemed to be unemployed while he is attending school, during the customary working hours of his occupation, except where ~~he--has-been-assigned-to-a-refresher-or-special-training-course by-the-director~~ the claimant is participating in a job training course in compliance with the provisions of subsection (h) of section 72-1366, Idaho Code.

(b) A compensable week of a benefit claimant shall be a week of either no work or less than full-time work--

(1) all of which occurred within this benefit year; and

(2) with respect to which benefits have not been paid to him; and

(3) in which he complied with all of the personal eligibility conditions prescribed in section 72-1366, Idaho Code; and

(4) in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1 1/2) times his weekly benefit amount; provided, however, that for the purpose of this section all amounts which a benefit claimant receives for any week which begins after the effective date of the pension deduction provisions in section 3304(a)(15) of the ~~F~~federal ~~U~~unemployment ~~T~~tax ~~A~~act shall be reduced by an amount equal to the amount received as pension, retirement pay, annuity, or any other similar payment which is based on the previous work of such individual which is reasonably attributable to such week; provided that, if the provisions of the ~~F~~federal ~~U~~unemployment ~~T~~tax ~~A~~act permit, the ~~D~~director may prescribe in regulations which are consistent with the ~~F~~federal ~~U~~unemployment ~~T~~tax ~~A~~act that --

(A) the requirements of this paragraph shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer; and that

(B) the amount of any such reduction shall be determined taking into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar period payment; and

(5) all of which occurred after a waiting period as defined in section 72-1329, Idaho Code.

SECTION 2. That Section 72-1365, Idaho Code, be, and the same is hereby amended to read as follows:

72-1365. PAYMENT OF BENEFITS. (a) With respect to unemployment occurring after July 1, 1947, benefits shall be paid from the employment security fund to any unemployed individual who is eligible for benefits as provided by section 72-1366, Idaho Code.

(b) Periodically, the department of health and welfare, bureau of child support enforcement, shall forward to the director a list containing the full name and social security number of persons from whom

it is seeking child ~~or spousal~~ support. The director shall match the names and social security numbers on the list with its records of individuals eligible for unemployment compensation, and shall notify the department of health and welfare, bureau of child support enforcement, of the address and amount of compensation due each individual.

(1) Voluntary withholding. The director shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations as defined under subsection (7) the amount specified by the individual to the director to be deducted and withheld under this subsection, if subsection (2) below is not applicable.

(2) Involuntary withholding. The director shall withhold any unemployment compensation of any person within the limits established by section 11-207, Idaho Code, upon notification and order by the department of health and welfare, bureau of child support enforcement, to collect any delinquent ~~account or debt~~ child support obligation which has been assigned on behalf of any individual to the department of health and welfare under sections 56-203A and 56-203B, Idaho Code, or a child ~~or spousal~~ support obligation which the department seeks to collect pursuant to chapter 12, title 7, Idaho Code. The set-off or withholding of any unemployment compensation of a claimant shall become final after the following conditions have been met:

(A) The child ~~or spousal~~ support payment to be set-off or withheld is ~~an~~ a child support obligation established by order as defined in section 7-1202, Idaho Code.

(B) All liabilities owed by reason of the provisions of section 72-1369, Idaho Code, have been collected by the director.

(C) Notice of the set-off or withholding has been mailed by registered or certified mail from the department of health and welfare, bureau of child support enforcement, to the claimant-obligor at the address listed on the claim.

Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday, or state holidays as the 14th day), the claimant-obligor may file a protest in writing, requesting a hearing before the department of health and welfare to determine his liability to the obligee. The hearing, if requested, shall be held within thirty-five (35) days from the date of the initial notice to the claimant-obligor of the proposed set-off. No issues at that hearing may be considered which have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or within ten (10) days of the hearing by mail to the claimant-obligor.

(D) In its decision, the department of health and welfare may order the withholding and set-off of any subsequent unemployment compensation payments which may be due the claimant-obligor until the debt for which set-off is sought and any additional debts which are incurred by the claimant's failure to make additional periodic payments based upon the same court order are satisfied.

(3) Any amount deducted and withheld under subsections (1) or (2)

shall be paid by the director to the appropriate state or local child support enforcement agency.

(4) Any amount deducted and withheld under subsections (1) or (2) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state or local child support enforcement agency in satisfaction of the individual's child ~~or spousal~~ support obligations.

(5) For purposes of subsections (1) through (4), the term "unemployment compensation" means any compensation payable under this act, including amounts payable by the director pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(6) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the director under the provisions of this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(7) The term "child ~~or spousal~~ support obligations" is defined for the purposes of these provisions as including only <u>an</u> obligations which ~~are~~ <u>is</u> being enforced pursuant to a plan described in section 454 of the social security act which has been approved by the secretary of health and human services under part D of title IV of the social security act.

(8) The term "state or local child support enforcement agency" as used in these provisions means any agency of this state or a political subdivision thereof operating pursuant to a plan described in subsection (7).

(c) Benefits shall be paid only to the extent that moneys are available for such payments in the employment security fund.

(d) All benefits shall be paid at such times not less frequently than biweekly, and in such manner as the director shall by rules prescribe.

(e) Upon request, the department of health and welfare, bureau of child support enforcement, shall make the procedures established in this section for collecting child support available to county prosecuting attorneys. The provisions of this subsection apply only if appropriate arrangements have been made for reimbursement by the requesting prosecuting attorney for the administrative costs incurred by the bureau, which are attributable to the request.

SECTION 3. That Section 72-1366, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

(d) During the whole of any week with respect to which he claims benefits or credit to his waiting period he was able to work, available for suitable work, and seeking work; provided, however, ~~the director shall waive these provisions for each week he is attending training under provisions of section 72-1312(a), Idaho Code; and provided,~~ that no claimant shall be considered ineligible in any week of unemployment for failure to comply with the provisions of this subsection if such failure is due to an illness or disability which occurs after he has filed a claim and registered for work and no suitable work has been 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.~~ No claimant who is otherwise eligible shall be denied benefits for any week due to an inability to comply with the requirements contained in subsections (d) and (f) of this section, if:

(1) The claimant is a participant in a program sponsored by title III of the job training partnership act and attends a job training course under that program; or

(2) The claimant attends a job training course authorized pursuant to the provisions of section 236(a)(1) of the trade act of 1974; or

(3) The claimant lacks skills to compete in the labor market and attends a job training course with the approval of the director. The director may approve job training courses that meet the following criteria:

(a) The purpose of the job training is to teach the claimant skills that will enhance the claimant's opportunities for employment; and

(b) The job training can be completed within one (1) year, except that this requirement may be waived pursuant to rules

and regulations that the director shall prescribe.

This subsection shall apply only if the claimant submits with each claim report a written certification from the training facility that the claimant is attending and satisfactorily completing the job training course, or demonstrates good cause for failure to attend the job training.

(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~~ No claimant who is otherwise eligible shall be denied benefits under subsection (e) of this section for leaving employment to attend job training pursuant to subsection (h) of this section, provided that the claimant obtained the employment after enrollment in or during scheduled breaks in the job training course, or that the employment was not suitable. For purposes of this subsection, the term "suitable employment" means work of a substantially equal or higher skill level than the individual's past employment, and wages for such work are not less than eighty percent (80%) of the average weekly wage in the individual's past employment.

(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. Said claimant shall also be liable to repay to the fund any sums received for a week in which the claimant made a false statement, misrepresentation, or 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~~ payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who ~~is~~ was lawfully present in the United States as a result of the application of the provisions of sections ~~203(a)(7)~~ 207 and 208 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 4. That Section 72-1369, Idaho Code, be, and the same is hereby amended to read as follows:

72-1369. OVERPAYMENTS, COLLECTION AND WAIVER. (a) Any person who received benefits to which he was not entitled under the provisions of this act or under an unemployment compensation or unemployment insurance law of any state or of the federal government shall be liable to repay said benefits and said benefits shall, for the purpose of this act, be considered to be overpayments. Said overpayments shall be repaid as follows:

(1) Any overpayment which has not been repaid may be collected without interest by civil action brought in the name of the state of Idaho, and such civil actions may be commenced within the time periods specified in this section without regard to any other statute of limitations;

(2) A. Overpayments, other than those resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant, which have not been repaid or collected, may, at the discretion of the director or his authorized representative, be deducted from any future benefits payable to said claimant under this act;

B. Overpayments resulting from a false statement, misrepresentation, or concealment of a material fact by the claimant which have not been repaid or collected shall be deducted from any benefits payable at any time in the future, without regard to any statute of limitation and such overpayments not recovered within eight (8) years from the date of the final determination establishing liability to repay may be deemed uncollectible;

C. A civil action, filed pursuant to subsection (1) of this section, to collect overpayments resulting from a false statement, misrepresentation, or concealment of a material fact by the claimant must be commenced within eight (8) years from the date of the final determination establishing liability to repay;

(3) Overpayments, other than those resulting from a false statement, misrepresentation or failure to report a material fact, not recovered within five (5) years from the date of the final determination establishing liability to repay shall be deemed uncollectible, and a civil action filed pursuant to subsection (1) of this section, to collect such overpayments must be commenced within the same five (5) year time period;

(4) The director or his authorized representative may waive the

requirement to repay such overpayment described in paragraph (3) above if such payments were made solely as a result of department error or inadvertence, and made to a claimant who had no way of knowing that he was receiving benefits to which he was not entitled.

(b) Neither the director nor any of his agents or employees shall be liable for benefits paid to persons not entitled to the same under the provisions of this act if it appears that such payments have been made in good faith and that ordinary care and diligence have been used in the determination of the validity of the claim or claims under which such benefits have been paid.

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 10, 1990.

CHAPTER 354
(S.B. No. 1580, As Amended)

AN ACT

RELATING TO HOSPITAL DISTRICTS; AMENDING SECTIONS 39-1319 AND 39-1339, IDAHO CODE, TO CLARIFY THAT HOSPITAL DISTRICTS MAY OPERATE NURSING HOMES AND ISSUE BONDS FOR NURSING HOME IMPROVEMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-1319, Idaho Code, be, and the same is hereby amended to read as follows:

39-1319. DEFINITIONS. A "hospital district" is one to furnish general hospital services, and together with such hospital services, nursing home services, or medical clinic services to the general public and all other such services as may be necessary for the care of the injured, maimed, sick, disabled, or convalescent or long-term care patients. As used in sections 39-1318 through 39-1353a, Idaho Code, "medical clinic" means a place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical and emergency care of acute and chronic conditions or injury.

The word "board" as used in this act shall mean the board of trustees of the district. A "qualified elector" of a district within the meaning of and entitled to vote under this act, is a person qualified to vote at general elections in this state, and who has been a bona fide resident of the district for at least thirty (30) days prior to any election in the district. A "taxpayer" within the meaning of and as used in this act is a person or the husband or wife of a person whose name appears on the tax rolls of the county and is there assessed with unexempted real or personal property owned and subject to taxation within the boundaries of the district.

Whenever the term "publication" is used in this act and no manner specified therefor, it shall be taken to mean once a week for three (3) consecutive weeks in at least one (1) newspaper of general circulation in the district. It shall not be necessary that publication be made on the same day of the week in each of the three (3) weeks, but not less than fourteen (14) days (excluding the first day of publication), shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication.

SECTION 2. That Section 39-1339, Idaho Code, be, and the same is hereby amended to read as follows:

39-1339. CREATION OF INDEBTEDNESS FOR WORKS, IMPROVEMENTS OR EQUIPMENT -- ELECTION ON PROPOSED INDEBTEDNESS. Whenever the board of the hospital district shall by resolution, determine that the interest of said district and the public interest or necessity demand, the acquisition, construction, installation, or completion of any works or other improvements of facilities or the construction, installation and maintenance of a hospital, hospital grounds, medical clinic, nursing home, nurses' quarters and other structural components or fixtures, or for the enlargement, improvement and acquisition of existing hospital, hospital grounds, medical clinic, nursing home, nurses' quarters and other structural components or fixtures, or the making of any contract with the United States or other persons or corporations, public or private, municipalities or governmental subdivisions to carry out the said public works, acquisitions, improvements, objects or purposes of said district requiring the creation of an indebtedness of five thousand dollars ($5,000) or more, and in any event when the indebtedness will exceed the income and revenue provided for the year, the board shall order the submission of the proposition of issuing such obligations or bonds or creating other indebtedness to the qualified electors of the district at an election held for that purpose; whenever the board of the hospital district shall by resolution determine that the interest of said district and the public interest or necessity demand the acquisition of medical or business equipment for said district requiring the creation of an indebtedness of one hundred thousand dollars ($100,000) or more and, in any event, when the indebtedness will exceed the income and revenue as provided for the year, the board shall order the submission of the proposition of creating such indebtedness to the qualified electors of the district at an election held for that purpose; provided, however, that no election shall be required for any lease or other transaction entered into between the hospital district and the Idaho health facilities authority. Notwithstanding any other provision, the hospital district shall be entitled to enter into a lease or other transaction regardless of the amount involved with the Idaho health facilities authority upon determination by the board of the hospital district that it is in the interest of the hospital district and best interests of the public to enter into such lease or other transaction. The declaration of public interest or necessity, herein required, and the provision for the holding of such election may be included within one (1) and the same resolution, which resolution, in addition to such declaration of public interest or

necessity shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated costs of the works, improvements, or medical or business equipment, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolutions shall also fix the date upon which such election shall be held, and the manner of holding the same, and the method of voting for or against the incurring of the proposed indebtedness; such resolution shall also fix the compensation to be paid the officers of the election and shall designate the polling place or places and shall appoint for each polling place, from the qualified electors of the district, the officers of such election, consisting of three (3) judges, one (1) of whom shall act as the clerk, provided, however, that no district shall issue or have outstanding its coupon bonds in excess of two percent (2%) of the market value for assessment purposes of the real and personal property within the said district, according to the assessment of the year preceding any such issuance of such evidence of indebtedness for any or all of the propositions specified in this election, provided, however, that such bonds shall not be issued, nor shall any indebtedness be incurred, at any time that there shall be a bond issue outstanding and unpaid for the construction, acquisition or maintenance of a county hospital in the county in which such district is organized.

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 10, 1990.

CHAPTER 355
(S.B. No. 1566)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1802, IDAHO CODE, TO REDEFINE "CHILD"; AMENDING SECTION 16-1803, IDAHO CODE, TO INCREASE THE NUMBER OF OFFENSES THAT ARE EXCLUDED AND TO PERMIT A PERSON UNDER THE AGE OF FOURTEEN WHO VIOLATES AN EXCLUDED OFFENSE TO BE TREATED UNDER THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1807, IDAHO CODE, TO REQUIRE THAT PARENTS AND OTHER RESPONSIBLE PERSONS BE INFORMED THAT THEY ALSO ARE SUBJECT TO THE ACT; AMENDING SECTION 16-1814, IDAHO CODE, TO RAISE THE AGE OF POTENTIAL CUSTODY TO TWENTY-ONE YEARS OF AGE, TO PERMIT THE SUSPENSION OF A JUVENILE'S DRIVER'S LICENSE, AND TO REQUIRE THE ASSESSMENT OF TEN DOLLARS FOR EVERY CHILD ADJUDGED TO BE UNDER THE ACT.

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

SECTION 1. That Section 16-1802, Idaho Code, be, and the same is hereby amended to read as follows:

16-1802. DEFINITIONS. When used in this chapter, unless context otherwise requires:

a. "Adult" means a person eighteen (18) years of age or older.

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~~ includes the terms juvenile and youth offender.

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 jurisdiction.

g. "Court" means district court or magistrate's division thereof.

h. "Department" means the state department of health and welfare.

i. "Detention" means the temporary care of children who require secure custody for their own or the community's protection in physically restricting facilities.

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.

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.

m. "Judge" means district judge or a magistrate.

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 2. That Section 16-1803, Idaho Code, be, and the same is hereby amended to read as follows:

16-1803. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any child and over any adult who was a child at the time of any act, omission or status, in the county in which the minor resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

1. Where the act, omission or status is prohibited by federal, state, local or municipal law or ordinance by reason of minority only, regardless of where the same occurred;

2. Where the act or omission is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult, regardless of where the same occurred, except traffic, watercraft, ~~and~~ fish and game, failure to obey a misdemeanor citation and criminal contempt violations. A juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

3. Concerning any child where the child comes under the purview of the interstate compact on juveniles as set forth in chapter 19, title 16, Idaho Code;

4. This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

5. This chapter shall not apply to the violent juvenile offender, as defined in this chapter.

SECTION 3. 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 pre-

liminary 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. The petition shall inform the parents, legal guardian or other person legally obligated to care for and support the child that service of the petition upon them shall make them subject to the provisions of this chapter.

SECTION 4. 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 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 habit-

ual 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 and has 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;

5. Commit the child to detention and suspend the sentence on specific probationary conditions;

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~~ twenty-first birthday, unless extended jurisdiction is necessary to complete the rehabilitation goals of the department;

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 court may suspend the child's ~~from~~ driving privileges for such periods of time as the court deems necessary, and the court may take possession of the child's driver license. The child may request restricted driving privileges during the period of suspension, which the court may allow if the child shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

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;

14. Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

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;

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~~ child for every petition filed where there has been an adjudication that the ~~youth-offender~~ child 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.

Approved April 10, 1990.

CHAPTER 356
(S.B. No. 1558)

AN ACT

RELATING TO POLITICAL ACTIVITIES OF OFFICERS AND EMPLOYEES OF THE IDAHO TRANSPORTATION DEPARTMENT; REPEALING SECTION 40-318, IDAHO CODE; AMENDING CHAPTER 3, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-318, IDAHO CODE, TO PROVIDE LIMITATIONS ON THE POLITICAL ACTIVITIES OF OFFICERS AND EMPLOYEES OF THE IDAHO TRANSPORTATION DEPARTMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-318, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 3, 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 40-318, Idaho Code, and to read as follows:

40-318. LIMITATION OF POLITICAL ACTIVITY. (1) No officer or employee of the department or board shall:

(a) Use his official authority or influence for the purpose of interfering with an election to or a nomination for office, or affecting the result thereof;

(b) Directly or indirectly coerce, attempt to coerce, command, or direct any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes; or

(c) Be a candidate and hold elective office in any partisan election.

(2) All such officers and employees shall retain the right to:

(a) Register and vote in any election;

(b) Express an opinion as an individual privately and publicly on political subjects and candidates;

(c) Display a political picture, sticker, badge, or button;

(d) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;

(e) Be a member of a political party or other political organization and participate in its activities;

(f) Attend a political convention, rally, fund-raising function, or other political gathering;

(g) Sign a political petition as an individual;

(h) Make a financial contribution to a political party or organization;

(i) Take an active part in support of a candidate in an election;

(j) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordi-

nance or any other question or issue of a similar character;
(k) Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by state or local law;
(l) Be a candidate and hold elective office in any nonpartisan election;
(m) Take an active part in political organization management; and
(n) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the neutrality, efficiency, or integrity of the officer's or employee's administration of state functions.

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 10, 1990.

CHAPTER 357
(S.B. No. 1547)

AN ACT
RELATING TO THE ENVIRONMENTAL PROTECTION AND HEALTH ACT; AMENDING SECTION 39-103, IDAHO CODE, TO REDEFINE "PERSON."

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

SECTION 1. 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~~ 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.

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, collectively 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.

Approved April 10, 1990.

CHAPTER 358
(S.B. No. 1539)

AN ACT

RELATING TO SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2726, IDAHO CODE, TO DELETE THE FIVE THOUSAND DOLLAR ANNUAL COUNTY GENERAL FUND ALLOCATION LIMITATION; AMENDING SECTION 22-2727, IDAHO CODE, TO DELETE THE FIVE THOUSAND DOLLAR STATE FUND ALLOCATION LIMITATION; AND DELCARING AN EMERGENCY.

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

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

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

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

22-2727. ALLOCATION OF FUNDS TO DISTRICTS. A public hearing shall be held by the Idaho soil conservation commission on or before June 15

of each year and twenty (20) days' written notice of such hearing shall be given to each Idaho soil conservation district and to all other persons requesting notice of such hearing. At the hearing the Idaho soil conservation commission shall consider the needs of each Idaho soil conservation district and shall base its request for state funds for the Idaho soil conservation districts upon the budgets, budget requests, district programs and work plans, and work load analysis of the various soil conservation districts.

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

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

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

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

Approved April 10, 1990.

CHAPTER 359
(S.B. No. 1538)

AN ACT

RELATING TO THE STATE PARKS LISTING; AMENDING SECTION 67-4212, IDAHO CODE, TO DELETE INDIAN ROCKS, TAYLOR "BEAR TRACK" WILLIAMS, AND HAGERMAN FOSSIL HORSE QUARRY STATE PARKS AND ADD EAGLE ISLAND AND DWORSHAK STATE PARKS; AND TO UPDATE NOMENCLATURE AND DESCRIPTIONS.

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

SECTION 1. That Section 67-4212, Idaho Code, be, and the same is hereby amended to read as follows:

67-4212. STATE PARKS LISTED -- CONTROLLED BY PARK AND RECREATION BOARD OF THE DEPARTMENT OF PARKS AND RECREATION. The following described areas in the state of Idaho, so far as these areas are owned or controlled by the state of Idaho, and used for public, outdoor recreational purposes, are hereby declared to be Idaho state parks, and they are hereby placed under the jurisdiction and control of the park and recreation board of the department of parks and recreation of the state of Idaho:

(~~2~~1) Priest Lake State Park consisting of Indian Creek and Lion Head units on the east shore of Priest Lake to a depth of one thousand (1,000) feet from the shoreline in Bonner County. This park also includes ~~(3)~~ Dickensheet Campground, located on Priest River downstream from Priest Lake in Bonner County.

(~~5~~2) Round Lake State Park, located on the shores of Little Round Lake west of State Highway 95 in Bonner County.

(~~11~~3) Farragut State Park, located near the village of Bayview, east of State Highway 95 in Kootenai County.

(~~8~~4) Old Mission State Park, located adjacent to ~~U.S.-Highway-10~~ Interstate Highway 90 near Cataldo in Kootenai County.

(~~4~~5) Mowry State Park, located on the south shores of Lake Coeur d'Alene east of U.S. Highway 95 near Worley in Kootenai County.

(~~7~~6) Heyburn State Park, located on Lake Chatcolet east of U.S. Highway 95 in Benewah County.

(~~6~~7) Mary Minerva McCroskey Memorial State Park, located at and near the boundary line between Latah and Benewah Counties and west of U.S. Highway 95.

(8) Dworshak State Park, consisting of the Freeman Creek and Three Meadows Group Camp areas, located on the shores of Dworshak Reservoir northeast of U.S. Highway 12, and leased from the U.S. Army Corps of Engineers.

(~~12~~9) Hells Gate State Park, located on the Snake River at Lewiston, Snake River Avenue, Nez Perce County.

(10) Winchester Lake State Park, located adjacent to the city of Winchester, on Winchester Lake in Lewis County.

(~~10~~1) Ponderosa State Park, constituted by all the land of the state of Idaho department of parks and recreation adjacent to Payette Lake in Valley County. Also included in this park is the ~~(9)~~ Packer John Cabin Site, located along State Highway 55 near Old Meadows in Adams County.

(12) Eagle Island State Park, located on Hatchery Road west of the town of Eagle in Ada County.

(~~15~~3) Veterans Memorial State Park, located in the city of Boise, on State Highway 44 in Ada County.

(14) Lucky Peak State Park, constituted by all recreational areas leased to the state of Idaho on the shores of Lucky Peak Reservoir on the Boise River in Ada and Boise Counties and the Sandy Point area on the Boise River in Ada County. ~~(13)~~ Discovery State Park, located approximately eight (8) miles southeast of Boise between Lucky Peak Dam and Diversion Dam on the Boise River and along State Highway 21 in Ada County.

(~~23~~15) Three Island State Park, located adjacent to the City of Glenns Ferry and the Snake River, south of Interstate Highway 84 in Elmore County.

(~~21~~16) Bruneau Dunes State Park, located approximately three (3) miles south of the Snake River near the town of Bruneau and east of State Highway 51 in Owyhee County.

(~~16~~7) Malad Gorge State Park, located on the Malad River and south of Interstate Highway 84 in Gooding County. ~~(25)~~ Crystal Springs and Niagara Springs State Parks located on the Snake River south of Interstate Highway 84 and east of U.S. 30 in Gooding County.

(~~19~~8) City of Rocks, (one section of land within the National

Reserve) located west of the Village of Almo in Cassia County.

(~~17~~9) ~~Register-Rock-and~~ Massacre Rocks State Park, ~~each--being~~ located approximately ~~four-(4)~~ ten (10) miles west of American Falls on Interstate ~~15~~ Highway 86 in Power County and including Register Rock.

~~(18)--Indian-Rocks,-located-on-U.S.-Interstate-15-near-McCammon-in Power-County.~~

~~(22)--Hagerman-Fossil-Horse-Quarry,-located-in-Section-16-of-Township--7--South--in--Range--13-East-of-the-Boise-Meridian-in-Twin-Falls County.~~

~~(26)--Taylor-"Bear-Track"-Williams-Park,--located--on--the--Little Wood-River-in-Lincoln-County.~~

(2~~7~~0) Bear Lake State Park, located on the east shoreline of Bear Lake south of U.S. Highway 30 and east of U.S. Highway 89, north of the Idaho-Utah state line in Bear Lake County. This park also includes the North Beach area leased from Utah Power and Light Company.

(24~~1~~) Harriman State Park, located adjacent to and east of U.S. Highways 20~~/191~~ in Fremont County.

(20~~2~~) Henry's Lake State Park, located on the shores of Henry's Lake west of State Highway 87 in Fremont County.

Approved April 10, 1990.

CHAPTER 360
(S.B. No. 1523)

AN ACT

RELATING TO POLICE OFFICER STATUS FOR RETIREMENT PURPOSES; AMENDING SECTION 59-1302A, IDAHO CODE, TO PROVIDE POLICE OFFICER MEMBERSHIP STATUS FOR THE DIRECTOR OF SECURITY AND CRIMINAL INVESTIGATORS OF THE IDAHO STATE LOTTERY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1302A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302A. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.

(3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:

(a) (i) The director of the department of law enforcement and the superintendent of the Idaho state police;

(ii) Commissioned and uniformed Idaho state police officers

holding positions for which current POST certification is required to continue in employment in the position, POST instructors, and department training instructors;

(iii) Brand inspectors and brand inspector supervisors;

(iv) The division administrator, regional supervisors and investigators in the police services division of the department of law enforcement, and the administrator and investigators in the alcohol beverage control division of the department of law enforcement;

(v) The bureau chief, supervisor, and specialists in the bureau of criminal identification in the department of law enforcement;

(vi) Employees of the department of law enforcement serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

(b) (i) County sheriffs;

(ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; deputy county sheriffs holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in county law enforcement activities pertaining to crime prevention or reduction; deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

(c) (i) City police chiefs;

(ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; city police officers holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in city law enforcement activities pertaining to crime prevention or reduction; police officers, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

(d) Employees of the department of fish and game serving in a conservation officer position for which current POST certification is necessary to continue in employment in that position and which

position has as its primary accountability the enforcement of wildlife protection laws and regulations.

(e) (i) The director of the department of correction, the deputy director for probation and parole, and wardens of institutions;

(ii) Employees of the department of correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;

(iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;

(iv) Correctional peace officer training instructors;

(v) Employees of the department of correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

(f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.

(g) Magistrates of the district court, and court employees designated by court order to have primary responsibility for court security or transportation of prisoners.

(h) Paramedics and paramedic trainees.

(i) Criminal investigators of the attorney general's office, and criminal investigators of a prosecuting attorney's office.

(j) The director of security and the criminal investigators of the Idaho state lottery.

(4) A member may be designated by the retirement board as a police officer member for retirement purposes if the position held is one in which the principal duties involve hazardous law enforcement duties.

(a) For purposes of this section, "hazardous law enforcement duties" mean principal duties which:

(i) Will reasonably expect to increase the probability of early superannuation;

(ii) Is associated with life-threatening risk or presents a position of peril either to the member or to others, or which can place the public safety in jeopardy; and

(iii) Either compels others to observe the law, pertains to crime prevention, or pertains to crime reduction, including police, courts, prosecution, correction, or rehabilitation.

(b) If continued employment in a position is conditioned on maintaining current POST certification, such condition shall be evidence to be considered that the employee is a police officer member for retirement purposes.

(i) After July 1, 1985, a requirement for POST certification for classified state employees may be made only by the personnel commission.

(c) Occasional assignments to hazardous law enforcement duties does not create a condition for designation as a police officer member for retirement purposes.

(5) Any employer or agency that believes that any employee, not

specifically designated as a police officer by law, is incorrectly classified as a nonpolice officer member, may petition the retirement board for inclusion of that employee's position as one to be filled by a police officer member for retirement purposes. The petition shall be in writing and shall explain in detail the principal duties of the position and include written evidence which establishes that the criteria of subsection (4) are met. The board shall review the petition and evidence, together with such information and evidence as may be presented by the staff of the retirement system. The board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the board. The decision of the board shall be final, but a similar petition may be resubmitted after six (6) months.

(6) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board.

(7) An active member classified as a police officer for retirement purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements of this chapter for police officer status for retirement purposes shall become a general member but shall not lose retirement benefits earned and accrued prior to the reclassification. If that member continues to be employed in that same position until retired, that member then will be deemed to be a police officer member for the purposes of retirement eligibility.

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 10, 1990.

CHAPTER 361
(S.B. No. 1398)

AN ACT

RELATING TO MANDATORY INCOME WITHHOLDING IN CHILD SUPPORT ORDERS; AMENDING SECTION 32-1205, IDAHO CODE, TO REQUIRE IMMEDIATE INCOME WITHHOLDING WITH EXCEPTIONS; AMENDING SECTION 7-1121, IDAHO CODE, TO DELETE REFERENCE TO ONE-MONTH DELINQUENCY REQUIREMENT; AMENDING SECTION 7-1204, IDAHO CODE, TO DELETE REFERENCE TO DELINQUENCY REQUIREMENT AND TO REQUIRE THE BUREAU TO SEND INCOME WITHHOLDING ORDER; AMENDING SECTION 16-1622, IDAHO CODE, TO DELETE REFERENCE TO ONE-MONTH DELINQUENCY REQUIREMENT; AMENDING SECTION 16-1815,

IDAHO CODE, TO DELETE REFERENCE TO ONE-MONTH DELINQUENCY REQUIREMENT; AMENDING SECTION 56-203C, IDAHO CODE, TO CLARIFY THAT THE DEPARTMENT REPRESENTS THE INTEREST OF THE CHILD, TO MAKE LEGAL REPRESENTATION LANGUAGE WITHIN THE SECTION CONSISTENT, AND TO DELETE REFERENCE TO ONE-MONTH DELINQUENCY REQUIREMENT.

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

SECTION 1. That Section 32-1205, Idaho Code, be, and the same is hereby amended to read as follows:

32-1205. MANDATORY INCOME WITHHOLDING. (1) Any ~~child~~ support order or decree issued or modified after July 1, 1986, shall include a provision allowing the obligee to enforce the order or decree by income withholding if arrearages at least equal to the support payable for one (1) month accumulate under the order or decree; and shall include a statement in substantially the following form:

NOTICE OF INCOME WITHHOLDING

This support order is enforceable by income withholding under chapter 12, title 32, Idaho Code. Whenever there are arrearages at least equal to the support payment for one (1) month, a mandatory income withholding order may be issued by the court to your employer or other person who pays you income, without prior notice to you.

It is not necessary for the obligee to apply for support enforcement services under title IV-D of the social security act (42 U.S.C. 651 et seq.) to obtain enforcement of this support order by means of income withholding.

(2) Any support order or decree issued or modified at the request of the department of health and welfare after July 1, 1990, shall provide for automatic and immediate income withholding by the department as of the effective date of the order or decree except where:

(a) One (1) of the parties demonstrates and the court finds good cause not to require immediate income withholding; or

(b) A written agreement is reached between the parties which provides for an alternative arrangement.

The order or decree shall include a statement in substantially the following form:

NOTICE OF AUTOMATIC AND IMMEDIATE INCOME WITHHOLDING

This support order is enforceable by automatic and immediate income withholding as of the effective date of this order under chapter 12, title 32, Idaho Code. This automatic and immediate income withholding order shall be issued by the department of health and welfare to your employer or other person who pays your income, without additional notice to you.

(3) Failure to include ~~this~~ these provisions does not affect the validity of the support order or decree. 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 Section 7-1121, Idaho Code, be, and the same is hereby amended to read as follows:

7-1121. ORDER FOR SUPPORT -- CONTINUANCE BEYOND AGE OF 18 -- OTHER PAYMENTS BY FATHER. In a proceeding in which the court has made an order of filiation, the court shall direct a father possessed of sufficient means or able to earn such means to pay monthly or at other fixed periods a fair and reasonable sum for the support and education of the child until the child is eighteen (18) years of age. If the child continues his formal education subsequent to reaching the age of eighteen (18) years, the court may, in its discretion, order the continuation of support payments until the child discontinues his education or reaches the age of twenty-one (21) years, whichever is sooner.

The order of filiation may direct the father to pay or reimburse amounts paid for the support of the child prior to the date of the order of filiation and may also direct him to pay or reimburse amounts paid for: (1) the funeral expenses if the child has died; (2) the necessary expenses incurred by or for the mother in connection with her confinement and recovery; and (3) such expenses in connection with the pregnancy of the mother as the court may deem proper.

If the father is a minor at the time the order is entered, the order shall continue in effect as a valid order after the father reaches majority, and cannot be disaffirmed by the minor himself or personal representatives.

Any child support order issued or modified ~~under--this--section after--July-1,-1986,~~ shall contain a provision allowing the obligee to enforce the order by income withholding ~~if-arrearages-at--least--equal to--the--support-payable-for-one-(1)-month-accumulate-under-the-order;~~ and shall include the notice required in section 32-1205, Idaho Code, advising the obligor that the obligee can seek enforcement of the order by means of a mandatory income withholding order issued pursuant to this chapter without further notice to the obligor ~~whenever--there are--arrearages--at--least--equal--to--the-support-payment-for-one-(1) month.~~

Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree.

SECTION 3. That Section 7-1204, Idaho Code, be, and the same is hereby amended to read as follows:

7-1204. WITHHOLDING OF INCOME -- APPLICATION, NOTICE AND HEARING. (1) Any obligee ~~who-is--owed--a--delinquency--as--defined--in--section 7-1202(3),--Idaho-Code,~~ may apply to the bureau to seek withholding of the obligor's income by the obligor's employer for payment of the delinquency and current support. Additionally, any obligor who is required by order to pay child or spousal support may request that the bureau obtain withholding of the obligor's income by the obligor's employer for payment of current support and delinquency, if any.

(2) (a) If the order or decree under which the obligor is required to pay child or spousal support does not contain a notice

of automatic and immediate income withholding pursuant to section 32-1205, Idaho Code, and ~~if~~ an obligor is employed in the state of Idaho, the bureau shall give notice to the obligor by certified mail that an application has been made to withhold from the obligor's income any delinquency and/or current support due and owing to the obligee. Such notice shall inform the obligor that if the notice contains a mistake of fact, which for purposes of this chapter means an error in the amount of current or overdue support or the identity of the alleged absent parent, he/she has fourteen (14) days from the day the notice was mailed to make a written request for a hearing before the department of health and welfare to resolve that mistake of fact. No issues at that hearing may be considered that have been litigated previously.

(~~4~~b) If the obligor requests a hearing, in writing, postmarked or received by the department of health and welfare within fourteen (14) days after such notice has been mailed (not to include Saturday, Sunday or holidays as the 14th day) to protest the withholding of income for the benefit of the obligee, and the basis for contesting the withholding is a mistake of fact as defined above, the department of health and welfare shall hold a hearing within thirty-five (35) days after the initial notice to the obligor. Additionally, the department of health and welfare shall immediately notify the obligee of the date, time and place of hearing and of the obligee's right to attend the hearing. The issues to be considered at the hearing shall be limited to mistakes of fact. The department of health and welfare shall issue its decision within forty-five (45) days of the initial notice. The decision may confirm, modify or deny the amount of any delinquency to be withheld.

(~~5~~c) If the obligor files no timely protest, or after a hearing is held and decision is entered, the obligor is found to be delinquent in child or spousal support payments, the bureau shall send an order by certified mail to the employer of the obligor. The employer shall immediately begin withholding the sum specified in the order from the obligor's income and shall remit the amount withheld to the entity designated on the notice at the same time the obligor is paid. The employer shall continue to withhold the sum specified in the order until the order is either released or modified by written order of the bureau.

(3) If the order or decree under which the obligor is required to pay child or spousal support contains a notice of automatic and immediate income withholding pursuant to section 32-1205, Idaho Code, the bureau shall send an order by certified mail to the employer of the obligor. The employer shall immediately begin withholding the sum specified in the order from the obligor's income and shall remit the amount withheld to the person or entity designated in the order at the same time the obligor is paid. The employer shall continue to withhold the sum specified in the order until the order is either released or modified by written order of the bureau.

(4) If the obligor is employed in any other state, the bureau shall forward to the state agency which has the responsibility for the administration of income withholding in the state in which the obligor is employed, all information required by that state agency to enable

withholding of the obligor's income.

(~~6~~5) The employer may combine all amounts withheld for a particular entity in a pay period into a single payment for that pay period, as long as the portion thereof which is attributable to each individual employee is separately designated. The employer may deduct a fee, not to exceed five dollars ($5.00), to cover costs of each withholding. Such fee is to be withheld from the obligor's income in addition to the amount to be withheld to satisfy the withholding order.

(~~7~~6) Income withholding for child support shall have priority over any other attachment against the same income.

(~~8~~7) In no event shall the amount to be withheld from the income of the obligor exceed the amount specified in section 11-207, Idaho Code.

SECTION 4. That Section 16-1622, Idaho Code, be, and the same is hereby amended to read as follows:

16-1622. SUPPORT OF COMMITTED CHILD. (a) Whenever legal custody of a child is vested in someone other than his parents, after due notice to the parent, guardian or other persons legally obligated to care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the child after an order of temporary custody, if any, or the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(b) Any child support order or decree issued or modified under this section ~~after--July-1,-1986,~~ shall contain a provision allowing the obligee to enforce the order or decree 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 or decree 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~~.

(c) Failure to include ~~this~~ these provisions does not affect the validity of the support order or decree. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree.

SECTION 5. That Section 16-1815, Idaho Code, be, and the same is hereby amended to read as follows:

16-1815. SUPPORT OF CHILD -- REIMBURSEMENT FOR COSTS INCURRED. 1. When a child is placed by the court in custody other than that of his or her parents, guardian or custodian, the court shall order the payment of child support on a regular monthly basis for support of the

child.

2. When a child is given medical, psychological or other necessary treatment as ordered by the court, the court shall order reimbursement for costs incurred by such court-ordered treatment.

3. When a child is committed to the department under this act, the cost of support, treatment or care shall create a debt due and owing to the department in an amount equal to the amount expended unless there has been entered a court order for support.

4. Any child support or reimbursement order shall be entered only upon notice and hearing to the parent. Failure or refusal to pay such court-ordered support and reimbursement may result in contempt sanctions.

5. Any child support order or decree issued or modified ~~under this--section--after--July-1,-1986,~~ shall contain a provision allowing the obligee to enforce the order or decree 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 or decree 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 or decree. 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 6. That Section 56-203C, Idaho Code, be, and the same is hereby amended to read as follows:

56-203C. POWERS OF DEPARTMENT. In order to carry out its responsibilities imposed under this chapter, the state department of health and welfare, through the attorney general or the respective county prosecuting attorney, or through private counsel is hereby authorized to:

(1) Represent a dependent child or dependent children on whose behalf public assistance is being provided in obtaining any support order necessary to provide for his or their needs or to enforce any such order previously entered.

(2) Appear as a friend of the court in divorce or separate maintenance suits, or proceedings supplemental thereto, when either or both of the parties thereto are receiving public assistance, for the purpose of advising the court as to the financial interest of the state of Idaho therein.

(3) Appear on behalf ~~of-the-custodial-parent~~ of a dependent child or children on whose behalf public assistance is being provided, ~~when so--requested-by-such-parent,~~ for the purpose of ~~assisting-such-parent in~~ securing a modification of a divorce or separate maintenance decree wherein no support, or inadequate support, was given for such child or children. If ~~the~~ a parent does not request ~~such~~ assistance, or refuses it when offered, the attorney general, ~~or~~ prosecuting attorney or private counsel may nevertheless appear ~~as-a-friend-of-the-court~~ at any

supplemental proceeding~~,--and--may~~ to advise the court of such facts as will show the financial interest of the state of Idaho therein; but the attorney general~~,~~ ~~or~~ prosecuting attorney or private counsel shall not otherwise participate in the proceeding.

(4) If public assistance has been applied for or granted on behalf of a child of parents who are divorced or legally separated, the attorney general~~,~~ ~~or~~ prosecuting attorney or private counsel may apply to the district court in such action for an order directing either parent or both to show cause:

(a) Why an order of support for the child should not be entered, or

(b) Why the amount of support previously ordered should not be increased, or

(c) Why the parent should not be held in contempt for his failure to comply with any order of support previously entered.

(5) Initiate any civil proceedings deemed necessary by the department to secure reimbursement from the parent or parents of minor dependent children for all moneys expended by the state in providing assistance or services to said children.

(6) ~~When--requested--by--the--department;--a~~Appear on behalf of a minor child ~~or--its--custodial--parent~~, who ~~are~~ is not a recipients of public assistance, ~~in~~ to obtain~~ing~~ or modify any support order necessary to provide for his or their needs or to enforce any such order previously entered.

(7) 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.

Approved April 10, 1990.

CHAPTER 362
(S.B. No. 1511)

AN ACT

RELATING TO LAKE PROTECTION; AMENDING SECTIONS 58-142, 58-143, 58-144, AND 58-145, IDAHO CODE, TO REDESIGNATE THE SECTIONS; AMENDING SECTION 58-146, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO INCREASE THE TIME PERIOD FOR RENDERING A DECISION AFTER

OBJECTION AND HEARING; AMENDING SECTION 58-147, IDAHO CODE, TO REDESIGNATE THE SECTION, TO CORRECT A REFERENCE, TO PROVIDE AN EXEMPTION TO THE NEWSPAPER ADVERTISING REQUIREMENT FOR BURIED OR SUBMERGED WATER INTAKE LINES AND UTILITY LINES AND TO PROVIDE FOR RECORDATION OF AN ISSUED PERMIT; AMENDING SECTION 58-148, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE A NONREFUNDABLE APPLICATION FEE FOR NONCOMMERCIAL NAVIGATIONAL ENCROACHMENTS, TO INCREASE THE NONREFUNDABLE APPLICATION FEE FOR NONNAVIGATIONAL ENCROACHMENTS, COMMERCIAL NAVIGATIONAL ENCROACHMENTS OR CERTAIN NAVIGATIONAL ENCROACHMENTS; AMENDING SECTIONS 58-149, 58-150, 58-151, 58-152 AND 58-153, IDAHO CODE, TO REDESIGNATE THE SECTIONS.

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

SECTION 1. That Section 58-142, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~142~~1301. ENCROACHMENT ON NAVIGABLE LAKES -- LEGISLATIVE INTENT. The legislature of the state of Idaho hereby declares that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. No encroachment on, in or above the beds or waters of any navigable lake in the state shall hereafter be made unless approval therefor has been given as provided in this act.

SECTION 2. That Section 58-143, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~143~~1302. ENCROACHMENT ON NAVIGABLE LAKES -- DEFINITIONS. (a) "Navigable lake" means any permanent body of relatively still or slack water, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes and includes man-made reservoirs except where the jurisdiction thereof is asserted and exclusively assumed by a federal agency.

(b) "Beds of navigable lakes" mean the lands lying under or below the "natural or ordinary high water mark" of a navigable lake and, for purposes of this act only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.

(c) "Natural or ordinary high water mark" means the high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.

(d) "Artificial high water mark" means the high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher

vegetation line.

(e) "Low water mark" means that line or elevation on the bed of the lake marked or located by the average low water elevations over a period of years and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation.

(f) "Riparian or littoral rights" mean only the rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake.

(g) "Line of navigability" means a line located at such distance below the low water mark as will afford sufficient draft for water craft customarily in use on that particular lake.

(h) "Encroachments in aid of navigation" mean and include docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and other such aids to the navigability of the lake, on, in or above the beds or waters of a navigable lake. The term "encroachments in aid of navigation" may be used interchangeably herein with the term "navigational encroachments."

(i) "Encroachments not in aid of navigation" mean and include all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other structures not constructed primarily for use in aid of the navigability of the lake. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "nonnavigational encroachments."

(j) "Board" means the board of land commissioners of the state of Idaho or its authorized representative.

(k) "Plans" mean maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same.

SECTION 3. That Section 58-144, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~144~~1303. ENCROACHMENT ON NAVIGABLE LAKES -- POWERS OF STATE LAND BOARD. The board of land commissioners shall regulate, control and may permit encroachments in aid of navigation or not in aid of navigation on, in or above the beds or waters of navigable lakes as provided herein.

SECTION 4. That Section 58-145, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~145~~1304. ENCROACHMENT ON NAVIGABLE LAKES -- RULES AND REGULATIONS. The board may adopt, revise and rescind such rules and regulations and issue such general orders as may be necessary to effectuate the purposes and policy of this chapter within the limitations and standards set forth in this chapter. Rules, regulations and orders adopted or issued pursuant to this section may include, but are not limited to, minimum standards to govern projects or activities for

which a permit or permits have been received under this chapter and regulations governing procedures for processing applications and issuing permits under this chapter. Minimum standards shall not be adopted pursuant to this section until after they have been offered for review and comment to other state agencies having an interest in activities regulated under this chapter. Any standards, rules, regulations and general orders adopted or issued pursuant to this section shall be promulgated in accordance with the provisions of chapter 52, title 67, Idaho Code, to the extent that the provisions of chapter 52, title 67, Idaho Code, are not inconsistent herewith.

SECTION 5. That Section 58-146, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~146~~1305. NONCOMMERCIAL NAVIGATIONAL ENCROACHMENTS -- PROCEDURES -- REPAIRS -- FORMS. (a) Applications for construction, enlargement or replacement of navigational encroachments not extending beyond the line of navigability nor intended primarily for commercial use shall be processed by the board with a minimum of procedural requirements and shall not be denied nor appearance required except in the most unusual of circumstances or if the proposed encroachment infringes upon or it appears it may infringe upon the riparian or littoral rights of an adjacent property owner.

(b) If the plans of the proposed encroachment indicate such infringement will or may occur, the board shall require that the applicant secure the consent of such adjacent owner or that he be given notice of the application by personal service or by certified or registered mail, return receipt requested, directed to him at his usual place of address, which, if not otherwise known, shall be the address shown on the records of the county treasurer or assessor, and such adjacent owner shall have ten (10) days from date of personal service or receipt of certified or registered mail to file objection with the board. The application itself shall be deemed sufficient notice if the adjacent owner is the state of Idaho.

(c) In event objection to the application is filed by an adjacent owner or if the board deems it advisable because of the existence of unusual circumstances, the board shall fix a time, no later than sixty (60) days from the date of filing application, and a place, for affording the applicant and the adjacent owner filing objection to appear and present evidence in support of or in opposition to the application and within ~~thirty~~ forty-five (~~30~~45) days thereafter shall render a decision and give notice thereof to the parties concerned who may thereafter resort to appellate procedures prescribed in section 58-147, Idaho Code.

(d) A permit shall not be required for repair of an existing navigational encroachment.

(e) Applications submitted under this section shall be upon forms to be furnished by the board and shall be accompanied by plans of the proposed navigational encroachment containing information required by section 58-143(k), Idaho Code, and such other information as the board may by rule or regulation require in conformance with the intent and purpose of this chapter.

(f) If notice to an adjacent owner is not required or if the

adjacent owner has consented to the proposed encroachment or has failed to file objection to the proposed encroachment within the time allowed following service of notice, the board shall act upon the application as expeditiously as possible but no later than sixty (60) days from receipt of the application and failure to act within such time shall constitute approval of the application.

SECTION 6. That Section 58-147, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~147~~1306. NONNAVIGATIONAL OR COMMERCIAL NAVIGATIONAL ENCROACHMENTS -- NAVIGATIONAL ENCROACHMENTS BEYOND LINE OF NAVIGABILITY -- APPLICATION -- PROCEDURES -- PUBLICATION OF NOTICE -- HEARING -- APPEALS -- RECONSIDERATION -- CRITERIA PRIORITY. (a) Applications for construction, enlargement or replacement of a nonnavigational or a commercial navigational encroachment or for a navigational encroachment extending beyond the line of navigability shall be submitted upon forms to be furnished by the board and accompanied by plans of the proposed encroachment containing information required by section 58-143(k), Idaho Code, and such other information as the board may by rule or regulation require in conformance with the intent and purpose of this chapter. Applications for nonnavigational or commercial navigational encroachments must be submitted or approved by the riparian or littoral owner.

(b) Within ten (10) days of receipt of an application submitted under subsection (a) above, the board shall cause to be published in a newspaper having general circulation in the county in which the encroachment is proposed, once a week for two (2) consecutive weeks, a notice advising of the application and describing the proposed encroachment and general location thereof. Applications for installation of buried or submerged water intake lines and utility lines shall be exempt from the newspaper publication process. The board may also furnish copies of the application and accompanying plans to other state agencies having an interest in the lake to determine the opinion of such state agencies as to the likely effect of the proposed encroachment upon adjacent property and lake value factors of navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty or water quality. Within thirty (30) days following receipt of such copy of the application and plans from the board, such other state agency shall notify the board of its opinion and recommendations, if any, for alternate plans determined by such agency to be economically feasible to accomplish the purpose of the proposed encroachment without adversely affecting unreasonably adjacent property or other lake value factors.

(c) Any resident of the state of Idaho, or a nonresident owner or lessee of real property adjacent to the lake, or any state or federal agency may, within thirty (30) days of the first date of publication, file with the board an objection to the proposed encroachment and a request for a hearing on the application. If a hearing is requested, the same shall be held no later than ninety (90) days from the date of filing the application and notice of such hearing shall be given in the manner prescribed for publishing notice of application. The board may, in its discretion, within ten (10) days of filing the applica-

tion, order a hearing in the first instance in which case, publication of notice of the application shall be dispensed with. All such hearings shall be public and held under rules and regulations promulgated by the board under the provisions of chapter 52, title 67 of the Idaho Code. The board shall render a decision within thirty (30) days following conclusion of the hearing and a copy of the board's decision shall be mailed to the applicant and to each person or agency appearing at the hearing and giving testimony in support of or in opposition to the proposed encroachment. Any applicant or other aggrieved party so appearing at a hearing shall have the right to have the proceedings and decision of the board reviewed by the district court in the county where the encroachment is proposed by filing notice of appeal within thirty (30) days from the date of the board's decision. If the decision of the board be approval of a permit, the party or parties appealing shall file a bond on such appeal in an amount to be fixed by the court but not less than five hundred dollars ($500) insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in event the district court sustains the action of the board.

(d) In the event no objection to the proposed encroachment is filed with the board and no hearing is requested or ordered by the board, based upon its investigation and considering the economics of navigational necessity, justification or benefit, public or private, of such proposed encroachment as well as its detrimental effects, if any, upon adjacent real property and lake value factors, the board shall prepare and forward to the applicant by certified mail its decision and the applicant, if dissatisfied therewith, shall have twenty (20) days from the date of mailing of such decision to notify the board if he requests a reconsideration thereof and if such request is made, the board shall set a time and place for reconsideration, not to exceed thirty (30) days from receipt of such request, at which time and place the applicant may appear in person or by authorized representative. If aggrieved by the board's decision following reconsideration, the applicant may appeal to the district court in the same manner as that provided for following a hearing.

(e) In recognition of continuing private property ownership of lands lying between the natural or ordinary high water mark and the artificial high water mark, the board shall consider unreasonable adverse effect upon adjacent property and undue interference with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment or a commercial navigational encroachment not extending below the natural or ordinary high water mark. If no objections have been filed to the application and no hearing has been requested or ordered by the board, or, if upon reconsideration of a decision disallowing a permit, or following a hearing, the board determines that the benefits, whether public or private, to be derived from allowing such encroachment exceed its detrimental effects, it shall grant the permit. As a condition of the permit, the board may require a lease or easement for use of any part of the state owned bed of the lake. Recordation of an issued permit in the records of the county in which an encroachment is located shall be a condition of issuance of a permit and proof of recordation shall be furnished to the department by the permittee

before a permit becomes valid. Such recordation shall be at the expense of the permittee. Recordation of an issued permit serves only to provide constructive notice of the permit to the public and subsequent purchasers and mortgagees, but conveys no other right, title or interest on the permittee other than validation of said permit.

(f) A permit shall not be required for repair of an existing nonnavigational or commercial navigational encroachment.

SECTION 7. That Section 58-148, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~148~~1307. FEES FOR SPECIFIED PERMITS -- COSTS OF PUBLICATION. Application for a permit for any noncommercial navigational encroachment shall be accompanied by a nonrefundable fee of fifty dollars ($50.00). Application for a permit for any nonnavigational or commercial navigational encroachment or navigational encroachment which extends beyond the line of navigability shall be accompanied by a nonrefundable fee of ~~twenty-five~~ two hundred fifty dollars ($250~~.00~~). In addition, the board shall charge the applicant with costs of publishing notice of the application which shall be refunded if such notice is not published. Any person or agency requesting a hearing upon the application shall deposit and pay to the board an amount sufficient to cover the cost of publishing notice of hearing.

SECTION 8. That Section 58-149, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~149~~1308. PENALTY FOR VIOLATION -- INJUNCTIVE RELIEF. Any person who violates any of the provisions of this act or any valid and authorized regulation, rule or order of the board, or, where notified by personal service or certified mail of such violation and thereafter fails to cease and desist therein or obey an order of the board within the time provided in such notification or within thirty (30) days of service of such notice if not otherwise provided, shall be subject to a civil penalty of not less than one hundred fifty dollars ($150) nor more than two thousand five hundred dollars ($2,500). The board shall have authority and it shall be its duty to seek injunctive relief from the appropriate district court to restrain any person from encroaching on, in or above the beds or waters of a navigable lake until approval therefor has been obtained as provided in this act.

SECTION 9. That Section 58-150, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~150~~1309. RESTORATION -- MITIGATION OF DAMAGES. Any person legally found to be wrongfully encroaching on, in or above the beds or waters of a navigable lake shall, in lieu of or in addition to penalties provided herein, be directed by the court to restore the lake to as near its condition immediately prior to the unauthorized encroachment as possible or to effect such other measures as recommended by the board and ordered by the court toward mitigation of any damage caused by or resulting from such unlawful encroachment.

SECTION 10. That Section 58-151, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~151~~1310. EXISTING RIGHTS UNAFFECTED. This act shall not operate or be so construed as to impair, diminish, control or divest any existing or vested water rights acquired under the laws of the state of Idaho or the United States, nor to interfere with the diversion of water from lakes under existing or vested water rights or water right permits for irrigation, domestic, commercial or other uses as recognized and provided for by Idaho water laws nor shall permit be required from a water user or his agent to clean, maintain or repair any existing diversion structure or works provided the board is notified of the work proposed to be done and the work is done as nearly as possible in a manner conforming to rules and regulations of the board for work done under permit nor shall this act be construed to impair existing encroachments in aid of navigation or any right heretofore granted an applicant by the director of the Idaho department of water resources or the director of the department of lands, nor shall this act be construed to impair existing nonnavigational encroachments not extending beyond the natural or ordinary high water mark if they have been in existence at least five (5) years prior to the effective date of this act nor any other existing nonnavigational encroachment unless action to abate the same by legal proceedings be instituted by the board within three (3) years of the effective date of this act. If abatement proceedings be instituted by the board, the court shall hear such evidence as would be pertinent upon an original application and shall consider also the length of time the encroachment has existed and its general acceptance.

SECTION 11. That Section 58-152, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~152~~1311. DISCLAIMER OF STATE PROPERTY RIGHTS IN PRIVATE LANDS. While the state asserts the right to regulate and control all encroachments, navigational or nonnavigational, upon, in or above the beds or waters of navigable lakes as provided for in this act, nothing contained in this act shall be construed to vest in the state of Idaho any property right or claim of such right to any private lands lying above the natural or ordinary high water mark of any navigable lake.

SECTION 12. That Section 58-153, Idaho Code, be, and the same is hereby amended to read as follows:

58-~~153~~1312. FILING NOTICE OF EXISTING ENCROACHMENTS. On or before December 31, 1974, every person owning or possessing an existing navigational or nonnavigational encroachment on, in or above the beds or waters of a navigable lake in this state shall file with the board notification thereof. Such notice shall be upon forms to be furnished by the board and contain such information concerning the encroachment as would be necessary on plans submitted with an original application under the provisions of this act.

Approved April 10, 1990.

CHAPTER 363
(S.B. No. 1478)

AN ACT

RELATING TO THE DEVELOPMENT OF WATER RESOURCES; AUTHORIZING THE IDAHO WATER RESOURCE BOARD TO PLAN, FINANCE, CONSTRUCT, ACQUIRE, OPERATE, OWN AND MAINTAIN A WATER PROJECT ON THE NORTH FORK OF THE CLEARWATER RIVER TO GENERATE ELECTRICITY AND TO PROVIDE ACCESS TO A SOURCE OF MUNICIPAL AND INDUSTRIAL WATER FOR THE CITY OF OROFINO TO BE KNOWN AS THE DWORSHAK HYDROELECTRIC PROJECT BASED ON THE FUTURE DEVELOPMENT OF THE CLEARWATER FISH HATCHERY WATER SUPPLY SYSTEM, TO ISSUE REVENUE BONDS THEREFOR, AND TO ENTER INTO CONTRACTS FOR THE CONSTRUCTION, OPERATION, MAINTENANCE AND SALE OF POWER FROM THE PROJECT; PROVIDING THAT REVENUE FROM THE PROJECT NOT REQUIRED FOR PROJECT PURPOSES SHALL BE PAID INTO THE BOARD'S REVOLVING DEVELOPMENT ACCOUNT AND WATER MANAGEMENT ACCOUNT TO BE USED FOR THE FUNDING OF WATER PROJECTS, AND PROVIDING FOR LIBERAL CONSTRUCTION.

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

SECTION 1. The legislature finds and declares that the development of the Dworshak hydroelectric project by the Idaho water resource board in conjunction with the development of the water supply system for the existing Dworshak national fish hatchery and the proposed Clearwater fish hatchery as a part of the lower snake river fish and wildlife compensation plan is in the public interest and hereby authorizes the project.

SECTION 2. The Idaho water resource board is authorized to take all actions necessary in accordance with existing law to plan, finance, construct, acquire, operate, own and maintain the said Dworshak hydroelectric project, to provide access to water at the project site to the city of Orofino to be used for municipal and industrial purposes, to negotiate and enter into contracts for the wholesale of hydroelectric power at the site of production, or as an alternative to enter into a long term lease agreement with one or more public or privately owned electric utility companies or other entities, for the operation and management of the project and the purchase of the hydroelectric power produced by the project, to acquire all necessary real and personal property in connection with the project, and to issue and sell revenue bonds under the provisions of sections 42-1739 through 42-1749, Idaho Code, pledging thereto the revenues which the board shall derive from such project, in order to pay its costs of planning, financing, acquisition and construction, operation and maintenance of such water project. All moneys paid or property supplied by the Idaho water resource board for the purpose of carrying out the provisions of this section are hereby declared to be for a public purpose.

SECTION 3. All surplus revenues of the Idaho water resource board derived from the facilities constituting the water project, after the

payment of the costs of operation and maintenance expenses of the water project, the establishment and maintenance of a fund for the payment of the principal and interest on the revenue bonds, the establishment and maintenance of adequate reserves therefor, and the establishment and maintenance of such contingency or other funds as the board deems desirable, shall be paid by the board into the Idaho water resource board revolving development account and the water management account established in sections 42-1752 and 42-1760, Idaho Code, in such proportion as the board in its discretion shall determine. Such moneys, together with moneys accruing to or earned thereon, shall be appropriated continuously, set aside, and made available until expended, to be used by the board in the administration of such accounts and in the funding of water projects in the state of Idaho in accordance with the statutes and regulations governing the operation of said accounts, provided that funds from said accounts shall not be used to finance the development of hydropower production projects by the board unless such power production is connected with another project purpose as authorized in section 42-1734(5), Idaho Code.

SECTION 4. The provisions of this act shall be construed liberally to effectuate the stated purposes of the act.

Approved April 10, 1990.

CHAPTER 364
(S.B. No. 1477)

AN ACT

RELATING TO A WILDLIFE VIOLATOR COMPACT FOR THE PROMOTION OF INTERSTATE COOPERATION IN CONNECTION WITH THE ENFORCEMENT OF WILDLIFE LAWS; AMENDING TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE 36, IDAHO CODE, TO PROVIDE FOR THE EXECUTION OF A WILDLIFE VIOLATOR COMPACT BY THE GOVERNOR OF THE STATE OF IDAHO; TO PROVIDE FOR THE FORM AND CONTENT OF THE COMPACT, FINDINGS, DECLARATION OF POLICY AND PURPOSE, DEFINITIONS, PROCEDURES FOR ISSUING STATE, PROCEDURES FOR HOME STATE, RECIPROCAL RECOGNITION OF SUSPENSION, APPLICABILITY OF OTHER LAWS, COMPACT ADMINISTRATOR PROCEDURES, ENTRY INTO COMPACT AND WITHDRAWAL, AMENDMENTS TO THE COMPACT, CONSTRUCTION AND SEVERABILITY; AND TO PROVIDE FOR THE MEMBERSHIP OF THE BOARD OF COMPACT ADMINISTRATORS; AND AMENDING SECTION 36-1402, IDAHO CODE, TO PROVIDE THAT THE COURT MAY REVOKE THE HUNTING, FISHING OR TRAPPING PRIVILEGES OF ANY PERSON FAILING TO COMPLY WITH THE REQUIREMENTS OF A CITATION FOR VIOLATION OF ANY OF THE PROVISIONS OF TITLE 36, TO PROVIDE THAT THE DEPARTMENT OF FISH AND GAME SHALL SUSPEND A VIOLATOR'S LICENSE FOR FAILURE TO COMPLY WITH THE TERMS OF A CITATION FROM A PARTY STATE, THAT THE DEPARTMENT OF FISH AND GAME SHALL REVOKE A VIOLATOR'S LICENSE FOR CONVICTION IN A PARTY STATE, AND THAT REPORTS OF FAILURE TO COMPLY OR OF CONVICTIONS FROM THE LICENSING AUTHORITY OF THE ISSUING STATE IS CONCLUSIVE EVIDENCE.

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

SECTION 1. That Title 36, Idaho Code, be, and the same is hereby mended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 23, Title 36, Idaho Code, and to read as follows:

CHAPTER 23
WILDLIFE VIOLATOR COMPACT

36-2301. WILDLIFE VIOLATOR COMPACT -- EXECUTION. The governor of the state of Idaho is authorized to execute a compact on behalf of this state with any other state or states for the purpose of cooperating with those states for the promotion of interstate cooperation in connection with the enforcement of wildlife laws.

36-2302. FORM AND CONTENT. The form and content of the compact shall be substantially as provided in this section, and the effect of its provisions shall be interpreted and administered in conformity with the provisions of this section:

THE WILDLIFE VIOLATOR COMPACT

The contracting states do hereby agree as follows:

ARTICLE I

FINDINGS, DECLARATION OF POLICY AND PURPOSE

(a) The participating states find that:

1. Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

2. The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances or administrative rules relating to the management of those resources.

3. The preservation, protection, management and restoration of wildlife contributes immeasurably to the aesthetic, recreational and economic aspects of these natural resources.

4. Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management and restoration laws, ordinances and administrative rules and regulations of all participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap or possess wildlife.

5. Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

6. The mobility of many wildlife law violators necessitates the maintenance of channels of communications among the various states.

7. In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:

(A) Must post collateral or bond to secure appearance for a trial at a later date; or

(B) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(C) Is taken directly to court for an immediate appearance.

8. The purpose of the enforcement practices described in paragraph 7. of this article is to ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

9. In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation.

10. The practice described in paragraph 7. of this article causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.

11. The enforcement practices described in paragraph 7. of this article consume an undue amount of law enforcement time.

(b) It is the policy of the participating states to:

1. Promote compliance with the statutes, laws, ordinances, regulations and administrative rules relating to management of wildlife resources in their respective states.

2. Recognize the suspension of license privileges of any person whose license privileges have been suspended by a participating state and treat this suspension as though it had occurred in their respective states.

3. Allow violators to accept a wildlife citation, except as provided in paragraph (b) of article III, and proceed on the person's way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the person's home state is party to this compact.

4. Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

5. Allow the home state to recognize and treat convictions recorded for its residents, which convictions occurred in another participating state as if they had occurred in the home state.

6. Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one (1) participating state to a resident of another participating state.

7. Maximize effective use of law enforcement personnel and information.

8. Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to:

1. Provide a means through which the participating states may participate in a reciprocal program to effectuate the policies set forth in paragraph (b) of this article in a uniform and orderly manner.

2. Provide for the fair and impartial treatment of persons committing wildlife violations in participating states, in recognition of the person's right of due process and the sovereign status

of a participating state.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context requires otherwise:

(a) "Citation" means any summons, complaint, ticket, penalty assessment or other official document issued by a wildlife officer or other peace officer to any person for a wildlife violation which contains an order requiring the person to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance of a wildlife officer or other peace officer of a citation for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal or payment of fines, costs and surcharges, if any, or both such appearance and payment.

(d) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance or administrative rule, or a plea of nolo contendere, or the imposition of a withheld judgment, a deferred or suspended sentence by the court or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment.

(e) "Court" means a court of law, including magistrate's court and the justice of the peace court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the participating state which issues a wildlife citation to the person.

(h) "License" means any license, permit, tag, stamp or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing or taking any wildlife regulated by statute, law, regulation, ordinance or administrative rule of a participating state.

(i) "Licensing authority" means the department or division within each participating state which is authorized by law to issue or approve licenses, permits, tags or stamps to hunt, fish, trap, or possess wildlife.

(j) "Participating state" means any state which enacts legislation to become a member of this wildlife compact.

(k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.

(l) "Primary residence" means a place of permanent domicile or residence, and to which, when the person is temporarily absent, the person intends to return.

(m) "State" means any state, territory or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada and other countries.

(n) "Suspension" means any suspension, revocation, denial or withdrawal of any or all license privileges, including the privilege to apply for, purchase or exercise the benefits conferred by any

license.

(o) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(p) "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on the law of the issuing state.

(q) "Wildlife law" means any statute, law, regulation, ordinance or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

(r) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

(s) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance or administrative rule developed and enacted for the management of wildlife resources and the use thereof.

ARTICLE III

PROCEDURES FOR ISSUING STATE

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require the person to post collateral to secure appearance, subject to the exceptions noted in paragraph (b) of this article, if the officer receives the recognizance of the person that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable:

1. If not prohibited by local law or the compact manual; and

2. If the violator provides adequate proof of the violator's identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in accordance with the procedures specified by the issuing state and shall contain the information specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance required by paragraph (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state the information in a form and content prescribed by the compact manual.

ARTICLE IV

PROCEDURES FOR HOME STATE

(a) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privi-

leges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards shall be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual.

ARTICLE V

RECIPROCAL RECOGNITION OF SUSPENSION

(a) All participating states shall recognize the suspension of license privileges of any person by any state as if the violation on which the suspension is based had in fact occurred in their state and could have been the basis for suspension of license privileges in their state.

(b) Each participating state shall communicate suspension information to other participating states in form and content as prescribed by the compact manual.

ARTICLE VI

APPLICABILITY OF OTHER LAWS

Except as expressly required by the provisions of this compact, nothing herein shall be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangements between a participating state and a nonparticipating state concerning wildlife law enforcement.

ARTICLE VII

COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one (1) representative from each of the participating states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each participating state and will serve and be subject to removal in accordance with the laws of the state the administrator represents. A compact administrator may provide for the discharge of the administrator's duties and the performance of the administrator's functions as a board member by an alternate. An alternate shall not be entitled to serve unless written notification of the alternate's identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one (1) vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor of the action. The board may take action only at meetings at which a majority of the participating states are represented.

(c) The board shall elect annually, from its membership, a chairperson and vice-chairperson.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the federal government or any governmental agency, and may receive, utilize and dispose of the same.

(f) The board may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, partnership, corporation or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

ARTICLE VIII

ENTRY INTO COMPACT AND WITHDRAWAL

(a) This compact shall become effective when it has been adopted in substantially similar form by at least two (2) states.

(b) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairperson of the board. The resolution shall be substantially in the form and content as set forth in the compact manual and shall include the following:

1. A statement of the authority by which the state is empowered to become a party to this compact;
2. Agreement to comply with the terms and provisions of the compact; and
3. That compact entry is with all states then participating in the compact and with any state subsequently becoming a participant in the compact.
4. The effective date of entry shall be specified by the applying state, but shall not be less than sixty (60) days after notice has been given by the chairperson of the board of the compact administrators or by the secretariat of the board to each participating state that the resolution from the applying state has been received.

(c) A participating state may withdraw from this compact by official written notice to each of the other participating states, but a withdrawal shall not take effect until ninety (90) days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining participating states.

ARTICLE IX

AMENDMENTS TO THE COMPACT

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and may be initiated by one (1) or more participating states.

(b) Adoption of an amendment shall require endorsement by all participating states and shall become effective thirty (30) days after

the date of the last endorsement.

(c) Failure of a participating state to respond to the compact chairman within one hundred twenty (120) days after receipt of the proposed amendment shall constitute endorsement of the amendment.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes stated herein. 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 participating state or of the United States, or the applicability thereof to any government, agency, individual, or circumstance is held to be invalid, the remainder of the compact shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any participating state, 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.

36-2303. BOARD OF COMPACT ADMINISTRATORS -- MEMBER. In furtherance of the provisions contained in the compact, there shall be one (1) member of the board from the state of Idaho who shall be the director or other officer of the Idaho department of fish and game charged with directing the enforcement activities of the department.

SECTION 2. That Section 36-1402, Idaho Code, be, and the same is hereby amended to read as follows:

36-1402. PENALTY -- MISDEMEANOR -- FELONY -- REVOCATION OF LICENSE -- DISPOSITION OF MONEYS. (a) Misdemeanor Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a misdemeanor under the provisions of this title or regulations promulgated pursuant thereto shall, except in cases where a higher penalty is prescribed, be fined in a sum of not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000) and/or by commitment to jail for not more than six (6) months. The minimum and maximum fine, per animal, fish or bird, for the illegal taking, illegal possession or the illegal waste of the following animals, fish or birds shall be as indicated below:

Animal, Fish or Bird	Minimum Fine	Maximum Fine
Bighorn sheep, mountain goat and moose	$500	$1,000
Elk	$300	$1,000
Deer and pronghorn antelope	$200	$ 500
Wild turkey, whistling swan and sturgeon	$200	$ 500
Chinook salmon	$100	$ 500

(b) Felony Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a felony under the provisions of this title shall be punished in accordance with section 18-112, Idaho Code.

(c) License Revocation. Any person entering a plea of guilty for, being found guilty ~~of~~ or ~~being~~ convicted of violating any of the provisions of this title, or otherwise fails to comply with the requirements of a citation in connection with any such offense, may, in addition to any other penalty assessed by the court, have his hunting, fishing, or trapping privileges revoked for such period of time as may

be determined by the court not to exceed three (3) years, said period beginning on the date of conviction, finding of guilt or the entry of the plea of guilty. Provided further, that the magistrate hearing the case shall forthwith revoke the hunting, fishing, or trapping privileges for a period of not less than one (1) year from the date of such conviction, finding of guilt or the entry of the plea of guilty, of any person who is convicted of, found guilty of or enters a plea of guilty for any of the following offenses:

1. Taking upland game birds, migratory waterfowl, salmon, steelhead, or any big game animal during closed season.
2. Exceeding the daily bag or possession limit of upland game birds, migratory waterfowl or big game animals.
3. Taking any fish by unlawful methods as set forth in section 36-902(a) or (c), Idaho Code.
4. Unlawfully purchasing, possessing or using any license, tag or permit as set forth in section 36-405(c), Idaho Code.
5. Trespassing in violation of warning signs as set forth in section 36-1603, Idaho Code.
6. The unlawful sale or purchase of wildlife as set forth in section 36-501, Idaho Code.
7. Taking any game animal with a firearm during an archery only season.

The revocation shall consist of cancellation of an existing license for the required length of time and/or denial of the privilege of purchasing an applicable license for the length of time required to meet the revocation period decreed. In the case of persons pleading guilty, convicted or found guilty of committing multiple offenses, the revocation periods may run consecutively. In the case of pleas of guilty, convictions or findings of guilt involving taking big game animals during closed season or exceeding the daily bag or possession limit of big game, the magistrate hearing the case shall revoke the hunting, fishing or trapping privileges of any person convicted or found guilty of those offenses for a period of not less than one (1) year for each big game animal illegally taken or possessed by the person convicted or found guilty.

It shall be a misdemeanor for any person to hunt, fish, or trap or purchase a license to do so during the period of time for which such privilege is revoked by order of any court of this state. Any person pleading guilty, found guilty or convicted thereof shall be fined in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by commitment to jail for not more than six (6) months or by both such fine and commitment. Provided further, that the period of revocation of such privileges shall be extended an additional amount of time equal to the original revocation.

For the purpose of this title, the term "conviction" shall mean either a withheld judgment or a final conviction.

(d) For purposes of the wildlife violator compact, section 36-2301, Idaho Code, et. seq., the department shall:

1. Suspend a violator's license for failure to comply with the terms of a citation from a party state. A copy of a report of failure to comply from the licensing authority of the issuing state shall be conclusive evidence.

2. Revoke a violator's license for a conviction in a party state. A report of conviction from the licensing authority of the issuing state shall be conclusive evidence.

(e) Disposition of Fines and Forfeitures. Distribution of fines and forfeitures remitted shall be in accordance with section 19-4705, Idaho Code.

Approved April 10, 1990.

CHAPTER 365
(S.B. No. 1620)

AN ACT

RELATING TO THE INSTALLATION OF IRRIGATION SYSTEMS IN SUBDIVISIONS OR EXCLUSIONS OF SUCH SUBDIVISIONS; AMENDING SECTION 31-3805, IDAHO CODE, TO REQUIRE THAT AN OWNER OR SUBDIVIDER OF LAND LOCATED WITHIN AN ORGANIZED IRRIGATION DISTRICT OR LAND SERVED BY A CANAL COMPANY OR SIMILAR IRRIGATION ENTITY MUST PROVIDE FOR EXCLUSION OR FOR AN IRRIGATION SYSTEM TO DELIVER WATER TO THE INDIVIDUAL LANDOWNERS WITHIN THE SUBDIVISION; REPEALING SECTION 31-3806, IDAHO CODE; AND AMENDING CHAPTER 38, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3806, IDAHO CODE, TO PROVIDE FOR CIVIL ENFORCEMENT ACTIONS REGARDING THE INSTALLATION OF IRRIGATION SYSTEMS IN SUBDIVISIONS OR EXCLUSIONS OF SUCH SUBDIVISIONS.

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

SECTION 1. That Section 31-3805, Idaho Code, be, and the same is hereby amended to read as follows:

31-3805. DELIVERY OF WATER. (1) When either a subdivision within the meaning of chapter 13, title 50, Idaho Code, or a subdivision subject to a more restrictive county or city zoning ordinance is proposed within the state of Idaho, and all or any part of said subdivision would be located within the boundaries of an existing irrigation district or other canal company, ditch association, or like irrigation water delivery entity, hereinafter called "irrigation entity" for the purposes of this section, no subdivision plat will be accepted, approved, and recorded unless:

(~~1~~a) The water rights appurtenant ~~to~~ and the assessment obligation of the lands in said subdivision which are within the irrigation entity ~~will--be~~ have been transferred from said lands or excluded from an irrigation district by the owner thereof; or by the person, firm or corporation filing the subdivision plat; or

(~~2~~b) The ~~subdivider~~ owner or person, firm or corporation filing the subdivision plat has provided for underground tile or other like satisfactory underground conduit to permit the delivery of water to those landowners within the subdivision who are also within the irrigation entity, with the following appropriate approvals:

(~~a~~i) For proposed subdivisions within the incorporated limits of a city, the irrigation system must be approved by the city zoning authority and the city council with the advice of the irrigation entity charged with the delivery of water to said lands.

(~~b~~ii) For proposed subdivisions located outside incorporated cities but within one (1) mile outside the incorporated limits of any city, both city and county zoning authorities and city council and county commissions must approve such irrigation system in accordance with section 50-1306, Idaho Code. In addition, the irrigation entity charged with the delivery of water to said lands must be advised regarding the irrigation system.

(~~c~~iii) For proposed subdivisions located in counties with a zoning ordinance, the delivery system must be approved by the appropriate county zoning authority, and the county commission with the advice of the irrigation entity charged with the delivery of water to said lands.

(~~d~~iv) For proposed subdivisions located in counties without a zoning ordinance, such irrigation system must be approved by the irrigation entity charged with the delivery of water to said lands.

(~~3~~2) (a) In the event that the provisions of either subsections (1)(a) or ~~(2)~~(1)(b) of this section have not been complied with, the assessments of the irrigation entity for operation, maintenance, construction, and other valid charges permitted by statute shall in no way be affected. However, any person, firm or corporation or any other person offering such lots in such subdivision for sale, or selling such lot shall, prior to the sale, advise the purchaser in writing as follows:

(~~a~~i) that water deliveries have not been provided; and

(~~b~~ii) that the purchaser of the lot must remain subject to all assessments levied by the irrigation entity; and

(~~c~~iii) that the individual purchaser shall be responsible to pay such legal assessments; and

(~~d~~iv) that the assessments are a lien on the land within the irrigation entity; and

(~~e~~v) that the purchaser may at a future date petition the appropriate irrigation entity for exclusion from the irrigation district.

(~~4~~b) A disclosure statement executed by the purchasers and duly acknowledged, containing the representations required in this subsection ~~(3)~~ of this section, shall be obtained by the seller at the time of receipt of the earnest money from the purchaser, and affixed to the proposed sales contract and a copy thereof shall be forwarded to the appropriate irrigation entity.

SECTION 2. That Section 31-3806, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 38, 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 31-3806, Idaho Code, and to read as

follows:

31-3806. CIVIL ACTION TO ENFORCE. (1) If the owner of the property of the person, firm or corporation filing the subdivision plat fails to comply with either subsection (1)(a) or (1)(b) of section 31-3805, Idaho Code, prior to sale of the lots in the subdivision to purchasers, the owner of the property, or the person, firm or corporation filing the subdivision plat shall be liable to any purchaser for the costs of the lot's exclusion plus all assessments due and owing of the actual cost of installation of an irrigation delivery system not to exceed one thousand five hundred dollars ($1,500) per lot. The purchaser shall have a right to enforce this obligation in a civil action and the purchaser shall have the right to elect exclusion or installation of the system in such action.

(2) Any person, firm or corporation who shall omit, neglect or refuse to provide the purchaser or the irrigation district within whose boundaries the land is located, a copy of the disclosure statement required by subsections (2)(a) and (2)(b) of section 31-3805, Idaho Code:

(a) Shall be liable to the purchaser as provided in subsection (1) of this section.

(b) Shall be liable to the irrigation district for its reasonable expense, including employee time, of locating the purchaser and providing the information required in the form and for advising affected purchasers of the lack of a water delivery system and for any assessments on the property that are past due at the time of discovery of the violation. The irrigation district affected shall have a right to claim such expenses in a civil action.

(3) In any civil action filed under subsections (1) or (2) of this section, the prevailing party shall be awarded its reasonable costs and attorney's fees and the purchaser and irrigation district shall have two (2) years from the date of discovery of the violation to initiate any legal action.

Approved April 10, 1990.

CHAPTER 366
(S.B. No. 1476)

AN ACT

RELATING TO WELL DRILLERS; AMENDING SECTION 42-238, IDAHO CODE, TO ENABLE THE EMPLOYEES OF THE DEPARTMENT OF WATER RESOURCES TO ISSUE CITATIONS TO WELL DRILLERS DRILLING WELLS IN THE STATE OF IDAHO WITHOUT A VALID IDAHO WELL DRILLER'S LICENSE.

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

SECTION 1. That Section 42-238, Idaho Code, be, and the same is hereby amended to read as follows:

42-238. WELL DRILLERS. (1) Powers and duties. The director of the department of water resources is hereby vested with the duties relating to the licensing of well drillers as provided for in this act so as to protect the ground water resources against waste and contamination. Qualifications for well drillers shall be adopted by rule of the water resource board. The water resource board is authorized to adopt a code of standards of well construction necessary to protect the ground water resources as set forth in this act, to be enforced by the director. The director of the department of water resources is also charged with the responsibility of collecting and filing for public use the well drillers' reports that are required in this act.

(2) Licensing of well drillers. It shall be unlawful for any person after July 1, 1967 to drill a well in Idaho, including wells excepted under sections 42-227 and 42-228, Idaho Code, without first obtaining a driller's license as provided herein. For the purpose of this act, a "person" shall be defined as any individual who drills a water well for himself or another in this state; it shall also be defined as any firm, copartnership, corporation or association which drills or contracts to drill a water well for hire or otherwise in this state except that employees of said firm, copartnership, corporation or association authorized to operate drilling equipment as the contractor's agent, shall not be required to obtain an individual well drilling license provided that the names and addresses of such employees are recorded with the director of the department of water resources. The license shall be obtained by filing with the director an application in writing on a form provided by the director accompanied by a twenty-five dollar ($25.00) licensing fee. To determine the applicant's qualifications, the director may require detailed information on the driller's past experience, and/or references, and/or an oral examination, and/or a written examination. The water resource board shall adopt rules and regulations for licensing of well drillers in compliance with chapter 52, title 67, Idaho Code, and shall consider such factors as the applicant's (1) knowledge of Idaho water laws and the rules and regulations of the water resource board in connection with the drilling of wells, (2) knowledge of proper well construction procedures and the water well construction standards adopted by the water resource board as provided in this act, (3) knowledge of the various types of drilling tools and their use, (4) general knowledge of underground geology and ground water hydrology and their relation to well construction, (5) ownership or access to equipment capable of adequately constructing a well, (6) knowledge of types of well casing and their use, (7) knowledge of special well drilling problems and their solution, and (8) previous drilling experience. In addition, the water resource board shall adopt rules and regulations setting forth additional requirements for licensing well drillers who shall drill wells for the production of low temperature geothermal resources as defined in section 42-233, Idaho Code, or for the production of geothermal resources as provided in chapter 40, title 42, Idaho Code. A copy of the proposed rules and regulations for licensing of well drillers shall be furnished to each well driller holding a current license at the time such proposed rules and regulations are promulgated.

If it is determined that the applicant is not qualified, the

director shall deny the application and refund the licensing fee. If it is determined that the applicant is qualified, a license shall be issued upon the filing with the director of a surety bond or cash bond in the penal sum of not less than five thousand dollars ($5,000), or more than twenty thousand dollars ($20,000) as determined by the director based on the size and depth of the wells the applicant proposes to drill, the complexity of the wells, the resource to be recovered, the area of operation of the applicant, and other relevant factors the director determines are in the public interest. The surety or cash bond shall be conditioned upon the proper compliance with the provisions of this chapter, chapter 40, title 42, Idaho Code, and rules and regulations promulgated pursuant thereto. Such bond shall be made payable to the director. A license issued under this section shall expire on June 30 of each year or upon revocation of the license by the director as provided for in this act. The license can be renewed effective July 1 of each year upon written application on forms provided by the director and the filing of a ten dollar ($10.00) renewal fee. The renewal request must be accompanied by a new bond or evidence that the previous bond is still in effect. The renewal may then be granted by the director if he determines that the driller has complied with the rules and regulations promulgated pursuant to this act. The fees collected for the licensing of well drillers shall be deposited in a special fund with the state treasurer with other fees collected by the director.

The licensed driller shall have a card on hand, provided by the director to indicate his present license at all times when he is operating the drilling equipment. The director may also require other identification to be posted on the drilling equipment as he deems helpful in the administration of this act.

(3) Well driller's report. In order to enable a comprehensive survey of the extent and occurrence of the state's ground water resource, every well driller is hereby required to keep a well log and pertinent data concerning each well, and its construction, that is drilled by him in Idaho, including wells excepted under sections 42-227 and 42-228, Idaho Code, and complete a report on forms furnished by the director. These reports shall be properly prepared and signed by the driller and deposited with the director within thirty (30) days following the completion of the well. When the driller signs the report, the driller shall attest that all information on the report is accurate to the best of the driller's knowledge and that the driller has met all minimum well construction standards, low temperature geothermal resource well construction standards and geothermal resource well construction standards as adopted by the water resource board. The report shall become a permanent record in the office of the director for hydrologic and geologic analysis and research, and shall be available for public use. The report shall include such data as the director deems necessary to provide the information that will be valuable for future reference and study.

(4) Well construction standards. The water resource board shall adopt minimum standards for water well construction, low temperature geothermal resource well construction and geothermal well construction in this state under the provisions of chapter 52, title 67, Idaho Code. Such standards shall require each well to be so constructed as

to protect the ground water of the state from waste and contamination and may include additional requirements for wells drilled in "areas of drilling concern" as designated in accordance with subsection (7) of this section. Every licensed well driller will be furnished a copy of the adopted standards by the director of the department of water resources, and will be required to construct each well drilled after July 1, 1987, in compliance with the adopted standards.

(5) Penalties for violation. Drilling of a well without first obtaining a license as required in section 42-238(2), Idaho Code, shall be a criminal misdemeanor, and the employees of the department of water resources are hereby empowered to issue Idaho uniform citations, as provided by the rules of the court for magistrates division of the district court and district court, to any person who drills a well without first obtaining the required license. Failure of the driller to comply with the provisions of section 42-238(3), Idaho Code, will allow the director to proceed to collect the necessary data on the well or wells in any manner available to him, and the cost of this data collection may be charged against the driller's bond in the amount of the expenses incurred up to the total amount of the bond.

Failure of the driller to comply with the provisions of section 42-238(3), Idaho Code, is also cause for the director to revoke an active license, or refuse to renew a license, until such time as the well driller's report or reports are properly completed and on file in the office of the director. If it is found that a driller has intentionally submitted inaccurate or false information in the signed well driller's report as provided in subsection (3) of this section, or has failed to file a report within the time frame required, the driller shall be liable for a civil penalty not in excess of ten thousand dollars ($10,000) which shall be paid into the water administration account. In addition, this shall be cause for the director to suspend an active license for a period not in excess of one (1) year or to not renew a license.

Failure of the driller to comply with the provisions of section 42-238(4), Idaho Code, will allow the director to proceed to repair or reconstruct or plug a well so that it complies with the adopted minimum standards of well construction, and the costs of this work may be charged against the driller's bond in the amount of the expenses incurred up to the total amount of the bond.

Failure of the driller to comply with the provisions of section 42-238(4), Idaho Code, is also cause for the director to revoke an active license or refuse to renew a license until such time as the well driller has repaired or reconstructed the well or wells so that they meet the adopted minimum standards. The director may also require that the well driller present evidence to show that he and his equipment are now capable of constructing a well in a proper manner, before the license is renewed.

(6) Appeals. Refusal to issue, refusal to renew, or revocation of a well driller's license by the director shall be cause for the well driller to seek a public hearing before the water resource board. No formal petition shall be required from the affected driller, but a simple statement, in writing, requesting a hearing shall be sufficient. The board shall notify the driller, and the director, of the date set for the hearing, which shall be at least fifteen (15) days

after the notice is sent by certified mail to the well driller at his address of record with the department. A certified transcript of the proceedings and the evidence received at such hearing shall be maintained by the board. The board shall affirm, modify or reject the director's decision, and make its decision in the form of an order to the director. The hearing shall be conducted in accordance with chapter 52, title 67, Idaho Code, and rules of practice and procedure adopted by the water resource board. Any party to the hearing may seek judicial review of any final order of the water resource board pursuant to sections 67-5215 and 67-5216, Idaho Code.

(7) Drilling in a designated "area of drilling concern". The director of the department of water resources may designate as he determines necessary, "areas of drilling concern" on an aquifer by aquifer basis within which drillers must comply with the additional requirements of this section. The director shall designate "areas of drilling concern" to protect public health and to prevent waste or contamination of ground or surface water because of factors such as aquifer pressure, vertical depth of the aquifer, warm or hot ground water, or contaminated ground or surface waters. It is unlawful for any person not meeting the requirements of this subsection to drill a well for any purpose in a designated "area of drilling concern". Any person drilling a new well or deepening or modifying an existing well for any purpose in an "area of drilling concern" as designated by the director as herein provided shall comply with the following additional requirements:

(a) Additional bonding requirements, as determined by the director, to insure that the well is constructed or abandoned in compliance with the adopted standards for well construction.

(b) Additional experience and knowledge in drilling wells encountering warm water or pressurized aquifers as required by rules and regulations adopted by the water resource board.

(c) Document that specialized equipment needed to drill wells in "areas of drilling concern," as determined by the director, is or will be available to the driller.

(d) Provide a notice of intent to drill, deepen or modify a well, submit plans and specifications for the well and a description of the drilling methods that will be used, as required by the director, and receive the written approval of the director before commencing to drill, deepen, or modify any well in a designated "area of drilling concern".

Prior to designating an "area of drilling concern," the director shall conduct a public hearing in or near the area to determine the public interest concerning the designation. Notice of the hearing shall be published in two (2) consecutive weekly issues of a newspaper of general circulation in the area prior to the date set for hearing.

In the event an area has been designated as an "area of drilling concern" and the director of the department of water resources desires to remove such designation or modify the boundaries thereof, he shall likewise conduct a public hearing following similar publication of notice prior to taking such action.

Approved April 10, 1990.

CHAPTER 367
(S.B. No. 1468, As Amended)

AN ACT

RELATING TO THE OPERATION OF THE STATE YOUTH SERVICES CENTER; AMENDING SECTIONS 33-3501 AND 33-3502, IDAHO CODE, TO CLARIFY THE PURPOSE OF THE FACILITY AND THE ROLE OF THE BOARD OF HEALTH AND WELFARE; AMENDING CHAPTER 35, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3503, IDAHO CODE, SPECIFYING THE BOARD'S POWERS; AND REPEALING SECTION 33-3504, IDAHO CODE.

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

SECTION 1. That Section 33-3501, Idaho Code, be, and the same is hereby amended to read as follows:

33-3501. ESTABLISHMENT. The establishment by law of the Idaho Industrial Training School at St. Anthony, Idaho, is hereby ratified and affirmed, and its operation continued; provided, however, that on and after ~~the effective date of this act~~ July 1, 1974 said ~~school~~ secure facility shall be known and designated as the State Youth Services Center. The purposes of said ~~school~~ secure facility shall be:

(1) ~~T~~the care, control, and rehabilitation of ~~delinquent, handicapped and emotionally disturbed children and to provide for the care, control and discharge of juvenile offenders~~ adjudicated youth offenders meeting standards for admission as adopted by the Idaho supreme court;

(2) The provision pursuant to agreement with the counties of detention services for youth subject to administrative or court order;

(3) The provision of evaluative services for youth committed to the department of health and welfare or referred by courts prior to disposition under the juvenile justice reform act; and

(4) To accept for placement those individuals sentenced to the facility by a district court, or pursuant to agreement with the board of correction, subsequent to waiver of juvenile court jurisdiction.

It is further provided that wherever the term "State Youth Training Center" shall appear in the Idaho Code it shall mean "State Youth Services Center."

SECTION 2. That Section 33-3502, Idaho Code, be, and the same is hereby amended to read as follows:

33-3502. BODY POLITIC AND CORPORATE -- ~~BOARD OF TRUSTEES~~ -- POWERS. The ~~S~~state ~~Y~~youth ~~S~~services ~~C~~center 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 oversight of the state youth services center is vested in the board of health and welfare. The general supervision, government and control of the ~~S~~state ~~Y~~youth ~~S~~services ~~C~~center is vested in the state department of health and welfare. ~~The board of health and welfare shall act as the board of trustees of the State Youth Services Center. The board shall have the power:~~

~~(1)--to--adopt--rules--and--regulations--for-the-government-of-the State-Youth-Services-Center;~~

~~(2)--with-the-advice-of-the-state-board-of-education-to--prescribe the--course--of-study,-which-shall-conform-to-that-commonly-taught,-or required-to-be-taught,-in-the-several-grades-of--the--public--schools, together--with-such-vocational,-technical-and-other-subjects-as-may-be suitable-for-the-students-of-the-center,-and-for-those-pupils-who-complete-the-requirements-for-grade-twelve-(12)-the-state-board-of-education-may-authorize-the-granting-of-a-high-school-diploma.~~

SECTION 3. That Chapter 35, 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 33-3503, Idaho Code, and to read as follows:

33-3503. POWERS OF THE BOARD OF HEALTH AND WELFARE. The board of health and welfare shall have the power to:

(1) Adopt rules and regulations for the state youth services center as may be required by the juvenile justice reform act;

(2) Assure that the education program of the state youth services center shall comply with educational standards for secure juvenile facilities which are approved by the Idaho state board of education or an accrediting association recognized by the Idaho state board of education; and

(3) Provide general oversight of the state youth services center and other secure facilities as required by the juvenile justice reform act, and to visit any secure facility as it deems necessary.

SECTION 4. That Section 33-3504, Idaho Code, be, and the same is hereby repealed.

Approved April 10, 1990.

CHAPTER 368
(S.B. No. 1456)

AN ACT

RELATING TO THE DEPARTMENT OF CORRECTION; AMENDING SECTION 59-1607, IDAHO CODE, TO DELETE THE REQUIREMENT THAT AGRICULTURAL EMPLOYEES OF THE DEPARTMENT OF CORRECTION ARE NOT ELIGIBLE FOR OVERTIME.

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

SECTION 1. That Section 59-1607, Idaho Code, be, and the same is hereby amended to read as follows:

59-1607. HOURS OF WORK -- OVERTIME. (1) It is the policy of the legislature of the state of Idaho that all nonclassified officers and employees of state government shall be treated equally with reference to hours of employment, holidays and vacation leave in the same manner as classified employees, except as provided in this chapter. The pol-

icy of this state shall not restrict the extension of regular work hour schedules on an overtime basis, which shall be the same as for classified employees, in those activities and duties where such extension is necessary and authorized by the appointing authority.

(2) The appointing authority of any department shall determine the necessity for overtime work and shall provide for cash compensation or compensatory time off for such overtime work for eligible nonclassified officers and employees.

(3) Nonclassified officers and employees who fall within one (1) or more of the following categories are ineligible for cash compensation or compensatory time for overtime work:

(a) Elected officials;

(b) Holders of an office or position for which confirmation by the senate is required;

(c) Departmental directors, or equivalent;

(d) Division administrators, or equivalent;

(e) Those included in the definition of section 67-5303(i), Idaho Code~~;~~

~~(f) If he is an agricultural employee for the department of correction.~~

(4) Nonclassified officers and employees who are designated as executive, administrative or professional as provided in section 67-5302, Idaho Code, or who are designated as exempt under any other complete exemption in federal law, and who are not included in the definition of subsection (3) above, shall be ineligible for cash compensation for overtime work unless cash payment is authorized by the state board of examiners for overtime accumulated during unusual or emergency situations, but such nonclassified officers and employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis, shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(5) Nonclassified officers and employees who are not designated as executive, administrative or professional as provided in section 67-5302, Idaho Code, who are not designated as exempt under any other complete exemption in federal law, and who are not included in the definition of subsection (3) above, shall be eligible for cash compensation or compensatory time off from duty for overtime work, subject to the restrictions of applicable federal law. Compensatory time off may be provided in lieu of cash compensation at the discretion of the appointing authority after consultation, in advance, with the employee. Compensatory time off shall be paid at the rate of one and one-half (1 1/2) hours for each overtime hour worked. Compensatory time off which has been earned during any one-half (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2) fiscal year, shall be paid in cash on the first payroll following the close of such succeeding one-half (1/2) fiscal year. Compensatory time not taken at the time of transfer to another appointing authority or upon separation from state service shall be liquidated at the time of such transfer or separation by payment in cash.

Approved April 10, 1990.

CHAPTER 369
(S.B. No. 1363)

AN ACT

ELATING TO THE DISTRIBUTION OF MONEYS CONCERNING TRANSFERS OF CERTIFICATE OF TITLES OF MOTOR VEHICLES; AMENDING SECTION 49-504A, IDAHO CODE, TO REVISE THE DISTRIBUTION FORMULA FOR MONEYS COLLECTED REGARDING THE TRANSFER OF A PREVIOUSLY ISSUED CERTIFICATE OF TITLE TO A MOTOR VEHICLE.

3e It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 49-504A, Idaho Code, be, and the same is ıereby amended 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~~ distributed as follows:

(a) Of the moneys collected pursuant to subsection (1)(a) of this section, ten dollars ($10.00) shall be distributed to the state highway account and fifteen dollars ($15.00) shall be distributed to the county current expense fund of the county where the vehicle is registered.

(b) Of the moneys collected pursuant to subsection (1)(b) of this section, ten dollars ($10.00) shall be distributed to the state highway account and forty dollars ($40.00) shall be distributed to the county current expense fund of the county where the vehicle is registered.

Approved April 10, 1990.

CHAPTER 370
(S.B. No. 1515)

AN ACT

RELATING TO WILDLIFE DEPREDATION; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-122, IDAHO CODE, TO CREATE AN ADVISORY COMMITTEE; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-114, IDAHO CODE, TO CREATE THE BIG GAME PRIMARY DEPREDATION ACCOUNT; AMENDING CHAPTER 1,

TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-115, IDAHO CODE, TO CREATE THE BIG GAME SECONDARY DEPREDATION ACCOUNT; AMENDING SECTION 36-1107, IDAHO CODE, TO PROVIDE FOR CONTROL OF CERTAIN WILD ANIMALS DAMAGING PROPERTY; AMENDING SECTION 36-1108, IDAHO CODE, TO REDESIGNATE; AMENDING CHAPTER 11, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-1108, IDAHO CODE, TO PROVIDE FOR THE CONTROL OF DAMAGE BY ANTELOPE, ELK, DEER OR MOOSE, AND TO PROVIDE FOR COMPENSATION FOR SUCH DAMAGE; AMENDING CHAPTER 11, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-1109, IDAHO CODE, TO PROVIDE FOR THE CONTROL OF DAMAGE TO LIVESTOCK BY BLACK BEARS OR MOUNTAIN LIONS, AND TO PROVIDE FOR COMPENSATION FOR SUCH DAMAGE; AMENDING CHAPTER 11, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-1110, IDAHO CODE, TO PROVIDE FOR THE CONTROL OF DAMAGE BY GRAZING WILDLIFE, AND TO PROVIDE FOR COMPENSATION FOR SUCH DAMAGE.

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

SECTION 1. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-122, Idaho Code, and to read as follows:

36-122. ADVISORY COMMITTEE. (a) There is hereby created the fish and game advisory committee. The committee shall consist of twelve (12) members. Six (6) members of the committee shall be appointed by the director of the department of fish and game to generally represent wildlife interests. Six (6) members of the committee shall be appointed by the director of the department of agriculture to generally represent agricultural interests. At the beginning of each odd-numbered year, the director of the department of agriculture shall appoint a chairman from among his appointees, and the director of the department of fish and game shall appoint a vice-chairman from among his appointees. At the beginning of each even-numbered year, the director of the department of fish and game shall appoint a chairman from among his appointees, and the director of the department of agriculture shall appoint a vice-chairman from among his appointees. The committee shall meet at such times as appropriate, but not less frequently than annually.

(b) The term of office of a member shall be four (4) years, and appointments to fill vacancies shall be for the balance of the unexpired term. Members shall be compensated as provided in section 59-509(b), Idaho Code, and such expenses shall be paid from the big game primary depredation account.

(c) The department of fish and game shall provide staff assistance and support for the committee.

(d) The committee shall have the authority to:

1. Act as a liaison between the commission, landowners, the department of agriculture, the department of fish and game, and wildlife, outdoor recreation and sportsmen's organizations;

2. Act as an independent resource to give advice and recommendations on administration of the programs authorized in sections 36-1108 and 36-1109, Idaho Code.

SECTION 2. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-114, Idaho Code, and to read as follows:

36-114. BIG GAME PRIMARY DEPREDATION ACCOUNT. (a) The big game primary depredation account is hereby established in the dedicated fund. Moneys in the account are subject to appropriation for the purposes recited in section 36-1108, Idaho Code. Interest earned on investment of idle moneys in the account shall be paid to the fish and game account.

(b) The state auditor shall annually, as soon after July 1 of each year as practical, transfer into the account two hundred thousand dollars ($200,000) from the fish and game account. Unexpended and unencumbered balances in the big game primary depredation account existing on June 30 shall revert to the fish and game account.

(c) Moneys in the account may be appropriated only to:

1. Honor payment agreements made pursuant to section 36-1108(b), Idaho Code.

2. Make depredation damages payments pursuant to section 36-1108(c), Idaho Code.

3. Provide for reimbursement of expenses for members of the advisory committee established by section 36-122, Idaho Code.

(d) Any payment for damages pursuant to section 36-1108(c), Idaho Code, is limited by the following conditions and requirements.

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director may order not more than one-third (1/3) of the amount of the approved claim that is to be paid from the big game primary depredation account to be paid immediately, if, in the judgment of the director, such payment is within the estimated total claims liability for that fiscal year from the big game primary depredation account.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game primary depredation account is sufficient to pay the balance of all approved claims, the director shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director shall pay a proportionate share to each claimant.

(C) The director shall encumber the balance of the moneys in the account, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars ($1,000) must be deducted from each such statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from either the big game primary depredation account or the big game secondary depredation account.

(B) The total amount that may be paid from the big game pri-

mary depredation account shall not exceed nine thousand dollars ($9,000) per approved claim.

(C) Approved claims that exceed ten thousand dollars ($10,000) total (one thousand dollars ($1,000) deductible and nine thousand dollars ($9,000) payment from the big game primary depredation account) shall be processed under the provisions of section 36-115, Idaho Code.

(D) Approved claims of any amount that involve damage to livestock by black bear or mountain lion shall be processed under the provisions of section 36-115, Idaho Code.

(E) Approved claims of any amount that involve damage to forage by antelope, deer, elk or moose shall be processed under the provisions of section 36-115, Idaho Code.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

SECTION 3. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-115, Idaho Code, and to read as follows:

36-115. BIG GAME SECONDARY DEPREDATION ACCOUNT. (a) The big game secondary depredation account is hereby created in the dedicated fund. Moneys in the account are subject to appropriation for the purposes recited in section 36-1108(c), Idaho Code, section 36-114(d), Idaho Code, section 36-1109 and section 36-1110, Idaho Code. Moneys in the account shall be invested as provided in section 67-1210, Idaho Code, and interest earned on investment of idle moneys in the account shall be paid to the account. The big game secondary depredation account shall be under the administrative direction of the director of the department of administration.

(b) In addition to any moneys appropriated to the account from other sources, the state auditor shall transfer the earned interest not to exceed two hundred and fifty thousand dollars ($250,000) from the fish and game account to the big game secondary depredation account each fiscal year until a total of one million two hundred fifty thousand dollars ($1,250,000) has been transferred to the account.

(c) The principal amount in the account shall not be appropriated, but only the interest earned on investment of the moneys in the account shall be available for appropriation. The director of the department of administration shall annually report to the legislature, the division of financial management, the state auditor, the director of the department of agriculture and the director of the department of fish and game the amount of interest earnings and the availability of such earnings for appropriation. However, should the balance in the account ever exceed three million dollars ($3,000,000), interest earn-

ings that exceed the amount appropriated for any fiscal year shall be transferred to the fish and game set-aside account for habitat rehabilitation. Transferred funds shall be spent pursuant to an appropriation for the set-aside account.

(d) Any payment for damages pursuant to sections 36-1108(c) and 6-114(d), Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of administration may order not more than one-third (1/3) of the amount of the approved claim that is to be paid from the big game secondary depredation account to be paid immediately, if, in the judgment of the director of the department of administration, such payment is within the estimated total claims liability for that fiscal year from the big game secondary depredation account.

(B) The balance of all unpaid approved claim amounts, including claims submitted under the provisions of sections 36-1109 and 36-1110, Idaho Code, shall be accumulated to a total as of June 30. If the balance in the big game secondary depredation account appropriation is sufficient to pay the balance of all approved claims, the director of the department of administration shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director of the department of administration shall pay a proportionate share to each claimant.

(C) The director of the department of administration shall encumber the balance of moneys appropriated from the big game secondary depredation account, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars ($1,000) must be deducted from each such statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from either the big game primary depredation account or from the big game secondary depredation account, but the owner or lessee is required to absorb only a single one thousand dollar ($1,000) deductible per claim, whether the claim is paid solely from the big game primary depredation account or from both depredation accounts.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

(e) Any claim for damages pursuant to section 36-1109, Idaho

Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of administration may order that not more than one-third (1/3) of the amount of the approved claim to be paid immediately, if, in the judgment of the director of the department of administration, such payment is within the estimated total claims liability for that fiscal year from the big game secondary depredation account.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game secondary depredation account appropriation is sufficient to pay all approved claims, the director of the department of administration shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director of the department of administration shall pay a proportionate share to each claimant.

(C) The director of the department of administration shall encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of five thousand dollars ($5,000) must be deducted from each such statement. This deductible is a net loss to the owner or caretaker, and will not be compensated for from the big game secondary depredation account.

(B) The total amount of all claims that may be paid from the big game secondary depredation account for domestic sheep or cattle losses shall not exceed twenty-five thousand dollars ($25,000) in any one (1) fiscal year.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

(f) Any claim for damages to forage pursuant to section 36-1110, Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of administration may order not more than one-third (1/3) of the amount of the approved claim to be paid immediately, if, in the judgment of the director of the department of administration, such payment is within the estimated total claims liability for that fiscal year from the big game secondary depredation account.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in

the big game secondary depredation account appropriation is sufficient to pay all approved claims, the director of the department of administration shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director of the department of administration shall pay a proportionate share to each claimant.

(C) The director of the department of administration shall encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars ($1,000) must be deducted from each statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from the big game secondary depredation account.

(B) The total amount of all claims for damages to forage that may be paid from the big game secondary depredation account shall not exceed twenty-five per cent (25%) of the amount of interest earned from investments of moneys in that account in any one (1) fiscal year.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

SECTION 4. That Section 36-1107, Idaho Code, be, and the same is hereby amended to read as follows:

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

The director may delegate any of the authority conferred by this section to any other employee of the department.

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

1. Send a representative onto the premises to control, trap, and/or remove such protected wildlife as will stop the damage to said property. Any animals or birds so taken shall remain the

property of the state and shall be turned over to the director.

2. Grant properly safeguarded permission to the complainant to control, trap and/or remove such protected wildlife or to destroy any houses, dams, or other structures erected by said animals or birds. Any protected wildlife so taken shall remain the property of the state and shall be turned over to the director.

3. Whenever deemed to be in the public interest, authorize or cause the removal or destruction of any dam, house, structure or obstruction erected by any furbearing animals, provided that no liability whatever shall accrue to the department or the director by reason of any direct or indirect damage arising from such destruction or removal.

4. Issue a permit to any bona fide owner or lessee of property which is being actually and materially damaged by furbearing animals, to trap or kill or to have trapped or killed such animals on his own or leased premises. Such permit may be issued without cost to a landholder applicant and shall designate therein the number of furbearing animals that may be trapped or killed, the name of the person who the landowner has designated to take such furbearers and the valid trapping license number of the taker. Furbearers so taken shall be the property of the taker. Beaver so taken shall be handled in the manner provided in section 36-1104, Idaho Code. The term "premises" shall be construed to include any irrigation ditch or right-of-way appurtenant to the land for which said permit is issued.

~~5.--Make-an-agreement-with-the-landowner-or-lessee-to--allow--continued-use-by-wildlife-where-damage-by-deer-or-elk-has-occurred-on privately-owned-crops-to-be-mechanically-harvested.-This-agreement may--be--transacted--only-after-department-attempts-to-resolve-the problem-by-other-means-have-proven-unsuccessful.-Financial-compensation-to-any-landowner-or-lessee-shall-not--exceed--two--thousand dollars-($2,000)-annually-and-shall-not-be-in-addition-to-any-payments-for-crop-losses-from-any-other-sources.~~

~~The--provisions--of--this--section-are-not-applicable-on-privately owned-lands-that-were-closed-to-public--hunting--during--the--previous hunting--season,--except-for-land-closures-which-were-coordinated-with the-department-to-protect-property-and-livestock.--Damages--considered under-this-section-shall-be-only-damages-caused-by-wildlife.~~

~~Persons--suffering--crop-damages-on-privately-owned-land-caused-by deer-or-elk-must-notify-the-department-regional-office-within-seventy-two-(72)-hours-after-noticing-such-damage-and--shall--cooperate--fully with-the-department-in-solving-such-problems.~~

~~If--no--action--is-initiated-by-regional-personnel-within-ten-(10) days-of-receiving-a-written-complaint,-the-director-shall-issue-a-permit-under-the-provisions-of-subsection-(a)2.-of-this--section--to--the landowner-or-lessee-to-assist-in-alleviating-the-damage.-If-the-depredation--problem--persists,--the--complainant--may-request-an-alternate solution.~~

~~If-there-is-disagreement-as--to--whether--the--complaint--is--well founded,--it--shall--be--reviewed-by-a-committee-consisting-of-one-(1) member-of-the-fish-and-game-department,-the--landowner,--and--a--third member--agreed--to--by--the--other-two-(2)-members.-Costs-of-necessary inspection-shall-be-borne-by-the-fish-and-game-department.~~

(b) Control of Depredation of Black Bear, Mountain Lion, and Predators. Black bBear, mountain lion, and predators may be disposed of by livestock owners or their employees when same are molesting livestock and it shall not be necessary to obtain any permit from the department. Mountain lion so taken shall be reported to the director. Livestock owners may take steps they deem necessary to protect their livestock.

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

SECTION 5. That Section 36-1108, Idaho Code, be, and the same is hereby amended to read as follows:

36-11208. PENALTIES. (a) Any person violating any of the provisions of this title with respect to methods of take, seasons or limits relating to mountain lion, and bear, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and/or by commitment to jail for a period of not more than six (6) months.

(b) Any person violating the provisions of this chapter with respect to the protection of buffalo and caribou shall be guilty of a misdemeanor and shall be fined in a sum of not less than one hundred fifty dollars ($150) nor more than one thousand dollars ($1,000) and/or by commitment to jail for not more than six (6) months.

(c) Any person violating any of the provisions of this chapter for which no penalty is specified shall be guilty of a misdemeanor and subject to the penalty prescribed by section 36-1402, Idaho Code.

SECTION 6. That Chapter 11, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-1108, Idaho Code, and to read as follows:

36-1108. CONTROL OF DAMAGE BY ANTELOPE, ELK, DEER OR MOOSE -- COMPENSATION FOR DAMAGES. (a) Prevention of depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from wildlife or to mitigate damages by wildlife. When any antelope, elk, deer or moose is doing damage to or is destroying any property or is likely to do so, the owner or lessee thereof may make complaint and report the facts to the director or his designee who shall, within seventy-two (72) hours, investigate the conditions complained of. If it appears that the complaint is well founded and the property of the complainant is being or is likely to be damaged or destroyed by such antelope, elk, deer or moose, the director may:

1. Send a representative onto the premises to control, trap, and/or remove such animals as will stop the damage to said property. Any animals so taken shall remain the property of the state and shall be turned over to the director.
2. Grant properly safeguarded permission to the complainant to

control, trap and/or remove such animals. Any animals so taken shall remain the property of the state and shall be turned over to the director.

(b) Make an agreement with the owner or lessee to allow continued use of lands by the animals where damage by them has occurred to stored, growing or matured crops on private property whether owned or leased. This agreement may be transacted only after department attempts to resolve the problem by other means have proven unsuccessful. The agreement made under the provisions of this subsection may provide for financial compensation to the owner or lessee. If made, financial compensation under the provisions of this subsection shall be governed by the provisions of section 36-114, Idaho Code, and shall not be in addition to any payments for crop losses from any other source. Compensation for damages under the provisions of this subsection shall be available for damages done to private lands, whether owned or leased, if the owner or lessee allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season. This provision shall not negate the provisions of section 36-1602, Idaho Code, relating to the necessity of obtaining permission to enter private land. If necessary, the arbitration panel provided for in subsection (c) of this section shall determine the reasonableness of access allowed.

(c) If there is no agreement made under the provisions of subsection (b) of this section, then persons suffering crop damages on privately owned or leased land caused by antelope, elk, deer or moose must so notify the department's regional office within seventy-two (72) hours. The notice of damages caused must be in written form, shall be in the form of a claim for damages substantially the same as required by section 6-907, Idaho Code, shall be attested to by the claimant under oath, and the claim shall be at least one thousand dollars ($1,000). The department shall prepare and make available suitable forms for notice and claim for damages. Claims may be submitted only for the fiscal year (July 1 through June 30) in which they occurred. Any person submitting a fraudulent claim shall be punished as provided in section 18-2706, Idaho Code.

1. Upon receipt by the department, the department shall review the claim, and if approved, pay it as provided in section 36-114, Idaho Code, or order it paid as provided in section 36-115, Idaho Code. Failure on the part of the owner or lessee to allow on-site access shall negate the claim for damages.

2. If the department finds that damage has indeed occurred, the department may pay the amount of the damages as claimed, or, may make a counter offer to pay damages. If the owner rejects the department's offer, which rejection or refusal must be in writing, the provisions of paragraph 3. shall apply.

3. Within five (5) working days of the owner's or lessee's refusal to accept or reject an offer to pay damages, or within five (5) working days after the department finds that no damage has in fact been sustained, the director must appoint an arbitration panel to review the claim for damages. The arbitration panel shall consist of three (3) members, as follows:

(A) The director of the department of fish and game or his designee;

(B) The owner or his designee, or the lessee or his designee;

(C) One (1) member selected by the two (2) members above.

The panel shall convene at the call of the owner or his designee. When convened, the arbitration panel shall have the same authority to make on-site inspections as the department. The owner or lessee shall be responsible for payment of the expenses of his appointee; the director shall pay the expenses of his appointee from the big game primary depredation account; and the expenses of the third member shall be a joint responsibility of the owner or lessee, and the department. The panel shall consider the claim submitted by the owner or lessee, and the estimate of damages determined by the department, and shall select one (1) amount or the other. The arbitration panel shall report its decision in writing to both the owner or lessee and to the department within ten (10) days of appointment, and the decision of the panel shall be binding on the owner or lessee and the department.

(d) Any claim received by the department under the provisions of subsection (c) of this section must be finally decided within sixty (60) calendar days of receipt by the department. If the claim is approved for payment, payment must be made within forty-five (45) calendar days of such approval.

SECTION 7. That Chapter 11, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-1109, Idaho Code, and to read as follows:

36-1109. CONTROL OF DAMAGE BY BLACK BEARS OR MOUNTAIN LIONS -- COMPENSATION FOR DAMAGE. (a) Prevention of depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from black bears or mountain lions or to mitigate damage by such. The director, or his representative, will consult with appropriate land management agencies and landusers before transplanting or relocating any black bear or mountain lion.

(b) When any black bear or mountain lion has done damage to or is destroying livestock on public, state, or private land, whether owned or leased, the owner or his representative of such livestock shall, for the purposes of filing a claim, report such loss to a representative of the U.S. department of agriculture animal plant and health inspection services/animal damage control (APHIS/ADC) who shall, within seventy-two (72) hours, investigate the conditions complained of. If it appears that the complaint is well founded and livestock of the complainant has been damaged or destroyed by such black bear or mountain lion, APHIS/ADC shall so inform the director or the department's regional office of the extent of physical damage or destruction in question. The physical damages, without establishing a monetary value thereon, as determined by the APHIS/ADC representative shall be final, and shall be binding upon the owner or his representative and on the department.

c. Any claim for damages must be in written form, shall be in the form of a claim for damages substantially the same as required in sec-

tion 6-907, Idaho Code, shall be attested to by the claimant under oath, and the claim shall be for an amount of at least five thousand dollars ($5,000) in damages per occurrence. The department shall prepare and make available suitable forms for claims for damages. Claims may be submitted only for the fiscal year (July 1 through June 30) in which they occurred. Any person submitting a fraudulent claim shall be punished as provided in section 18-2706, Idaho Code.

1. Upon receipt by the department, the department shall review the claim, and if approved, pay it as provided in section 36-115, Idaho Code. Failure on the part of the owner or representative to allow on-site access shall negate the claim for damages.

2. If the department accepts the claim for damages as submitted by the owner or his representative, the department may approve the claim for payment, or may make a counter offer. If the owner or his representative rejects the department's counter offer, this rejection or refusal must be in writing and submitted within five (5) working days. The value of the damage or destruction will then be determined by arbitration as set forth in section 36-1108, Idaho Code. Any claim received by the department under the provisions of this section must be finally decided within sixty (60) calendar days of receipt by the department. If the claim is approved for payment, the claim must be immediately forwarded to the department of administration for payment.

SECTION 8. That Chapter 11, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-1110, Idaho Code, and to read as follows:

36-1110. CONTROL OF DAMAGE BY GRAZING WILDLIFE -- COMPENSATION FOR DAMAGE. (a) Prevention of depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from grazing wildlife on private lands, whether owned or leased, or to mitigate damage by such. When any grazing wildlife is doing damage to or is destroying forage on private lands, whether owned or leased, the owner or lessee thereof may make a complaint and report the facts to the director or his designee who shall, within seventy-two (72) hours, investigate the conditions complained of. If it appears that the complaint is well founded and the forage is being or is likely to be damaged or destroyed or consumed by grazing wildlife, the owner or lessee shall contract with a qualified range management consultant to prepare an estimate of depredation based on his inspection. The cost of the consultant shall be paid by the owner or lessee.

(b) Claims submitted under the provisions of this section shall be limited to loss of forage on private lands, whether owned or leased, and shall be processed under the provisions of section 36-1108(c), Idaho Code, and approved claims shall be paid under the provisions of section 36-115(f), Idaho Code.

Approved April 10, 1990.

CHAPTER 371
(S.B. No. 1348, As Amended in the House)

AN ACT

RELATING TO HOLIDAYS; AMENDING SECTION 67-5302, IDAHO CODE, TO DESIGNATE THE THIRD MONDAY IN JANUARY AS MARTIN LUTHER KING, JR.-IDAHO HUMAN RIGHTS DAY; AMENDING SECTION 73-108, IDAHO CODE, TO DESIGNATE THE THIRD MONDAY IN JANUARY AS MARTIN LUTHER KING, JR.-IDAHO HUMAN RIGHTS DAY; AND REPEALING SECTION 73-108A, IDAHO CODE.

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

SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, 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. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified, appointed to a position which meets the following criteria:

1. (a) Responsible office or nonmanual work directly related to the management policies of a department or section; or
   (b) Responsible work that is directly related to academic instruction or training carried on in the administration of a school system or educational establishment; and
2. The employee must customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures. The employee must have the authority to make important decisions; and
3. The employee must:
   (a) Regularly assist a bona fide executive or administrative employee; or
   (b) Perform work under general supervision along specialized or technical lines requiring special training, experience or knowledge; or
   (c) Execute under only general supervision special assignments; and
4. The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.
5. Final designation of a classified position as "administrative" within this definition shall be made by the Idaho personnel commission.

(2) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(3) "Class" means a group of positions sufficiently similar as

to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics, that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(4) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

(5) "Commission" means the Idaho personnel commission.

(6) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(7) "Department" means any department, agency, institution or office of the state of Idaho.

(8) "Eligible" means a person who has been determined to be qualified for a classified position and whose name has been placed on the register of eligibles.

(9) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section 67-2402, Idaho Code, or any employee meeting the following criteria:

1. An individual whose primary duty is management of a department, division or section; and

2. Who customarily and regularly directs the work of at least two (2) or more other employees therein; and

3. Who has the authority to hire and fire, or to recommend hiring and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and

4. Who customarily and regularly exercises discretionary powers; and

5. Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.

6. Final designation of a classified position as "executive" in this definition shall be made by the Idaho personnel commission.

(10) "Exempt employee" means any employee, classified or nonclassified, who is determined to be an executive, professional or administrative employee as defined herein, or who qualifies for any other exemption from cash compensation for overtime under applicable federal law. Final designation of a classified position as exempt shall be made by the Idaho personnel commission.

(11) "Full-time employee" means any employee working a forty (40) hour work week.

(12) "Holiday" means the following:

January 1 (New Year's Day);
<u>Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);</u>
Third Monday in February (Washington's Birthday);
Last Monday in May (Decoration Day);
July 4 (Independence Day);
First Monday in September (Labor Day);
Second Monday in October (Columbus Day);

November 11 (Veteran's Day);
Fourth Thursday in November (Thanksgiving);
December 25 (Christmas).

In addition, the term "holiday" shall mean any day so designated by the president of the United States or the governor of this state for a public fast, thanksgiving or holiday.

In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

A holiday is a day of exemption from work granted to employees during which said employees shall be compensated as if they actually worked.

(13) "Hours worked" means those hours actually spent in the performance of the employee's job and shall not include holidays, vacation or sick leave or other approved leave of absence.

(14) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of chapter 53, title 67, Idaho Code, as provided for in section 67-5303, Idaho Code.

(15) "Normal work week" means any forty (40) hours worked during a particular one hundred and sixty-eight (168) hour period as previously established by the employee's appointing authority.

(16) "Open competitive examination" means an examination which may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

(17) "Overtime work" means time worked on holidays and time worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter.

(18) "Participating department" means any department of the state of Idaho which employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(19) "Part-time employee" means any employee whose usually scheduled work is less than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours.

(20) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(21) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(22) "Political organization" means a party which sponsors candidates for election to political office.

(23) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(24) "Professional employee" means any person, nonclassified or classified, appointed to a position which meets the following criteria:

1. The employee's primary duty must be either:

(a) Work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study; or

(b) Work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on his invention, imagination, or talent; or

(c) Work as a teacher certified or recognized as such in a school system or educational institution by which he is employed; and

2. The employee must consistently exercise discretion and judgment; and

3. The employee must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

4. The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.

5. Final designation of a classified position as "professional" within this definition shall be made by the Idaho personnel commission.

(25) "Provisional appointment" means appointment to a classified position pending the establishment of a register for such position and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(26) "Qualifying examination" means an examination given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(27) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the commission.

(28) "Seasonal appointment" means an appointment to a position which is permanent in nature, but which has intermittent work periods throughout the year.

(29) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(30) "Temporary appointment" means appointment to a position which is not permanent in nature, and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department.

(31) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

SECTION 2. That Section 73-108, Idaho Code, be, and the same is hereby amended to read as follows:

73-108. HOLIDAYS ENUMERATED. Holidays, within the meaning of

these compiled laws, are:

Every Sunday;
January 1 (New Year's Day);
Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);
Third Monday in February (Washington's Birthday);
Last Monday in May (Decoration Day);
July 4 (Independence Day);
First Monday in September (Labor Day);
Second Monday in October (Columbus Day);
November 11 (Veterans Day);
Fourth Thursday in November (Thanksgiving Day);
December 25 (Christmas);

Every day appointed by the President of the United States, or by the governor of this state, for a public fast, thanksgiving, or holiday.

Any legal holiday that falls on Saturday, the preceding Friday shall be a holiday and any legal holiday enumerated herein other than Sunday that falls on Sunday, the following Monday shall be a holiday.

SECTION 3. That Section 73-108A, Idaho Code, be, and the same is hereby repealed.

Approved April 10, 1990.

CHAPTER 372
(H.B. No. 688, As Amended)

AN ACT

RELATING TO CERTAIN FEES CHARGED FOR PERMITS, LICENSES AND TAGS; AMENDING SECTION 36-104, IDAHO CODE, TO CORRECT A CODIFIER'S ERROR; AMENDING SECTION 36-107, IDAHO CODE, TO PROVIDE FOR THE USE OF MONEYS FROM CERTAIN LICENSES AND TAGS; AMENDING SECTION 36-406, IDAHO CODE, TO INCREASE THE FEES FOR RESIDENT COMBINATION FISHING AND HUNTING LICENSES, YOUTH COMBINATION HUNTING AND FISHING LICENSES, YOUTH FISHING LICENSES, AND SENIOR RESIDENT COMBINATION FISHING AND HUNTING LICENSES, TO PROVIDE FOR A RESIDENT TWO DAY UPLAND GAME HUNTING LICENSE AND A RESIDENT TWO DAY DEER HUNTING LICENSE; AMENDING SECTION 36-407, IDAHO CODE, TO INCREASE THE FEES FOR NONRESIDENT SEASON FISHING LICENSES; AMENDING SECTION 36-409, IDAHO CODE, TO INCREASE THE FEES FOR RESIDENT ELK, DEER AND MOUNTAIN LION TAGS, AND NONRESIDENT ELK, DEER, MOUNTAIN LION AND BEAR TAGS, TO INCREASE THE FEES FOR ARCHERY AND MUZZLELOADER PERMITS, TO PROVIDE FOR A RESIDENT DEER, ELK AND BEAR TAG 'PAK', AND TO CORRECT A TYPOGRAPHICAL ERROR; AND PROVIDING AN EFFECTIVE DATE.

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 elected 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 ~~commission~~ 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 therefor 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 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 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 commis-

sion;

(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.

SECTION 2. That Section 36-107, Idaho Code, be, and the same is hereby amended to read as follows:

36-107. FISH AND GAME ACCOUNT. (a) Creation of Account. The director shall promptly transmit to the state treasurer all moneys received by him, from the sale of hunting, fishing and trapping licenses, tags and permits or from any other source connected with the administration of the provisions of the Idaho fish and game code or any law or regulation for the protection of wildlife and the state treasurer shall deposit all such moneys in a special account to be known as the "fish and game account," which is hereby established, reserved, set aside, appropriated, and made available until expended as may be directed by the commission in carrying out the purposes of the Idaho fish and game code or any law or regulation promulgated for the protection of wildlife, and shall be used for no other purpose.

(b) Control of Expenditures. The commission shall govern the financial policies of the department and shall, as provided by law, fix the budget for the operation and maintenance of its work for each fiscal year. Said budget shall not be exceeded by the director.

(c) Big Game Range and Upland Game Bird and Waterfowl Management Moneys. For the purpose of acquiring access and acquiring and rehabilitating big game ranges and upland game bird and waterfowl habitats, the director shall set aside moneys within the fish and game account in an amount equal to two dollars ($2.00) for each combination and/or each hunting license sold as provided in sections 36-406 and 36-407, Idaho Code, provided that class 4 licenses, as provided for in section 36-404, Idaho Code (senior resident licenses issued to persons sixty-five (65) years of age and older), shall be exempt from the provisions of this subsection.

Said moneys shall be used only for acquiring access and for the acquisition and rehabilitation of big game ranges and upland game bird and waterfowl habitat. Unless it is inconsistent with the goals of the commission, it is the intent of the legislature of the state of Idaho that the commission negotiate lease arrangements as compared to outright purchase of private property.

(d) Predatory Animal Moneys. The director shall set aside from the state fish and game account the sum of not less than fifty thousand dollars ($50,000) per annum which amount shall be used by the director in the control of predatory animals and predatory birds. Provided further that any moneys which the director may derive from the sale of furs, taken under the provisions of this section, shall be deposited into the fish and game account.

(e) Fish and Game Trust Account. The director may receive on behalf of the department any money or real or personal property donated, bequeathed, devised, or conditionally granted to the depart-

ment. Such moneys received directly or derived from the sale of such property shall be deposited by the state treasurer in a special account in the agency asset fund to be known as the "fish and game trust account," which is hereby established, reserved, set aside, appropriated and made available until expended, used, and administered to carry out the terms or conditions of such donation, bequest, devise, or grant, or in the absence of such terms or conditions, the commission may expend, use, and administer such funds as it may deem advisable in the public interest and in accordance with the policies set forth in the Idaho fish and game code.

Pending such expenditure or use, surplus moneys in the fish and game trust account shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the fish and game trust account.

(f) Nongame Management Moneys. For the purpose of the management and protection of nongame species of wildlife in this state, the director shall set aside moneys within the fish and game trust account in an amount equal to the amount designated by individuals in accordance with section 63-3067A, Idaho Code. The commission shall cause a nongame management and protection program to be developed. Said moneys shall be used only for this purpose.

(g) Big Game Winter Feeding and Control Moneys. The director shall set aside moneys within the fish and game trust account in an amount equal to one dollar and fifty cents ($1.50) for each elk, deer, and antelope tag sold as provided in section 36-409, Idaho Code. These moneys shall be used only for the purposes of winter feeding of big game species of wildlife, control of depredation of private property by big game species of wildlife, and control of predators affecting big game species of wildlife. When the balance of set-aside moneys available exceeds the sum of four hundred thousand dollars ($400,000), the director may use the amount in excess of four hundred thousand dollars ($400,000) for rehabilitation of winter range for big game species of wildlife.

(h) Steelhead and Anadromous Salmon Permit Moneys. The director shall deposit three dollars ($3.00) of each fee collected pursuant to section 36-410, Idaho Code, with the state treasurer for deposit in the fish and game account. Such funds shall be accounted for separately within the account and shall be used for the acquisition, development and maintenance of parking areas, access sites, boat ramps and sanitation facilities in salmon and steelhead fishing areas, for management of and research and for technical assistance with litigation concerning steelhead and anadromous salmon originating in Idaho.

(i) The sum of two dollars ($2.00) from each license authorized in sections 36-406(a) and 36-407(b). Idaho Code. which entitle a person to fish, shall be used for the construction, repair, or rehabilitation of state fish hatcheries, fishing lakes, or reservoirs.

(j) The department is authorized to expend up to one dollar and fifty cents ($1.50) from each resident deer and elk tag sold and five dollars ($5.00) from each nonresident deer and elk tag sold to fund the department's big game landowner-sportsman's relations program.

SECTION 3. That Section 36-406, Idaho Code, be, and the same is

hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of ~~fifteen~~ twenty dollars ($~~15~~20.00) for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, ~~ten~~ fifteen dollars ($10~~5~~.00) for a fishing license entitling the purchaser to fish in the public waters of the state, six dollars ($6.00) for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and twenty-five dollars ($25.00) for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

(b) Youth Licenses -- Hunting -- Trapping. A license of the second class may be had by a person possessing the qualifications therein described on payment of four dollars ($4.00) for a hunting license, and five dollars ($5.00) for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Youth Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of ~~nine~~ ten dollars ($9~~1~~0.00) for a combined fishing and hunting license, and ~~six~~ seven dollars ($6~~7~~.00) for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of ~~three~~ four dollars ($~~3~~4.00) for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-411, Idaho Code, before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of sixty-nine dollars ($69.00) entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, and archery hunt permit, a muzzleloader permit, an upland game permit, a migratory waterfowl stamp, a steelhead trout permit and an anadromous salmon permit. All persons authorized to sell such license shall charge a commission of one dollar ($1.00) for each license sold, to be retained by them as compensation for sale of the license. This shall be in addition to the sixty-nine dollar ($69.00) charge. The director shall promptly transmit to the state treasurer

all moneys received pursuant to this subsection for deposit and set aside in those accounts as specified in subsections (a), (c) and (g) of section 36-107, Idaho Code, provided that three dollars ($3.00) shall be deposited and set aside for the purposes set forth in subsection (h) of section 36-107, Idaho Code, and in subsection (h) of section 36-409, Idaho Code, and that two dollars ($2.00) shall be deposited and set aside for the purposes set forth in section 36-414, Idaho Code. All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules and regulations of the commission regarding the fish and wildlife of the state.

(g) Resident Two Day Upland Game Hunting License. A license of the first class may be had by a person possessing the qualifications therein described on payment of five dollars ($5.00) entitling the purchaser to hunt upland game birds (to include turkeys), doves, cottontail rabbits, and pygmy rabbits for any two (2) days during established seasons. A person holding this license is exempt from the requirement to purchase a separate upland game permit as required in section 36-409(h), Idaho Code. Notwithstanding the requirement of section 36-107(c), Idaho Code, the director shall set aside the entire amount of this license for the purposes specified in section 36-409(h), Idaho Code.

(h) Resident Two Day Deer Hunting License. A license of the first class may be had by a person possessing the qualifications therein described on payment of ten dollars ($10.00) entitling the purchaser to hunt deer for any two (2) days during established seasons. With payment of the required fee, a person shall receive a deer tag.

SECTION 4. That Section 36-407, Idaho Code, be, and the same is hereby amended to read as follows:

36-407. NONRESIDENT FISHING, HUNTING, AND TRAPPING LICENSES -- FEES -- RIGHTS UNDER. Licenses of the sixth class shall be issued to nonresidents in the several kinds and for fees as follows:

(a) Nonresident Hunting License. A license issued only to a person twelve (12) years of age or older entitling said person to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals and predatory birds and animals and to purchase game tags as provided in section 36-409(b), Idaho Code. A license of this kind may be had upon payment of eighty-five dollars ($85.00).

(b) Nonresident Season Fishing License. A license entitling a person to fish in the public waters of the state. A license of this kind may be had by persons fourteen (14) years of age or older upon payment of ~~thirty-five~~ forty dollars (~~$35~~40.00).

(c) Nonresident Trapping License. A license entitling a person to trap fur-bearing, unprotected, and predatory animals. A license of this kind may be had upon payment of one hundred and fifty dollars ($150) providing the state of residence of said person grants similar trapping license privileges to residents of Idaho.

(d) Nonresident Nongame License. A license entitling a person to carry a shotgun or rifle for the protection of livestock, or to pursue, hunt and kill unprotected birds and animals and predatory birds and animals of this state. A license of this kind may be had by a nonresident person who is twelve (12) years of age or older upon payment

of ten dollars ($10.00). This license shall be valid only during the period of January 1 to August 31 of the calendar year in which issued, unless verified by the director that the licensee requires such a license to authorize him to carry a shotgun or rifle for the protection of livestock, in which case said license shall be valid until December 31 of the year in which issued.

(e) Nonresident Ten Day Fishing License. A license entitling a person to fish in the waters of the state for a period of ten (10) consecutive days only. A license of this kind may be had upon payment of seventeen dollars ($17.00).

(f) Nonresident Three Day Fishing License. A license entitling a person to fish in the waters of the state for a period of three (3) consecutive days only. A license of this kind may be had upon payment of ten dollars ($10.00).

(g) Nonresident Two Day Hunting License. A license issued only to a person twelve (12) years of age or older, entitling the person to hunt upland game birds (to include turkeys), migratory game birds, cottontail rabbits, and pygmy rabbits for any two (2) consecutive days. A person holding this license may not hunt pheasants in an area during the first five (5) days of the pheasant season in that area. A license of this type may be had upon payment of forty-five dollars ($45.00).

(h) Nonresident Falconry Hunting License. A license entitling a person possessing a valid falconry permit in a state or province other than Idaho, to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals, migratory waterfowl and to purchase any tags or stamps required, may be had upon payment of seventy-five dollars ($75.00). The director may issue a special permit for a regulated meet scheduled for a specific number of days upon payment of ten dollars ($10.00). Only trained raptors may be used under a license or special permit issued under the provisions of this subsection.

(i) Daily Fishing License -- Resident May Purchase. A license entitling a person to fish in the waters of the state on a day-to-day basis. A license of this kind may be had by a resident or nonresident person (the provisions of section 36-405, Idaho Code, notwithstanding), upon payment of five dollars ($5.00) per day for each effective day thereof.

(j) Nonresident Three Day Fishing License with Steelhead or Salmon Permit. A license entitling a nonresident to fish in the waters of the state for a period of three (3) consecutive days for steelhead trout or anadromous salmon during an open season for those fish may be had upon payment of twenty dollars ($20.00). The three (3) day license holder may fish for and take one (1) steelhead trout and one (1) anadromous salmon or either two (2) steelhead trout or two (2) anadromous salmon subject to the limitations prescribed in this title and rules and regulations promulgated by the commission. A nonresident may purchase as many of the licenses provided in this subsection as he desires provided that the nonresident is otherwise eligible to do so. Moneys collected pursuant to this subsection shall be remitted in a manner in accordance with section 36-107(h), Idaho Code.

SECTION 5. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- ARCHERY PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, or turkey in accordance with the laws of this state and regulations promulgated by the commission; provided further, that the holder of a senior resident permit may be issued a bear, deer or elk tag without charge; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (r) of section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a hunting license, as provided in section 36-407(a), Idaho Code, or has obtained a license to hunt, as provided in section 36-406(e), Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear or turkey in accordance with the laws of this state and regulations promulgated by the commission.

(c) Schedule of Game Tag Fees.

Game	Resident	Nonresident
Moose	$60.00	$500.00
Bighorn Sheep	60.00	500.00
Mountain Goat	60.00	500.00
Elk	~~13.50~~ 15.00	~~235~~250.00
Deer	~~7.50~~ 9.00	~~90~~125.00
Antelope	26.50	90.00
Mountain Lion	~~10.00~~ 25.00	~~100~~125.00
Bear	6.00	~~90~~125.00
Turkey	6.00	25.00
Deer, Elk and Bear 'Pak'	29.00	not applicable

(d) Game Tags Required -- To Be Endorsed on License. The appropriate tag must be had for the hunting or taking of each and every one (1) of the aforementioned wildlife. Provided, however, that the requirements for a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. All of said tags are to bear and have serial numbers to be endorsed on the purchaser's license by the vendor at the time of sale.

(e) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission regulation.

(f) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any persons participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased at a fee of ~~five~~ seven dollars and fifty cents ($~~5.00~~7.50).

(g) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically des-

ignated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased at a fee of ~~five~~ seven dollars and fifty cents (~~$5.00~~7.50).

(h) Upland Game Permit. The commission may, under rules and regulations as it may prescribe, issue an upland game permit that must be purchased by all persons over sixteen (16) years of age prior to hunting upland game, provided that a permit shall not be required to hunt forest grouse (blue, ruffed or spruce), sharp-tailed grouse, sage grouse, mourning dove, turkey, cottontail rabbit, pygmy rabbit or snowshoe hare. The fee for such a permit shall be be five dollars ($5.00) and the proceeds from the sale of such permits shall be utilized for the acquisition of state and federal lands or interests of less than fee simple in private lands and the development, management, improvement, sale or exchange of upland game habitat. This subsection shall be null and void and of no force and effect on and after July 1, 1995.

(i) Penalty. Failure to comply with any of the provisions of this section shall constitute a misdemeanor.

SECTION 6. This act shall be in full force and effect on and after January 1, 1991.

Approved April 10, 1990.

CHAPTER 373
(S.B. No. 1649)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1991; APPROPRIATING MONEYS TO THE FISH AND GAME ACCOUNT FOR FISCAL YEAR 1990; AND DECLARING AN EMERGENCY.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Fish and Game not exceed the following amount for the period July 1, 1990, through June 30, 1991:

FOR:		
Personnel Costs	$18,005,000	
Operating Expenditures	12,160,300	
Capital Outlay	4,427,900	
Trustee and Benefit Payments	400,000	
TOTAL	$34,993,200	
FROM:		
Fish and Game Account	$18,669,500	
Fish and Game Set-aside Account	2,476,500	
~~Primary Depredation Account~~	~~200,000~~	*
~~Secondary Depredation Account~~	~~100,000~~	*
Fish and Game Federal Account	13,231,800	

Fish and Game Expendable Trust Account	279,900
Fish and Game Nonexpendable Trust Account	35,500
TOTAL	$34,993,200

SECTION 2. There is hereby appropriated to the Department of Fish and Game 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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game Account	$1,307,400	$1,061,900	$ 71,100	$100,000	$2,540,400
Fish and Game Set-aside Account	11,700	10,400			22,100
Fish and Game Federal Account	1,301,400	621,100	296,900		2,219,400
TOTAL	$2,620,500	$1,693,400	$368,000	$100,000	$4,781,900
II. ENFORCEMENT:					
FROM:					
Fish and Game Account	$3,927,100	$ 879,600	$ 469,900		$ 5,276,600
III. FISHERIES:					
FROM:					
Fish and Game Account	$2,256,000	$1,657,500	$ 983,300		$ 4,896,800
Fish and Game Set-aside Account	30,900	53,500			84,400
Fish and Game Federal Account	3,744,500	2,876,000	1,152,700		7,773,200
Fish and Game Expendable Trust Account	70,300	29,600	180,000		279,900
Fish and Game Nonexpendable Trust Account		31,100			31,100
TOTAL	$6,101,700	$4,647,700	$2,316,000		$13,065,400
IV. WILDLIFE:					
FROM:					
Fish and Game Account	$1,932,600	$1,503,000	$ 276,100		$ 3,711,700
Fish and Game Set-aside Account	68,500	27,500			96,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Federal Account	1,551,100	1,083,900	53,900		2,688,900
Fish and Game Nonexpendable Trust Account	2,500	1,900			4,400
TOTAL	$3,554,700	$2,616,300	$ 330,000		$ 6,501,000
V. INFORMATION AND EDUCATION:					
FROM:					
Fish and Game Account	$ 657,900	$ 483,300	$ 54,200		$ 1,195,400
Fish and Game Federal Account	81,600	77,800	31,900		191,300
TOTAL	$ 739,500	$ 561,100	$ 86,100		$ 1,386,700
VI. ENGINEERING:					
FROM:					
Fish and Game Account	$ 531,300	$ 51,000	$ 86,400		$ 668,700
Fish and Game Federal Account	36,400	17,500			53,900
TOTAL	$ 567,700	$ 68,500	$ 86,400		$ 722,600
VII. PROGRAM COORDINATION:					
FROM:					
Fish and Game Account	$ 218,500	$ 56,600	$ 2,400		$ 277,500
Fish and Game Federal Account	190,700	110,900	3,500		305,100
TOTAL	$ 409,200	$ 167,500	$ 5,900		$ 582,600
VIII. WINTER FEEDING, DEPREDATION CONTROL, AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game Account	$ 54,900	$ 24,500	$ 23,000		$ 102,400
~~Primary Depredation Account~~				~~$200,000~~	~~200,000*~~
~~Secondary Depredation Account~~				~~100,000~~	~~100,000*~~
Fish and Game Set-aside Account	29,700	1,501,700	742,600		2,274,000
TOTAL	$ 84,600	$ 1,526,200	$ 765,600	$300,000	$ 2,676,400
GRAND TOTAL	$18,005,000	$12,160,300	$4,427,900	$400,000	$34,993,200

SECTION 3. There is hereby appropriated $33,000 from the General Account to the Fish and Game Account pursuant to an Attorney General's

opinion regarding Fish and Game Account interest earnings.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after its passage and approval.

* Line Item Veto
Approved April 10, 1990.

CHAPTER 374
(S.B. No. 1507)

AN ACT

RELATING TO RACING AND PARI-MUTUEL WAGERING; AMENDING SECTION 54-2512, IDAHO CODE, TO PROVIDE FOR THE CONDUCT OF PARI-MUTUEL WAGERING BY A LICENSEE ON RESULTS OF SIMULCASTING AND/OR TELEVISED RACES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-2512, Idaho Code, be, and the same is hereby amended to read as follows:

54-2512. PARI-MUTUEL BETTING -- OTHER BETTING ILLEGAL. (1) Any licensee conducting a race meet under this act may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct and supervise the use of the pari-mutuel system by patrons on the result of the races conducted by such licensee at such race meet and, upon written application by a licensee and approval by the commission, on the result of ~~out-of-state,~~ simulcast and/or televised races ~~limited only to the Kentucky Derby, the Preakness, the Belmont, the Travers, and the All-American Futurity Race, provided that such races coincide with the conduct by the licensee of a race meet licensed by the commission.~~

(2) Licenses authorizing simulcast and/or televised races will be regulated by the commission, in addition to their other responsibilities, for the purpose of enhancing, promoting, and protecting the live race industry in the state of Idaho. No license authorizing simulcasting and/or televised races shall be issued where live race meets have not been conducted annually at the facility named in the application during the preceding two (2) years and, with the exception of pari-mutuel greyhound racing, no license authorizing simulcasting and/or televised races shall be granted if such live race meet facility does not run at least ninety percent (90%) of the number of live races that were conducted in 1989.

(3) (a) The commission shall not grant a license that allows a simulcast and/or televised broadcast to occur within seventy-five (75) miles of a licensed live race meet at another facility within the state, without written permission from each facility involved.

(b) In addition to the restrictions recited in paragraph (a) of this subsection, in counties whose population exceeds one hundred

fifty thousand (150,000), the commission shall not grant a license that allows a simulcast and/or televised broadcast to occur within the fourteen (14) days prior to a licensed live race meet at another facility within the state, without written permission from each facility involved.

(4) To further protect the live race industry, a petition, signed by not less than seventy-five (75) bona fide owners, breeders and/or trainers may be submitted to the commission which will require a public hearing to be held regarding the reissuance of a license authorizing simulcasting and/or television broadcasting of races.

Such pari-mutuel system conducted at such race meet shall not under any circumstances, if conducted under the provisions of this act and in conformity thereto and to the rules and regulations of the commission, to be held or construed to be unlawful, other statutes of this state to the contrary notwithstanding.

It shall be unlawful to conduct pool selling, book making, or to circulate hand books, or to bet or wager on a race of any licensed race meet, other than by the pari-mutuel system; and it shall further be unlawful knowingly to permit any minor to use the pari-mutuel 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 April 10, 1990.

CHAPTER 375
(H.B. No. 598)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-3805, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR MAY RETAIN PROFESSIONALS NOT OTHERWISE MEMBERS OF THE DIRECTOR'S STAFF TO ASSIST IN ANALYZING A MERGER OR ACQUISITION OF CONTROL PROPOSED UNDER THIS SECTION, TO PROVIDE THAT THE REASONABLE EXPENSES INCURRED IN CONNECTION WITH SUCH A MERGER OR ACQUISITION OF CONTROL SHALL BE BORNE BY THE ACQUIRING PARTY, AND TO PROVIDE FOR THE POSTING OF A BOND AS SECURITY FOR PAYMENT OF SUCH EXPENSES.

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

SECTION 1. That Section 41-3805, Idaho Code, be, and the same is hereby amended to read as follows:

41-3805. APPROVAL, DISAPPROVAL OF PROPOSED ACQUISITION. (1) The purchases, exchanges, mergers, or other acquisitions of control referred to in section 41-3802, Idaho Code, may not be made until the director either approves the purchases, exchanges, mergers or other acquisitions of control within sixty (60) days after the statement

required by section 41-3802, Idaho Code, complete with all information required, has been filed with him, or fails to disapprove such purchases, exchanges, mergers or other acquisitions of control within such sixty (60) day period. An application shall be deemed complete unless within ten (10) days after a filing, the director notifies the applicant that the application is incomplete. The purchases, exchanges, mergers or other acquisitions of control referred to in section 41-3802, Idaho Code, shall be deemed approved after the expiration of sixty (60) days from the time the statement referred to in section 41-3802, Idaho Code, is filed and completed, unless the director acts to approve or disapprove the same.

A hearing is not required unless the director elects to disapprove any such transaction, although the director may, in his discretion, hold a hearing prior to approving an acquisition if he deems such to be desirable or necessary. The director may disapprove any such transaction within such sixty (60) day period if he finds, after a hearing, that:

(a) After the change of control the domestic insurer could not satisfy the requirements for the issuance of a certificate of authority according to requirements in force at the time of the issuance, or last renewal or continuation of its certificate of authority to do the insurance business which it intends to transact in this state;

(b) The effect of the purchases, exchanges, merger (of a controlling person of the insurer), or other acquisitions of control may be substantially to lessen competition in insurance in this state or tend to create a monopoly therein; or would violate the laws of this state or of the United States relating to monopolies or restraint of trade;

(c) The financial condition of an acquiring person is such as would jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or, in the case of an acquisition of control, the interest of any remaining stockholders who are unaffiliated with the acquiring person;

(d) The plans or proposals which the acquiring person has to liquidate the insurer, to sell its assets, or to merge it with any person, or to make any other major change in its business or corporate structure or management, are unfair or prejudicial to policyholders; or

(e) The competence, experience and integrity of those persons who would control the operation of the insurer indicate that it would not be in the interest of policyholders, stockholders, or the public to permit them to do so.

(2) The provisions of sections 41-3802 through 41-3805, Idaho Code, do not apply to any change of control if and to the extent that the director, by rule or regulation or by order, shall exempt the same from the provisions of such sections as acquisitions which, in the director's judgment, are not adverse to the public interest and the interests of policyholders and shareholders, and therefore not comprehended within the purpose of this chapter.

(3) Merger, consolidation or bulk reinsurance as to a domestic insurer shall be effectuated only pursuant to the applicable provisions of chapter 28, title 41 (organization and corporate procedures

of stock and mutual insurers), Idaho Code, and chapter 30, title 41 (mutual benefits associations), Idaho Code.

(4) The director may retain any attorney, actuary, accountant, or other individual, organization, corporation, association, or business entity not otherwise a member of the director's staff as may be reasonably necessary to assist the department in the processing of any merger or acquisition of control proposed under this section. All reasonable expenses incurred in connection herewith shall be borne by the party seeking the acquisition. The director may require the acquiring party to post a bond in an amount not to exceed twenty-five thousand dollars ($25,000) as security for payment of such expenses.

Approved April 12, 1990.

CHAPTER 376
(H.B. No. 510, As Amended in the Senate)

AN ACT
RELATING TO THE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE; AMENDING SECTION 22-103, IDAHO CODE, TO PROVIDE AUTHORITY FOR THE ASSESSMENT OF AN INTEREST CHARGE ON ALL PAST DUE ACCOUNTS.

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

SECTION 1. That Section 22-103, Idaho Code, be, and the same is hereby amended to read as follows:

22-103. DUTIES OF DIRECTOR. The director of the department of agriculture shall execute the powers and discharge the duties vested by law in him or in the department, including, but not limited to, the following:

(1) Pursuant to chapter 53, title 67, Idaho Code, hire, assign duties and evaluate the performance of all employees of the department.

(2) Designate employees for special assignment, office or function as the needs of the department may require.

(3) Acquire, generate, develop and disseminate information and data concerning agricultural pursuits, productivity and product quality.

(4) Encourage and promote in every practical manner, the interests of agriculture, horticulture, apiculture, aquaculture, the livestock industries, poultry and fowl raising, wool and fur-bearing animals and their allied industries.

(5) Assist, encourage and promote the organization of farmers' institutes, agricultural, horticultural, management or cooperative societies and organizations for the benefit of agricultural pursuits in this state.

(6) Promote improved methods of production, storage, sales and marketing of agricultural industries.

(7) Establish and promulgate standards of construction, use and sanitation of open and closed receptacles for farm products, and stan-

dards for grade or other classification of farm products.

(8) Prescribe and promulgate rules and regulations governing marks, brands and labels, and the registration thereof, for use upon receptacles for farm products.

(9) Promote, in the interest of the public, economical and efficient use of products and commodities used in the production of agricultural, horticultural, meats and other products and farm commodities and their distribution.

(10) Cooperate with producers, processors and consumers in devising and maintaining economical and efficient systems of distribution, and to assist in the reduction of waste and expense incidental to the marketing of agricultural products.

(11) Gather and diffuse timely information and statistics concerning supply, demand, prevailing prices and commercial movement of agricultural products.

(12) Maintain a market news service, including information concerning crops, freight rates, commission rates and such other information as may be of service to producers and consumers, and to act as a clearinghouse for information between producers and consumers.

(13) Cooperate with the secretary, colleges and universities, experiment stations, and other agencies which cooperate in devising, research and development and utilization of improved agricultural production and other activities.

(14) Investigate the practices, methods of factors, management techniques of commission merchants, track buyers and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grains, eggs, livestock, vegetables or other products used as human foods, to the end that distribution of such commodities through such factors, commission merchants, track buyers and others be efficiently and economically accomplished without hardship, waste or fraud.

(15) Enter and inspect any right-of-way of any irrigation canal, railway, public highway, field, orchard, nursery, fruit or vegetable packing house, store room, sales room, storage facility, depot or other place where fruits and vegetables are grown or stored and to inspect fruits, trees, plants, vines, shrubs or other articles within the state, and if such places or articles are infested with pests, insects or their eggs or larvae, or with any contagious or transmittable diseases injurious to plant life, to abate or eradicate the same as a nuisance.

(16) Provide treatment for and prevent the spread of infectious or communicable diseases among bees, livestock, fur-bearing animals or domestic animals through the systematic and periodic inspection, testing or treatment of such bees and animals at the expense of the owner thereof.

(17) Protect the livestock interests of the state from losses due to disease or hazards to animal health and communicable to humans through agricultural products.

(18) Maintain recording of earmarks, eartags or other identifying marks not covered under any other provisions of law.

(19) Purchase, lease, hold, sell, and dispose of real and personal property of the department when, in the judgment of the director, such transactions promote the purposes for which the department

is established.

(20) Contract with any state agency, federal agency or agency of another state concerning any matter, program or cooperative effort within the scope and jurisdiction of its authority pursuant to law.

(21) Assist in the improvement of country life, farm occupations and to cooperate in effectuating equality of opportunity of those employed in agricultural pursuits in the state of Idaho.

(22) Investigate diseases, contamination of livestock and poultry, agricultural, horticultural, and farm products, suspected to be infected or contaminated by bacterial, viral, protozoal, parasitic, chemical, nuclear, botanical or other disease-producing agents, or carrying a residue of any such disease-producing agent or chemical in excess of any tolerance established by federal or state law or regulation and to examine, conduct tests, and issue "hold orders" on any livestock, poultry, agricultural, horticultural or farm products as deemed necessary to effectuate a diagnosis of disease, contamination or chemical level to safeguard and protect animal and man. And additionally, authorize and implement a predator control program on state and private lands using any kind of toxic material or substance suitable for such purpose. Any toxic material or substance shall be approved for use by the director. In order to carry out the provisions of this subsection (22), the director shall prescribe and promulgate rules and regulations pursuant to chapter 52, title 67, Idaho Code.

(23) Prescribe by rule or regulation an interest charge which may be assessed on all accounts which are thirty (30) days past due from the initial billing date or the assessment due date. The interest rate charged shall not exceed twelve per cent (12%) per annum.

Approved April 12, 1990.

CHAPTER 377
(H.B. No. 530, As Amended in the Senate)

AN ACT

RELATING TO THE DISTRIBUTION OF LOTTERY MONEYS; AMENDING SECTION 33-903, IDAHO CODE, TO PROVIDE THAT THE PUBLIC SCHOOL INCOME FUND SHALL INCLUDE MONEYS RECEIVED FROM THE IDAHO STATE LOTTERY, TO PROVIDE THAT SUCH MONEYS SHALL BE EARMARKED FOR PURPOSES ALLOWED BY THE SCHOOL PLANT FACILITIES RESERVE FUND AND TO PROVIDE A FORMULA FOR DISTRIBUTION; AMENDING SECTION 33-905, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF MONEYS TO THE PUBLIC SCHOOL INCOME FUND; AMENDING SECTION 67-7434, IDAHO CODE, TO DELETE TRANSFER OF MONEYS TO THE SCHOOL DISTRICT BUILDING ACCOUNT AND TO PROVIDE FOR TRANSFER OF MONEYS TO THE PUBLIC SCHOOL INCOME FUND; AMENDING SECTION 33-903, IDAHO CODE, AS AMENDED BY SECTION 1, HOUSE BILL NO. 530, SECOND REGULAR SESSION OF THE CENTENNIAL IDAHO LEGISLATURE, TO EXCLUDE PROCEEDS FROM THE IDAHO STATE LOTTERY FROM THE PUBLIC SCHOOL INCOME FUND; AMENDING SECTION 33-905, IDAHO CODE, AS AMENDED BY SECTION 2, HOUSE BILL NO. 530, SECOND REGULAR SESSION OF THE CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE DISTRIBUTION OF THE SCHOOL DISTRICT BUILDING ACCOUNT; AMENDING SECTION 67-7434, IDAHO CODE, AS AMENDED BY SECTION 3, HOUSE BILL NO. 530, SECOND

REGULAR SESSION OF THE CENTENNIAL IDAHO LEGISLATURE, TO PROVIDE THAT CERTAIN LOTTERY DIVIDENDS SHALL BE CREDITED TO THE SCHOOL DISTRICT BUILDING ACCOUNT; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-903, Idaho Code, be, and the same is hereby amended to read as follows:

33-903. PUBLIC SCHOOL INCOME FUND. 1. The public school income fund is that fund in the treasury of the state of Idaho to which are credited all income from the public school fund; the proceeds of all state taxes levied for public school purposes; grants of moneys from the federal government for public school purposes when other disposition is not specified by law; ninety percent (90%) of any moneys received by any department of state government from the federal government from sales, royalties, bonuses or rentals of oil, gas or mineral lands; legislative appropriations in support of the public schools, moneys received from the Idaho state lottery pursuant to section 67-7434, Idaho Code, and other moneys required by the law of the federal government or of the state of Idaho to be made a part of said fund and credited thereto. Interest earned on the investment of idle moneys in the public school income fund shall be paid to the public school income fund.

2. All moneys in the public school income fund which were received from the Idaho state lottery shall be earmarked for any use permitted by section 33-901, Idaho Code, when a school district establishes a plant facilities reserve fund. Each school district shall be entitled to a payment from the moneys in the public school income fund pursuant to this subsection in the proportion that that district's share of the state and county apportionment, as determined under the provisions of section 33-1002 7.g., Idaho Code, bears to the total state and county apportionments, as determined under the provisions of section 33-1002 7.g., Idaho Code.

SECTION 2. 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 may apply to the state board of education to receive a payment or payments from the school district building account; provided, a district demonstrates to the state board of education that it has 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 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~~ <u>On July 1, 1990, all moneys</u> in the school district building account ~~in excess of ten million dollars ($10,000,000) as of June 30~~ shall be transferred to the public school income fund established by section 33-903, Idaho Code~~, as of July 1~~.

SECTION 3. That Section 67-7434, Idaho Code, be, and the same is hereby amended to read as follows:

67-7434. LOTTERY DIVIDENDS. At least annually, the lottery shall transfer one-half (1/2) of its net income to the permanent building account and one-half (1/2) of its net income to the ~~school district building account~~ <u>public school income fund established in section 33-903, Idaho Code,</u> after reserving sufficient moneys to ensure the continuation of the lottery, as determined by the director and commission.

A one (1) time allotment of two hundred thousand dollars ($200,000) of the lottery's first year dividends shall be allocated and used by the permanent building fund advisory council for the construction of a Vietnam veterans memorial in the state.

SECTION 4. That Section 33-903, Idaho Code, as amended in Section

1, HB 530, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

33-903. PUBLIC SCHOOL INCOME FUND. ~~1.~~ The public school income fund is that fund in the treasury of the state of Idaho to which are credited all income from the public school fund; the proceeds of all state taxes levied for public school purposes; grants of moneys from the federal government for public school purposes when other disposition is not specified by law; ninety percent (90%) of any moneys received by any department of state government from the federal government from sales, royalties, bonuses or rentals of oil, gas or mineral lands; legislative appropriations in support of the public schools, ~~moneys received from the Idaho state lottery pursuant to section 67-7434, Idaho Code,~~ and other moneys required by the law of the federal government or of the state of Idaho to be made a part of said fund and credited thereto. Interest earned on the investment of idle moneys in the public school income fund shall be paid to the public school income fund.

~~2. All moneys in the public school income fund which were received from the Idaho state lottery shall be earmarked for any use permitted by section 33-901, Idaho Code, when a school district establishes a plant facilities reserve fund. Each school district shall be entitled to a payment from the moneys in the public school income fund pursuant to this subsection in the proportion that that district's share of the state and county apportionment, as determined under the provisions of section 33-1002 7.g., Idaho Code, bears to the total state and county apportionments, as determined under the provisions of section 33-1002 7.g., Idaho Code.~~

SECTION 5. That Section 33-905, Idaho Code, as amended in Section 2, HB 530, Second Regular Session, Centennial Idaho Legislature, 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 may apply to the state board of education to receive a payment or payments from the school district building account; provided, a district demonstrates to the state board of education that it has 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 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. ~~On--July--1,--1990,-all-moneys~~ Any unencumbered balance in the school district building account in excess of ten million dollars ($10,000,000) as of June 30 shall be transferred to the public school income fund established by section 33-903, Idaho Code, as of July 1.

SECTION 6. That Section 67-7434, Idaho Code, as amended in Section 3, HB 530, Second Regular Session, Centennial Idaho Legislature, be, and the same is hereby amended to read as follows:

67-7434. LOTTERY DIVIDENDS. At least annually, the lottery shall transfer one-half (1/2) of its net income to the permanent building account and one-half (1/2) of its net income to the ~~public--school income--fund-established-in-section-33-903,-Idaho-Code~~ school district building account, after reserving sufficient moneys to ensure the continuation of the lottery, as determined by the director and commission.

A one (1) time allotment of two hundred thousand dollars ($200,000) of the lottery's first year dividends shall be allocated and used by the permanent building fund advisory council for the construction of a Vietnam veterans memorial in the state.

SECTION 7. Sections 1, 2 and 3 of this act shall be in full force and effect on and after July 1, 1990. Sections 4, 5 and 6 of this act shall be in full force and effect on and after July 1, 1991.

Approved April 12, 1990.

CHAPTER 378
(H.B. No. 494, As Amended in the Senate)

AN ACT

RELATING TO LIBRARY DISTRICTS; AMENDING SECTION 33-2703, IDAHO CODE, TO PROVIDE CONDITIONS FOR FORMATION OF A LIBRARY DISTRICT; AMENDING SECTION 33-2704, IDAHO CODE, TO PROVIDE FOR NOTIFICATION OF THE PROPOSED FORMATION OF A LIBRARY DISTRICT; AMENDING SECTION 33-2705, IDAHO CODE, TO PROVIDE A PROPER REFERENCE; AMENDING SECTION 33-2707, IDAHO CODE, TO PROVIDE A PROCEDURE FOR ADDITION OF TERRITORY TO A LIBRARY DISTRICT; AMENDING CHAPTER 27, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2708, IDAHO CODE, TO PROVIDE AN ALTERNATE PROCEDURE FOR ADDITION OF TERRITORY TO A LIBRARY DISTRICT; AMENDING SECTION 33-2708, IDAHO CODE, TO REDESIGNATE THE SECTION, AND TO PROVIDE A PROCEDURE FOR A TAX SUPPORTED CITY LIBRARY TO JOIN AN ESTABLISHED LIBRARY DISTRICT; REPEALING SECTIONS 33-2709 AND 33-2710, IDAHO CODE; AMENDING CHAPTER 27, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2710, IDAHO CODE, TO PROVIDE A PROCEDURE FOR ESTABLISHING A BASE BUDGET AMOUNT BETWEEN CONSOLIDATING LIBRARY DISTRICTS; AMENDING SECTION 33-2711, IDAHO CODE, TO PROVIDE FOR ADJUSTMENT OF LIBRARY DISTRICT BOUNDARY LINES, OR CONSOLIDATION OF LIBRARY DISTRICTS, AND TO PROVIDE PROPER REFERENCES; AMENDING SECTION 33-2724, IDAHO CODE, TO PROVIDE A TAX LEVY FOR THE ORGANIZATION AND PRELIMINARY EXPENSES OF A LIBRARY DISTRICT; AND AMENDING SECTION 33-2602, IDAHO CODE, TO PROVIDE FOR FUNDING A TAX SUPPORTED CITY LIBRARY, AND TO PROVIDE FOR A CITY LIBRARY TO CONTRACT FOR LIBRARY SERVICES FROM A LIBRARY DISTRICT.

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

SECTION 1. That Section 33-2703, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

~~c.~~(3) In the initial organization of the district, any governmental unit maintaining a tax-supported public library ~~shall~~ may be excluded.

~~d.~~(4) If, subsequent to the organization of a library district, any area thereof is annexed to a municipality which maintains a tax-supported library, such area shall cease to be a part of the library district and the board of trustees of said municipality shall so

notify the board of county commissioners.

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

SECTION 2. 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) Concurrently with the notice of hearing, the board of county commissioners shall notify, in writing, the governing body of any tax supported library within the boundaries of the proposed library district. If any such governing body decides that it is not in the best interest of library services to be included within the proposed library district, they shall present a resolution stating such to the county commissioners, not less than one (1) week prior to the date of hearing.

(5) 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 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 subsection (~~4~~5) of section 33-2704, Idaho Code, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held for the purpose of determining whether or not the proposed library district shall be organized under the provisions of 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 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 33-2707, Idaho Code, be, and the same is hereby amended to read as follows:

33-2707. ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT -- PETITIONS AND SIGNATURES -- ELECTION. (1) Any area ~~A county~~ contiguous to a library district which does not have a tax supported library may become a part of ~~said~~ the district by petition and election ~~as herein, and hereinbefore, provided. The limitation of section 33-2703 shall be fully applicable~~.

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

(3) When said notice carries the approval of the board of trustees of the district, the board of county commissioners in each

~~county-affected~~ the county in which the petition arose shall enter its order calling for an election on the question. The election shall be held in the area in which the petition arose. Notice of the election shall be given, the election shall be conducted, and the returns thereof canvassed as provided in ~~the-case-of-the-creation-of-a-library district-embracing-more-than-one-county~~ section 33-2705, Idaho Code. The ballot shall bear the question: "Shall .... ~~county~~ become a part of the .... library district .... Yes" and "Shall .... ~~county~~ become a part of the .... library district .... No," each followed by a box in which the voter may express his choice by marking a cross "~~x~~." The proposal shall be deemed approved only if ~~the-majority--of--the--votes cast--in--the--library-district,-and~~ the majority of the votes cast in the ~~county~~ area seeking to become a part thereof~~,-are~~ is in the affirmative.

(4) If the proposal has been approved by the ~~majorities~~ majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, and a copy ~~thereof~~ shall be transmitted to the board of trustees of the library district, ~~and~~ to the board of county commissioners of the county in which the petition arose, and to the state library board. ~~Each-such-board-shall-enter-said-order-in-its-record-of proceedings.~~

(5) Such other notices as may be required by law shall be filed by the board of trustees of the library district with the state tax commission within ten (10) days of the effective date of the change, including a legal description and map of altered boundaries.

(6) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs appointment shall be made as provided in section 33-2715, Idaho Code.

SECTION 5. That Chapter 27, 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 33-2708, Idaho Code, and to read as follows:

33-2708. ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT -- ALTERNATE METHOD. (1) An alternate method of adding territory to a library district may be initiated by a petition or petitions as set forth in section 33-2704, Idaho Code, except that such petitions must be signed by sixty percent (60%) of the qualified electors in the area to be annexed.

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

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

(4) When such proposal has the approval of the board of county

commissioners, the board of trustees of the district and the board of county commissioners shall follow the procedures outlined in subsections (4), (5) and (6) of section 33-2707, Idaho Code.

SECTION 6. That Section 33-2708, Idaho Code, be, and the same is hereby amended to read as follows:

33-27~~08~~09. EXISTING TAX-SUPPORTED CITY LIBRARIES MAY JOIN LIBRARY DISTRICTS. Any ~~taxing--district--maintaining--a~~ tax-supported city library ~~under-the-provisions-of-law~~ may ~~have-its-area-included-in~~ join an established library district by majority vote of the qualified electors of ~~such-taxing-district-and-of~~ the established library district and the city according to procedure set forth in section 33-2707 ~~except-that-if-the-library-district-embrace-territory-in-but--one--(1) county,-all-said-proceedings-shall-be-had-in-that-county.-In-any-election--held-for-the-purposes-of-this-section,-the-area-of-not-more-than one-(1)-other-taxing-district-may-be-added-to-the--library--district.~~, Idaho Code. A true copy of the petition and the district library board's notice of approval or disapproval shall be sent to the city council. When such notice carries the approval of the district library board, the city council shall conduct the election and give notice of the results to the library district board and the board of county commissioners.

SECTION 7. That Sections 33-2709 and 33-2710, Idaho Code, be, and the same are hereby repealed.

SECTION 8. That Chapter 27, 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 33-2710, Idaho Code, and to read as follows:

33-2710. EQUALIZATION OF LEVY BETWEEN CONSOLIDATING LIBRARIES -- DISTRICT AND DISTRICT -- DISTRICT AND CITY. (1) When two (2) districts libraries have agreed to consolidate, the tax levies of the two (2) libraries will be equalized in the following manner.

The certified budget figures from ad valorem taxes of the districts will be added together. The resulting figure will provide the base budget amount for the new consolidated district. The consolidated district may add five percent (5%) to this figure for the ensuing fiscal year as provided in section 63-2220, Idaho Code.

(2) When a tax supported city library has voted to consolidate with a district library, the tax levies of the two (2) libraries need to be equalized to the difference in statutory maximums in the Idaho Code. Equalization will be obtained in the following manner.

The certified budget figure from ad valorem taxes of the district and the certified budget figure from ad valorem taxes from the city library fund will be examined for the three (3) year period prior to the year consolidation takes effect. A choice will be made of the figures from the one (1) year with the highest combined library fund budget. The resulting figure will provide the base budget amount for the new consolidated district. The district may add five percent (5%) to this figure as provided for in section 63-2220, Idaho Code.

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

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

SECTION 9. That Section 33-2711, Idaho Code, be, and the same is hereby amended to read as follows:

33-2711. ADJUSTMENT OF BOUNDARY LINES OR CONSOLIDATION 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 or that the districts be consolidated, as herein provided.

The boards of trustees shall jointly prepare a petition describing the boundaries of the existing library districts, the names of the existing library districts, and praying for the reorganization of the territory therein described as one (1) or more library districts to be known as the ".... 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~~ the chairpersons of the library boards upon majority approval of the respective boards involved in the boundary adjustment or consolidation.

The petition shall be forwarded to the clerk of the board of county commissioners in all counties affected, who shall verify the signatures ~~of the trustees thereon~~, and shall file the petition. Thereupon, the board of county commissioners in all counties affected shall proceed with the hearing and resolution as outlined in section 33-2709~~4~~, Idaho Code~~, for the organization of a library district~~.

In the order granting the petition and adjusting the boundaries or establishing consolidation, the board of county commissioners in all counties affected 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 by the board of trustees of the district, 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~~ a 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 as in section 33-2715, Idaho Code. The board or boards of trustees

shall be sworn by a member of the board of county commissioners.

Following a consolidation the board of county commissioners 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. Said board 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 33-2713, Idaho Code.

SECTION 10. That Section 33-2724, Idaho Code, be, and the same is hereby amended to read as follows:

33-2724. 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 upon each dollar of assessed valuation of property within the district for the ensuing fiscal year as shall be required to satisfy all maturing bond, bond interest, and judgment obligations. For the maintenance and operation of the library district, the board of trustees may also levy upon the taxable property within the district a tax not to exceed six hundredths 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.

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

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 11. That Section 33-2602, Idaho Code, be, and the same is hereby amended to read as follows:

33-2602. CITIES MAY ESTABLISH TAX SUPPORTED LIBRARIES ~~---TAX LEVIES~~. The ~~common~~ city council of every city ~~and of every village of the state of Idaho~~ shall have power to establish a public library ~~and~~

~~reading--room~~, and for such purpose may annually levy and cause to be collected~~,-as-other-taxes-are,~~ a tax not exceeding ~~five-(5)--mills--on the-dollar-of-the-taxable-property-of-such-city-or-village,-to-constitute--a--library--fund,-which~~ one-tenth percent (.10%) of market value for assessment purposes or fund a library out of allocations from the city's general fund. All such funds shall be kept by the treasurer separate and apart from other moneys of the city ~~or--village~~, and be used exclusively for ~~the--purchase-of-books,-periodicals,-necessary furniture-and-fixtures,-and-whatever-is-required-for--the--maintenance of-such-library-and-reading-room~~ library purposes, provided that every city ~~and--village~~ shall have power to contract for specified library service with an existing library district ~~and~~/or become part of an existing library district, ~~by-majority-vote-of-the-qualified-electors of-such-city-or-village-at-an-election-to-be-called-and--conducted--by the--city--or--village--council-or-other-governing-board-thereof,-such election-to-be-called-and-held-in-accordance-with--the--provisions--of chapter--17,--title--50,~~ following the procedure outlined in section 33-2709, Idaho Code.

Approved April 12, 1990.

CHAPTER 379
(H.B. No. 511, As Amended in the Senate,
As Amended in the Senate)

AN ACT

RELATING TO OILS; AMENDING SECTION 37-2508, IDAHO CODE, TO ALLOW CERTIFICATES OF ANY CHEMIST FROM A QUALIFIED TESTING LABORATORY TO BE PRIMA FACIE EVIDENCE, AND TO DELETE REFERENCE TO A DEPARTMENT OF AGRICULTURE CHEMIST; AND AMENDING SECTION 37-2510, IDAHO CODE, TO PROVIDE THE PENALTY OF PUBLICITY UPON CONVICTION.

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

SECTION 1. That Section 37-2508, Idaho Code, be, and the same is hereby amended to read as follows:

37-2508. CHEMIST AS WITNESS. In all prosecutions arising under this chapter the certificate of any chemist ~~of-the-department-of-agriculture~~ from a qualified testing laboratory as approved by the department of agriculture, when duly sworn to by such officer shall be prima facie evidence of the fact or facts therein certified, or in case it is necessary for such chemist to appear as a witness in court, the judge of the district court wherein such trial shall be held, shall issue a subpoena for his attendance at the trial and it shall be the duty of such chemist to obey such subpoena, and all his actual and necessary expenses shall be paid by the county wherein such trial is held in the same manner that county officers are paid and, in case of conviction, shall be charged to the defendant as part of the costs of prosecution.

SECTION 2. That Section 37-2510, Idaho Code, be, and the same is hereby amended to read as follows:

37-2510. PENALTY OF PUBLICITY. When ~~adulterated or misbranded~~ any person has been convicted of manufacturing, selling, keeping for sale or offering for sale within the state of Idaho any gasoline, benzine, naphtha, lubricating oil ~~and~~ or grease, road oil, bituminous road materials, diesel fuel and fuel oil ~~are found under the provisions of this chapter~~ for boilers and internal combustion engines, which is adulterated or misbranded, it shall be the duty of the department of agriculture to publish the fact in at least one (1) newspaper published in the county in which such adulterated or misbranded article or articles is found, giving the name of the article, the name of the manufacturer, the name of the dealer or person selling or offering the same for sale and such other information as will be beneficial to the consumers.

Approved April 12, 1990.

CHAPTER 380
(H.B. No. 543, AS Amended in the Senate)

AN ACT

RELATING TO THE SEARCH AND RESCUE ACCOUNT; AMENDING CHAPTER 14, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-1405, IDAHO CODE, TO IMPOSE AN ADDITIONAL FINE OF SEVEN DOLLARS AND FIFTY CENTS FOR EACH CONVICTION PURSUANT TO SECTIONS 36-1402 AND 36-1404, IDAHO CODE, TO BE DEPOSITED IN THE SEARCH AND RESCUE ACCOUNT; AND AMENDING SECTION 67-2903, IDAHO CODE, TO CREATE SUBACCOUNTS WITHIN THE SEARCH AND RESCUE ACCOUNT, AND TO ESTABLISH THE USE OF THE MONEYS IN THE SUBACCOUNTS.

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

SECTION 1. That Chapter 14, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-1405, Idaho Code, and to read as follows:

36-1405. ADDITIONAL FINE IMPOSED. In addition to the fines imposed in sections 36-1402 and 36-1404, Idaho Code, there is hereby imposed an additional fine of seven dollars and fifty cents ($7.50) against each person convicted as provided in those sections, to be deposited directly to the credit of the search and rescue account created in section 67-2903, Idaho Code.

SECTION 2. That Section 67-2903, Idaho Code, be, and the same is hereby amended to read as follows:

67-2903. SEARCH AND RESCUE ACCOUNT. There is hereby created in the dedicated fund the search and rescue account.

(1) Moneys in the account shall be maintained in two (2)

subaccounts, identified respectively as the "cost reimbursement subaccount" and the "equipment purchase matching subaccount." Moneys in the cost reimbursement subaccount are perpetually appropriated to and shall be used by the director of the department of law enforcement for the purpose of defraying costs of search and rescue missions conducted by the county sheriff's office at a maximum of one thousand five hundred dollars ($1,0500) per rescue mission, regardless of the number of counties or county search and rescue organizations involved. Of the additional fine imposed pursuant to section 36-1405, Idaho Code, fifty percent (50%) shall be deposited to the credit of the cost reimbursement subaccount. In the event the balance in the cost reimbursement subaccount exceeds fifty thousand dollars ($50,000), the amount in excess shall be transferred to the equipment purchase matching subaccount.

(2) Fifty percent (50%) of the moneys received pursuant to the provisions of section 36-1405, Idaho Code, and any amount in excess of fifty thousand dollars ($50,000) in the cost reimbursement subaccount, shall be deposited in the search and rescue account to the credit of the equipment purchase matching subaccount, and are perpetually appropriated to the director of the department of law enforcement for the purposes of the subaccount. Moneys in the equipment purchase matching subaccount shall be used by the director to match local funds for the purchase of equipment for use by local search and rescue units, at a maximum amount of one thousand dollars ($1,000) per unit in any single year.

Approved April 12, 1990.

CHAPTER 381
(H.B. No. 605, As Amended in the Senate)

AN ACT

RELATING TO SELF-SERVICE STORAGE FACILITIES; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE 55, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR RESTRICTIVE USE OF TERMS, TO PROVIDE RESTRICTIONS ON USE OF LEASED SPACE, TO PROVIDE FOR RENTAL AGREEMENTS, TO CREATE A LIEN, TO PROVIDE ENFORCEMENT OF A LIEN, AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 23, Title 55, Idaho Code, and to read as follows:

CHAPTER 23
SELF-SERVICE STORAGE FACILITIES

55-2301. DEFINITIONS. As used in this chapter:

(1) "Default" means the failure to perform, on time, any obligation or duty set forth in the rental agreement.

(2) "Last known address" means that address provided by the les-

see in the rental agreement or the address provided by lessee to the operator in a subsequent written notice of a change of address.

(3) "Leased space" means the individual storage space at the self-service storage facility which is or may be rented to a lessee pursuant to a rental agreement.

(4) "Lessee" means a person, sublessee, successor, or assignee entitled to the use of a leased space at a self-service storage facility under a rental agreement.

(5) "Operator" means any person authorized by the owner to manage the facility.

(6) "Owner" means the person who holds legal title to the self-service storage facility. An owner may also be an operator.

(7) "Personal property" means those items placed within the leased space and includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft and household items and furnishings.

(8) "Rental agreement" means a signed, written agreement or contract that establishes conditions or rules concerning the use and occupancy by a lessee of a self-service storage facility and includes any signed written amendment to such an agreement.

(9) "Self-service storage facility" means any real property used for renting or leasing individual storage space in which the lessees themselves store and remove their own personal property on a "self-service" basis.

55-2302. RESTRICTIVE USE OF TERMS. A self-service storage facility is not a warehouse or a public utility.

55-2303. RESTRICTIONS ON USE OF LEASED SPACE. (1) An operator may not knowingly permit a leased space to be used for residential purposes.

(2) A lessee may not use a leased space for residential purposes.

55-2304. RENTAL AGREEMENT. (1) From and after July 1, 1990, any operator offering storage spaces in a self-service storage facility for rent shall provide a written rental agreement which shall be executed by the operator and the lessee. The operator of a self-storage facility shall provide a lessee with a copy of the rental agreement at the time of the rental.

(2) The rental agreement shall contain a conspicuous statement advising the lessee:

(a) Of the existence of the lien;

(b) That the property in the leased space may be sold to satisfy the lien if the lessee is in default; and

(c) That the personal property stored in a storage space will not be insured unless the lessee obtains insurance on his property.

(3) The rental agreement shall contain a provision requiring the lessee to disclose any lienholders or secured parties who have an interest in property that is stored in the self-service storage facility.

55-2305. LIEN CREATED. The owner of a self-storage facility, his heirs, executors, administrators, successors, and assigns shall have a

lien on all personal property stored within each leased space located at the self-service storage facility for rent, labor, or other charges, present or future, and for expenses reasonably incurred in enforcing the lien. Self-storage facility liens shall be brought exclusively under the provisions of this chapter.

55-2306. ENFORCEMENT OF LIEN. (1) Action to enforce a lienholder's claim which has become due against a lessee and which is secured by the owner's lien may be taken by the owner or operator after the lessee has been in default of the rental agreement continuously for a period of sixty (60) days.

(2) The operator shall send notice by certified mail to the lessee at his last known address and to all persons disclosed by the lessee as claiming a security interest in the stored property. The notice shall include:

(a) The name, address and telephone number of the person claiming the lien;

(b) An itemized statement of the lienholder's claim showing the sum due at the time of the notice and the date when the sum became due;

(c) A demand for payment within a time specified, not less than ten (10) days after mailing of the notice;

(d) A statement that unless the claim is paid within the time stated in the notice, the personal property shall be advertised for sale and shall be sold at a specified time and place, but which shall not be sooner than ten (10) days after the first publication;

(e) A brief and general description of the goods subject to the lien; and

(f) Notification that the operator may deny access by the lessee to his personal property until the lien has been satisfied.

(3) Upon expiration of the time specified in subsection (2)(c) of this section, an advertisement of the sale shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located. The advertisement shall include:

(a) The location, date, time and manner of the sale of the property stored in the self-service facility;

(b) A brief and general description of the personal property; and

(c) The name and last known address of the lessee.

(4) At any time before the advertised sale of the personal property has been conducted, the lessee or any other person may pay the amount necessary to satisfy the lien, including all documented and verifiable labor and expenses incurred in enforcing the lien.

(5) In the event of a sale, the operator shall:

(a) Ensure that the sale is conducted in conformance with the terms of the published notice;

(b) Identify the specific properties and disclose the names and addresses provided by the lessee, of persons claiming a security interest in the specified properties; and

(c) Comply with the provisions of chapter 17, title 49, Idaho Code, when foreclosing on titled vehicles.

(6) The proceeds of the sale must be applied to the discharge of

the lien and costs. The remainder, if any, shall be paid over to the lessee or any other person authorized in writing by the lessee to claim the balance.

55-2307. 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 12, 1990.

CHAPTER 382
(H.B. No. 897)

AN ACT
EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1991.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Agriculture not exceed the following amount for the period July 1, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$11,119,700
Operating Expenditures	2,490,000
Capital Outlay	507,900
Trustee and Benefit Payments	704,300
TOTAL	$14,821,900
FROM:	
General Account	$ 2,594,900
Dedicated Accounts	11,772,700
Interagency Billing and Receipts Account	454,300
TOTAL	$14,821,900

SECTION 2. 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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 208,600	$ 119,700	$ 6,300		$ 334,600
Interagency Billing and Receipts Account	38,100	174,000			212,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agriculture Department Inspection Account	234,800	15,700			250,500
TOTAL	$ 481,500	$ 309,400	$ 6,300		$ 797,200
B. ANIMAL INDUSTRY:					
FROM:					
General Account	$ 494,800	$ 30,800	$ 58,000		$ 583,600
Livestock Disease Control & T.B. Indemnity Account	297,300	171,500	26,700		495,500
Dairy Industry and Inspection Account	260,800	68,400	28,100		357,300
Livestock Dealer License Account	2,800	2,400			5,200
Interagency Billing and Receipts Account		140,000			140,000
TOTAL	$ 1,055,700	$ 413,100	$112,800		$ 1,581,600
C. AGRICULTURAL TECHNOLOGY:					
FROM:					
General Account	$ 10,200	$ 1,500	$ 2,500		$ 14,200
Water Pollution Control Account	53,600	16,800	6,100		76,500
Pesticide Account	653,500	219,000	116,000		988,500
TOTAL	$ 717,300	$ 237,300	$124,600		$ 1,079,200
D. PLANT INDUSTRY:					
FROM:					
General Account	$ 227,800	$ 89,900	$ 28,000	$ 89,900	$ 435,600
Agriculture Department Inspection Account	662,000	134,800	14,400		811,200
Bee Inspection Account	16,900	100			17,000
Commercial Feed and Fertilizer Account	253,400	100,700	70,600		424,700
TOTAL	$ 1,160,100	$ 325,500	$113,000	$ 89,900	$ 1,688,500
E. AGRICULTURAL INSPECTIONS:					
FROM:					
General Account	$ 579,500	$ 176,100	$ 79,400		$ 835,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agriculture Department Inspection Account	112,400	44,500		$ 3,400	160,300
Fresh Fruit and Vegetable Inspection Account	6,526,100	713,400	71,800	282,900	7,594,200
Egg Inspection Account	93,700	22,700			116,400
Public Livestock Market Account	6,700				6,700
TOTAL	$ 7,318,400	$ 956,700	$151,200	$286,300	$ 8,712,600
F. AGRICULTURAL MARKETING AND DEVELOPMENT:					
FROM:					
General Account	$ 188,100	$ 117,300			$ 305,400
Agriculture Department Inspection Account	25,300				25,300
Wheat Statistics Account	2,000	8,900			10,900
Interagency Billing and Receipts Account	40,100	62,100			102,200
Rural Rehabilitation Account	13,000	14,200		$155,200	182,400
TOTAL	$ 268,500	$ 202,500		$155,200	$ 626,200
G. ANIMAL DAMAGE:					
FROM:					
General Account				$ 56,200	$ 56,200
Sheep Commission Account				116,700	116,700
TOTAL				$172,900	$ 172,900
H. SHEEP COMMISSION:					
FROM:					
General Account	$ 24,100	$ 6,200			$ 30,300
Sheep Commission Account	93,800	26,500			120,300
TOTAL	$ 117,900	$ 32,700			$ 150,600
I. HONEY ADVERTISING COMMISSION:					
FROM:					
Idaho Honey Advertising Account	$ 300	$ 12,800			$ 13,100
GRAND TOTAL	$11,119,700	$2,490,000	$507,900	$704,300	$14,821,900

Approved April 12, 1990

CHAPTER 383
(H.B. No. 835)

AN ACT

RELATING TO INCORPORATION OF STOCK AND MUTUAL INSURERS; AMENDING SECTION 41-2804, IDAHO CODE, TO STRIKE THE REQUIREMENT THAT THE INCORPORATED NAME OF A MUTUAL INSURER MUST USE THE WORD "MUTUAL" AS PART OF THE NAME; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-2804, Idaho Code, be, and the same is hereby amended to read as follows:

41-2804. INCORPORATION. (1) This section applies to stock and mutual insurers hereafter incorporated in this state.

(2) Incorporators. Seven (7) or more individuals who are citizens of this state may incorporate a stock insurer; ten (10) or more of such individuals may incorporate a mutual insurer.

(3) Articles of incorporation. The incorporators shall prepare and execute in triplicate articles of incorporation in accordance with the applicable provisions of chapters 1 and 3, title 30, Idaho Code, known as the "General Business Corporation" Laws of this state, but subject to the following requirements:

(a) In addition to matters required or permitted under such General Business Corporation Laws which are not inconsistent with this provision or this code, the articles of incorporation shall set forth:

(i) The name of the corporation, which shall comply with section 41-311, Idaho Code. ~~If to be a mutual insurer, the word "mutual" must be a part of the name.~~

(ii) The kinds of insurance, as defined in this code, which the corporation is formed to transact.

(iii) If a stock corporation, its authorized capital stock, the number of shares of stock into which divided and the par value of each such share, which par value shall be at least one dollar ($1.00). The articles shall provide for but one (1) class of stock, which class must be voting common stock with uniform par value and rights throughout such class. Shares without par value shall not be authorized.

(iv) If a stock corporation, the extent, if any, to which shares of its stock are subject to assessment.

(v) If a mutual corporation, the maximum contingent liability of its members, for payment of losses and expenses incurred, other than as to nonassessable policies issued as permitted under section 41-2849, Idaho Code; such liability shall be as stated in the articles of incorporation, but shall not be less than one (1) nor more than six (6) annual premiums for the member's policy.

(vi) The name and residence address of each incorporator, and whether each such incorporator is a citizen of this state.

(b) Articles of incorporation shall be filed as provided in section 41-2805, 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 12, 1990.

CHAPTER 384
(H.B. No. 898)

AN ACT
APPROPRIATING LOTTERY MONEYS FOR PUBLIC SCHOOLS FOR FISCAL YEAR 1991.

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

SECTION 1. There is hereby appropriated from the Public School Income Fund to be expended pursuant to law, for the period July 1, 1990, through June 30, 1991, all moneys received into the Public School Income Fund from the Idaho State Lottery pursuant to Section 67-7434, Idaho Code.

Approved April 12, 1990.

CHAPTER 385
(H.B. No. 724)

AN ACT
RELATING TO CENTENNIAL LICENSE PLATES; AMENDING SECTION 49-416, IDAHO CODE, TO ALLOW FOR THE USE OF CENTENNIAL LICENSE PLATES AFTER DECEMBER 31, 1990, AND TO PROVIDE FOR DEPOSIT OF FEES IN THE HIGHWAY DISTRIBUTION ACCOUNT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-416, Idaho Code, be, and the same is hereby amended to read as follows:

49-416. STATEHOOD CENTENNIAL LICENSE PLATES. (1) Statehood centennial license plates are available to owners of motor vehicles required to be registered under section 49-402(1) or section 49-402(3), Idaho Code, upon application at a county assessor's office. Availability of statehood centennial plates for other classes of vehicle registrations shall be as authorized by rules and regulations of the department. In addition to the regular registration and other fees, the applicant shall be charged a special fee of twenty-five dollars ($25.00) at the time of the initial issuance of such plates, and ten dollars ($10.00) upon each succeeding annual registration of the

vehicle, so long as the plates are in use. Revenues from the special fee shall be deposited in the ~~Idaho-statehood-centennial-commission~~ highway distribution account ~~and-shall-be-treated--as--a--contribution for--the--funding-of-statehood-centennial-activities,-and-shall-not-be considered-a-motor-vehicle-registration-fee-as-described-under-article 7,-section-17,-of-the-Idaho-constitution.--All--other--fees--shall--be deposited-as-provided-by-law.~~

(2) The statehood centennial license plates shall be of a color and design approved by the Idaho statehood centennial commission, utilizing a numbering system approved by the board. The statehood centennial license plates must be surrendered upon failure to pay the annual special fee and renewal fees.

(3) Any person who applies for statehood centennial license plates, may also apply for personalized numbers and/or letters on those plates, as provided for in section 49-409, Idaho Code.

(4) The fee for replacement plates shall be the fees required in section 49-425, Idaho Code, for each pair of centennial plates issued, together with any other fees imposed in this section, with the special centennial plate fee deposited in the ~~Idaho-statehood-centennial~~ highway distribution account and other fees deposited as provided by law.

(5) ~~The--statehood--centennial-license-plates-shall-not-be-issued for-any-vehicle-following-December-31,-1990.-The-statehood--centennial plates--may--be--renewed--following--December-31,-1990,-until-the-next reissue-of-license-plates-as-required-by-section-49-443,--Idaho--Code. The--special--fee--in--subsection-(1)-of-this-section,-shall-not-apply after-December-31,-1990.-Regular-registration--and--other--fees--shall apply.~~

~~(6)~~ Moneys deposited into the Idaho statehood centennial commission account are hereby appropriated to the Idaho statehood centennial commission for the period from the effective date of this act through June 30, 1991.

SECTION 2. This act shall be in full force and effect on and after July 1, 1991.

Approved April 12, 1990.

CHAPTER 386
(H.B. No. 749, As Amended)

AN ACT

RELATING TO ATTENDANCE OF WITNESSES IN CRIMINAL PROCEEDINGS; AMENDING SECTION 19-3005, IDAHO CODE, TO ELIMINATE A MILEAGE LIMITATION UPON ISSUANCE OF SUBPOENAS TO WITNESSES FROM THIS STATE TO APPEAR IN ANOTHER STATE AND TO PROVIDE AN AIRLINE TICKET OR TICKET ON A COMMON CARRIER FOR WITNESSES.

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

SECTION 1. That Section 19-3005, Idaho Code, be, and the same is hereby amended to read as follows:

19-3005. UNIFORM ACT TO SECURE ATTENDANCE OF WITNESSES. (1) Subpoenaing a Witness in This State to Testify in Another State. If a judge of a court of record in any state, which by its laws has made provisions for commanding persons within that state to attend and testify in criminal hearings or prosecutions in this state, certifies under the seal of such court that there is a criminal prosecution pending in such court that a person being within this state is a material witness in such prosecution, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing and shall notify the witness of such time and place.

If at the hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution in the other state, ~~that the witness will not be compelled to travel more than one thousand miles (unless such witness in writing consents to attend in the event the distance is greater) to reach the place of trial by the ordinarily traveled route,~~ and that the laws of the state in which the prosecution is pending and of any other state through which the witness may be required to pass by ordinary course of travel, will give to him protection from arrest and the service of civil and criminal process he shall issue a subpoena, with a copy of the certificate attached, directing the witness to attend and testify in the court where the hearing or prosecution is pending at a time and place specified in the subpoena.

If the witness, who is subpoenaed as above provided, after being ~~paid or~~ tendered by some properly authorized person ~~the sum of fifteen cents a mile for each mile by the ordinarily traveled route, one way,~~ a prepaid, round trip airline ticket or, in the event that there is no regularly scheduled airline service available, a prepaid round trip ticket on any common carrier providing passenger transportation services to and from the court where the hearing or prosecution is pending and five dollars ($5.00) for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the subpoena, he may be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state.

(2) Witness From Another State Subpoenaed to Testify in This State. If a person in any state, which by its laws has made provisions for commanding persons within its borders to attend and testify in criminal hearings or prosecutions in this state, is a material witness in a hearing or prosecution pending in a court of record in this state, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required at such hearing or prosecution. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

If the witness is subpoenaed to attend and testify in the criminal hearing or prosecution in this state he shall be tendered the sum of fifteen cents (15¢) a mile for each mile by the ordinarily traveled route, one (1) way, to and from the court where the hearing or prosecution is pending and five dollars ($5.00) for each day that he is

required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the subpoena shall not be required to remain within this state a longer period of time than the period mentioned in the certificate, unless such extended period of time is obtained by the written consent of such witness.

(3) Have Exemption From Arrest and Service of Process. If a person comes into this state in obedience to a subpoena directing him to attend and testify in a criminal hearing or prosecution in this state, he will not while in this state, pursuant to such subpoena, be subjected to arrest or the service of process, civil or criminal, in connection with any matter which arose before his entrance into this state under such subpoena.

If a person passes through this state while going to another state in obedience to a subpoena to attend and testify in a criminal hearing or prosecution in that state or while returning therefrom, he shall not while so passing through this state be subjected to arrest or the service of process, civil or criminal, in connection with any matter which arose before his entrance into this state under such subpoena.

(4) Uniformity of Interpretation. This section shall be interpreted and construed so as to effectuate its general purpose to make uniform the law of the states which enact it.

(5) Short Title. This section may be cited as "Uniform Act to Secure the Attendance of Witnesses in Criminal Cases."

Approved April 12, 1990.

CHAPTER 387
(H.B. No. 689, As Amended)

AN ACT

RELATING TO THE FISH AND GAME COMMISSION; AMENDING SECTION 36-102, IDAHO CODE, TO INCREASE THE NUMBER OF MEMBERS ON THE FISH AND GAME COMMISSION FROM FIVE TO SIX, TO CREATE SIX FISH AND GAME DISTRICTS, TO PROVIDE BOUNDARIES AND TO CORRECT NOMENCLATURE.

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

SECTION 1. That Section 36-102, Idaho Code, be, and the same is hereby amended to read as follows:

36-102. IDAHO FISH AND GAME COMMISSION. (a) Creation. There is hereby created the Idaho fish and game commission. The department of fish and game of the state of Idaho is hereby placed under the supervision, management and control of said Idaho fish and game commission, hereinafter referred to as the commission or as said commission.

(b) Membership -- Appointment -- Qualifications. The commission shall consist of ~~five (5)~~ <u>six (6)</u> members, to be appointed by the governor of the state of Idaho, who shall hold office during the pleasure of the governor and who shall be subject to removal by him. The selection and appointment of said members shall be made solely upon consideration of the welfare and best interests of fish and game in

the state of Idaho, and no person shall be appointed a member of said commission unless he shall be well informed upon, and interested in, the subject of wildlife conservation and restoration. No member shall hold any other elective or appointive office, state, county or municipal, or any office in any political party organization. Not more than three (3) of the members of said commission shall at any time belong to the same political party. Each of the members of said commission shall be a citizen of the United States, and of the state of Idaho, and a bona fide resident of the district from which he is appointed as hereinafter set forth. Said members so appointed shall act and assume full powers and duties upon appointment, as herein provided, but such appointments shall be subject to confirmation by the senate at its next session.

(c) Creation of Districts -- Terms of Office. For the purpose of this act, the state of Idaho is divided into ~~five (5)~~ six (6) districts, numbered from one (1) to ~~five (5)~~ six (6) respectively.

District No. 1 shall consist of the counties of Boundary, Bonner, Kootenai, Shoshone, and Benewah;

District No. 2 shall consist of the counties of Latah, Clearwater, Nez Perce, Lewis, and Idaho;

District No. 3 shall consist of the counties of Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, and Owyhee;

District No. 4 shall consist of the counties of ~~Camas, Gooding, Jerome, Twin Falls, Cassia, Blaine, Lincoln, Minidoka,~~ Lemhi, Custer, Clark, Fremont, Jefferson, Bonneville, Madison, Teton and Butte;

District No. 5 shall consist of the counties of ~~Clark, Fremont, Jefferson, Madison, Teton,~~ Bingham, ~~Bonneville,~~ Power, Bannock, Caribou, Oneida, Franklin, and Bear Lake;

District No. 6 shall consist of the counties of Camas, Gooding, Jerome, Twin Falls, Cassia, Blaine, Lincoln, and Minidoka.

Each of the above enumerated districts shall, at all times, be represented by one (1) member of the commission, appointed from said district by the governor.

The members of said commission shall be appointed for a term of six (6) years; provided, that in the case of the death of any commissioner, or his removal from office as hereinbefore provided, the governor shall appoint a successor from the same district for the unexpired term.

(d) Oath of Office -- Bond. Each commissioner shall, before entering upon his official duties, take and subscribe to the official oath, in writing, as provided by section 59-401, Idaho Code, to which said official oath there shall be added a declaration as to the name of the political party to which such commissioner belongs, and said commissioner shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

(e) Compensation and Reimbursement for Expenses. Each member of the commission shall be compensated as provided by section 59-509(h), Idaho Code. All such compensation and expenses shall be paid from the fish and game ~~fund~~ account.

(f) Quorum. A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power.

(g) Office and Supplies. The commission shall have its principal

office in the city of Boise and is authorized to purchase supplies, equipment, printed forms, and notices, and to issue such publications as may be necessary.

Approved April 12, 1990.

CHAPTER 388
(H.B. No. 743)

AN ACT

RELATING TO ACCOUNTS OF THE FISH AND GAME DEPARTMENT; AMENDING SECTION 36-107, IDAHO CODE, TO PROVIDE FOR PAYMENT OF INTEREST EARNED ON INVESTMENT OF MONEYS IN THE FISH AND GAME ACCOUNT TO THE FISH AND GAME ACCOUNT, AND TO STRIKE REFERENCES TO ALL OTHER ACCOUNTS AND SET-ASIDE MONEYS; AMENDING SECTION 36-108, IDAHO CODE, TO REDESIGNATE; AMENDING SECTION 36-109, IDAHO CODE, TO REDESIGNATE; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-108, IDAHO CODE, TO ESTABLISH THE FISH AND GAME EXPENDABLE TRUST ACCOUNT; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-109, IDAHO CODE, TO ESTABLISH THE FISH AND GAME NONEXPENDABLE TRUST ACCOUNT; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-110, IDAHO CODE, TO ESTABLISH THE FISH AND GAME FEDERAL ACCOUNT; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-111, IDAHO CODE, TO ESTABLISH THE FISH AND GAME SET-ASIDE ACCOUNT; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-112, IDAHO CODE, TO ESTABLISH THE ANIMAL DAMAGE CONTROL ACCOUNT; AMENDING SECTIONS 36-406 AND 36-407, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 36-414, IDAHO CODE, TO PROVIDE PROPER REFERENCES; AMENDING SECTION 63-3067A, IDAHO CODE, TO PROVIDE PROPER REFERENCES; AND PROVIDING FOR ACCOUNTING REQUIREMENTS.

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

SECTION 1. That Section 36-107, Idaho Code, be, and the same is hereby amended to read as follows:

36-107. FISH AND GAME ACCOUNT. (a) ~~Creation--of-Account.~~ The director shall promptly transmit to the state treasurer all moneys received by him, from the sale of hunting, fishing and trapping licenses, tags and permits or from any other source connected with the administration of the provisions of the Idaho fish and game code or any law or regulation for the protection of wildlife, including moneys received from the sale of predatory animal furs taken under the provisions of this chapter, and the state treasurer shall deposit all such moneys in ~~a-special--account--to--be--known--as~~ the "fish and game account," which is hereby established, reserved, set aside, appropriated in the dedicated fund, and made available until expended as may be directed by the commission in carrying out the purposes of the Idaho fish and game code or any law or regulation promulgated for the

protection of wildlife, and shall be used for no other purpose. Pending expenditure or use, surplus moneys in the fish and game account shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the account.

(b) Control--of--Expenditures. The commission shall govern the financial policies of the department and shall, as provided by law, fix the budget for the operation and maintenance of its work for each fiscal year. Said budget shall not be exceeded by the director.

~~(c)--Big-Game-Range-and-Upland-Game-Bird-and-Waterfowl--Management Moneys.-For-the-purpose-of-acquiring-access-and-acquiring-and-rehabilitating--big--game-ranges-and-upland-game-bird-and-waterfowl-habitats, the-director-shall-set-aside-moneys-within-the-fish-and--game--account in--an-amount-equal-to-two-dollars-($2.00)-for-each-combination-and/or each-hunting-license-sold-as-provided-in-sections-36-406--and--36-407, Idaho-Code,-provided-that-class-4-licenses,-as-provided-for-in-section 36-404,--Idaho-Code-(senior-resident-licenses-issued-to-persons-sixty-five-(65)-years-of-age-and-older),-shall-be-exempt-from-the-provisions of-this-subsection.~~

~~Said-moneys-shall-be-used-only-for-acquiring-access--and--for--the acquisition-and-rehabilitation-of-big-game-ranges-and-upland-game-bird and-waterfowl-habitat.-Unless-it-is-inconsistent-with-the-goals-of-the commission,--it-is-the-intent-of-the-legislature-of-the-state-of-Idaho that-the-commission-negotiate-lease-arrangements-as-compared--to--outright-purchase-of-private-property.~~

~~(d)--Predatory--Animal--Moneys.--The-director-shall-set-aside-from the-state-fish-and-game-account-the-sum-of-not-less-than--fifty--thousand--dollars--($50,000)--per--annum-which-amount-shall-be-used-by-the director-in-the-control-of-predatory-animals-and-predatory-birds.-Provided-further-that-any-moneys-which-the-director-may-derive--from--the sale--of--furs,--taken--under-the-provisions-of-this-section,-shall-be deposited-into-the-fish-and-game-account.~~

~~(e)--Fish-and-Game-Trust-Account.--The--director--may--receive--on behalf--of--the--department--any--money--or--real-or-personal-property donated,-bequeathed,-devised,-or-conditionally-granted-to-the--department.--Such--moneys-received-directly-or-derived-from-the-sale-of-such property-shall-be-deposited--by--the--state--treasurer--in--a--special account--in--the--agency--asset-fund-to-be-known-as-the-"fish-and-game trust-account,"-which-is--hereby--established,--reserved,--set--aside, appropriated-and-made-available-until-expended,-used,-and-administered to--carry--out--the--terms--or--conditions--of-such-donation,-bequest, devise,-or-grant,-or-in-the-absence-of-such-terms-or--conditions,--the commission--may--expend,-use,-and-administer-such-funds-as-it-may-deem advisable-in-the-public-interest-and-in-accordance-with--the--policies set-forth-in-the-Idaho-fish-and-game-code.~~

~~Pending--such--expenditure--or-use,-surplus-moneys-in-the-fish-and game-trust-account-shall-be-invested-by-the--state--treasurer--in--the manner-provided-for-idle-state-moneys-in-the-state-treasury-by-section 67-1210,--Idaho--Code.-Interest-received-on-all-such-investments-shall be-paid-into-the-fish-and-game-trust-account.~~

~~(f)--Nongame-Management-Moneys.-For-the-purpose-of-the--management and--protection--of--nongame--species--of--wildlife-in-this-state,-the~~

~~director shall set aside moneys within the fish and game trust account in an amount equal to the amount designated by individuals in accordance with section 63-3067A, Idaho Code. The commission shall cause a nongame management and protection program to be developed. Said moneys shall be used only for this purpose.~~

~~(g) Big Game Winter Feeding and Control Moneys. The director shall set aside moneys within the fish and game trust account in an amount equal to one dollar and fifty cents ($1.50) for each elk, deer, and antelope tag sold as provided in section 36-409, Idaho Code. These moneys shall be used only for the purposes of winter feeding of big game species of wildlife, control of depredation of private property by big game species of wildlife, and control of predators affecting big game species of wildlife. When the balance of set aside moneys available exceeds the sum of four hundred thousand dollars ($400,000), the director may use the amount in excess of four hundred thousand dollars ($400,000) for rehabilitation of winter range for big game species of wildlife.~~

~~(h) Steelhead and Anadromous Salmon Permit Moneys. The director shall deposit three dollars ($3.00) of each fee collected pursuant to section 36-410, Idaho Code, with the state treasurer for deposit in the fish and game account. Such funds shall be accounted for separately within the account and shall be used for the acquisition, development and maintenance of parking areas, access sites, boat ramps and sanitation facilities in salmon and steelhead fishing areas, for management of and research and for technical assistance with litigation concerning steelhead and anadromous salmon originating in Idaho.~~

SECTION 2. That Section 36-108, Idaho Code, be, and the same is hereby amended to read as follows:

36-1~~0~~8. STATE GAME FARMS AND FISH HATCHERIES -- RESTRICTIONS ON EMPLOYEES. All classified personnel employed at state game farms and state fish hatcheries shall devote their entire time to the duties of their office, and shall not engage in any manner whatever in the operation of any fish hatchery or game farm, public or private, unless so ordered by the director and they shall not be entitled to have any holding in or own any private fish ponds, lakes or streams of this state, nor shall they engage in the selling or disposal of any wildlife whatever, except in the duties of their office and as directed by said director.

SECTION 3. That Section 36-109, Idaho Code, be, and the same is hereby amended to read as follows:

36-1~~0~~9~~2~~1. SPECIAL COUNSEL FOR DEPARTMENT. The director, with the approval of the governor, is hereby authorized to employ special counsel for the department of fish and game, and to pay reasonable attorneys' fees and expenses of such counsel incurred in the conduct of business of the department of fish and game, or prosecution of violations thereof civilly or criminally, and such fees and expenses shall be a proper charge against the fish and game fund.

SECTION 4. That Chapter 1, Title 36, Idaho Code, be, and the same

is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-108, Idaho Code, and to read as follows:

36-108. FISH AND GAME EXPENDABLE TRUST ACCOUNT. The director may receive on behalf of the department any money or real or personal property donated, bequeathed, devised, or conditionally granted to the department. Such moneys received directly or derived from the sale of such property shall be deposited in an account in the agency asset fund to be known as the fish and game expendable trust account, which is hereby established. Moneys in the account may be appropriated to carry out the terms or conditions of such donation, bequest, devise, or grant, or in the absence of such terms or conditions, may be appropriated to the commission to expend, use, and administer such funds as advisable in the public interest and in accordance with the policies set forth in the Idaho fish and game code, and shall be used for no other purpose.

Pending such expenditure or use, surplus moneys in the fish and game expendable trust account shall be invested by the state treasurer in the manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the fish and game expendable trust account.

SECTION 5. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-109, Idaho Code, and to read as follows:

36-109. FISH AND GAME NONEXPENDABLE TRUST ACCOUNT. The director may receive on behalf of the department any money or real or personal property donated, bequeathed, devised, or conditionally granted to the department. Such moneys received directly or derived from the sale of such property shall be deposited in an account in the agency asset fund to be known as the fish and game nonexpendable trust account, which is hereby established. The principal amount of moneys in the account are not subject to appropriation. Interest earned on investment of moneys in the account are subject to appropriation to carry out the terms or conditions of such donation, bequest, devise, or grant, and shall be used for no other purpose.

Moneys in the account shall be invested by the state treasurer in the manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the fish and game nonexpendable trust account.

SECTION 6. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-110, Idaho Code, and to read as follows:

36-110. FISH AND GAME FEDERAL ACCOUNT. All moneys received from the federal government for the administration of any aspect of the

fish and game laws of this state shall be deposited in the fish and game federal account, which is hereby established in such fund as the state auditor directs.

Moneys in the fish and game federal account are subject to appropriation, and the provisions of section 67-3516, Idaho Code. Moneys in the account shall be invested by the state treasurer in the manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code, if not prohibited or limited by the terms of applicable federal law or rule. Interest earned on all such investments shall be paid into the fish and game federal account.

SECTION 7. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-111, Idaho Code, and to read as follows:

36-111. FISH AND GAME SET-ASIDE ACCOUNT. (1) There is hereby established the fish and game set-aside account in the dedicated fund. The account shall have paid into it moneys as follows:

(a) Three dollars ($3.00) of each steelhead trout or anadromous salmon permit sold. Moneys from this source shall be used for the acquisition, development and maintenance of parking areas, access sites, boat ramps and sanitation facilities in salmon and steelhead fishing areas, for management of and research on steelhead trout and anadromous salmon problems, and for technical assistance with litigation concerning steelhead and anadromous salmon originating in Idaho.

(b) Two dollars ($2.00) from each combination hunting and fishing license, or each hunting license sold, as provided in sections 36-406 and 36-407, Idaho Code, except that class 4 licenses shall be exempt from this provision. Moneys from this source shall be used for the purposes of acquiring access to and acquiring and rehabilitating big game ranges and upland bird and waterfowl habitats. Unless it is inconsistent with the goals of the commission, it is the intent of the legislature that the commission negotiate lease arrangements as compared with outright purchase of private property.

(c) One dollar and fifty cents ($1.50) from each antelope, elk and deer tag sold as provided in section 36-409, Idaho Code. Moneys from this source shall be used for the purposes of winter feeding of antelope, elk and deer, control of depredation of private property by antelope, elk and deer, control of predators affecting antelope, elk and deer, and rehabilitation of winter range for antelope, elk and deer.

(d) Those amounts designated by individuals in accordance with section 63-3067A(c)(i), Idaho Code. Moneys from this source shall be used for a nongame management and protection program under the direction of the fish and game commission.

(e) All moneys received from the sale of upland game permits. Moneys from this source shall be used as provided by section 36-409(h), Idaho Code.

(f) Moneys received from the sale of migratory waterfowl stamps. Moneys received from this source shall be used as provided by sec-

tion 36-414, Idaho Code.

(2) Moneys in the fish and game set-aside account are subject to appropriation, and the provisions of section 67-3516, Idaho Code. Moneys in the account shall be invested by the state treasurer in the manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest earned on all such investments shall be paid into the fish and game set-aside account.

SECTION 8. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-112, Idaho Code, and to read as follows:

36-112. ANIMAL DAMAGE CONTROL ACCOUNT. The animal damage control account is hereby established in the dedicated fund. Moneys in the account are subject to appropriation to the state animal damage control board established by section 25-128, Idaho Code, for the control of predatory animals and birds. The state auditor shall annually, by August 1 of each year, transfer the sum of fifty thousand dollars ($50,000) from the fish and game account to the animal damage control account. The state animal damage control board in using these moneys shall give priority to any proposed actions on predatory animals or birds forwarded by the department by the same date.

SECTION 9. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of fifteen dollars ($15.00) for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, ten dollars ($10.00) for a fishing license entitling the purchaser to fish in the public waters of the state, six dollars ($6.00) for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and twenty-five dollars ($25.00) for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

(b) Youth Licenses -- Hunting -- Trapping. A license of the second class may be had by a person possessing the qualifications therein described on payment of four dollars ($4.00) for a hunting license, and five dollars ($5.00) for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Youth Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of nine dollars ($9.00) for a combined fishing and hunting license, and six dollars ($6.00) for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class

may be had by a person possessing the qualifications therein described on payment of three dollars ($3.00) for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-411, Idaho Code, before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of sixty-nine dollars ($69.00) entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, ~~and~~ <u>an</u> archery hunt permit, a muzzleloader permit, an upland game permit, a migratory waterfowl stamp, a steelhead trout permit and an anadromous salmon permit. All persons authorized to sell such license shall charge a commission of one dollar ($1.00) for each license sold, to be retained by them as compensation for sale of the license. This shall be in addition to the sixty-nine dollar ($69.00) charge. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit ~~and set aside in those accounts as specified in subsections (a), (c) and (g) of section 36-107, Idaho Code, provided that three dollars ($3.00) shall be deposited and set aside for the purposes set forth in subsection (h) of section 36-107, Idaho Code, and in subsection (h) of section 36-409, Idaho Code, and that two dollars ($2.00) shall be deposited and set aside for the purposes set forth in section 36-414, Idaho Code,~~ as follows:

<u>(i) Three dollars ($3.00) in the set-aside account for the purposes of section 36-111(1)(a), Idaho Code;</u>

<u>(ii) Two dollars ($2.00) in the set-aside account for the purposes of section 36-111(1)(b), Idaho Code;</u>

<u>(iii) One dollar and fifty cents ($1.50) in the set-aside account for the purposes of section 36-111(1)(c), Idaho Code;</u>

<u>(iv) Five dollars ($5.00) in the set-aside account for the purposes of section 36-111(1)(e), Idaho Code;</u>

<u>(v) Two dollars ($2.00) in the set-aside account for the purposes of section 36-111(1)(f), Idaho Code; and</u>

<u>(vi) The balance in the fish and game account.</u>

All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules and regulations of the commission regarding the fish and wildlife of the state.

SECTION 10. That Section 36-407, Idaho Code, be, and the same is hereby amended to read as follows:

36-407. NONRESIDENT FISHING, HUNTING, AND TRAPPING LICENSES -- FEES -- RIGHTS UNDER. Licenses of the sixth class shall be issued to

nonresidents in the several kinds and for fees as follows:

(a) Nonresident Hunting License. A license issued only to a person twelve (12) years of age or older entitling said person to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals and predatory birds and animals and to purchase game tags as provided in section 36-409(b), Idaho Code. A license of this kind may be had upon payment of eighty-five dollars ($85.00).

(b) Nonresident Season Fishing License. A license entitling a person to fish in the public waters of the state. A license of this kind may be had by persons fourteen (14) years of age or older upon payment of thirty-five dollars ($35.00).

(c) Nonresident Trapping License. A license entitling a person to trap fur-bearing, unprotected, and predatory animals. A license of this kind may be had upon payment of one hundred and fifty dollars ($150) providing the state of residence of said person grants similar trapping license privileges to residents of Idaho.

(d) Nonresident Nongame License. A license entitling a person to carry a shotgun or rifle for the protection of livestock, or to pursue, hunt and kill unprotected birds and animals and predatory birds and animals of this state. A license of this kind may be had by a nonresident person who is twelve (12) years of age or older upon payment of ten dollars ($10.00). This license shall be valid only during the period of January 1 to August 31 of the calendar year in which issued, unless verified by the director that the licensee requires such a license to authorize him to carry a shotgun or rifle for the protection of livestock, in which case said license shall be valid until December 31 of the year in which issued.

(e) Nonresident Ten Day Fishing License. A license entitling a person to fish in the waters of the state for a period of ten (10) consecutive days only. A license of this kind may be had upon payment of seventeen dollars ($17.00).

(f) Nonresident Three Day Fishing License. A license entitling a person to fish in the waters of the state for a period of three (3) consecutive days only. A license of this kind may be had upon payment of ten dollars ($10.00).

(g) Nonresident Two Day Hunting License. A license issued only to a person twelve (12) years of age or older, entitling the person to hunt upland game birds (to include turkeys), migratory game birds, cottontail rabbits, and pygmy rabbits for any two (2) consecutive days. A person holding this license may not hunt pheasants in an area during the first five (5) days of the pheasant season in that area. A license of this type may be had upon payment of forty-five dollars ($45.00).

(h) Nonresident Falconry Hunting License. A license entitling a person possessing a valid falconry permit in a state or province other than Idaho, to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals, migratory waterfowl and to purchase any tags or stamps required, may be had upon payment of seventy-five dollars ($75.00). The director may issue a special permit for a regulated meet scheduled for a specific number of days upon payment of ten dollars ($10.00). Only trained raptors may be used under a license or special permit issued under the provisions of this subsection.

(i) Daily Fishing License -- Resident May Purchase. A license

entitling a person to fish in the waters of the state on a day-to-day basis. A license of this kind may be had by a resident or nonresident person (the provisions of section 36-405, Idaho Code, notwithstanding), upon payment of five dollars ($5.00) per day for each effective day thereof.

(j) Nonresident Three Day Fishing License with Steelhead or Salmon Permit. A license entitling a nonresident to fish in the waters of the state for a period of three (3) consecutive days for steelhead trout or anadromous salmon during an open season for those fish may be had upon payment of twenty dollars ($20.00). The three (3) day license holder may fish for and take one (1) steelhead trout and one (1) anadromous salmon or either two (2) steelhead trout or two (2) anadromous salmon subject to the limitations prescribed in this title and rules and regulations promulgated by the commission. A nonresident may purchase as many of the licenses provided in this subsection as he desires provided that the nonresident is otherwise eligible to do so. Moneys collected pursuant to this subsection shall be remitted ~~in a manner in accordance with section 36-107(h), Idaho Code~~ as specified by law.

SECTION 11. That Section 36-414, Idaho Code, be, and the same is hereby amended to read as follows:

36-414. MIGRATORY WATERFOWL STAMP -- PRINTS -- MIGRATORY WATERFOWL ART COMMITTEE. (1) As used in this section:

(a) "Migratory waterfowl" means members of the family Anatidae, including brants, ducks and geese.

(b) "Migratory waterfowl art committee" means the committee created in subsection (5) of this section.

(c) "Migratory waterfowl stamp" means the stamp that is required pursuant to this section to be in the possession of persons over sixteen (16) years of age to hunt migratory waterfowl.

(d) "Prints and artwork" mean replicas of the original stamp design that are sold to the general public. Prints and artwork are not to be construed to be the migratory waterfowl stamp that is required pursuant to this section. Artwork may be any facsimile of the original stamp design, including color renditions, metal duplications or any other kind of design.

(2) A state migratory waterfowl stamp is required to hunt migratory waterfowl. The fee for the stamp is five dollars ($5.00). The migratory waterfowl stamp shall be required in the hunting season starting not later than the fall of 1987. The migratory waterfowl stamp shall be validated by the signature of the licensee written across the ~~the~~ face of the stamp. The stamp shall be sold pursuant to the procedures contained in chapter 3, title 36, Idaho Code. All persons authorized to sell migratory waterfowl stamps may charge a commission of fifty cents (50¢) upon each stamp, to be retained by them as compensation for the sale of the migratory waterfowl stamp. This shall be in addition to the five dollar ($5.00) charge.

(3) It is unlawful and shall be a misdemeanor for any person over sixteen (16) years of age to hunt any migratory waterfowl without first obtaining a migratory waterfowl stamp as required in this section.

(4) The migratory waterfowl stamp to be produced by the department shall use the design as provided by the migratory waterfowl art committee. All revenue derived from the sale of the stamps by the department shall be deposited in the fish and game ~~trust~~ set-aside account and shall be used only for the cost of printing and production of the stamp and for those migratory waterfowl projects specified by the director of the department for the acquisition and development of migratory waterfowl habitat in the state. Acquisition shall include, but not be limited to, the acceptance of gifts of real property or any interest therein or the rental, lease or purchase of real property or any interest therein. If the department acquires any fee interest, leasehold or rental interest in real property under this section, it shall allow the general public reasonable access to that property and shall, if appropriate, insure that the deed or other instrument creating the interest allows this access to the general public. If the department obtains a covenant in real property in its favor or an easement or any other interest in real property under this section, it shall exercise its best efforts to insure that the deed or other instrument creating the interest grants to the general public in the form of a covenant running with the land reasonable access to the property. The private landowner from whom the department obtains such a covenant or easement shall retain the right of granting access to the lands by written permission.

The department may produce migratory waterfowl stamps in any given year in excess of those necessary for sale in that year. The excess stamps may be sold to the migratory waterfowl art committee for sale to the public.

(5) There is hereby created a migratory waterfowl art committee which shall be composed of seven (7) members. The committee shall consist of one (1) member appointed by the governor, four (4) members appointed by the director of the department, one (1) member appointed by the Idaho commission on the arts, and one (1) member appointed by the director of the department of agriculture. The member appointed by the Idaho commission on the arts shall be knowledgeable in the area of fine art reproduction. The member appointed by the director of the department of agriculture shall represent statewide farming interest. The members appointed by the governor and the director of the department shall be knowledgeable about waterfowl and waterfowl management. The four (4) members appointed by the director of the department shall also represent respectively:

(a) A northern Idaho sports group;

(b) A southern Idaho sports group;

(c) A group with a major interest in the conservation and propagation of migratory waterfowl; and

(d) A statewide conservation organization.

(6) The members of the committee shall serve three (3) year staggered terms and at the expiration of their terms shall serve until qualified successors are appointed. Of the seven (7) members, two (2) shall serve initial terms of four (4) years, two (2) shall serve initial terms of three (3) years, and three (3) shall serve initial terms of two (2) years. The appointees of the governor and the director of the department of agriculture shall serve the initial terms of four (4) years. The appointees of the commission on the arts and one (1) of

the appointees of the director of the department of fish and game shall serve the initial terms of two (2) years. Vacancies shall be filled for unexpired terms consistent with this subsection. A chairman shall be elected annually by the committee. The committee shall review the director's expenditures of the previous year of both the stamp money and the prints and related artwork money. Members of the committee shall be compensated as provided in section 59-509(a), Idaho Code.

(7) The committee is responsible for the selection of the annual migratory waterfowl stamp design and shall provide the design to the department. If the committee does not perform this duty within the time frame necessary to achieve proper and timely distribution of the stamps to license vendors, the director shall initiate the artwork selection for that year. The committee shall create collector art prints and related artwork, utilizing the same design as provided to the department. The administration, sale, distribution and other matters relating to the prints and sales of stamps with prints and related artwork shall be the responsibility of the migratory waterfowl art committee.

(8) The total amount of moneys brought in from the sale of prints, stamps, and related artwork shall be deposited in the fish and game ~~trust~~ set-aside account. The costs of producing and marketing of prints and related artwork, including administrative expenses mutually agreed upon by the committee and the director shall be paid out of the total amount of moneys brought in from sale of those same items. Net funds derived from the sale of prints and related artwork shall be expended as follows:

(a) Twenty percent (20%) of the funds shall be provided by the director of the department to an appropriate nonprofit entity or wildlife conservation agency for the development of migratory waterfowl propagation projects within the provinces of Alberta and British Columbia in Canada.

(b) Eighty percent (80%) of the funds shall be used by the director of the department for the acquisition and development of waterfowl propagation projects within Idaho.

(c) The migratory waterfowl art committee shall have a periodic audit of its finances conducted by the legislative auditor or its successor agency and shall furnish a copy of the audit to the fish and game commission and the senate resources and environment committee and the house of representatives resources and conservation committee.

SECTION 12. 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~~ set-aside account created by section 36-1~~07~~11, 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.

SECTION 13. The provisions of this act are subject to the requirements of section 57-803A, Idaho Code.

Approved April 12, 1990.

CHAPTER 389
(H.B. No. B82, As Amended in the Senate)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1991; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CHILDHOOD IMMUNIZATION EXPENDITURES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO NUTRIENT MANAGEMENT EXPENDITURES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE DISTRIBUTION OF FUNDS TO CURRENT SERVICE PROVIDERS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; SUPERSEDING THE PROVISIONS OF SECTION 39-3606, IDAHO CODE; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM VARIOUS ACCOUNTS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CASE MANAGEMENT; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO PERSONAL CARE SERVICES.

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, 1990, through June 30, 1991:

FROM:

General Account	$132,216,900
Domestic Violence Account	338,900
Cancer Control Account	375,000
Emergency Medical Services Account I	894,200
Emergency Medical Services Account II	356,100
Medical Assistance Account	18,500
Liquor Account	650,000
Cooperative Welfare Account	274,574,700
Water Pollution Control Account	14,342,300
Central Tumor Registry Account	110,000
Alcoholism Treatment Account	1,987,500
Hazardous Waste Monitoring Account	2,239,500
State Agricultural Smoke Management Account	17,000
State Youth Training Center Income Account	501,200
State Hospital South Income Account	877,500
State Hospital North Income Account	347,900
Idaho Veterans Home Income Account	250,800
County Medical Indigency Suspense Account	2,478,400
TOTAL	$432,576,400

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. INDIRECT SUPPORT SERVICES:						
FROM:						
General Account	$ 2,902,300	$2,258,900	$ 46,600			$ 5,207,800
Cooperative Welfare Account	2,646,700	2,294,700	47,400			4,988,800
County Medical Indigency Suspense Account		46,800				46,800
TOTAL	$ 5,549,000	$4,600,400	$ 94,000			$ 10,243,400
II. DIVISION OF HEALTH SERVICES:						
A. PHYSICAL HEALTH SERVICES:						
FROM:						
General Account	$ 558,800	$1,670,700	$ 1,700	$ 1,293,000		$ 3,524,200
Cooperative Welfare Account	1,559,100	1,042,800	103,100	15,089,500		17,794,500
Cancer Control Account	19,400	355,600				375,000
Central Tumor Registry Account				110,000		110,000
TOTAL	$ 2,137,300	$3,069,100	$104,800	$16,492,500		$ 21,803,700
B. EMERGENCY MEDICAL SERVICES:						
FROM:						
General Account	$ 29,900	$ 5,000	$ 5,000	$ 300,000		$ 339,900
Emergency Medical Services Account I	292,500	352,100	49,500	200,100		894,200
Emergency Medical Services Account II	244,800	84,500		26,800		356,100
Cooperative Welfare Account		133,900		23,000		156,900
TOTAL	$ 567,200	$ 575,500	$ 54,500	$ 549,900		$ 1,747,100
C. LABORATORY SERVICES:						
FROM:						
General Account	$ 947,000	$ 357,800	$103,300	$ 107,000		$ 1,515,100
Cooperative Welfare Account	663,900	425,400	5,000	25,300		1,119,600
Water Pollution Control Account	89,600	15,000	15,000			119,600
Hazardous Waste Monitoring Account	68,800	40,900	24,800			134,500
TOTAL	$ 1,769,300	$ 839,100	$148,100	$ 132,300		$ 2,888,800
DIVISION TOTAL	$ 4,473,800	$4,483,700	$307,400	$17,174,700		$ 26,439,600
III. DIVISION OF WELFARE:						
A. STATE ECONOMIC OPPORTUNITY OFFICE:						
FROM:						
General Account	$ 23,600	$ 6,300	$ 1,200			$ 31,100
Cooperative Welfare Account	432,900	73,700	21,600	$ 9,966,300		10,494,500
TOTAL	$ 456,500	$ 80,000	$ 22,800	$ 9,966,300		$ 10,525,600
B. ELIGIBILITY SERVICES:						
FROM:						
General Account	$ 5,377,300	$2,303,900	$101,000			$ 7,782,200
Cooperative Welfare Account	5,505,900	2,051,900	93,100			7,650,900
County Medical Indigency Suspense Account		28,900				28,900
TOTAL	$10,883,200	$4,384,700	$194,100			$ 15,462,000
C. MEDICAL ASSISTANCE PAYMENTS:						
FROM:						
General Account	$ 1,740,000	$1,101,100	$103,200	$ 49,443,500		$ 52,387,800
Medical Assistance Account				15,000		15,000
Liquor Account				650,000		650,000
Cooperative Welfare Account	2,995,100	3,324,000	109,700	143,869,800		150,298,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
County Medical Indigency Suspense Account	79,200	50,800		2,267,300		2,397,300
TOTAL	$ 4,814,300	$4,475,900	$212,900	$196,245,600		$205,748,700
D. ADULT AND A.D.C. ASSISTANCE PAYMENTS:						
FROM:						
General Account	$ 280,700	$ 273,100		$ 8,495,700	$ 3,224,800	$ 12,274,300
Cooperative Welfare Account	2,912,700	2,373,800	100,700	19,478,900	6,956,700	31,822,800
TOTAL	$ 3,193,400	$2,646,900	$100,700	$ 27,974,600	$10,181,500	$ 44,097,100
DIVISION TOTAL	$19,347,400	$11,587,500	$530,500	$234,186,500	$10,181,500	$275,833,400
IV. DIVISION OF FAMILY AND CHILDREN'S SERVICES:						
A. SOCIAL SERVICES:						
FROM:						
General Account	$ 5,356,700	$2,606,100	$101,200	$ 3,344,900	$ 200,000	$ 11,608,900
Cooperative Welfare Account	8,311,800	2,274,600	195,200	4,269,800		15,051,400
TOTAL	$13,668,500	$4,880,700	$296,400	$ 7,614,700	$ 200,000	$ 26,660,300
B. SUBSTANCE ABUSE:						
FROM:						
General Account	$ 5,200	$ 27,900		$ 569,500		$ 602,600
Alcoholism Treatment Account	144,700	65,900	11,000	1,449,600		1,671,200
Cooperative Welfare Account	197,100	730,500	300	1,668,200		2,596,100
TOTAL	$ 347,000	$ 824,300	$ 11,300	$ 3,687,300		$ 4,869,900
C. STATE YOUTH SERVICES CENTER:						
FROM:						
General Account					$ 4,244,800	$ 4,244,800
Cooperative Welfare Account					759,900	759,900
State Youth Training Center Income Account					501,200	501,200
TOTAL					$ 5,505,900	$ 5,505,900
DIVISION TOTAL	$14,015,500	$ 5,705,000	$ 307,700	$ 11,302,000	$ 5,705,900	$ 37,036,100
V. DIVISION OF ENVIRONMENT:						
A. AIR QUALITY:						
FROM:						
General Account	$ 532,500	$ 151,100	$ 89,000			$ 772,600
Cooperative Welfare Account	504,600	207,900	2,900			715,400
Hazardous Waste Monitoring Account		15,500				15,500
State Agricultural Smoke Management Account		8,400	8,600			17,000
TOTAL	$ 1,037,100	$ 382,900	$ 100,500			$ 1,520,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
B. WATER QUALITY:						
FROM:						
Cooperative Welfare Account	$ 1,875,800	$ 1,030,100	$ 17,400	$ 90,400		$ 3,013,700
Water Pollution Control Account	1,821,100	1,170,400	195,600	11,035,600		14,222,700
Hazardous Waste Monitoring Account		40,000				40,000
TOTAL	$ 3,696,900	$ 2,240,500	$ 213,000	$ 11,126,000		$ 17,276,400
C. HAZARDOUS MATERIALS:						
FROM:						
General Account	$ 108,000	$ 55,400	$ 27,200			$ 190,600
Hazardous Waste Monitoring Account	1,258,700	402,300	170,700			1,831,700
Cooperative Welfare Account	922,000	2,094,400	41,000	75,000		3,132,400
TOTAL	$ 2,288,700	$2,552,100	$238,900	$ 75,000		$ 5,154,700
DIVISION TOTAL	$ 7,022,700	$5,175,500	$552,400	$11,201,000		$ 23,951,600
VI. VETERANS SERVICES:						
FROM:						
General Account					$ 856,500	$ 856,500
Cooperative Welfare Account					3,333,400	3,333,400
Idaho Veterans Home Income Account					250,800	250,800
TOTAL					$ 4,440,700	$ 4,440,700
VII. DIVISION OF COMMUNITY REHABILITATION:						
A. COMMUNITY DEVELOPMENTAL DISABILITIES:						
FROM:						
General Account	$ 4,517,600	$1,341,000	$129,600	$ 1,348,200		$ 7,336,400
Cooperative Welfare Account	1,450,200	192,900		1,608,700		3,251,800
TOTAL	$ 5,967,800	$1,533,900	$129,600	$ 2,956,900		$ 10,588,200
8. IDAHO STATE SCHOOL AND HOSPITAL:						
FROM:						
General Account					$ 4,963,000	$ 4,963,000
Medical Assistance Account					3,500	3,500
Cooperative Welfare Account					14,051,200	14,051,200
TOTAL					$19,017,700	$ 19,017,700
C. COMMUNITY MENTAL HEALTH SERVICES:						
FROM:						
General Account	$ 5,047,600	$1,053,800	$ 69,000	$ 852,100	$ 858,100	$ 7,880,600
Cooperative Welfare Account	1,794,800	490,400		24,900		2,310,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
County Medical Indigency Suspense Account		5,400				5,400
TOTAL	$ 6,842,400	$1,549,600	$ 69,000	$ 877,000	$ 858,100	$ 10,196,100
D. STATE HOSPITAL NORTH:						
FROM:						
General Account					$3,120,600	$ 3,120,600
Cooperative Welfare Account					432,600	432,600
Alcoholism Treatment Account					316,300	316,300
State Hospital North Income Account					347,900	347,900
TOTAL					$ 4,217,400	$ 4,217,400
E. STATE HOSPITAL SOUTH:						
FROM:						
General Account					$ 7,153,100	$ 7,153,100
Cooperative Welfare Account					927,400	927,400
State Hospital South Income Account					877,500	877,500
TOTAL					$ 8,958,000	$ 8,958,000
DIVISION TOTAL	$12,810,200	$ 3,083,500	$ 198,600	$ 3,833,900	$33,051,200	$ 52,977,400
VIII. INDEPENDENT COMMISSIONS AND COUNCILS:						
A. STATE EMERGENCY RESPONSE COMMISSION:						
FROM:						
General Account			$ 300,000			$ 300,000
Hazardous Waste Monitoring Account	$ 75,600	$ 139,500	2,700			217,800
TOTAL	$ 75,600	$ 139,500	$ 302,700			$ 517,800
8. DOMESTIC VIOLENCE COUNCIL:						
FROM:						
Domestic Violence Account	$ 60,900	$ 58,700		$ 219,300		$ 338,900
Cooperative Welfare Account		2,700		354,800		357,500
TOTAL	$ 60,900	$ 61,400		$ 574,100		$ 696,400
C. DEVELOPMENTAL DISABILITIES COUNCIL:						
FROM:						
General Account	$ 6,100	$19,700	$ 2,900	$ 5,900		$ 34,600
Cooperative Welfare Account	191,600	51,900		71,700		315,200
TOTAL	$ 197,700	$ 71,600	$ 2,900	$ 77,600		$ 349,800
D. COMMISSION ON ALCOHOL AND DRUG ABUSE:						
FROM:						
General Account	$ 50,200	$ 40,000				$ 90,200
DIVISION TOTAL	$ 384,400	$ 312,500	$ 305,600	$ 651,700		$ 1,654,200
GRAND TOTAL	$63,603,000	$34,948,100	$2,296,200	$278,349,800	$53,379,300	$432,576,400

SECTION 3. It is legislative intent that, of those moneys appropriated for childhood immunizations in Section 2 of this act, the Department of Health and Welfare contract to the maximum extent possible with the Public Health Districts.

SECTION 4. It is legislative intent that, of those moneys appropriated in Section 2 of this act for nutrient management and clean lakes in the Water Quality Program, $50,000 be distributed to the Bear Lake Regional Commission and $300,000 be used to provide dollar for dollar matching grants for each of the hydrologic basins, pursuant to Section 39-105(5), Idaho Code, with highest priority given to the Panhandle Hydrologic Basin. It is further the intent of the Legislature that, if grant moneys are awarded to Lake Coeur d'Alene, then a water quality monitoring station be established at the mouth of the Coeur d'Alene River.

SECTION 5. It is legislative intent to purchase, through the Community Developmental Disabilities Services and the Community Mental Health Division budgets, the services known as: Work Services; Community Supported Employment for the Developmentally Disabled; and Community Supported Employment for the Chronically Mentally Ill, the Traumatically Brain Injured, and the Severe Learning Disabled from the current service providers.

SECTION 6. 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 7. The appropriation of moneys from the Water Pollution Control Account in Section 2 of this act specifically supersedes the provisions of Section 39-3606 and 39-3603, Idaho Code.

SECTION 8. The State Auditor shall make transfers of the General Account, the Water Pollution Control Account, 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 amounts provided herein.

SECTION 9. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Account moneys appropriated by the Idaho Legislature for the period July 1, 1989, through June 30, 1990, to be used for nonrecurring expenditures only, for the period July 1, 1990, through June 30, 1991.

SECTION 10. It is legislative intent that $890,400 of the amount appropriated to the Medical Assistance Payments Program in Section 2 of this act be used to establish a statewide case management program for personal care services beginning July 1, 1990.

SECTION 11. It is legislative intent that $4,755,800 of the amount appropriated to the Medical Assistance Payments Program in Section 2 of this act be used to establish a full option personal care services program beginning January 1, 1991.

Approved April 12, 1990.

CHAPTER 390
(H.B. No. 702, As Amended)

AN ACT

RELATING TO REGIONAL SOLID WASTE DISPOSAL; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 49, TITLE 31, IDAHO CODE, TO PROVIDE A STATEMENT OF FINDINGS AND PURPOSE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR THE ESTABLISHMENT OF DISTRICTS, TO PROVIDE FOR A DISTRICT BOARD, QUORUM AND MEETINGS, TO PROHIBIT CONFLICT OF INTEREST, TO PROVIDE FOR POWERS OF THE BOARD OF DIRECTORS, TO PROVIDE FOR AN ANNUAL BUDGET, TO PROVIDE FOR THE APPORTIONMENT OF COSTS AMONG COUNTIES, TO DENY ANY POWER TO TAX, TO PROVIDE FOR BONDS AND OTHER INDEBTEDNESS, TO PROVIDE FOR THE AUTHORIZATION, FORM AND SALE OF BONDS, TO PROVIDE SECURITY FOR BONDS OR OTHER INDEBTEDNESS, TO PROVIDE FOR A LIMITATION ON ACTIONS, TO REQUIRE COMPLIANCE WITH COMPETITIVE BID LAWS, TO AUTHORIZE THE TRANSFER OF PROPERTY, TO PROHIBIT THE OPERATION OF LANDFILLS OR RECOVERY FACILITIES BY COUNTIES WITHIN THE DISTRICT, TO PROVIDE FOR THE LIABILITY OF PARTICIPATING COUNTIES, TO PROVIDE FOR THE INCLUSION OF COUNTIES, TO PROVIDE FOR THE WITHDRAWAL OF COUNTIES, AND TO PROVIDE FOR DISSOLUTION OF DISTRICTS.

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

SECTION 1. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 49, Title 31, Idaho Code, and to read as follows:

CHAPTER 49
REGIONAL SOLID WASTE DISPOSAL DISTRICTS

31-4901. FINDINGS AND PURPOSE. (1) The legislature hereby finds and declares that the disposal of solid waste within the state of Idaho is an important public purpose, and that the creation of independent regional districts to administer solid waste disposal is an efficient and cost-effective method of meeting the state's solid waste disposal needs.

(2) The purpose of this chapter is to enable counties to establish regional solid waste districts for the purpose of providing a regional solution to the problem of solid waste disposal through the operation and maintenance of a regional solid waste system.

(3) The foregoing purpose is hereby declared to be a valid public purpose within the police powers of the state of Idaho.

31-4902. DEFINITIONS. As used in this chapter:

(1) "Act" or "this act" means this regional solid waste district act.

(2) "Commissioners" mean the board of commissioners of each county within a district.

(3) "District" means a regional solid waste district created pursuant to this chapter.

(4) "District board" means the board of directors of a district.

(5) "Facility" or "facilities" means all equipment and other property, including electrical cogeneration equipment, deemed necessary by the district board for the operation of a solid waste disposal and/or resource recovery system.

(6) "Participating county" means a county which elects, through action of the commissioners as provided in this chapter, to become a member of a district.

(7) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the atomic energy act of 1954, as amended.

(8) "State" means the state of Idaho.

(9) "System" means all components of solid waste operations including, but not limited to, landfill compliance measures, landfill disposal operations, regional transfer operations, and resource recovery and management, on any site or sites acquired, constructed, operated, or managed by a district.

31-4903. ESTABLISHMENT OF DISTRICTS. Any two (2) or more counties within the state may establish an independent public body corporate and politic to be known as a regional solid waste district (with such additional designation as the district board may select), consisting of such counties as may elect, by resolution of the commissioners of such counties, to become participating counties of such district. The boundaries of a district shall be coterminous with the boundaries of the participating counties. Counties within a district need not be contiguous to each other. No district shall transact any business nor exercise any powers hereunder until or unless the commissioners of two (2) or more of such counties, by resolution, shall declare their intent to participate in a district. Any county which does not so elect to become a participating county shall not be subject to the provisions of this chapter.

In any suit, action, or proceeding involving or relating to any contract, resolution, regulation, or other action of a district, the district shall be conclusively deemed to have been organized and authorized to transact business and to exercise its powers hereunder upon proof of the adoption of a resolution by the commissioners of not less than two (2) counties as provided hereinabove. A duly certified copy of any such resolution shall be admissible in evidence in any

suit, action, or proceeding.

A district created pursuant to this chapter shall not be deemed to be an agency of the state of Idaho nor of any of its political subdivisions for purposes of article VIII of the Idaho constitution.

31-4904. DISTRICT BOARD -- QUORUM -- MEETINGS. A district shall be governed by a board of directors consisting of not less than three (3) members, hereinafter referred to as the district board, which shall be vested with the authority, control and supervision of the district. The district board shall consist of one (1) commissioner from each participating county, appointed by the commissioners of the participating county. If the district includes only two (2) counties, the commissioners of the two (2) participating counties shall jointly appoint a third member of the district board. Ex officio, nonvoting members may be appointed by the district board. The district board shall designate one (1) of its members as president, shall appoint a treasurer, who need not be a member of the district board, and shall establish such other officers as it deems necessary. The district board shall adopt bylaws for its own operation and establish such regular meeting dates and times as it shall deem necessary. A majority of the voting members of the district board shall constitute a quorum, and a majority of the quorum present shall be sufficient to take any action. A member of the district board shall serve for a two (2) year term and may be reappointed by the commissioners appointing such member. Any member may be removed by the commissioners who originally appointed such member, at any time and for any reason. Any vacancy shall be filled by the original appointing commissioners. Members of a district board shall serve without compensation, but may be reimbursed for their actual expenses incurred in attending board meetings or conducting other district business under such rules as the district board may adopt. Regular and special meetings of a district board shall be conducted in compliance with sections 67-2340 through 67-2347, Idaho Code.

31-4905. CONFLICT OF INTEREST PROHIBITED. No member of a district board, employee, or agent of a district shall acquire any interest in any property or contract of the district.

31-4906. POWERS OF THE BOARD OF DIRECTORS. A district board shall have and may exercise the following powers and duties:

(1) To sue and be sued;

(2) To develop and administer a system for the regional disposal of solid waste and/or resource recovery within the district;

(3) To authorize any action by motion, resolution, or other official action;

(4) To administer and enforce all solid waste regulations and standards of the district;

(5) To determine the location of its main office and branch offices, if any;

(6) To acquire, hold title to, lease, mortgage or encumber, dispose of, and pledge real and personal property and to acquire, construct, or lease buildings, structures, and solid waste disposal and resource recovery sites and equipment as may be deemed necessary to

fulfill its duties, and to have and exercise the power of eminent domain therefor;

(7) To sell, convey, lease or dispose of any property, real or personal, with or without competitive bid, upon such terms and conditions and for such consideration as the district board deems appropriate;

(8) To acquire, construct, operate, and maintain any facilities within the district, and to enter into contracts and agreements, cooperative and otherwise, affecting the affairs of the district, including contracts with the United States of America and any of its agencies or instrumentalities, the state and any of its agencies or instrumentalities, any corporation or person, public or private, any municipality, and any political or governmental subdivision, within or without the state, and to cooperate with any one (1) or more of them in acquiring, constructing, operating, or maintaining a system or facilities within the district;

(9) To acquire, maintain, and operate, as an incident to solid waste disposal, electrical cogeneration facilities, to sell electricity to any person or entity, and to enter into contracts therefor;

(10) To receive moneys and property from participating counties and to receive gifts, grants, and donations from any person or entity, to expend the same for the purposes of the district, to pledge the same for the payment of any indebtedness, to deposit moneys in accordance with the public depository laws of the state, and to invest moneys of the district in investments permitted under sections 67-1210 and 67-1210A, Idaho Code;

(11) To borrow money and incur indebtedness, and to evidence the same by notes, warrants, bonds, or other evidence of indebtedness;

(12) To have the management, control, and supervision of all the business and affairs of the district;

(13) To hire an administrator and provide for the compensation of other employees of the district, and to retain agents, engineers and consultants;

(14) To retain or employ regular legal counsel, and to retain such special legal counsel as may be deemed necessary;

(15) To fix and to increase or decrease rates, fees, tolls, or charges for the use or availability of the facilities of the district;

(16) To adopt rules, regulations, and standards, consistent with state and federal laws and regulations, for the use of the district's system and facilities;

(17) To maintain civil actions for the abatement of any violation of any of the district's rules, regulations, or standards;

(18) To insure its property and to enter into contracts for insurance, including, but not limited to, liability insurance;

(19) To exercise all or any part or combination of the powers set forth in this chapter, and to do all things necessary or incidental to the proper operation of this chapter.

31-4907. ANNUAL BUDGET. The fiscal year of a district shall commence on October 1 of each year and shall end on September 30 of the following year.

The district board shall prepare, by the first Monday in July of each year, a preliminary budget for the district and an estimate of

costs to be apportioned to each participating county for the ensuing year. A copy of the preliminary budget, showing the amount of costs to be allocated to each participating county, shall be distributed to each participating county by July 15 of each year.

On or before the first Monday in August, there shall be held at a time and place determined by the district board a meeting and public hearing upon the proposed budget of the district. Notice of the meeting and public hearing shall be published in a newspaper of general circulation in each participating county, in one (1) issue thereof. The place, hour, and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A summary of such proposed budget shall be published with and as a part of the publication of such notice of hearing in substantially the form required in section 31-1604, Idaho Code.

On or before August 15 of each year a budget for the district shall be approved by the district board and certified to each county. Such determination shall be binding upon all counties within the district and the district itself.

A district may establish operating funds, dedicated funds, bond and sinking funds, and such other funds as the district board may designate, and may accumulate and carry over funds from year to year as the district board shall direct. Such funds may be utilized for any lawful purpose of the district including, but not limited to, compliance with federal and state environmental protection laws and regulations.

31-4908. APPORTIONMENT OF ANNUAL COSTS TO COUNTIES. Any costs of the district for the ensuing year, in excess of the fees and other revenues anticipated to be received directly by the district, shall be allocated to the participating counties in accordance with the annual budget approved by the district board. Costs shall be allocated on a per capita, weight, or volume basis, or any combination thereof designed to achieve an equitable distribution of costs in relation to the benefits derived to each county. Any participating county may finance its share of such costs in accordance with section 31-4404, Idaho Code. It shall be the duty of each participating county to remit its apportioned amount to the district at such time or times as specified in the annual budget approved by the district board.

31-4909. NO POWER TO TAX. A district shall have no power to levy property taxes. Nothing herein shall be deemed as limiting or prohibiting the power of any participating county to levy property taxes for the purposes authorized in section 31-4404, Idaho Code.

31-4910. BONDS AND OTHER INDEBTEDNESS. A district shall have power to issue bonds or other obligations including, without limitation, installment purchase or lease-purchase obligations, from time to time in the discretion of the district board, for any of its corporate purposes. A district shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued or other indebtedness previously incurred by it. In order to carry out the purposes of this chapter, a district may issue, upon proper resolution, bonds or other obligations on which the principal and interest are

payable (a) exclusively from the income and revenue of a project financed with the proceeds of such bonds or other obligations; or (b) exclusively from such income and revenues together with grants and contributions from the federal government or other moneys of the district or any source in aid of such project.

Neither the members of the district board nor any person executing the bonds shall be liable personally on the bonds or other obligations by reason of the issuance thereof. The bonds and other obligations of a district (and such bonds and obligations shall so state on their face) shall not be a debt or liability, direct or indirect, of the district, the state, or any political subdivision thereof, and neither the district, the state, nor any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds other than those of the district. Bonds of a district are declared to be issued for an essential public and governmental purpose, and the interest thereon shall be exempt from income taxation by the state of Idaho.

31-4911. AUTHORIZATION, FORM AND SALE OF BONDS. When the district board shall find the proposed project or projects to be necessary for the proper operation of the district and economically feasible and such finding is recorded in its minutes, the bonds therefor shall be authorized by resolution of the district board. The bonds may be issued in one (1) or more series, may bear such date or dates, may be in such denomination or denominations, may mature at such time or times, not exceeding forty (40) years from the respective dates thereof, may mature in such amount or amounts, may bear interest at such rate or rates to be determined by the district board, may be in such form, may carry such registration and such conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without premium, as such resolution or other resolutions may provide. The bonds may be sold at a public or private sale at, above, or below par, as shall be determined by the district board, plus accrued interest, in a manner to be provided by the district board. The bonds shall be fully negotiable within the meaning and for all purposes of the uniform commercial code.

31-4912. SECURITY FOR BONDS OR OTHER INDEBTEDNESS. In connection with the issuance of bonds or the incurring of other indebtedness, and to secure the payment of the same, the district board shall have the power:

(1) To pledge all or any part of its fees and revenues from any source;

(2) To covenant against pledging all or any part of its fees and revenues, or against permitting any lien on such fees, revenues, or property;

(3) To covenant as to the bonds or other indebtedness to be issued and as to the use and disposition of the proceeds thereof;

(4) To establish and fund reserves for the payment of such bonds or indebtedness;

(5) To enter into credit enhancement arrangements including, but not limited to, letters of credit, reimbursement and remarketing

agreements, and bond insurance policies;

(6) To make such covenants as will tend to make such bonds or indebtedness more marketable, notwithstanding that such covenants may not be enumerated herein.

31-4913. LIMITATION ON ACTIONS. No direct or collateral action attacking or questioning the validity of any bonds or other indebtedness of a district shall be brought after the elapse of forty (40) days from and after the adoption of the resolution authorizing the issuance of such bonds or the incurring of such indebtedness.

31-4914. APPLICATION OF LAWS. In the acquisition, construction, siting or other location of any facilities of a district, the district shall be subject to and shall comply with applicable zoning and building laws, ordinances and regulations of the governmental entity having jurisdiction over such location.

31-4915. COMPETITIVE BID LAWS. In the acquisition of public works or property, other than real property, a district shall comply with the competitive bid requirements applicable to counties of the state.

31-4916. TRANSFER OF PROPERTY AUTHORIZED. Any county, city, other political subdivision, public or quasi-public entity, and the state and any agency or department thereof, shall have the power to sell, convey or transfer with or without consideration, or to lease, for any term and upon any consideration, any property, real or personal, to a district.

31-4917. OPERATION OF LANDFILLS OR RESOURCE RECOVERY FACILITIES BY PARTICIPATING COUNTIES PROHIBITED. No participating county shall acquire, construct or operate, or continue the operation of, any landfill site on any facility for the recovery of resources or the disposal of solid waste, without the consent of the district board, after a solid waste disposal or resource recovery facility of a district is operational. The foregoing restriction shall not apply to a resource recovery facility which was operational at, or which becomes operational within six (6) months after, the date of establishment of the district. The district board may establish exceptions, consistent with applicable federal and state laws and regulations, to this requirement. The commissioners of the participating counties shall take all actions necessary to require that all solid waste collected within their respective jurisdictions be delivered to the district's solid waste disposal or resource recovery site or sites.

31-4918. LIABILITY OF PARTICIPATING COUNTY. Each participating county shall be liable for the payment of its allocated costs pursuant to section 31-4908, Idaho Code. Each participating county shall be liable for environmental costs only to the extent provided in the comprehensive environmental response compensation and liability act of 1980, as the same now exists or may hereafter be amended, or to the extent provided in other applicable state or federal laws.

31-4919. INCLUSION OF ADDITIONAL COUNTIES. Any county which is

not a participating county of a district may, with the consent of the district board and the consent of the commissioners of a majority of the participating counties, become a participating county of a district by adoption of a resolution in accordance with section 31-4903, Idaho Code.

31-4920. WITHDRAWAL OF PARTICIPATING COUNTY. A participating county may, with the consent of the commissioners of not less than two-thirds (2/3) of the remaining participating counties, expressed by resolution, withdraw from a district. A county withdrawing from a district shall not be entitled to reimbursement of any funds or to any proportionate share of the property of the district.

31-4921. DISSOLUTION. A district may be dissolved by the unanimous action, expressed by resolution of the commissioners, of the participating counties; provided, that no dissolution shall occur while any indebtedness of the district remains outstanding unless provision for the payment of all such indebtedness first be duly made.

Approved April 12, 1990.

CHAPTER 391
(H.B. No. 727, As Amended)

AN ACT

RELATING TO ALL TERRAIN VEHICLES; AMENDING SECTION 49-102, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 88, LAWS OF 1989, TO DEFINE ALL TERRAIN VEHICLE; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF ALL TERRAIN VEHICLES AND TO INCREASE THE FEE FOR REGISTRATION OF A MOTORCYCLE; AMENDING SECTION 49-428, IDAHO CODE, TO PROVIDE FOR THE DISPLAY OF PLATE AND TAGS ON REGISTERED ALL TERRAIN VEHICLES; AMENDING SECTION 67-7101, IDAHO CODE, TO REDEFINE "ALL TERRAIN VEHICLE"; AMENDING SECTION 67-7122, IDAHO CODE, TO CLARIFY REQUIRED REGISTRATION OF ALL TERRAIN VEHICLES FOR USE ON THE PUBLIC HIGHWAYS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-102, Idaho Code, as amended by Section 1, Chapter 88, Laws of 1989, 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 without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for the purposes of vehicular traffic or parking, or upon or within the right-of-way of any highway, for twenty-four (24) hours or longer.

(2) "Abandoned vehicle" means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another with-

out 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.

(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.

(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.

(10) "All terrain vehicle" or "ATV" means any recreation vehicle with two (2) or more tires, weighing under six hundred fifty (650) pounds, less than forty-eight (48) inches in width, traveling on low pressure tires of less than five (5) psi, and designed to be ridden by one (1) person. Such vehicles shall be registered under the provisions of section 49-402, Idaho Code, for operation on public highways.

(11) "Amateur radio operator." (See "Radio operator, amateur", section 49-119, Idaho Code)

(1~~1~~2) "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.

(1~~2~~3) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(1~~3~~4) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title.

(1~~4~~5) "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.

(15~~6~~) "Armed forces" means the army, navy, marine corps, coast guard and the air force of the United States.

(16~~7~~) "Authorized emergency vehicle." (See "Vehicle", section 49-123, Idaho Code)

(17~~8~~) "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.

(18~~9~~) "Auto transporter" means a vehicle combination constructed for the purpose of transporting motor vehicles.

SECTION 2. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) ~~t~~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 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 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 and all terrain vehicles the annual fee shall be ~~six~~ nine dollars ~~and forty-eight cents ($6.48)~~ ($9.00). For operation of an ATV off the public highways, the fee specified in section 67-7122, Idaho Code, shall also be paid.

(5) All vehicles required in subsections (2) through (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.

(6) A vehicle may be registered by the department under the provisions of subsections (1) through (4) 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 49-443, 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.

(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 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 3. That Section 49-428, Idaho Code, be, and the same is hereby amended to read as follows:

49-428. DISPLAY OF PLATE AND TAGS. (1) License plates assigned to a motor vehicle, other than a motorcycle, all terrain vehicle, trailer, or semitrailer, and other than the license plate assigned to a motor vehicle operated by a manufacturer or dealer, shall be attached, one in the front and the other in the rear. The license plate assigned to a motorcycle, all terrain vehicle or semitrailer and the license plate assigned to a motor vehicle operated by a manufacturer or dealer shall be attached to the rear. License plates shall be displayed during the current registration year. The annual registration sticker for the current registration year shall be displayed on each license plate in those years for which stickers are furnished in lieu of license plates. For the purposes of this title, the license plates together with the registration stickers shall be considered as license plates for the year designated on the registration sticker.

(2) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the license plates.

SECTION 4. That Section 67-7101, Idaho Code, be, and the same is hereby amended to read as follows:

67-7101. DEFINITIONS. In this chapter:

(1) "All terrain vehicle (ATV)" means any recreation vehicle with two (2) or more tires, under six hundred fifty (650~~0~~) 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.

(2) "Board" means the park and recreation board created under authority of section 67-4221, Idaho Code.

(3) "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.

(4) "Dealer" means any person who engages in the retail sales of or rental of snowmobiles, motorbikes, or all terrain vehicles.

(5) "Department" means the Idaho department of parks and recreation.

(6) "Designated parking area" means an area located, constructed, maintained, and signed with the approval of the land manager or owner.

(7) "Director" means the director of the department of parks and recreation.

(8) "Highway." (See section 40-109, Idaho Code, but excepting public roadway as defined in this section).

(9) "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, ~~trails~~ trials bikes, motorcross bikes or dual purpose motorcycles.

(10) "Operator" means any person who is in physical control of a

motorbike, all terrain vehicle, or snowmobile.

(11) "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.

(12) "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.

(13) "Public roadway" means all portions of any highway which are controlled by an authority other than the Idaho transportation department.

(14) "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.

(15) "Vendor" means any entity authorized by the department to sell recreational registrations.

(16) "Winter recreational parking locations" mean designated parking areas established and maintained with funds acquired from the cross-country skiing account.

SECTION 5. That Section 67-7122, Idaho Code, be, and the same is hereby amended to read as follows:

67-7122. REQUIREMENTS -- REGISTRATION -- PROCEDURE. (1) Commencing January 1, 1987 and on or before January 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 six dollars ($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 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 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.

(2) For operation of an all terrain vehicle on the public highways, the vehicle shall also be registered pursuant to the provisions of section 49-402, Idaho Code.

SECTION 6. This act shall be in full force and effect on and

after January 1, 1991.

Approved April 12, 1990.

CHAPTER 392
(H.B. No. 766, As Amended)

AN ACT

RELATING TO LICENSES TO RETAIL LIQUOR; AMENDING SECTION 23-903, IDAHO CODE, TO PROVIDE THAT ANY LICENSE ISSUED AND WHICH HAS REMAINED IN EFFECT AT ITS LOCATION FOR A CONSECUTIVE PERIOD OF TEN YEARS OR MORE SHALL BE DEEMED TO HAVE BEEN VALIDLY ISSUED AND MAY BE RENEWED FROM YEAR TO YEAR AND TO CORRECT A TYPOGRAPHICAL ERROR.

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. Any license issued and which has remained in effect at its location for a consecutive period of ten (10) years or more shall be deemed to have been validly issued and may be renewed from year to year or may be reissued for such location within two (2) years following the expiration date of its last previous renewed license; provided, however, that the applicant for the renewal or reissue of such license is not otherwise disqualified for licensure pursuant to section 23-910, Idaho Code, and, if the premises required special characteristics for original licensure, other than being either within or without the incorporated limits of a city, that said premises continue

to have such special characteristics at the time of the application for renewal or reissue. 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 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 air-

port 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 ~~truck~~ 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, 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 12, 1990.

CHAPTER 393
(H.B. No. 580)

AN ACT

RELATING TO COUNTY MUSEUMS; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 47, TITLE 31, IDAHO CODE, TO PROVIDE PROCEDURES FOR THE CREATION OF AND APPOINTMENT OF COUNTY MUSEUM BOARDS, TO PROVIDE FOR APPOINTMENTS TO A COUNTY MUSEUM BOARD, TO PROVIDE TIME LIMITS ON THE CREATION OF A COUNTY MUSEUM BOARD, TO PROVIDE FOR DUTIES OF A COUNTY MUSEUM BOARD, TO PROVIDE FOR BONDS OF MEMBERS, TO PROVIDE FOR MEETINGS, TO PROVIDE FOR OFFICERS OF A BOARD, TO PROVIDE FOR BUDGETS, TO PROVIDE FOR TAX LEVIES, AND TO PROVIDE FOR EXPENSES OF BOARD MEMBERS.

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

SECTION 1. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 47, Title 31, Idaho Code, and to read as follows:

CHAPTER 47
MUSEUM BOARDS

31-4701. CREATION OF COUNTY MUSEUM BOARD. A county museum board may be created as follows:

(1) In addition to the procedures provided in subsections (2), (3) and (4) of this section, the county commissioners may adopt a resolution and incorporate in its minutes to signify that it is the intention of the board of county commissioners to create a county museum board in accordance with the provisions of this chapter. The board of county commissioners shall fix a date, not less than three (3) nor more than six (6) weeks from the date of the adoption of the resolution for a public hearing, and shall order the clerk of the board to publish notice of the hearing in one or more newspapers of general circulation in the county, which notice shall include the time and place of the hearing at which the board of county commissioners will hear any person or persons interested upon the matter of whether a county museum board shall be created pursuant to this chapter. If after the hearing provided for in this section, the board of county

commissioners shall then deem it for the best interests of the county that a county museum board be created, the county commissioners shall enter an order to that effect and calling an election upon the formation of the proposed county museum board as provided in this section.

(2) Any person or persons may file a petition for the formation of a county museum board with the clerk. The petition which may be in one or more papers shall be signed by not less than ten percent (10%) of the registered voters residing within the county.

(3) The clerk shall, within ten (10) days after the filing of the petition, estimate the cost of advertising and holding the election provided in this section and notify in writing the person or any one of the persons filing the petition as to the amount of the estimate. The person or persons shall within twenty (20) days after receipt of the written notice deposit the estimated amount with the clerk in cash, or the petition shall be deemed withdrawn. If the deposit is made and the county museum board is formed, the person or persons so depositing the sum shall be reimbursed from the first moneys collected by the county museum board from the taxes authorized to be levied by this act.

(4) Within thirty (30) days after the filing of the petition together with the map and the making of the cash deposit, the county commissioners shall determine whether or not they substantially comply with the requirements of this section. If the county commissioners find that there has not been substantial compliance with the requirements, the county commissioners shall enter an order to the effect specifying the particular deficiencies, dismissing the petition and refunding the cash deposit. If the county commissioners find that there has been substantial compliance with the requirements, the county commissioners shall forthwith enter an order to that effect and calling an election upon the formation of the proposed county museum board as provided in this section.

(5) If the county commissioners order an election as provided in this section, the election shall be conducted at the next primary or general election for state officials as nearly as practicable in accordance with the general election laws of the state, except as hereinafter provided. The county commissioners shall establish election precincts, design and print voter's oaths, ballots and other necessary supplies, appoint election personnel and by rule and regulation provide for the conduct and tally of the election. Each registered voter of the county shall be entitled to vote in the election. The clerk shall give notice of the election which notice shall clearly state the question of whether a county museum board shall be formed and shall state the date of the election. The notice shall be published once each week for three (3) successive publications prior to the election in a newspaper published within the county.

(6) Immediately after the election, the judges at the election shall forward the ballots and results of the election to the clerk. The county commissioners shall canvass the vote within ten (10) days after the election. If forty-five percent (45%) or more of the votes cast at the election are against the formation of the county museum board, the county commissioners shall enter an order so finding and declaring that the county museum board shall not be formed. If more than fifty-five percent (55%) of the votes cast at the election are in

favor of forming the county museum board, the county commissioners shall enter an order so finding, declaring the county museum board duly organized. The county commissioners shall cause one (1) certified copy of the order to be filed in the office of the county recorder of the county and shall cause one (1) certified copy of the order to be transmitted to the governor. Immediately upon the entry of the order, the organization of the county museum board shall be complete.

(7) After the election, the validity of the proceedings hereunder shall not be affected by any defect in the petition, if any, or in the number or qualification of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of the organization of the county museum board after six (6) months have expired from the date of entering the order declaring the formation of the county museum board.

31-4702. ORDER CREATING BOARD -- APPOINTMENT AND SELECTION OF MEMBERS. If the board enters an order creating a county museum board pursuant to subsection (6) of section 31-4701, Idaho Code, it shall immediately appoint five (5) persons to membership thereof, and make its action a matter of record. The members shall as nearly as possible be selected from the different localities of the county.

Appointments shall be made as follows: Three (3) members shall be appointed for a term of two (2) years and two (2) members shall be appointed for a term of three (3) years. Thereafter, each appointment shall be made for terms of three (3) years. Appointments shall expire on the third Monday in January. Any vacancy occurring on such county museum board shall be filled by appointment by the county commissioners at their first regular meeting after the occurrence of such vacancy.

31-4703. TIME FOR CREATION. The county museum board may be created under the provisions of this chapter at any time before the first Monday in July in any year.

31-4704. DUTIES OF COUNTY MUSEUM BOARD -- BONDS OF MEMBERS -- MEETINGS -- FURTHER DUTIES. The county museum board shall be charged with the care and custody of all property belonging to the county and used for museum purposes, and shall be responsible for all moneys received by it, raised by tax levy or levies for museum purposes as well as all receipts from the operation of the museum and any other moneys received from other sources for museum purposes. Each member of the county museum board shall file with the board of county commissioners a bond in the sum of not less than one thousand dollars ($1,000) to be approved by the board of county commissioners. It shall meet at its place of business on the first Monday of January each year, and thereafter bi-monthly on the first Monday of the month, except as herein otherwise provided; provided, that it shall meet on the first Monday after the creation of such board under the provisions hereof.

It shall safely keep or cause to be safely kept all moneys coming into its care, custody or possession in strict compliance with the provisions of the public depository law of this state. It shall formulate in writing and file in its office all plans adopted by it from

time to time in connection with the conduct of the business of the county museum, and also file a copy of the same with the board of county commissioners of the county. It shall keep or cause to be kept proper records of its proceedings, business transactions, and true and proper accounts of all moneys received by it and expended or on hand; and it shall require proper vouchers evidencing all disbursements of money. The records of the board shall be open to inspection by any taxpayer or voter within the county during all regular office hours. The board shall publish in at least one (1) issue of the official newspaper of the county a detailed statement of all moneys received and expended in connection with the operation of any museum.

It shall take charge of and manage all such property as the county may have acquired or set aside for museum purposes. It may recommend to the board of county commissioners that such board purchase such real and personal property as may be needed for museum purposes. It shall have power to employ labor, award prizes, make exhibition contracts, fix and charge admission and entrance fees. It shall fix the salaries of the secretary and treasurer and prescribe the time and manner of payment. The county museum board shall not have the power to create any indebtedness in excess of the amount to be derived from the special levies for each year and the estimated income from annual museum receipts, nor shall it mortgage or otherwise pledge or encumber any of the real or personal property owned by the county and used for museum purposes.

31-4705. SECRETARY AND TREASURER OF COUNTY MUSEUM BOARD. The county museum board shall select and employ a competent secretary whom they shall vest with general managerial powers subject to the provisions of this chapter. It shall also appoint a treasurer. The office of secretary may be combined with the office of treasurer and held by the same person. The treasurer shall be required to furnish a bond in such sum as may be fixed by the board of county commissioners, and when furnished to be approved by it.

31-4706. BUDGET OF FUNDS FOR COUNTY MUSEUM PURPOSES -- MAINTENANCE OF IDLE PROPERTY. For the purpose of determining what funds must be raised by taxes for county museum purposes, the county museum board shall meet at such time as may be provided by law for the preparation of budgets, and shall make a budget of the amounts required for museum purposes, including all salaries to be paid for the current year, and shall deduct therefrom any balance remaining in its treasury, and shall then certify to the board of county commissioners the amount of said budget. The board of county commissioners shall thereafter approve or make such amendments or modifications in the county museum budget as it deems proper, and include the same in its annual county budget. No levy for the purposes of this chapter shall exceed one-hundredth percent (.01%) on each dollar of market value for assessment purposes of taxable property in the county. When such taxes have been collected, the same shall be paid to the treasurer of the county museum board to be used for the purposes authorized by this chapter. Upon the creation and appointment of the museum board by the county commissioners, it hereby becomes a taxing unit under the provisions of the Idaho budget law and as such is empowered to issue tax anticipa-

tion notes or warrants as provided by law for maintaining, carrying on, conducting, payment of obligations and all other necessary expenses, incurred or to be incurred in maintaining a museum. It may be the duty of the county commissioners of any county, where property for county museum purposes is located, to levy an amount sufficient to maintain and protect such museum grounds and property.

31-4707. EXPENSES OF BOARD MEMBERS. The members of the county museum board shall be paid their actual and necessary expenses out of the funds provided for museum purposes, upon approval of claims for the same by the board of county commissioners.

Approved April 12, 1990.

CHAPTER 394
(H.B. No. 802)

AN ACT

RELATING TO RECREATION DISTRICTS; AMENDING SECTION 31-4314, IDAHO CODE, TO INCREASE THE TOTAL DEBT THAT A RECREATION DISTRICT MAY INCUR BASED ON THE ASSESSED VALUE OF TAXABLE PROPERTY WITHIN A RECREATION DISTRICT AND TO EXEMPT THE LEVY FROM THE LIMITATIONS IMPOSED BY SECTIONS 63-923 AND 63-2220, IDAHO CODE.

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

SECTION 1. That Section 31-4314, Idaho Code, be, and the same is hereby amended to read as follows:

31-4314. LIMITATION OF POWER TO INCUR DEBT. Neither the board nor any officer shall have power to incur any debt or liability on behalf of the district, whether by issuance of bonds or otherwise, in excess of the express provisions of this act and any such debt or liability so incurred shall be void; except that for the purpose of organization or for any of the purposes of this act, the board may before making the tax levy in the fiscal year of organization, incur debts not exceeding in the total a sum equal to ~~two (2) mills on each one dollar ($1.00) in assessed~~ one-tenth of one percent (0.1%) of market value for assessment purposes of the taxable property within the district. The provisions of section 63-921, Idaho Code, shall not apply to any recreation district if that district is created prior to June 1.

The levy authorized herein shall be exempt from the limitation imposed by the provisions of section 63-923(1), Idaho Code, and from the provisions of section 63-2220, Idaho Code.

Approved April 12, 1990.

CHAPTER 395
(H.B. No. 832)

AN ACT

RELATING TO THE DISTRIBUTION OF FUELS TAX REVENUES; AMENDING SECTION 63-2412, IDAHO CODE, TO INCREASE THE DOLLAR AMOUNT ANNUALLY DISTRIBUTED TO THE RAILROAD GRADE CROSSING PROTECTION ACCOUNT; AND TO PROVIDE CORRECT NOMENCLATURE.

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

SECTION 1. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES. (1) The revenues received from the taxes imposed by sections 63-2404~~2~~ and 63-2405, Idaho Code, and any penalties, interest, or deficiency additions, or from the fees imposed by the commission under the provisions of section 63-2409, Idaho Code, shall be distributed periodically as follows:

(a) An amount of money equal to the actual cost of ~~collection~~ collecting, administering and enforcing the gasoline tax requirements 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 gasoline tax requirements by the commission at the end of each fiscal year shall be distributed as listed in paragraph (e) of this subsection.

(b) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(c) As soon as possible after the beginning of each fiscal year, the sum of one hundred fifty thousand dollars ($150,000) shall be distributed to the railroad grade crossing protection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 62-304C, Idaho Code.

(d) As soon as possible after the beginning of each fiscal year, the sum of fifty thousand dollars ($50,000) shall be distributed to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-703, Idaho Code.

(e) As soon as possible after the beginning of the fiscal year 1987, the sum of fifty thousand dollars ($50,000) shall be distributed to the local highway needs assessment account in the dedicated fund to pay amounts from the account pursuant to the provisions of section 40-716, Idaho Code. As soon as possible after the beginning of each subsequent fiscal year, only the sum necessary to bring the balance of the local highway needs assessment account to fifty thousand dollars ($50,000) shall be distributed to that

account.

(f) From the balance remaining with the commission after distributing the amounts in paragraphs (a) through (e) of subsection (1) of this section:

1. One and one-half per cent (1.50%) shall be distributed as follows: sixty-six per cent (66%) of the one and one-half per cent (1.50%) shall be distributed to the waterways improvement account, as created in chapter 15, title 57, Idaho Code. Up to twenty per cent (20%) of the moneys distributed to the waterways improvement account under the provisions of this paragraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the waterways improvement account. Thirty-three per cent (33%) of the one and one-half per cent (1.50%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One per cent (1%) of the one and one-half per cent (1.50%) shall be distributed to the search and rescue account created in section 67-2903, Idaho Code;

2. One and one-half per cent (1.50%) shall be distributed as follows: sixty-six per cent (66%) of the one and one-half per cent (1.50%) shall be distributed to the off-road motor vehicle account, as created in section 57-1901, Idaho Code. Up to twenty per cent (20%) of the moneys distributed to the off-road motor vehicle account by this subpart may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the off-road motor vehicle account. Thirty-three per cent (33%) of the one and one-half per cent (1.50%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One per cent (1%) of the one and one-half per cent (1.50%) shall be distributed to the search and rescue account created in section 67-2903, Idaho Code; and

3. Ninety-seven per cent (97%) shall be distributed to the highway distribution account, created in section 40-701, Idaho Code.

(2) The revenues received from the taxes imposed by section 63-2408, Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account, and those moneys are hereby continuously appropriated.

(b) The balance remaining of all the taxes collected shall be distributed to the state aeronautics account, as provided in section 21-211, Idaho Code.

Approved April 12, 1990.

CHAPTER 396
(H.B. No. 843)

AN ACT

RELATING TO LEVEE DISTRICTS; AMENDING TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 44, TITLE 42, IDAHO CODE, TO PROVIDE A SHORT TITLE; TO PROVIDE A STATEMENT OF POLICY; TO PROVIDE DEFINITIONS; TO PROVIDE FOR THE CORPORATE POWERS OF LEVEE DISTRICTS; TO PROVIDE FOR A PETITION FOR ORGANIZATION; TO PROVIDE FOR BONDS TO ACCOMPANY A PETITION, AND TO PROVIDE FOR WITHDRAWAL OF NAMES; TO PROVIDE THAT THE DISTRICT COURT HAS JURISDICTION TO ESTABLISH DISTRICTS; TO PROVIDE FOR ACTION ON A PETITION AND NOTICE OF HEARINGS; TO PROVIDE FOR HEARINGS ON THE PETITION AND OBJECTIONS TO INCLUSION, AND TO PROVIDE FOR AN ELECTION; TO PROVIDE FOR NOMINEES FOR THE BOARD OF COMMISSIONERS; TO PROVIDE FOR AN ELECTION; TO PROVIDE FOR AN ORDER OF ORGANIZATION; TO PROVIDE THAT THE ORDER IS FINAL; TO PROVIDE FOR OFFICERS AND MEETINGS; TO PROVIDE FOR FILLING VACANCIES; TO PROVIDE FOR POWERS AND DUTIES OF COMMISSIONERS; TO PROVIDE FOR MAINTENANCE OF THE SYSTEM AND THAT IT IS NOT TO BE OPERATED FOR PROFIT; AND TO PROVIDE FOR THE RIGHT TO EXAMINE BOOKS AND RECORDS.

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

SECTION 1. That Title 42, 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 42, Idaho Code, and to read as follows:

CHAPTER 44
LEVEE DISTRICT ACT

42-4401. SHORT TITLE. The provisions of this chapter may be known and cited as the "Levee District Act."

42-4402. POLICY OF STATE. It is hereby recognized by the legislature that the protection of life and property from the containment of water stored for irrigation, the storage of winter flows and excess waters for irrigation purposes, and flood waters are of great importance to this state. It is therefore declared to be the policy of the state to provide for the storage and containment of irrigation water and the prevention of flood damage in a manner consistent with the conservation and wise development of our water resources and thereby to protect and promote the health, safety and general welfare of the people of this state.

42-4403. DEFINITIONS. As used in this chapter:

(1) "Board" or "board of commissioners" means the board of commissioners of the levee district.

(2) "Commissioner" means a member of the board of commissioners of the levee district.

(3) "District" means any levee district organized under the provisions of this chapter.

(4) "Levee" means a retaining structure alongside a natural lake which has a length that is two hundred (200) times or more greater than its greatest height measured from the lowest elevation of the toe to the maximum crest elevation of the retaining structure.

(5) "State" means the state of Idaho.

42-4404. CORPORATE POWERS OF LEVEE DISTRICTS. Any portion of a county requiring the maintenance, operation, or construction of a levee to contain irrigation water or to prevent flooding, may be organized into a levee district, and when so organized such district and the board of commissioners hereinafter provided for shall have and possess the power herein conferred by law upon such district and board of commissioners, and said district shall be known and designated as levee district no. ..... of the county of ....., of the state of Idaho, and shall have the right to sue and be sued by and in the name of its board of commissioners hereinafter provided for, and shall have perpetual succession and shall adopt and use a seal. The commissioners hereinafter provided for and their successors in office shall, from the time of the organization of such levee district, have the power and it shall be their duty, to manage and conduct the business and affairs of the district, and make and execute all necessary contracts, employ and appoint such agents, officers and employees as may be required, and prescribe their duties, and perform such other acts as herein provided, or that may hereafter be provided by law.

42-4405. PETITION FOR ORGANIZATION. For the purpose of the formation of a levee district a petition shall be presented to the clerk of the district court of the county in which the greater portion of the lands of the proposed levee district are located. The petition must be signed by at least one-fourth (1/4) of the taxpayers of the district who pay a general tax on real property which is owned by them within the proposed district. The petition shall set forth:

(1) The name of the proposed district;

(2) The object of the organization of the proposed levee district;

(3) A designation of the temporary boundaries of the district;

(4) The approximate number of acres of land in the proposed district therein;

(5) A description of the levee to be maintained, operated or constructed;

(6) The general location of the levee;

(7) A statement that the establishment of the district and the proposed maintenance, operation or construction of the levee will be conducive to the public health, convenience and welfare, or increase the public revenue, or that the establishment of said district and the maintenance, operation, or construction of the levee is a proper and advantageous method of accomplishing the relief sought; and

(8) A prayer for organization of the district.

42-4406. PETITION -- BOND -- CONDITION FOR WITHDRAWAL OF NAMES. The petitioners for formation of a levee district shall, at the time of the filing of the petition, file a bond with the clerk of the district court of the county in which the proposed district is to be

located. The bond shall run to the state of Idaho and shall be in the penal sum of one thousand dollars ($1,000) with two (2) or more sureties, to be approved by the judge of the district court.

In case said district be not established, then all costs shall be collectible on such bond. Any person having a charge against said district shall have a right of action on such bond.

After the petition seeking formation of a levee district is filed with the clerk of said court, no petitioner shall be allowed to withdraw his name or land therefrom without tendering into court his pro rata share of all costs and expenses incurred by petitioners to the date of such withdrawal.

42-4407. JURISDICTION TO ESTABLISH DISTRICTS. The district court sitting in and for any county in this state, or any judge thereof in vacation, is hereby vested with jurisdiction, power and authority to establish levee districts which may be entirely within or partly within and partly without the judicial district in which said court is located.

42-4408. ACTION ON PETITION -- NOTICE OF HEARING. Immediately after the filing of the petition for formation of a levee district the judge of the court shall fix a time for the hearing on the petition by order made by him, which order shall provide that said petition and notice of hearing be published for at least three (3) successive weeks in some weekly newspaper or newspapers, printed and published in said county or counties in which the lands are situated, and in case no such paper is published in such county, then in some paper of general circulation therein; together with a notice of the time and place at which such judge will consider said petition. The last date of publication shall be not less than ten (10) days nor more than twenty (20) days before the date of the hearing.

42-4409. HEARINGS ON PETITIONS -- OBJECTION TO INCLUSION. On the day fixed for such hearing or at any adjournment thereof the court shall ascertain from the tax rolls of the county or counties in which the district is located or into which it extends, the total number of taxpayers within the proposed district who pay a general tax on real property owned by them within the district.

If the court finds that no petition has been signed and presented in conformity with this chapter, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceedings; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for a similar district, and the right so to renew such proceedings is hereby expressly granted and authorized.

Any time after the filing of the petition for the organization of a district and before the day fixed for the hearing thereon, the owner or owners of any real property within the proposed district may file an objection with the court stating reasons why said property should not be included therein, why his land or any part thereof will not be

benefited by the proposed district, and praying that said property be excluded therefrom. Such objection shall be duly verified and shall describe the property sought to be excluded. The court shall, at the hearing, examine and take testimony and evidence on all objections to inclusion in the district. In case any owner of real estate included in said proposed district shall satisfy the court that his real estate, or any part thereof, has been wrongfully included therein or will not be benefited thereby then the court shall exclude such real estate as will not be benefited.

Upon said hearing, if it shall appear that a petition for the organization of a district has been signed and presented as hereinabove provided, in conformity with this chapter, and the allegations of the petition are true, the court shall, by order duly entered of record, direct that the question of the organization of the district be submitted to the qualified electors of the district at an election to be held for that purpose, and such order shall appoint three (3) qualified electors of the district as judges of said election. The clerk of the court having jurisdiction shall publish notice of the time and place of an election to be held in the district. Such election shall not be less than twenty (20) days after the first publication of said notice.

Such election shall be held and conducted as nearly as may be in the same manner as general elections in this state, except that the court shall establish as many election precincts within such proposed district as are deemed necessary, shall define the boundaries thereof, which precincts and boundaries may thereafter be changed by the board of commissioners of such district if so organized, and shall determine the hours that the polls shall be open, which shall not be less than seven (7). Each elector shall take an oath that he has the qualifications of an elector before casting his vote.

42-4410. NOMINEES FOR BOARD OF COMMISSIONERS. At any time after the filing of the petition herein referred to and before the day fixed for hearing, nominees for the board of commissioners of the district may be nominated by the filing of a petition designating the name or names of the nominee or nominees, signed by at least twenty (20) qualified electors of the district. If upon the hearing as herein provided the court shall order an election for the creation of the district, the court shall also ascertain the names of persons nominated by the board of commissioners, and shall order that the names of persons whom the court finds to have been properly nominated shall be listed upon a ballot submitted to the electors at such election.

42-4411. ELECTION. In the event the court makes its order providing for such election, it shall prescribe the form of the question and ballot relating to the creation of the district, and also the form of the ballot relating to the election of the commissioners, provided, that all matters may be contained upon one (1) ballot to be submitted to the voters.

At such election the voters shall vote for or against the organization of the district, and for three (3) qualified electors, who shall constitute the board of commissioners of the district, if organized, one (1) commissioner to act until the first biennial election,

one (1) until the second, and one (1) until the third biennial election.

The judges of election shall certify the returns of the election to the district court having jurisdiction.

42-4412. ENTRY OF ORDER. If a majority of the votes cast at the election are in favor of the organization of the levee district, the district court shall declare the levee district organized, shall give it a corporate name by which, in all proceedings, it shall thereafter be known, and designate the first board of commissioners to have been elected. Thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation.

42-4413. FINALITY OF ORDER. If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and conclusively establish the regular organization of the said district against all persons except the state of Idaho, in an action in the nature of a writ of quo warranto, commenced by the attorney general within thirty (30) days after said decree declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

42-4414. OFFICERS -- MEETINGS. The board of commissioners of such district shall elect one (1) of their number chairman and one (1) secretary, and shall keep minutes of all their proceedings. The levee district commissioners shall hold their meetings for the transaction of business at any place in the county or counties in which the district is located.

42-4415. VACANCIES. In case a vacancy or vacancies occur in said board by death, failure to appoint, failure to qualify, or resignation of one (1) or more of the members thereof, such vacancy or vacancies shall be filled at once by appointment by the remaining commissioners and said appointee shall serve for the unexpired term or until his successor is elected.

42-4416. COMMISSIONERS -- POWERS AND DUTIES. The board of commissioners of levee districts shall have the following powers and duties:

(1) To annually fix and determine the amount of money required to be raised by taxation to supply funds for costs of maintenance, operation, and/or construction of the levees and equipment of the district, and to levy and cause to be collected assessments on real property within the district in an amount not to exceed eight hundredths percent (.08%) of each dollar of market value for assessment purposes; provided, however, that a higher levy may be approved and ratified by the qualified voters at an election to be held for that purpose, and said levy shall be certified by the board to the board of county commissioners of the county, or counties, in which said district is located, with directions that at the time and in the manner required

by law for levying taxes for county purposes, such board, or boards, of county commissioners shall levy such tax upon the real property within the boundaries of the district. Such certification of levies shall be prepared and forwarded by the board of the levee district to the board, or boards, of county commissioners on or before September 1 of each year.

Such levies shall be levied and collected in the manner provided by law, and the moneys collected shall be turned over to the treasurer or treasurers, of the county, or counties, in which said district is located.

Said moneys shall be public funds and subject to the provisions of the public depository laws of the state.

(2) To employ such personnel as may be necessary to carry out the purposes and objects of this chapter, with the full power to bind said district for the compensation of such personnel.

(3) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its power and to promulgate, amend and repeal rules and regulations not consistent with the provisions of this chapter.

(4) To manage and conduct the business and affairs of the district, both within and without the district.

(5) To maintain, operate and/or construct levees for containment of irrigation water and for the prevention of floodwater whether within or without the boundaries of the district, and to enter into contract for the purposes set forth above; provided, however, that the board shall not enter into contracts that necessitate an expenditure in excess of five thousand dollars ($5,000), without first advertising for sealed competitive bids as herein provided. However, where it is determined by order of the board that there is an existing emergency, the requirement for sealed competitive bids shall not apply.

(6) To prescribe the duties of officers, agents and employees as may be required.

(7) To establish the fiscal year of the district and to keep records of all business transactions of the district.

(8) To prepare a statement of the financial condition of the district at the end of each fiscal year in a form to be prescribed by the legislative auditor, and publish in at least one (1) issue of some newspaper published, or in general circulation in, the county, or counties, in which such district is located and to file a certified copy of such financial report with the director of the department of water resources and the legislative auditor on or before February 2 of each year.

(9) To have an audit, by an independent public accounting firm, of the financial affairs of the district. The audit shall be made at intervals of not more than two (2) years for districts having an annual expense of more than three thousand dollars ($3,000) and shall be made at intervals of not more than three (3) years for districts having an annual expense of three thousand dollars ($3,000) or less. A certified copy of said audit shall be filed with the legislative auditor on or before February 2 following the audit.

(10) To obtain options upon and acquire by purchase, exchange,

lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; to lease any of its property or interest therein in furtherance of the purposes and provisions of this chapter, provided that no contract or agreement for the acquisition, purchase or repair of personal property involving expenditure in excess of one thousand dollars ($1,000), shall be entered into without first advertising for sealed competitive bids as herein provided.

(11) To have the power of eminent domain for the use of the district in the maintenance, operation, and construction of its levees or any other use necessary in the carrying out of the provisions of this chapter.

(12) To convey rights of way and easements for highways, public roads, public utilities, and for other purposes, over district property, as shall be determined by the board to be in the best interests of the district.

(13) To convey, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district, in any real or personal property. Prior to such sale or conveyance, the board shall have the property appraised by three (3) disinterested residents of the district, which appraisal shall be entered in the minutes of the board. The property may be sold at public auction or at a private sale by sealed competitive bids, as the board shall determine, to the highest cash bidder, provided that in no case shall any property of a district be sold for less than its appraised value. All sales by sealed competitive bids shall be advertised as herein provided.

(14) To enter into contracts or agreements with the United States or any of its officers, agents or subdivisions, or with the state or any of its officers, persons or agencies in effectuating, promoting and accomplishing the purposes of this chapter, provided that the district has sufficient moneys on hand, or in their budget for the year in which said contract is entered into, to defray the expenditure of funds called for in such contract without the creation of any indebtedness.

Whenever any such contract shall, by its terms, require the expenditure of funds by the district in excess of the moneys on hand or the funds to be realized from their budget for the year in which said contract is entered into, then such contract may not be entered into by the district until ratified by two-thirds (2/3) of the qualified voters voting at an election to be held for that purpose, according to the provisions of this chapter.

(15) To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided herein.

(16) To take over, administer and maintain pursuant to any agreement or contract entered into in accordance with the provisions of this chapter, any levee project within or without the boundaries of the district undertaken in cooperation with the United States or any of its agencies, or with the state of Idaho or any of its agencies, or any combinations thereof.

(17) To accept donations, gifts and contributions in money, services, or materials or otherwise, from the United States or any of its

agencies, or the state of Idaho or any of its agencies or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations.

(18) To exercise all other powers necessary, convenient or incidental to carrying out the purposes and provisions of this chapter.

42-4417. MAINTENANCE OF SYSTEM -- DISTRICT NOT TO BE OPERATED FOR PROFIT. Any levee district organized under the provisions of this chapter is not to be conducted or operated for profit or with the view of paying dividends, but solely for the benefit and welfare of the residents and property owners of said district.

42-4418. INTERESTED PERSONS -- RIGHT OF EXAMINATION. Any person or corporation having an interest in, or lien upon, any land situate within the boundaries of a levee district now organized or existing, or hereafter organized under the laws of the state of Idaho, and which land has been, or hereafter may be, assessed for benefits for the maintenance, operation, or construction of levees in such district, as provided in this chapter, as shown by the assessment roll of said district, confirmed by the court, shall have the right personally, or through his agents, attorneys or auditors to examine the books, records and accounts of the board of commissioners and to make copies thereof.

Approved April 12, 1990.

CHAPTER 397
(H.B. No. 499, As Amended)

AN ACT

RELATING TO SMOKE MANAGEMENT; AMENDING SECTION 39-2304, IDAHO CODE, TO INCREASE THE NUMBER OF MEMBERS ON THE SMOKE MANAGEMENT ADVISORY BOARD.

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

SECTION 1. That Section 39-2304, Idaho Code, be, and the same is hereby amended to read as follows:

39-2304. SMOKE MANAGEMENT ADVISORY BOARD. (1) A smoke management advisory board is established in the department to advise the director in the administration and enforcement of the provisions of this chapter by overseeing the funds provided and to review and recommend research programs. The board shall consist of ~~five (5)~~ six (6) members; three (3) from the agricultural community and ~~two (2)~~ three (3) nonagriculturists from the general public, appointed by the governor and to serve at the pleasure of the governor. The ~~sixth~~ seventh member shall be ex officio and shall be the chief of the air quality bureau. The board shall be appointed within ninety (90) days following adoption of this chapter.

(2) The board shall, on the first day of each July or as soon

thereafter as practicable, elect a chairman and a vice chairman from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the director. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings which shall be preserved in the offices of the department. If the chairman is absent from any meeting of the board, his duties shall be discharged by the vice chairman. All members of the board present at a meeting shall be entitled to vote on any question, matter, or thing which properly comes before it.

Approved April 12, 1990.

CHAPTER 398
(H.B. No. 884)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 1991; 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, 1990, through June 30, 1991:

FROM:	
General Account	$ 2,470,400
Idaho Travel and Convention Account	2,413,800
Idaho Development and Publicity Account	163,500
Economic and Community Affairs Account	9,073,300
TOTAL	$14,121,000

SECTION 2. There is hereby reappropriated to the Department of Commerce any unexpended and unencumbered balances of all moneys appropriated by Section 1, Chapter 396, Laws of 1989, to be used for nonrecurring expenditures only, for the period July 1, 1990 through June 30, 1991.

Approved April 12, 1990.

CHAPTER 399
(H.B. No. 717, As Amended in the Senate)

AN ACT

RELATING TO HORSE RACING AND PARI-MUTUEL WAGERING; AMENDING SECTION 54-2513, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF CERTAIN RECEIPTS TO THE EQUINE EDUCATION ACCOUNT; AND AMENDING CHAPTER 8,

TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-818, IDAHO CODE, TO CREATE THE EQUINE EDUCATION ACCOUNT, TO PROVIDE FOR USES OF MONEYS IN THE ACCOUNT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-2513, Idaho Code, be, and the same is hereby amended to read as follows:

54-2513. DISTRIBUTIONS OF DEPOSITS -- BREAKAGE. (A) Each licensee conducting the pari-mutuel system for horse races shall distribute all sums deposited in any pool as follows:

(1) Seventy-nine per cent (79%) of any win, place or show pool to the winner thereof, one per cent (1%) to the racing commission for deposit in the Idaho centennial futurity account, and twenty per cent (20%) to the licensee;

(2) Seventy-eight and one-quarter per cent (78.25%) of any daily double, exacta or trifecta pool to the winner thereof, one per cent (1%) to the racing commission for deposit in the Idaho centennial futurity account, three-quarters of one per cent (.75%) to the racing commission for deposit in the racing account, and twenty per cent (20%) to the licensee;

(3) Seventy-nine per cent (79%) of any quinella pool to the winner thereof, one per cent (1%) to the racing commission for deposit in the Idaho centennial futurity account, and twenty per cent (20%) to the licensee.

(B) Each licensee conducting the pari-mutuel system for horse races shall retain twenty per cent (20%) of all sums deposited in any pool, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter per cent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission, for deposit in the racing commission account, which is hereby created in the dedicated fund.

(2) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated, shall be paid to the Idaho state racing commission for deposit in the track distribution account, which is hereby created in the dedicated fund, for further distribution to certain Idaho horse race tracks, defined as follows:

a. rRecipient horse racing tracks shall be those which, during the race meet year of distribution, have an average daily handle of less than sixty thousand dollars ($60,000);

b. dDistributions to recipient horse racing tracks shall be weighted proportionately on the number of days raced during the year of distribution.

All moneys in the track distribution account are hereby appropriated to the commission for payment as required by this section. Payments to horse racing tracks shall be made monthly.

(3) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated shall be paid by the licensee to the commission for deposit in the breed distribution account, which is hereby created in the dedicated fund, for payment by the commission in proportion to the handle generated by each horse

breed, to lawfully constituted representatives of each horse breed, to benefit owners and/or breeders of Idaho bred racing thoroughbreds, racing quarter horses, racing Appaloosas, racing paints and racing Arabians, subject to the approval of the commission. Moneys in the breed distribution account on December 31 of each year which have not been distributed by the commission shall be paid to the public school income fund.

All moneys in the breed distribution account are hereby appropriated to the commission for payment as required by this section. Payments to representatives shall be made monthly.

(4) Seventeen and three-quarters per cent (17.75%) of gross daily receipts from horse races shall be paid or retained as follows:

a. From the first $20,000 of gross daily receipts, the licensee shall retain seventeen and three-quarters per cent (17.75%);

b. From the next $10,000 of gross daily receipts (gross daily receipts between $20,000 and $30,000), the public school income fund and the equine education account shall each receive one-~~quarter~~ eighth of one per cent (.125%), and the licensee shall retain seventeen and one-half per cent (17.50%);

c. From the next $10,000 of gross daily receipts (gross daily receipts between $30,000 and $40,000), the public school income fund and the equine education account shall each receive ~~one-and-one-quarter~~ sixty-two and one-half hundredths per cent (~~1~~.625%), and the licensee shall retain sixteen and one-half per cent (16.50%);

d. From all amounts of over $40,000 of gross daily receipts, the public school income fund and the equine education account shall each receive ~~two-and-one-quarter~~ one and one-eighth per cent (~~2~~1.125%), and the licensee shall retain fifteen and one-half per cent (15.50%).

The public schools' and the equine education account's share shall be paid by the licensee to the racing commission for deposit in the public school income fund or the equine education account as appropriate. The licensee's percentage shall be retained by the licensee.

(C) Each licensee conducting the pari-mutuel system for dog racing shall retain twenty and one-half per cent (20.5%) of all sums deposited in any pool, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter per cent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission, for deposit in the racing commission account.

(2) One per cent (1%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for payment to the county in which the dog racing facility is located. The board of county commissioners shall spend such revenues only for visitor promotion.

(3) One-half of one per cent (.50%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for deposit in the Idaho horse breeders' and owners' award account, which is hereby created in the dedicated fund for further distribution as follows:

a. Fifty per cent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, to the breeders of Idaho bred winners of each approved horse race in Idaho in proportion to the handle generated by each breed; and

b. Fifty per cent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, in equal amounts to the owners of Idaho bred horse race winners.

(4) During calendar years 1988, 1989 and 1990, by not later than December 15, each licensee conducting the pari-mutuel system for dog racing shall pay one hundred thousand dollars ($100,000) to the racing commission for deposit in the track improvement and industry promotion account, which is hereby created in the dedicated fund. Moneys in the account shall be distributed by the racing commission, as soon as possible after receipt, as follows:

a. The sum of fifty thousand dollars ($50,000) each year for the years 1988 and 1989 shall be paid to the Idaho horse council for the purpose of conducting an Idaho horse census and for the purpose of promoting the Idaho horse industry, subject to the approval of the Idaho racing commission.

b. The balance of all such moneys shall be paid to owners of horse racing tracks in the state of Idaho in proportion to the number of racing commission approved horse race days actually raced in the year in which the commission receives moneys at each horse race track, subject to the rules and regulations promulgated by the Idaho racing commission. Each commission approved horse race track shall receive that proportion of the moneys in the track improvement and industry promotion account as is equal to that track's percentage of the total horse race track days held in Idaho during that calendar year. The moneys to be paid to each horse race track shall be used solely for the purpose of improvement, repair, maintenance and upkeep of each such horse race track, grandstands, horse buildings, barns and stalls, lighting and horse race track equipment, subject to the rules and regulations of the racing commission.

(5) Seventeen and three-quarters per cent (17.75%) of gross daily receipts from dog races shall be paid or retained as follows:

a. From the first $20,000 of gross daily receipts, the licensee shall retain seventeen and three-quarters per cent (17.75%);

b. From the next $10,000 of gross daily receipts (gross daily receipts between $20,000 and $30,000), the public school income fund shall receive one-quarter of one per cent (.25%), and the licensee shall retain seventeen and one-half per cent (17.50%);

c. From the next $10,000 of gross daily receipts (gross daily receipts between $30,000 and $40,000), the public school income fund shall receive one and one-quarter per cent (1.25%), and the licensee shall retain sixteen and one-half

per cent (16.50%);

d. From all amounts of over $40,000 of gross daily receipts, the public school income fund shall receive two and one-quarter per cent (2.25%), and the licensee shall retain fifteen and one-half per cent (15.50%).

The public schools' share shall be paid by the licensee to the racing commission for deposit in the public school income fund. The licensee's percentage shall be retained by the licensee.

(D) Moneys paid to the racing commission pursuant to the provisions of subsection (A) of this section, from daily double, exacta, trifecta or quinella pools shall be deposited in the Idaho centennial futurity account, which is hereby created in the dedicated fund. The account may receive gifts, donations or assignments from any other source. Moneys in the account are reserved exclusively for the payment of preliminary expenses, promotional expenses, operational expenses, and purses to conduct Idaho centennial futurity races for Idaho bred horses during this state's centennial celebration at sites licensed by the commission for that purpose. The racing commission shall coordinate all activities leading up to the centennial futurity races with the Idaho centennial commission. Moneys in the account are hereby appropriated to the racing commission for such purposes.

(E) Each licensee may retain the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as breakage, and the total amount of unclaimed tickets at the termination of the time allowed by rule and regulation of the commission.

(F) Following the last Idaho centennial futurity race in 1990, the moneys that have been deducted for deposit in the Idaho centennial futurity account shall cease to be deducted for that purpose and shall be added to the winner's pool for that race.

(G) No dog racing facility shall be granted racing dates by the Idaho state racing commission if such facility is located within one hundred (100) miles of any operating pari-mutuel horse racing facility in the state of Idaho which conducted pari-mutuel horse racing in 1986.

SECTION 2. 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 57-818, Idaho Code, and to read as follows:

57-818. EQUINE EDUCATION ACCOUNT. There is hereby created in the dedicated fund the equine education account. Moneys in the account may be appropriated only to the university of Idaho for its veterinary science program to be used specifically to enhance and forward the work conducted at the northwest equine reproduction laboratory, and as provided for in this section. In order for appropriated moneys to be expended, such moneys must be matched on a one-to-one match basis by contributions from private sources. Any unencumbered or unexpended balances of appropriations at the end of a fiscal year shall be transferred to the public school income fund by the state auditor.

SECTION 3. This act shall be in full force and effect on and

after July 1, 1991.

Approved April 12, 1990.

CHAPTER 400
(H.B. No. 850)

AN ACT

RELATING TO THE PRACTICE OF MEDICINE; AMENDING SECTION 54-1804, IDAHO CODE, TO PROVIDE THAT THE PRACTICE OF MEDICINE WITHOUT A LICENSE IS A FELONY, AND TO PROVIDE PENALTIES.

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

SECTION 1. That Section 54-1804, Idaho Code, be, and the same is hereby amended to read as follows:

54-1804. UNLICENSED PRACTICE -- PENALTIES AND REMEDIES RELATING TO UNLICENSED PRACTICE. (1) Under the circumstances described and subject in each case to the limitations stated, the following persons, though not holding a license to practice medicine in this state, may engage in activities included in the practice of medicine:

(a) A medical officer of the armed forces of the United States, of the United States public health service, or of the veteran's administration, while engaged in the performance of his official duties;

(b) A person residing in another state or country and authorized to practice medicine there, who is called in consultation by a person licensed in this state to practice medicine, or who for the purpose of furthering medical education is invited into this state to conduct a lecture, clinic, or demonstration, while engaged in activities in connection with the consultation, lecture, clinic, or demonstration, so long as he does not open an office or appoint a place to meet patients or receive calls in this state;

(c) A person authorized to practice medicine in another state or country while rendering medical care in a time of disaster or while caring for an ill or injured person at the scene of an emergency and while continuing to care for such person;

(d) An extern, intern, resident or physician's assistant who is registered with the board as provided in this chapter and while engaged in programs authorized pursuant to rules and regulations of the board;

(e) A person authorized or licensed by this state to engage in activities which may involve the practice of medicine;

(f) A person engaged in good faith in the practice of the religious tenets of any church or religious beliefs;

(g) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;

(h) A person rendering aid in an emergency, where no fee for the service is contemplated, charged or received;

(i) A person administering a family remedy to a member of the

family;

(2) Except as provided in subsection (1) of this section, it ~~is unlawful~~ shall constitute a felony for any person to practice medicine in this state without a license and upon conviction thereof~~,~~ ~~he~~ shall be imprisoned ~~for not less than six (6) months nor more than one (1) year~~ in the state prison for a period not to exceed five (5) years, or shall be fined not ~~less~~ more than ~~one~~ ten thousand dollars ($10,000) ~~nor more than three thousand dollars ($3,000)~~, or shall be punished by both such fine and imprisonment.

(3) Except as provided in subsections (1)(a), (1)(b), and (1)(c) above, it is unlawful for any person to assume or use the title or designation "medical doctor," "medical physician," "osteopathic doctor," "osteopathic physician," "M.D." or "D.O." or any other title, designation, words, letters, abbreviation, sign, card, or device to indicate to the public that such person is licensed to practice medicine pursuant to this chapter unless such person is so licensed, and upon conviction thereof, such person shall be imprisoned ~~for not--less than six (6) months nor more than~~ not to exceed one (1) year, or shall be fined not ~~less than five hundred dollars ($500) nor~~ more than three thousand dollars ($3,000), or shall be punished by both fine and imprisonment.

(4) When a person has been the recipient of services constituting the unlawful practice of medicine, whether or not he knew the rendition of the services was unlawful, proof of the rendition of such unlawful services by the recipient or his personal representative in an action against the provider of such services for damages allegedly caused by the services constitutes prima facie evidence of negligence shifting the burden of proof to such provider of unlawful services. The following damages in addition to any other remedies provided by law may be recovered in such an action:

(a) The amount of any fees paid for the unlawful services.

(b) Reasonable attorney fees and court costs.

(5) The board shall refer all violations of this section made known to it to appropriate prosecuting attorneys. The board may render assistance to a prosecuting attorney in the prosecution of a case pursuant to this section.

Approved April 12, 1990.

CHAPTER 401
(H.B. No. 816)

AN ACT

RELATING TO NONJUDICIAL FORECLOSURES OF TRUST DEEDS; AMENDING SECTION 45-1505, IDAHO CODE, TO CLARIFY THE MANNER AND EFFECT OF MAILING NOTICES OF DEFAULT; AMENDING SECTION 45-1506, IDAHO CODE, TO CLARIFY THE MANNER AND EFFECT OF MAILING CERTAIN NOTICES OF TRUSTEE'S SALE, AND TO REVISE THE MANNER OF MAILING, PERSONAL SERVICE AND POSTING OF NOTICES OF TRUSTEE'S SALE; AMENDING SECTIONS 45-1508 AND 45-1510, IDAHO CODE, TO CLARIFY THE EFFECT OF DEFECTS IN THE MANNER OF GIVING NOTICES AND OF ACTUAL KNOWLEDGE OF THE SALE, AND

CONFIRMING THE VALIDITY OF THE SALE AS TO PURCHASERS IN GOOD FAITH FOR VALUE AT OR AFTER THE TRUSTEE'S SALE, OR ANY SUCCESSOR IN INTEREST THEREOF; AND FINDING AND DECLARING THAT CERTAIN PROVISIONS HEREOF ARE CLARIFICATIONS OF EXISTING LAW.

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

SECTION 1. That Section 45-1505, Idaho Code, be, and the same is hereby amended to read as follows:

45-1505. FORECLOSURE OF TRUST DEED, WHEN. The trustee may foreclose a trust deed by advertisement and sale under this act if:

(1) The trust deed, any assignments of the trust deed by the trustee or the beneficiary and any appointment of a successor trustee are recorded in mortgage records in the counties in which the property described in the deed is situated; and

(2) There is a default by the grantor or other person owing an obligation the performance of which is secured by the trust deed or by their successors in interest with respect to any provision in the deed which authorizes sale in the event of default of such provision; and

(3) The trustee or beneficiary shall have (a) filed for record in the office of the recorder in each county wherein the trust property, or some part or parcel, is situated, a notice of default identifying the deed of trust by stating the name or names of the trustor or trustors and giving the book and page where the same is recorded, or a description of the trust property, and containing a statement that a breach of the obligation for which the transfer in trust is security has occurred, and setting forth the nature of such breach and his election to sell or cause to be sold such property to satisfy such obligation; and (b) mailed a copy of such notice by registered or certified mail, return receipt requested, to any person requesting such notice of record as ~~hereinafter~~ provided in section 45-1511, Idaho Code. Service by mail in accordance with this subsection (3) shall be deemed effective at the time of mailing.

(4) No action, suit or proceeding has been instituted to recover the debt then remaining secured by the trust deed, or any part thereof, or if such action or proceeding has been instituted, the action or proceeding has been dismissed.

SECTION 2. That Section 45-1506, Idaho Code, be, and the same is hereby amended to read as follows:

45-1506. MANNER OF FORECLOSURE -- NOTICE -- SALE. (1) A trust deed may be foreclosed in the manner provided in this section.

(2) Subsequent to recording notice of default as hereinbefore provided, and at least one hundred twenty (120) days before the day fixed by the trustee for the trustee's sale, notice of such sale shall be given by registered or certified mail, return receipt requested, to the last known address of the following persons or their legal representatives, if any:

(a) The grantor in the trust deed and any person requesting notice of record as ~~hereinafter~~ provided in section 45-1511, Idaho Code.

(b) Any successor in interest of the grantor ~~where---his~~ (including, but not limited to, a grantee, transferee or lessee) whose interest appears of record prior to the recording of the notice of default, or where the trustee or the beneficiary has actual notice of such interest ~~or-where-the-successor-in--interest is-in-possession-of-the-property.~~

~~(c)--Any--lessee-or-other-person-in-possession-of-or-occupying-the property.~~

(~~d~~c) Any person having a lien or interest subsequent to the interest of the trustee in the trust deed where such lien or interest appears of record prior to the recording of the notice of default, or where the trustee or the beneficiary has actual notice of such lien or interest.

(3) The disability, insanity or death of any person to whom notice of sale is to be given under subsection (2) of this section shall not delay or impair in any way the trustee's right under a trust deed to proceed with a sale under such deed, provided the notice of sale required under subsection (2) of this section has been mailed as provided by law for service of summons upon incompetents or to the administrator or executor of the estate of such person.

(4) The notice of sale shall set forth:

(a) The names of the grantor, trustee and beneficiary in the trust deed.

(b) A description of the property covered by the trust deed.

(c) The book and page of the mortgage records or the recorder's instrument number where the trustee deed is recorded.

(d) The default for which the foreclosure is made.

(e) The sum owing on the obligation secured by the trust deed.

(f) The date, time and place of the sale which shall be held at a designated time after 9:00 a.m. and before 4:00 p.m., Standard Time, and at a designated place in the county or one of the counties where the property is located.

(5) ~~If--there--be-occupants-of-the-said-real-property-such-notice shall-be-personally-served-upon-them-in-the-manner-in-which-a--summons is--served--and,-if-the-real-property-be-vacant-then-such-notice-shall be-posted-in-a-conspicuous-place-on-the-said-premises~~ At least three (3) good faith attempts shall be made on different days over a period of not less than seven (7) days each of which attempts must be made at least thirty (30) days prior to the day of the sale to serve a copy of the notice of sale upon an adult occupant of the real property in the manner in which a summons is served. At the time of each such attempt, a copy of the notice of sale shall be posted in a conspicuous place on the real property unless the copy of the notice of sale previously posted remains conspicuously posted. Provided, however, that if during such an attempt personal service is made upon an adult occupant and a copy of the notice is posted, then no further attempt at personal service and no further posting shall be required. Provided, further, that if the adult occupant personally served is a person to whom the notice of sale was required to be mailed (and was mailed) pursuant to the foregoing subsections of this section, then no posting of the notice of sale shall be required.

(6) A copy of the notice of sale shall be published in a newspaper of general circulation in each of the counties in which the

property is situated once a week for four (4) successive weeks, making four (4) publishings in all, with the last publication to be at least thirty (30) days prior to the day of sale.

(7) An affidavit of mailing notice of sale and an affidavit of posting (when required) and publication of notice of sale as required by subsection (6) of this section shall be recorded in the mortgage records in the counties in which the property described in the deed is situated at least twenty (20) days prior to the date of sale.

(8) The sale shall be held on the date and at the time and place designated in the notice of sale or notice of rescheduled sale as provided in section 45-1506A, Idaho Code, unless the sale is postponed as provided in this subsection or as provided in section 45-1506B, Idaho Code, respecting the effect of an intervening stay or injunctive relief order. The trustee shall sell the property in one parcel or in separate parcels at auction to the highest bidder. Any person, including the beneficiary under the trust deed, may bid at the trustee's sale. The attorney for such trustee may conduct the sale and act in such sale as the auctioneer of trustee. The trustee may postpone the sale of the property upon request of the beneficiary by publicly announcing at the time and place originally fixed for the sale, the postponement to a stated subsequent date and hour. No sale may be postponed to a date more than thirty (30) days subsequent to the date from which the sale is postponed. A postponed sale may itself be postponed in the same manner and within the same time limitations as provided in this subsection.

(9) The purchaser at the sale shall forthwith pay the price bid and upon receipt of payment the trustee shall execute and deliver the trustee's deed to such purchaser, provided that in the event of any refusal to pay purchase money, the officer making such sale shall have the right to resell or reject any subsequent bid as provided by law in the case of sales under execution.

(10) The trustee's deed shall convey to the purchaser the interest in the property which the grantor had, or had the power to convey, at the time of the execution by him of the trust deed together with any interest the grantor or his successors in interest acquired after the execution of such trust deed.

(11) The purchaser at the trustee's sale shall be entitled to possession of the property on the tenth day following the sale, and any persons remaining in possession thereafter under any interest except one prior to the deed of trust shall be deemed to be tenants at sufferance.

(12) Whenever all or a portion of any obligation secured by a deed of trust which has become due by reason of a default of any part of that obligation, including taxes, assessments, premiums for insurance or advances made by a beneficiary in accordance with the terms of the deed of trust, the grantor or his successor in interest in the trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any person having a subordinate lien or encumbrance of record thereon, at any time within one hundred fifteen (115) days of the recording of the notice of default under such deed of trust, if the power of sale therein is to be exercised, or otherwise at any time prior to the entry of a decree of foreclosure, may pay to the beneficiary or their successors in interest, respectively, the

entire amount then due under the terms of the deed of trust and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of such obligation and a reasonable trustee's fee subject to the limitations imposed by subsection (6) of section 45-1502, Idaho Code, and attorney's fees as may be provided in the promissory note) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust shall be reinstated and shall be and remain in force and effect, the same as if no acceleration had occurred.

(13) Any mailing to persons outside the United States and its territories required by this chapter may be made by ordinary first class mail if certified or registered mail service is unavailable.

(14) Service by mail in accordance with the provisions of this section shall be deemed effective at the time of mailing.

SECTION 3. That Section 45-1508, Idaho Code, be, and the same is hereby amended to read as follows:

45-1508. FINALITY OF SALE. A sale made by a trustee under this act shall foreclose and terminate all interest in the property covered by the trust deed of all persons to whom notice is given under ~~subsection (2) of~~ section 45-1506, Idaho Code, and of any other person claiming by, through or under such persons and such persons shall have no right to redeem the property from the purchaser at the trustee's sale. The failure to give notice to any of such persons by mailing, personal service, posting or publication in accordance with section 45-1506, Idaho Code, shall not affect the validity of the sale as to persons so notified nor as to any such persons having actual knowledge of the sale. Furthermore, any failure to comply with the provisions of section 45-1506, Idaho Code, shall not affect the validity of a sale in favor of a purchaser in good faith for value at or after such sale, or any successor in interest thereof.

SECTION 4. That Section 45-1510, Idaho Code, be, and the same is hereby amended to read as follows:

45-1510. TRUSTEE'S DEED -- RECORDING -- EFFECT. When the trustee's deed is recorded in the deed records of the county where the property described in the deed is located, the recitals contained in the deed and in the affidavits required under section 45-1506, subsection (7), Idaho Code, shall be prima facie evidence in any court of the truth of the recitals and the affidavits. However, the recitals and affidavits are conclusive in favor of a purchaser in good faith for value ~~relying upon them~~, or any successor in interest thereof.

SECTION 5. The legislature finds and declares that the following referred to amendatory provisions contained in this act are merely clarifications of existing law and are not intended to be and are declared not to be changes in existing law:

a. The sentence added to subsection (3) of section 45-1505, Idaho Code;

b. The changes reflected in subsections (2)(a), in the first phrase of subsection (2)(b), in subsection (13) and added subsection (14) of section 45-1506, Idaho Code;

c. The changes reflected in Section 4 of this act; and

d. Various mere semantical changes and corrections of obvious grammatical and typographical errors.

Approved April 12, 1990.

CHAPTER 402
(H.B. No. 805)

AN ACT

RELATING TO THE GOVERNANCE OF PUBLIC SCHOOLS; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE THAT DISTRIBUTION OF THE SCHOOL DISTRICT DISCIPLINE CODE CAN BE IN A SUMMARY FORM, TO PROVIDE THAT THE BOARD OF TRUSTEES SHALL HAVE THE POWER AND DUTY TO SUPERVISE EXTRA-CURRICULAR ACTIVITIES, AND TO DEFINE EXTRA-CURRICULAR ACTIVITIES AS A PRIVILEGE AND NOT A RIGHT.

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

SECTION 1. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

1. To determine the length of the school term which in no case shall be less than nine (9) months;

2. To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;

3. To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a textbook adoption committee as provided in section 33-512A, Idaho Code;

4. To protect the morals and health of the pupils;

5. To exclude from school, children not of school age;

6. To prescribe rules for the disciplining of unruly or insubordinate pupils, such rules to be included in a district discipline code adopted by the board of trustees and <u>a summarized version thereof to be</u> provided in writing at the beginning of each school year to the teachers and students in the district <u>in a manner consistent with the student's age, grade and level of academic achievement;</u>

7. To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health or local health authorities;

8. To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

9. To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on a school day, shall be observed with appropriate ceremonies; and any days the state board of education may designate, following the proclamation by the governor, shall be school holidays;

10. To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during the inclement weather, when the school is in session;

11. To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor.

12. To supervise and regulate, including by contract with established entities, those extra-curricular activities which are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extra-curricular activities shall not be considered to be a property, liberty or contract right of any student, and such extra-curricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege.

Approved April 12, 1990.

CHAPTER 403
(H.B. No. 437)

AN ACT

RELATING TO SCHOLARSHIP GRANTS; AMENDING SECTION 33-4307, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF EDUCATION SHALL DETERMINE THE AMOUNT OF GRANT PAYMENTS ON AN ANNUAL BASIS, AND TO LIMIT THE NUMBER OF GRANT PAYMENTS THAT MAY BE MADE TO AN INDIVIDUAL.

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

SECTION 1. That Section 33-4307, Idaho Code, be, and the same is hereby amended to read as follows:

33-4307. ELIGIBILITY -- MAXIMUM AMOUNTS -- CONDITIONS. A grant may be awarded to an eligible student for matriculation at an eligible postsecondary educational institution in the state of Idaho if:

(1) The individual is accepted for enrollment as a full-time undergraduate student, as follows:

(a) In the case of an individual beginning his first year or freshman year of postsecondary education, he has satisfied requirements for admission and has enrolled in an eligible postsecondary institution.

(b) In the case of an individual enrolled in an eligible postsecondary institution following the successful completion of the first term, he continues to meet the requirements of this act and has maintained such high standards of performance as may be required. Provided that high academic standards are maintained in accordance with requirements of this chapter, a student continues to be eligible when transferring from one major program to another.

(c) In the case of an individual transferring from one (1) eligible postsecondary institution in Idaho to another eligible postsecondary institution in Idaho, he continues to meet the requirements of this act, is accepted at the eligible postsecondary institution to which he is transferring, and has maintained such high standards of performance as may be required.

(2) The grant is in amounts as follows:

(a) The grant payment to an individual per educational year for attendance on a full-time basis is not in excess of ~~one--thousand five-hundred-dollars-($1,500)~~ an amount determined annually by the state board of education or in excess of the total educational costs as certified by an official of the eligible postsecondary institution to be attended by the individual receiving the grant, whichever is less.

(b) The total grant payments over a period of six (6) years to an individual may not exceed ~~six-thousand-dollars-($6,000),~~ four (4) annual grants or the total educational costs for four (4) educational years completed as certified by an official of the eligible postsecondary institution or institutions attended by the individual receiving the grant, whichever is less.

(3) The individual receiving such a grant signs an affidavit stating that the grant will be used for educational costs only.

(4) The grant is awarded on the basis of extraordinary performance in standardized, unweighted competitive examination and high school record.

(5) The individual is not pursuing an educational program leading directly to a baccalaureate degree in theology or divinity.

(6) The individual receiving the grant is not precluded from receiving other financial aids, awards, or scholarships, provided the total of the grant and such other financial aids, awards or scholarships does not exceed the total educational costs for attendance at an eligible postsecondary institution as certified by an official of the eligible postsecondary institution to be attended by the individual receiving the grant.

(7) Grant payments shall correspond to academic terms, semesters, quarters or equivalent time periods at an eligible postsecondary institution; in no instance may the entire amount of a grant for an educational year, as defined in section 33-4306(9), Idaho Code, be paid to or on behalf of such student in advance.

(8) The individual has complied with such rules and regulations as may be necessary for the administration of this act.

Approved April 12, 1990.

CHAPTER 404
(H.B. No. 878)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE AUDITOR FOR FISCAL YEAR 1991; 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 State Auditor not exceed the following amount for the period July 1, 1990, through June 30, 1991:

FOR:	
Auditing and Accounting	$2,415,800
Computer Center	3,346,800
Financial Improvement Practices	362,400
SAFIRS	1,410,300
Board of Examiners	7,500
TOTAL	$7,542,800
FROM:	
General Account	$4,180,300
Interagency Billing and Receipts Account	3,362,500
TOTAL	$7,542,800

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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. AUDITING AND ACCOUNTING:					
FROM:					
General Account	$1,090,500	$1,282,800	$ 26,800		$2,400,100
Interagency Billing and Receipts Account			15,700		15,700
TOTAL	$1,090,500	$1,282,800	$ 42,500		$2,415,800
II. COMPUTER CENTER:					
FROM:					
Interagency Billing and Receipts Account	$1,803,800	$1,143,000	$400,000		$3,346,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. FINANCIAL IMPROVEMENT PRACTICES:					
FROM:					
General Account	$ 65,300	$ 297,100			$ 362,400
IV. SAFIRS:					
FROM:					
General Account	$ 203,500	$1,206,800			$1,410,300
V. BOARD OF EXAMINERS:					
FROM:					
General Account				$7,500	$ 7,500
GRAND TOTAL	$3,163,100	$3,929,700	$442,500	$7,500	$7,542,800

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 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 the Auditing and Accounting, Financial Improvement Practices, and SAFIRS programs any unexpended and unencumbered balances appropriated by Section 2, Chapter 398, Laws of 1989, for the Auditing and Accounting, Financial Improvement Practices, and SAFIRS programs, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

Approved April 12, 1990.

CHAPTER 405
(H.B. No. 875)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1991.

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

SECTION 1. 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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. COMPENSATION:					
FROM:					
Industrial Administration Account	$1,647,300	$ 529,300	$340,000	$ 627,900	$3,144,500
B. REHABILITATION:					
FROM:					
Industrial Administration Account	$1,592,300	$ 385,500	$120,800		$2,098,600
C. CRIME VICTIMS:					
FROM:					
Crime Victims Compensation Account	$ 85,500	$ 23,200	$ 9,900	$ 741,000	$ 859,600
GRAND TOTAL	$3,325,100	$ 938,000	$470,700	$1,368,900	$6,102,700

Approved April 12, 1990.

CHAPTER 406
(H.B. No. 668)

AN ACT

RELATING TO WINE DISTRIBUTORS AND RETAILERS; AMENDING CHAPTER 13, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1325B, IDAHO CODE, TO PROVIDE THAT CERTAIN SERVICES AND ADVERTISING MATERIALS INCIDENT TO WINE RETAILING MAY BE SUPPLIED BY DISTRIBUTORS.

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

SECTION 1. That Chapter 13, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1325B, Idaho Code, and to read as follows:

23-1325B. SERVICES PERMITTED INCIDENT TO WINE DISPENSING SYSTEMS -- CERTAIN ADVERTISING MATERIALS PERMITTED. (1) To the extent permitted by federal law and regulations adopted pursuant thereto, a distributor may furnish, install and perform repair services on wine dispensing systems on the premises of a retailer. The distributor shall collect from the retailer the reasonable value thereof, which value shall not be less than the cost of such system or service to the distributor. Dispensing systems may include, but shall not be limited to, tapping devices, spigots, valves, hose, washers, couplings, clamps, air hose, vents, faucets and pumping devices and CO regulators. A distributor may perform cleaning and sanitary services relating to the dispensing system without charge.

(2) Notwithstanding the provisions of section 23-1325, Idaho Code, a distributor may furnish to the retailer, without charge,

recipes and brochures explaining wine and other products.

(3) Labor performed or equipment, brochures or recipes furnished pursuant to the provisions of this section shall not constitute prohibited conduct or unlawful aid to a retailer.

Approved April 12, 1990.

CHAPTER 407
(H.B. No. 618, As Amended)

AN ACT

RELATING TO MEDICAL INSURANCE BENEFITS OF RETIRED SCHOOL DISTRICT EMPLOYEES; AMENDING SECTION 33-1228, IDAHO CODE, TO REQUIRE CONTINUATION OF COVERAGE FOR A SURVIVING SPOUSE AND DEPENDENTS OF A RETIREE UNDER THE CONDITIONS SPECIFIED.

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

SECTION 1. That Section 33-1228, Idaho Code, be, and the same is hereby amended to read as follows:

33-1228. SEVERANCE ALLOWANCE AT RETIREMENT. (1) Upon separation from public school employment by retirement in accordance with chapter 13, title 59, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, as provided by section 33-1218, Idaho Code, and shall be reported by the employer to the public employee retirement system. A sum equal to one-half (1/2) of the monetary value of such unused sick leave, calculated at the rate of pay for such employee at the time of retirement, shall be transferred from the sick leave account provided by subsection (2) of this section and shall be credited to such employee's retirement account. Such sums shall be used by the Idaho public employees' retirement board to continue to pay:

(a) Premiums for the retiree and the retiree's dependents at the rate for the active employee's group health, accident and dental insurance programs as maintained by the ~~school--district~~ employer for the active employees until the retiree and/or the retiree's spouse becomes eligible for medicare at which time the district shall make available a supplemental program to medicare for the eligible individual. Upon the death of the retiree the surviving spouse's health coverage shall be available and continued under the same terms and conditions as the retiree. Coverage may be continued for the retiree's surviving dependent spouse and dependents until remarriage of the spouse or until the retiree's surviving dependent spouse is eligible for a group health program by an employer. The medicare supplement program will provide the same premium and benefits for all retirees of all the ~~districts~~ employers served by the same insurance carrier.

(b) Premiums at the time of retirement for the retiree for the life insurance program maintained by the ~~district~~ employer which may be reduced to a minimum of five thousand dollars ($5,000) of

coverage.

(2) The retiree may continue to pay the premiums for the health, accident, dental and life insurance to the extent of the funds credited to the employee's account pursuant to this section and when these funds are expended the premiums may be deducted from the retiree's allowance. Upon a retiree's death, any unexpended sums remaining in the retiree's account shall revert to the sick leave account. If funds are not available for payment by the Idaho public employee retirement system from the retiree's surviving dependent spouse's allowance, the insurance carrier shall implement a direct billing procedure to permit the retiree's surviving spouse to continue coverage.

(3) Each ~~employing school district~~ employer shall contribute to a sick leave account maintained by the public employee retirement system exclusively for the purpose of the provisions of this section. The rate of such contribution each pay period shall consist of a percentage of employees' salaries as determined by the board, and such rate shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. All moneys payable to the sick leave account are hereby perpetually appropriated to the board, and shall not be included in its departmental budget.

(4) For purposes of this section public school employment shall be defined to permit inclusion of employees of organizations funded by school districts or of contributions of employees of school districts.

Approved April 12, 1990.

CHAPTER 408
(H.B. No. 796)

AN ACT

RELATING TO FOREIGN MONEY JUDGMENT RECOGNITION; AMENDING TITLE 10, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 10, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE APPLICABILITY, TO PROVIDE FOR RECOGNITION AND ENFORCEMENT, TO PROVIDE GROUNDS FOR NONRECOGNITION, TO PROVIDE FOR PERSONAL JURISDICTION, TO PROVIDE FOR A STAY IN CASE OF APPEAL, TO PROVIDE A SAVINGS CLAUSE, TO PROVIDE UNIFORMITY OF INTERPRETATION, AND TO PROVIDE A SHORT TITLE.

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

SECTION 1. That Title 10, 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 10, Idaho Code, and to read as follows:

CHAPTER 14
UNIFORM FOREIGN MONEY JUDGMENTS

10-1401. DEFINITIONS. As used in this chapter:

(1) "Foreign judgment" means any judgment of a foreign state

granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters.

(2) "Foreign state" means any governmental unit or country other than the United States, or any state, district, commonwealth, territory, or insular possession thereof.

10-1402. APPLICABILITY. The provisions of this chapter apply to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal therefrom is pending or is subject to appeal.

10-1403. RECOGNITION AND ENFORCEMENT. Except as provided in section 10-1404, Idaho Code, a foreign judgment meeting the requirements of section 10-1402, Idaho Code, is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

10-1404. GROUNDS FOR NONRECOGNITION. (1) A foreign judgment is not conclusive if:

(a) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(b) The foreign court did not have personal jurisdiction over the defendant; or

(c) The foreign court did not have jurisdiction over the subject matter.

(2) A foreign judgment need not be recognized if:

(a) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;

(b) The judgment was obtained by fraud;

(c) The claim for relief on which the judgment is based is repugnant to the public policy of this state;

(d) The judgment conflicts with another final and conclusive judgment;

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled other than by proceedings in that court;

(f) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action; or

(g) Judgments of this state are not recognized in the courts of the foreign state.

10-1405. PERSONAL JURISDICTION. (1) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:

(a) The defendant was served personally in the foreign state;

(b) The defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;

(c) The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;
(d) The defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;
(e) The defendant had a business office in the foreign state and the proceedings in the foreign court involved a claim for relief arising out of business done by the defendant through that office in the foreign state; or
(f) The defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a claim for relief arising out of such operation.
(2) The courts of this state may recognize other bases of jurisdiction.

10-1406. STAY IN CASE OF APPEAL. If the defendant satisfies the court either that an appeal is pending or that he is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

10-1407. SAVINGS CLAUSE. This chapter does not prevent the recognition of a foreign judgment in situations not covered by the provisions of this chapter.

10-1408. UNIFORMITY OF INTERPRETATION. The provisions of this chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

10-1409. SHORT TITLE. This chapter may be cited as the "Uniform Foreign Money Judgments Recognition Act."

Approved April 12, 1990.

CHAPTER 409
(H.B. No. 798)

AN ACT

RELATING TO CITY HEALTH CARE FACILITIES; AMENDING SECTION 50-305, IDAHO CODE, TO PROVIDE THAT A CITY MAY ACQUIRE, MAINTAIN AND OPERATE HEALTH CARE FACILITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-305, Idaho Code, be, and the same is hereby amended to read as follows:

50-305. HOSPITALS -- MAINTENANCE. Any city may acquire, in the

manner provided for acquiring other property, by purchase or otherwise, hospital grounds, buildings and equipment, and clinics or other health care facilities, and maintain and operate the same and to provide by general ordinance, rules and regulations for governing the same.

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 12, 1990.

CHAPTER 410
(H.B. No. 730, As Amended)

AN ACT

RELATING TO CHILD SUPPORT; AMENDING SECTION 32-706, IDAHO CODE, TO PROVIDE A DUTY OF SUPPORT FOR A CHILD'S EDUCATION UNTIL THE CHILD IS EIGHTEEN YEARS OLD, AND TO ALLOW THE COURT TO CONTINUE CHILD SUPPORT PAYMENTS IF THE CHILD CONTINUES HIS EDUCATION BEYOND HIS EIGHTEENTH BIRTHDAY OR UNTIL THE CHILD REACHES HIS NINETEENTH BIRTHDAY OR DISCONTINUES HIS EDUCATION, WHICHEVER IS SOONER; AND AMENDING SECTION 7-1121, IDAHO CODE, TO PROVIDE FOR THE CONTINUATION OF SUPPORT PAYMENTS UNTIL THE CHILD DISCONTINUES HIS EDUCATION OR REACHES THE AGE OF NINETEEN YEARS, WHICHEVER IS SOONER.

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 and education until the child is eighteen (18) years of age, 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. If the child continues his formal education subsequent to

reaching the age of eighteen (18) years, the court may, in its discretion, and after considering all relevant factors which include those set forth in subsection A of this section, order the continuation of support payments until the child discontinues his education or reaches the age of nineteen (19) years, whichever is sooner.

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

7-1121. ORDER FOR SUPPORT -- CONTINUANCE BEYOND AGE OF 18 -- OTHER PAYMENTS BY FATHER. In a proceeding in which the court has made an order of filiation, the court shall direct a father possessed of sufficient means or able to earn such means to pay monthly or at other fixed periods a fair and reasonable sum for the support and education of the child until the child is eighteen (18) years of age. If the child continues his formal education subsequent to reaching the age of eighteen (18) years, the court may, in its discretion, order the continuation of support payments until the child discontinues his education or reaches the age of ~~twenty-one (21)~~ nineteen (19) years, whichever is sooner.

The order of filiation may direct the father to pay or reimburse amounts paid for the support of the child prior to the date of the order of filiation and may also direct him to pay or reimburse amounts paid for: (1) the funeral expenses if the child has died; (2) the necessary expenses incurred by or for the mother in connection with her confinement and recovery; and (3) such expenses in connection with the pregnancy of the mother as the court may deem proper.

If the father is a minor at the time the order is entered, the order shall continue in effect as a valid order after the father reaches majority, and cannot be disaffirmed by the minor himself or personal representatives.

Any child support order issued or modified under this section after July 1, 1986, shall contain a provision allowing the obligee to enforce the order by income withholding if arrearages at least equal to the support payable for one (1) month accumulate under the order; and shall include the notice required in section 32-1205, Idaho Code, advising the obligor that the obligee can seek enforcement of the order by means of a mandatory income withholding order issued pursuant

to this chapter without further notice to the obligor whenever there are arrearages at least equal to the support payment for one (1) month.

Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree.

Approved April 12, 1990.

CHAPTER 411
(H.B. No. 631)

AN ACT

RELATING TO LICENSE FEES FOR BUTTER GRADERS, BABCOCK TESTERS AND BULK MILK HAULERS; AMENDING SECTION 37-332d, IDAHO CODE, TO INCREASE ANNUAL LICENSE FEES FOR BUTTER GRADERS; AMENDING SECTION 37-412, IDAHO CODE, TO INCREASE BULK MILK HAULING PERMIT FEES, TO EXTEND DURATION OF A PERMIT AND TO CHANGE NOMENCLATURE; AND AMENDING SECTION 37-511, IDAHO CODE, TO INCREASE TESTER AND GRADER LICENSE FEES AND TO EXTEND DURATION OF A LICENSE.

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

SECTION 1. That Section 37-332d, Idaho Code, be, and the same is hereby amended to read as follows:

37-332d. LICENSING OF BUTTER GRADERS -- EXAMINATION -- DURATION -- FEES. A butter grading license shall be issued by the state department of agriculture to each individual person who shall apply therefor in writing and pass satisfactorily and in person a reasonable examination, including actual demonstration~~,~~ of ~~his~~ ability<u>ies</u> and qualifications to grade butter in accordance with the official grades and standards prescribed by and under this act. Such license shall not be transferable, and unless sooner revoked shall be valid for the calendar year for which issued. There shall be paid to the state department of agriculture as a condition precedent to the issuance or renewal of such license an annual license fee of ~~one~~ <u>ten</u> dollar<u>s</u> ($1<u>0</u>.00).

SECTION 2. That Section 37-412, Idaho Code, be, and the same is hereby amended to read as follows:

37-412. STANDARDS FOR MILK HAULERS. The following standards are hereby adopted relating to milk haulers and to the operation of transportation tanks:

1. All milk haulers must possess a permit issued by the department of agriculture. All milk haulers shall be subject to such examination and abilities as the department of agriculture may prescribe by regulation in order to receive and retain such permit. The fee for the permit shall be ~~two~~ <u>twenty-five</u> dollars ~~and fifty cents~~ ($2~~.~~5<u>.00</u>). No

~~hauler-shall-grade,-measure-or-sample-milk-hauled-by-him-without-written-authorization-from-the-receiving-plant~~ The permit shall be valid for three (3) years and must be renewed by December 31 of the third year.

2. The milk line shall be passed through a special port opening through the milk house wall with care to prevent contact with the ground or floor of the milk house. The port opening shall be closed when not in use.

3. It shall be the responsibility of the milk hauler to assure ~~himself~~ that in the event the processor washes and sanitizes the truck the operation has been adequately performed, and that prior to use the tank truck has been properly sanitized. In the event it is ~~his~~ the milk hauler's responsibility to sanitize the tank truck ~~he~~ it shall ~~do so~~ be done with a chlorine solution of proper strength.

4. The milk hauler's ~~shall-wash-his~~ hands shall be washed immediately before gauging the milk.

5. The milk shall be observed and checked for abnormalities or adulterations, and all abnormal or adulterated milk shall be rejected.

6. The milk volume in the farm tank shall be determined in a sanitary manner.

7. The milk in the farm tank shall be thoroughly agitated. Milk samples for analysis shall be taken in a sanitary manner into properly identified sterile containers. A~~a~~ll sampling shall follow standard methods.

8. After the milk is pumped to the transportation tank the milk conductor tubing shall be capped and returned to the vehicle storage cabinet. Care shall be taken to prevent soiling of the milk line by contact with the milk house floor, operator's hands or the ground.

9. The milk hauler shall rinse the farm tank and accessories free of milk with clean water immediately after emptying.

10. The milk hauler shall be responsible for proper use of the transportation tank and accessories.

SECTION 3. That Section 37-511, Idaho Code, be, and the same is hereby amended to read as follows:

37-511. TESTER'S AND GRADER'S LICENSE -- EXAMINATION ~~---STANDARD GLASSWARE-FURNISHED~~ -- LICENSEE'S SUBSTITUTE. Every person testing or grading milk or cream to determine the milk fat as a basis of fixing the purchase price or to determine the acceptability of such milk or cream shall secure a tester's license from the department and shall make such tests and grading only by such process as has been approved by the department, and no person shall make such test and grading without such license, and other than by such process. Each applicant for such license shall be required to submit to examination or by actual demonstration show ~~that-he-is-competent-to-test~~ competency in testing and gradeing cream and milk according to the regulations prescribed by the department. ~~The-department-shall--furnish--at--cost--to each--licensee--one--(1)--standard--test--bottle--and-one-(1)-standard pipette-adapted-to-the-use-of-the-testing--machine--approved--for--the licensee.-Said-bottle-and-pipette-shall-be-certified-to-by-the-department--as--a--standard-and-shall-bear-the-official-stamp-of-the-department.-Any-person-not-a-licensee-may-secure-test--bottle--and--pipettes~~

~~from the department at cost.~~ The fee for each licensee shall be ~~two~~ twenty-five dollars ~~and--fifty cents per year~~ ($~~2.~~5.00). The license shall be valid for three (3) years and must be renewed by December 31 of the third year. With the approval of the department any licensee may appoint a ~~person~~ substitute to act for ~~him~~ a period not to exceed ~~a period of~~ fourteen (14) days.

Approved April 12, 1990.

CHAPTER 412
(H.B. No. 600)

AN ACT

RELATING TO THE PURE SEED LAW; AMENDING SECTION 22-436, IDAHO CODE, TO PROVIDE THAT IF A BUYER CLAIMS TO HAVE BEEN DAMAGED BY THE FAILURE OF A TUBER, PLANT, OR PLANT PART TO PERFORM AS REPRESENTED, THE BUYER MUST SUBMIT THE CLAIM TO ARBITRATION BEFORE A LEGAL ACTION CAN BE BROUGHT.

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

SECTION 1. That Section 22-436, Idaho Code, be, and the same is hereby amended 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 a tuber, plant, or plant part to perform as represented, or ~~w~~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 12, 1990.

CHAPTER 413
(H.B. No. 599, As Amended)

AN ACT

RELATING TO SEED AND PLANT CERTIFICATION; REPEALING SECTIONS 22-422 THROUGH 22-433, IDAHO CODE; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 11, TITLE 22, IDAHO CODE, TO PROVIDE THAT CERTIFICATION AND REGULATION OF SEEDS AND PLANTS IS IN THE PUBLIC INTEREST, TO REQUIRE COMPLIANCE WITH REGULATIONS WHEN CERTAIN PHRASES ARE USED, TO PROVIDE DEFINITIONS, TO PROVIDE FOR THE ADMINISTRATION OF THE PROVISIONS OF THE CHAPTER BY THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, TO PROVIDE FOR RULES AND REGULATIONS, TO PROVIDE FEES, TO PROVIDE FOR MAINTENANCE OF SEED STOCKS, TO PROVIDE THAT THE BOARD MAY DELEGATE ITS AUTHORITY, TO PROVIDE LIMITED LIABILITY OF THE BOARD, TO PROVIDE A REVIEW PROCEDURE FOR ACTIONS TAKEN PURSUANT TO THIS CHAPTER, AND TO PROVIDE A SHORT TITLE; AND AMENDING SECTION 22-416, IDAHO CODE, TO PROVIDE PENALTIES FOR FALSE REPRESENTATION REGARDING SEEDS, PLANTS, TUBERS OR PLANT PARTS.

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

SECTION 1. That Sections 22-422 through 22-433, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 11, Title 22, Idaho Code, and to read as follows:

CHAPTER 11
SEED AND PLANT CERTIFICATION

22-1101. CERTIFICATION OF SEEDS AND PLANTS -- REGULATION OF CERTIFICATION TO BE IN PUBLIC INTEREST. Certification of varieties or strains of seeds, tubers, plants and plant parts raised in the state of Idaho and offered or intended to be offered for sale is in the public interest and a proper subject of regulation by the state of Idaho.

22-1102. COMPLIANCE WITH REGULATIONS REQUIRED WHERE CERTAIN PHRASES USED. Every person, firm, association or corporation who shall issue, use or circulate, any certificate, advertisement, tag, seal, poster, letterhead, marking, circular, written or printed representation or description, of or pertaining to lots of seeds, tubers, plants or plant parts intended for propagation or sale, or sold or offered for sale wherein the words "Idaho State Certified," "State Certified," "Idaho Certified," or similar words or phrases are used or employed, or wherein are used or employed signs, symbols, maps, diagrams, picture words or phrases expressly or impliedly stating or representing that such seed, tubers, plants or plant parts comply with or conform to the standards or requirements approved by the Idaho agricultural experiment station in the college of agriculture of the university of Idaho shall be subject to the provisions of this chapter.

22-1103. DEFINITIONS. (1) "Breeder seed" means seed or vegetative propagating material directly controlled by the originating, or in certain cases the sponsoring plant breeder or institution, and which provides the source for the initial increase of foundation seed.

(2) "Certified" means the written assurance, in certificate form, of the college of agriculture of the university of Idaho, or of its agent designated hereunder, that the particular seeds, tubers, plants or plant parts have the necessary genetic purity of strain and/or other characteristics to meet the requirements of the rules and regulations promulgated hereunder.

(3) "Foundation seed" means the progeny of breeder seed stocks that are so handled as to maintain specific genetic identity and purity, and that are designated or distributed by the Idaho agricultural experiment station or private companies.

(4) "Genetic purity" means that the lot of seeds, tubers, plants or plant parts are homogenous for inheritable characteristics as stated in the official description of the variety or strain represented.

(5) "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which appear in the labeling.

(6) "Plant" or "tubers" or "plants" or "plant parts" mean any variety or strain of plant or part thereof which may be eligible for certification, as hereinafter provided.

(7) "Seed" or "seeds" mean the seed of any variety or strain of plant, including tubers, which may be eligible for certification, as hereinafter provided.

(8) "Variety or strain" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics, by which it can be differentiated from other plants of the same kind.

22-1104. ADMINISTRATION OF THE CHAPTER. The regents of the university of Idaho through the Idaho agricultural experiment station in the college of agriculture of the university of Idaho, or the agent of the university of Idaho appointed in writing, as hereinafter provided, is hereby authorized to administer the provisions of this chapter to establish, alter, amend and repeal, in compliance with the provisions of chapter 52, title 67, Idaho Code, reasonable rules and regulations as to what shall constitute certified seeds, tubers, plants and plant parts under the terms of this chapter. Such reasonable rules and regulations shall also comprehend and fix the standards necessary to qualify seeds, tubers, plants and plant parts for certification hereunder and procedures for certification by the said college of agriculture or the said agent thereof. All varieties or strains of seed, tubers, plants and plant parts eligible for certification in the state of Idaho shall be approved by the director of the Idaho agricultural experiment station.

22-1105. RULES AND REGULATIONS -- PREPARATION AND PROMULGATION. Every person, firm, association or corporation that intends to offer for sale, offers or sells seeds, tubers, plants or plant parts as certified shall comply with the provisions of this chapter and such rules and regulations as are promulgated by the Idaho agricultural experi-

ment station in the college of agriculture of the university of Idaho as provided herein, such rules and regulations to contain, among other things, a designation of the crops grown or to be grown in Idaho eligible for certification with standards, requirements and procedure necessary for certification with designation of the agency authorized to provide certification.

Upon the passage of this chapter the Idaho agricultural experiment station in the college of agriculture of the university of Idaho shall prepare and issue such rules and regulations as are required by this chapter in compliance with the provisions of chapter 52, title 67, Idaho Code.

22-1106. FEES CHARGED BY CERTIFYING AGENCY. Fees may be charged by the certifying agency, under schedules set forth in rules and regulations for certification of seeds, tubers, plants and plant parts under this chapter, but these fees shall have a reasonable relation to the cost, and may be used only for expenses in connection with certification and improvement of certification services.

22-1107. MAINTENANCE OF SEED STOCKS. The Idaho agricultural experiment station or an agent of the university of Idaho appointed, in writing, shall be responsible to obtain and maintain sources of basic seed stocks which include breeder class and foundation class seed of public varieties or strains of crops deemed appropriate by the director of the Idaho agricultural experiment station. Basic seed stocks, limited generation certified seed tubers, plant or plant parts shall first be made available for production in Idaho. This shall be accomplished through a system of equitable allocation to any person, firm, partnership, association, corporation or entity located in this state unless a contract or agreement entered into with another public research entity or institution provides otherwise. Price established for the basic seed stocks of seed, tubers, plants or plant parts shall be in reasonable relation to the cost of production, maintenance, handling, storage and processing necessary to meet standards set forth in the rules and regulations.

22-1108. DELEGATION OF AUTHORITY. The regents of the university of Idaho may delegate in writing its authority, or any part thereof, under this chapter to any organization whose principal purpose is to establish and maintain a uniform and reasonable system of certification of seeds, tubers, plants and plant parts. The university will cooperate with the Idaho department of agriculture in seed analysis and inspection.

22-1109. LIABILITY OF REGENTS LIMITED. The regents of the university of Idaho shall not be financially responsible for debts incurred, damages inflicted, or contracts broken by the certifying agency in conducting certification work.

22-1110. REVIEW OF ACTION TAKEN UNDER PROVISIONS OF LAW. Any person, firm, partnership, association or corporation aggrieved by any act or action taken under the provisions of this chapter law may, within thirty (30) days of such act or action, appeal to the district

court within and for the district in which said act or action was committed for appropriate relief. It is further provided that any order or judgment of the district court pertaining to such appeal may be appealed to the Supreme Court of the state of Idaho in the manner in which appeals are made under the present code and procedure, provided, however, that on the appeal to the Supreme Court, the Supreme Court shall consider only questions of law.

22-1111. TITLE. This chapter shall be known as, and may be cited as, the "Seed and Plant Certification Act."

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

22-416. PROHIBITIONS. (1) It shall be unlawful for any person to sell, offer for sale, expose for sale, or deliver under a contract any seed within the state:

(a) Unless the test to determine the percentage of germination required by section 22-415, Idaho Code, shall have been completed within a fifteen (15) month period, exclusive of the calendar month in which the test was completed immediately prior to sale, exposure for sale, or offered for sale or transportation. This prohibition does not apply to tree and shrub seeds or agricultural or vegetable seed in hermetically-sealed containers. The director may by regulation prescribe a longer period than otherwise stated herein, and the conditions and methods of treatment or packaging and labeling which he deems to be necessary to maintain the identification and viability of such seed.

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

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

(d) Containing prohibited noxious weed seeds.

(e) Containing restricted noxious weed seeds singly or collectively in excess of tolerances as provided by the rules and regulations of the department.

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

(g) If the crop seed rye (Secale cereale) is present in wheat, oats or barley.

(2) It shall be unlawful for any person within this state:

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

(b) To disseminate any false or misleading advertisement concerning seeds in any manner or by any means.

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

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

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

(f) To transport screenings containing noxious weed seeds without proper covering or tarping, or containerizing or boxing, to prevent noxious weed seed dissemination. All screenings containing noxious weed seeds must be processed to eliminate germination.

(g) To return to a seed dealer treated seed in open bags except for storage purposes.

(3) It shall be unlawful for any person to make any representation as to any particular lot of seeds, tubers, plants or plant parts intended to be offered for sale as "Idaho State Certified," "State Certified," "Idaho Certified," or "Certified," or similar words or phrases, without first having the written certificate of the Idaho agricultural experiment station in the college of agriculture of the university of Idaho or its agent as to the genetic purity and/or other characteristics of the particular seeds, tubers, plants or plant parts as represented.

Approved April 12, 1990.

CHAPTER 414
(H.B. No. 716)

AN ACT

RELATING TO BEES AND THE HONEY INDUSTRY; AMENDING SECTION 22-2529, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR BEE COLONIES IN TRANSIT IN IDAHO; AMENDING SECTION 22-2536, IDAHO CODE, TO PROVIDE FOR A REGISTRATION FEE IN LIEU OF A TAX, TO IMPOSE THE FEE UPON BEEKEEPERS AND TO DELETE REFERENDUM LANGUAGE; AND AMENDING SECTION 22-2804, IDAHO CODE, TO PROVIDE FOR DELEGATION OF FUNCTIONS OF THE HONEY ADVERTISING COMMISSION TO AN EXECUTIVE SECRETARY AND TO PROVIDE QUALIFICATIONS FOR THE EXECUTIVE SECRETARY.

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

SECTION 1. That Section 22-2529, Idaho Code, be, and the same is hereby amended to read as follows:

22-2529. ACT CONSTRUED TO PERMIT TRANSPORTATION OF BEES -- PERMIT. This act shall not be construed to prevent the transportation across the Idaho state line of bees in hives, or bee supplies and equipment, between bee yards owned by, or under the control of a "qualified bi-state beekeeper." However, such transportation shall not be lawful unless a general and continuing permit therefor as hereinafter provided in section 22-2530, Idaho Code, shall have been first obtained from the director, and such permit may be revoked by the

director upon a showing that such privilege has been or is being abused. Bee colonies in transit through Idaho shall be netted while within the borders of Idaho and no such bees shall be off loaded in Idaho without full compliance of the laws.

SECTION 2. That Section 22-2536, Idaho Code, be, and the same is hereby amended to read as follows:

22-2536. TAX ON BEES -- ASSESSMENT -- COLLECTION -- PROCEEDS. (a) There is hereby levied ~~and imposed~~ upon each ~~colony or hive of bees~~ beekeeper within the state of Idaho ~~on July 1st of each year a continuing annual tax of three cents (3¢) per hive or colony of bees beginning in the year 1970 for the purpose of carrying on the provisions of chapter 25 of title 22, Idaho Code~~ a registration fee of ten dollars ($10.00) for up to fifty (50) colonies. Each additional colony in excess of the first fifty (50) colonies shall be assessed at the rate of ten cents (10¢) per colony.

(b) The tax assessed for colonies in excess of fifty (50) colonies may be increased to not more than ~~ten~~ twenty cents (~~1~~20¢) per hive or colony per year, if approved by a majority of the beekeepers voting in a referendum held for the purpose of determining whether such levy of the tax shall or shall not be changed. If the levy of the tax is changed, the levy of the tax will continue annually at the changed rate until again changed by another referendum. Any resident of Idaho who is registered under this chapter as an Idaho beekeeper with the Idaho department of agriculture may vote at such referendum. ~~The vote at such referendum may be cast by absentee ballot. Request for absentee ballots must be made no less than thirty (30) days prior to the annual meeting of the Idaho honey industry association or any successor organization. The ballot shall be prepared by the department of agriculture and forwarded no less than twenty (20) days prior to the date fixed for the annual meeting to all registered Idaho beekeepers who request such absentee ballot. The ballots must be returned to the department of agriculture at least five (5) days prior to the date fixed for such annual meeting.~~ Any referendum to be held for the purpose of changing the levy of such tax shall be held at the annual meeting of the Idaho honey industry association or any successor organization to this group.

(c) On or before the 15th day of August of each year any person engaging in the business of apiculture shall make and file in writing with the Idaho department of agriculture a statement specifying the name, residence, place of business of the beekeeper, number of hives or colonies of bees owned or controlled, number of apiaries maintained and the location of such hives, colonies and apiaries by governmental subdivision or such other designation of location as may be provided for by the department of agriculture, and such other information as may be required.

(d) The tax provided for in this section shall be due and payable on or before October 31st of each year, and it shall be collected by the Idaho department of agriculture. Upon receipt of the annual statements provided for above in this section, the Idaho department of agriculture shall bill each beekeeper for said tax and it shall take the necessary steps to collect such tax, including civil action in the

proper courts.

(e) Said tax shall be a lien upon all apicultural products, equipment, bees and property of the person owning or controlling such bees and shall be prior to all other liens or encumbrances except liens which are declared prior by operation of the statutes of this state.

(f) The department of agriculture shall devise a system of identification for apiaries including a permanent number to be assigned to each beekeeper. The system may include placards which shall be permanently posted and maintained by each beekeeper at each apiary. The department may also require that each hive be stenciled with the beekeeper's permanent number. If it does so, it shall issue stencils for that purpose.

SECTION 3. That Section 22-2804, Idaho Code, be, and the same is hereby amended to read as follows:

22-2804. COMMISSION, MEMBERS, APPOINTMENT AND COMPENSATION. There is hereby created and established in the department of agriculture an Idaho honey advertising commission to be known and designated as such, and shall be composed of the director of the department and three (3) members, who shall be practical honey producers or beekeepers, appointed by the governor, at the recommendation of a representative group of beekeepers of the state of Idaho. Each member so appointed shall be a resident citizen of the state of Idaho and from the district from which appointed, for a period of five (5) years prior to his appointment, and shall have had active experience in raising honey bees and each member shall have derived the major portion of his income from the production and sale of honey. One (1) member shall be chosen from the district north of the Salmon River; one (1) from the district south of the Salmon River and west of a north-south line bisecting the city of Shoshone and extending from the south boundary of the state of Idaho to the Salmon River; one (1) from the district south of the Salmon River and east of a north-south line bisecting the city of Shoshone and extending from the south boundary of the state of Idaho to the Salmon River. Commission members shall be appointed and serve for a term of three (3) years and until their respective successors are appointed and qualified. The commission shall elect its chairman.

The chairman of the commission may delegate the function of the honey advertising commission to an executive secretary whose function will be subject to the approval of the honey advertising commission. The executive secretary must be a member of the Idaho honey industry association, inc., or its successor organization but need not be a member of the honey advertising commission.

A majority of the members of said commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission. Before entering on the discharge of their duties as members of said commission, each member shall take and subscribe to the oath of office prescribed by the statutes of Idaho.

Each member of the commission shall be compensated as provided by section 59-509(d), Idaho Code. The commission shall meet regularly once each fiscal year at a date established by said commission in its

designated business office, and it shall fix the time and place of special meetings as may be deemed necessary by the chairman of the commission.

Approved April 12, 1990.

CHAPTER 415
(H.B. No. 697)

AN ACT

RELATING TO CONTRACTS FOR THE CONSTRUCTION OF ANY PRIVATE WORK OF IMPROVEMENT; AMENDING CHAPTER 1, TITLE 29, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 29-115, IDAHO CODE, TO PROVIDE FOR APPLICATION OF THE SECTION, TO PROVIDE FOR RETENTION OF PROCEEDS, TO PROVIDE FOR REDUCTION IN THE RETENTION WITHHELD, TO PROVIDE FOR PAYMENT TO SUBCONTRACTORS, TO PROVIDE FOR DISPUTES, TO PROVIDE FOR ADDITIONAL INTEREST CHARGES, TO PROVIDE FOR ACCOUNTS AT FINANCIAL INSTITUTIONS, AND TO PROHIBIT WAIVER OF THE PROVISIONS OF THIS SECTION.

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

SECTION 1. That Chapter 1, Title 29, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 29-115, Idaho Code, and to read as follows:

29-115. CONSTRUCTION CONTRACTS. (1) This section is applicable with respect to all contracts entered into on or after July 1, 1990, between owners and original contractors relating to the construction of any private work of improvement.

(2) In any contract relating to the construction of any private work of improvement, the retention proceeds withheld by the owner from the original contractor or by the original contractor from any subcontractor from any payment shall not exceed five percent (5%) of the payment and in no event shall the total retention withheld exceed five percent (5%) of the contract price. However, the five percent (5%) maximum that may be withheld does not apply if the original contractor or the subcontractor fails to provide a performance bond issued by a surety acceptable to the owner or original contractor if requested to do so by the owner or original contractor respectively. The five percent (5%) maximum shall not apply to any contract for the performance of a private work of improvement to residential real property consisting of one (1) to four (4) units occupied or to be occupied by the owner.

(3) Within thirty-five (35) days from the date on which the work of improvement is substantially complete, as mutually agreed to by the parties to the contract, the retention withheld by the owner shall be reduced to the lesser of one hundred fifty percent (150%) of the estimated value of work yet to be completed in accordance with the contract or the retention then withheld by the owner, not to exceed five

percent (5%) of the contract price.

Within thirty-five (35) days from the date of final completion of the work of improvement, the retention withheld by the owner shall be released, except in the event of a dispute between the owner and the original contractor, the owner may withhold from the final retention payment an amount not to exceed one hundred fifty percent (150%) of the estimated value of the issue in dispute.

(4) Subject to subsection (5) of this section, within ten (10) days from the time that all or any portion of the retention proceeds, together with interest, if applicable, are received by the original contractor, the original contractor shall pay each of its subcontractors from whom retention has been withheld, each subcontractor's share of the retention received together with the proportionate share of the interest earned on the retention. However, if a retention payment received by the original contractor is specifically designated for a particular subcontractor, payment of the retention together with interest thereon, if applicable, shall be made to the designated subcontractor. The original contractor may deduct from the interest paid to a subcontractor an amount equal to one percent (1%) per annum of the unpaid principal retention to cover the contractor's cost of administration.

(5) The original contractor shall not be required to pay the retention to a subcontractor if a bona fide dispute exists between the subcontractor and the original contractor. The amount withheld from the retention payment shall not exceed one hundred fifty percent (150%) of the estimated value of the work yet to be completed or issue in dispute. Upon resolution of the dispute and payment of the retention proceeds by the original contractor to the subcontractor, interest at market rates available for deposit of that amount and term shall be added to the principal due the subcontractor, accruing from the date the retention proceeds were payable to the subcontractor pursuant to subsection (4) of this section and up to and including the date of payment by the original contractor to the subcontractor.

(6) In the event that retention payments are not made within the time periods required in this section, the unpaid amounts shall be subject to an additional charge over and above any interest due, of one and one-half percent (1.5%) per month on the unpaid balance.

(7) (a) The lender for the work of improvement, or the owner if there is no lender, shall establish and maintain a segregated account at a financial institution with which the owner does business and has established commercial accounts, which shall not be commingled with other funds of the person establishing the account, with regard to all retention proceeds withheld from progress payments to the original contractor.

(b) All retention proceeds shall be deposited in the segregated account as required by paragraph (a) of this subsection, when withheld by the owner from the original contractor pursuant to the contract between the parties. The segregated account shall bear interest at the market rates available for deposit of that amount and term at the financial institution designated in paragraph (a) of this subsection. The account shall be in the name of the lender, or the owner if there is no lender, but all interest earned on the account shall be for the benefit of the original

contractor and shall be payable to the original contractor at the time that the retention, or any portion thereof, is paid to the original contractor in accordance with the contract between the owner and original contractor. The owner may deduct from the interest paid to the original contractor an amount sufficient to cover the direct cost of administering the segregated account.

(c) Title to the retention principal deposited into the segregated account shall remain with the lender, or owner if there is no lender, and shall be subject to all stop notice rights which any claimant may have pursuant to this title.

(d) When the retention is withheld from the last progress payment only, a segregated account will not be required if all retention proceeds are paid within thirty-five (35) days following substantial completion, as mutually agreed to by the parties to the contract, of works of improvement related to the retention.

(8) It shall be against public policy for any party to require any other party to waive any provision of this statute.

Approved April 12, 1990.

CHAPTER 416
(H.B. No. 893)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS ~~FOR~~ FISCAL YEAR 1991; 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 and the State Board of Education 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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. WOI VETERINARY EDUCATION:					
FROM:					
General Account	$ 795,400	$127,200			$ 922,600
B. WAMI MEDICAL EDUCATION:					
FROM:					
General Account	$ 385,300	$ 56,900	$31,200	$1,500,000	$1,973,400
Interagency Billing and Receipts Account	9,800	2,500		106,500	118,800
TOTAL	$ 395,100	$ 59,400	$31,200	$1,606,500	$2,092,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. DENTAL EDUCATION:					
FROM:					
General Account	$ 98,800	$ 10,900	$ 800	$ 183,200	$ 293,700
Interagency Billing and Receipts Account	43,800				43,800
TOTAL	$ 142,600	$ 10,900	$ 800	$ 183,200	$ 337,500
D. WICHE UNIVERSITY OF UTAH:					
FROM:					
General Account				$ 507,000	$ 507,000
E. FAMILY PRACTICE RESIDENCY:					
FROM:					
General Account				$ 150,000	$ 150,000
GRAND TOTAL	$1,333,100	$197,500	$32,000	$2,446,700	$4,009,300

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the WOI Veterinary Education Program any unexpended and unencumbered balance of the moneys appropriated for the WOI Veterinary Education Program by Section 1, Chapter 202, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

SECTION 3. 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 for the WAMI Medical Education Program by Section 1, Chapter 202, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

SECTION 4. There is hereby reappropriated to the State Board of Education for the Dental Education Program any unexpended and unencumbered balance of the moneys appropriated for the Dental Education Program by Section 2, Chapter 307, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

SECTION 5. There is hereby reappropriated to the State Board of Education for the WICHE University of Utah Program any unexpended and unencumbered balance of the moneys appropriated for the WICHE University of Utah Program by Section 2, Chapter 307, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

SECTION 6. There is hereby reappropriated to the State Board of Education for the Family Practice Residency Program any unexpended and

unencumbered balance of the moneys appropriated for the Family Practice Residency Program by Section 2, Chapter 307, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

Approved April 12, 1990.

CHAPTER 417
(H.B. No. 892)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE SPECIAL PROGRAMS FOR FISCAL YEAR 1991; 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, 1990, through June 30, 1991:

FROM:	
General Account	$3,066,600
Paul L. Fowler Scholarship Account	10,600
State Student Incentive Grant Account	216,100
TOTAL	$3,293,300

SECTION 2. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for the Special Programs 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, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. FOREST UTILIZATION RESEARCH:					
FROM:					
General Account	$ 380,300	$ 43,900	$32,000		$ 456,200
B. IDAHO GEOLOGICAL SURVEY:					
FROM:					
General Account	$ 418,900	$ 58,600			$ 477,500
C. SCHOLARSHIPS AND GRANTS:					
FROM:					
General Account				$1,555,000	$1,555,000
Paul L. Fowler Scholarship Account		$ 800		9,800	10,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Student Incentive Grant Account				216,100	216,100
TOTAL		$ 800		$1,780,900	$1,781,700
D. MUSEUM OF NATURAL HISTORY:					
FROM:					
General Account	$ 333,200	$ 31,100	$ 5,200		$ 369,500
E. SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General Account	$ 208,400				$ 208,400
GRAND TOTAL	$1,340,800	$134,400	$37,200	$1,780,900	$3,293,300

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Forest Utilization Research Program any unexpended and unencumbered balance of the moneys appropriated by Section 1, Chapter 388, Laws of 1989, and Section 1, Chapter 415, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

SECTION 3. There is hereby reappropriated to the State Board of Education for the Idaho Geological Survey Program any unexpended and unencumbered balance of the moneys appropriated by Section 1, Chapter 161, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

SECTION 4. There is hereby reappropriated to the State Board of Education for the Scholarships and Grants Program any unexpended and unencumbered balance of the moneys appropriated by Section 2, Chapter 307, Laws of 1989, to be used for nonrecurring expenditures only for the period July 1, 1990, through June 30, 1991.

Approved April 12, 1990.

CHAPTER 418
(H.B. No. 804)

AN ACT

RELATING TO MAINTENANCE OF PERSONNEL FILES OF ALL EMPLOYEES OF SCHOOL DISTRICTS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-518, IDAHO CODE, TO REQUIRE ESTABLISHMENT AND MAINTENANCE OF PERSONNEL FILES FOR ALL SCHOOL DISTRICT EMPLOYEES CONTAINING ALL MATERIALS RELEVANT TO EMPLOYEE EVALUATION, TO PROVIDE FOR NOTICE TO THE EMPLOYEE OF MATERIALS INCLUDED, A RIGHT

OF THE EMPLOYEE TO INSPECT AND OBTAIN COPIES AND TO REBUT; AND TO PROVIDE THAT PERSONNEL FILES ARE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC ACCESS.

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 33-518, Idaho Code, and to read as follows:

33-518. EMPLOYEE PERSONNEL FILES. The board of trustees of each school district, including any specially chartered district, shall provide for the establishment and maintenance of a personnel file for each employee of the school district. Each personnel file shall contain any and all material relevant to the evaluation of the employee. The employee shall be provided timely notice of all materials placed in the personnel file and shall be afforded the opportunity to attach a rebuttal to any such materials. Personnel files are declared to be confidential and excepted from public access under any provision of the Idaho Code, including, but not limited to, sections 9-301 and 59-1009, Idaho Code, provided that each employee or designated representative shall be given access to his own personnel file upon request and shall be provided copies of materials contained therein, with the exception of recommendation letters, in a timely manner upon request.

Approved April 12, 1990.

CHAPTER 419
(H.B. No. 891)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1991; 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 according to the designated expense classes from the listed account for the period July 1, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$582,100
Operating Expenditures	248,100
Capital Outlay	10,600
Trustee and Benefit Payments	75,000
TOTAL	$915,800
FROM:	
General Account	$915,800

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 balance of the General Account moneys appropriated by Section 1, Chapter 162, Laws of 1989, to be used for nonrecurring expenditures only, for the period July 1, 1990, through June 30, 1991.

Approved April 12, 1990.

CHAPTER 420
(H.B. No. 584)

AN ACT
RELATING TO RULES AND REGULATIONS OF THE STATE LOTTERY COMMISSION; APPROVING RULES AND REGULATIONS OF THE STATE LOTTERY COMMISSION WITH SOME ADDITIONS AND AMENDMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Pursuant to the provisions of section 67-7408, Idaho Code, which provides that rules and regulations of the State Lottery Commission are of temporary effect and must be approved by the legislature at the regular session first following their adoption, rules and regulations of the Idaho State Lottery Commission contained in IDAPA 52 be, and the same are hereby approved with the following additions and amendments:

(a) A new Rule 52.10.051 is hereby added to read as follows:

RETAIL DRAWINGS

52.10.051
The Director and his designee may authorize Retailers to conduct drawings using nonwinning State Lottery tickets in conjunction with a particular lottery game. Such authorization must be in writing, shall specify the type of drawing to be conducted and shall set forth the methodology to be used in conducting the drawing.

(b) That Rule 52.50.002 be, and the same is hereby amended to read as follows:

DEFINITIONS

52.50.002
(1) "Director" means the Director of the Idaho Lottery or any other person to whom the Director's authority is lawfully delegated.
(2) "Ticket" means an Idaho instant game ticket.
(3) "Play Symbols" are the figures printed in approved ink which appear under each of the rub-off spots on the front of the ticket.
(4) "Ticket Validation Number" is the unique number on the front of the ticket.

(5) "Play Symbol Caption" is the small printed material appearing below each play symbol which repeats or explains the play symbol. One and only one of these play symbol captions appears under each play symbol.

(6) "Retailer Validation Code" means the small letters found under the removable rub-off covering over the play symbols on the front of the ticket, which the ticket retailer uses to verify and validate winners of ~~less than $50~~ $25.00 or less. The letters appear in varying locations beneath the removable rub-off covering and among the play symbols.

(7) "Book" means a pack of fanfolded instant game tickets which are attached to each other by perforations, which perforations the retailer tears when he/she sells a ticket, and which fanfolded tickets are packed in plastic shrink-wrapping.

(8) "Book-Ticket Number" is the number printed on the ticket. A game identification number shall be included in the book-ticket number.

(c) That Rule 52.50.015 be, and the same is hereby amended to read as follows:

RETAILER COMPENSATION

52.50.015

(1) The compensation paid to Lottery retailers shall be 5% of the retail price of the tickets or shares.

(2) Instant ticket retailers may be paid a commission of up to one percent of the tickets sold by the retailer by the director as a bonus to the retailer. The Director may pay lottery game retailers an additional one percent incentive bonus based on attainment of sales volume or other objectives specified by the Director for each lottery game.

(d) That Rule 52.50.020 be, and the same is hereby amended to read as follows:

INSTANT GAMES TICKET PRICE

52.50.020

The price of an instant game ticket shall be ~~$1.00, except to the extent of any discounts~~ authorized by the Director. No person may sell a ticket at a price other than that established in accordance with these rules.

(e) That Rule 52.50.024 be, and the same is hereby amended to read as follows:

DETERMINATION OF WINNERS

52.50.024

(1) Winners of an instant game are determined by the matching or specified alignment of the play symbols on the tickets. The play symbols are revealed by scratching or rubbing off the latex or similar

secure material covered spots on the ticket. The ticket bearer must notify the State Lottery of the win and submit the winning ticket to the State Lottery as specified in these rules. The winning ticket must be validated by the State Lottery through use of the validation number or by any other means as specified by the Director.

(2) Unless otherwise provided by game rules, only the highest instant prize amount will be paid on a given ticket.

(3) No portion of the play symbol captions, retailer validation codes, display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The ticket validation number or any portion thereof is not a play spot and is not usable or playable as such.

(5) In all events, the determination of prize winners shall be subject to the general ticket validation requirements set forth in IDAPA 52.10.060 et seq., 52.50.027 of these rules set out below, and the requirements set out on the back of each instant game ticket.

(6) The length of operation of an instant game shall be determined by the Director. The start date and closing date of the instant game shall be publicly announced.

(f) That Rule 52.50.025 be, and the same is hereby amended to read as follows:

PAYMENT OF PRIZES

52.50.025

The procedures for claiming instant ticket prizes are as follows:

(1) Instant ticket prizes ~~less than~~ of $25.00 or less shall be claimed by one of the following methods:

(a) By presenting the winning ticket to the same retailer from whom the ticket was purchased. The retailer shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the retailer cannot verify the claim, the claimant shall fill out a claim form, which the retailer shall provide, and present the completed form together with the disputed ticket to the Director. If the claim is validated by the Director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the Director, the claim shall be denied and the claimant shall be promptly notified.

(b) By bringing the ticket to the Boise lottery office or by completing a claim form and mailing it with the ticket to the Idaho State Lottery, P.O. Box 6537, Boise, Idaho 83707-6537 (registered mail recommended). Claim forms may be obtained from any lottery game retailer or from the Lottery at the following address: 1199 Shoreline Lane, Suite 100, Boise, Idaho 83702.

(2) Instant ticket prizes of $25 or more but less than $600 shall be claimed by one of the following methods:

(a) At the option of any game retailer, by presenting the winning ticket to any instant ticket game retailer. The retailer shall validate the claim with the Lottery and, if authorized by the Lottery, make payment of the amount due the claimant. In the event the retailer cannot verify the claim, the claimant shall fill out a claim form, which the retailer shall provide, and present the completed form

together with the disputed ticket to the State Lottery. If the claim is validated by the Director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the Director, the claim shall be denied and the claimant shall be promptly notified.

(b) A retailer may pay prizes in cash or by business check, or money order, or any combination thereof. A retailer that pays a prize with a check which is dishonored may be subject to suspension or termination of the retailer's contract.

(c) By bringing the ticket to the Boise lottery office or by completing a claim form and mailing it with the winning ticket to the Idaho State Lottery, P.O. Box 6537, Boise, Idaho 83707-6537 (registered mail recommended). Claim forms may be obtained from any lottery game retailer or from the Lottery at the address listed above.

(d) Upon validation by the Director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the Director, the claim shall be denied and the claimant shall be promptly notified.

(3) To claim an instant prize of $600 or more, the claimant must either bring the winning ticket to the Boise lottery office or complete a claim form and mail the completed form together with the winning ticket to the Idaho State Lottery, P.O. Box 6537, Boise, Idaho 83707-6537 (registered mail recommended).

(4) Prizes of $600 or more can be paid only from the Boise lottery office. Upon validation by the Director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding.

(5) Any ticket not passing all the validation checks is void and ineligible for any prize and shall not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or ticket of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the State Lottery shall be the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sale price from any other current game).

(6) All prizes shall be paid within a reasonable time after they are awarded and after the claims are verified by the Director. For each prize requiring annual payments, all payments after the first payment shall be made on the anniversary date of the first payment in accordance with the type of prize awarded. The Director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim, or any other matter that may have come to his or her attention. All delayed payments will be brought up to date immediately upon the Director's confirmation and continue to be paid on each original anniversary date thereafter.

(g) That Rule 52.70.005 be, and the same is hereby amended to read as follows:

DEFINITIONS

52.70.005

(1) "On-line Game." A lottery game in which a player selects a combination of numbers or symbols, the type of game and amount of play, and the drawing date(s) by use of a computer. In return for paying the appropriate fee, the player receives a computer-generated ticket with the player's selection printed on it. The State Lottery or its designee will conduct a drawing to determine the winning combination in accordance with the rules of the specific game being played. Each ticket bearer whose valid ticket includes a winning combination shall be entitled to a prize if claim is submitted within the specified time period.

(2) "On-line Retailer." A person or business authorized by the State Lottery to sell on-line tickets.

(3) "On-line Terminal (OLT)." The computer hardware by which an on-line retailer or player enters the combination selected by the player and by which on-line tickets are generated and claims are validated.

(4) "On-line Ticket." A computer-generated ticket issued by an on-line terminal to a player as a receipt for the combination a player has selected. That ticket shall be the only acceptable evidence of the combination of numbers or symbols selected.

(5) "Drawing." The procedure determined by the Director by which the State Lottery selects the winning combination in accordance with the rules of the game. Drawings are open to the public, and are required to be witnessed by an independent certified public accountant. Furthermore, the equipment used in any drawing must be inspected by the independent certified public accountant and the Director of Security or his designee ~~of the State Lottery~~ both before and after the drawing. All drawings and inspections are required to be recorded on both video and audio tape.

(6) "Winning Combination." One or more numbers or symbols randomly selected by the State Lottery or its designee in a public drawing.

(7) "Validation." The process of determining whether an on-line ticket presented for payment is a winning ticket.

(8) "Ticket Bearer." The person who has signed the on-line ticket or who has possession of an unsigned ticket.

(h) That Rule 52.70.025 be, and the same is hereby amended to read as follows:

PAYMENT OF PRIZES

52.70.025

(1) To claim an on-line game prize of less than $600 the claimant may present the winning on-line ticket to any on-line retailer, or to the Boise lottery office:

(a) If the claim is presented to an on-line retailer, the on-line retailer shall validate the claim and, if determined to be a winning ticket, make payment of the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the State Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the State Lottery shall present or mail a check to the

claimant in payment of the amount due. If the ticket is determined to be a non winning ticket, the claim shall be denied and the claimant shall be promptly notified. Non winning tickets will not be returned to the claimant.

(b) If the claim is presented to the Boise lottery office, the claimant ~~shall~~ may be required to complete a claim form regardless of the prize amount and submit it with the winning ticket, either by mail or in person. Upon determination that the ticket is a winning ticket, the State Lottery shall present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. If the ticket is determined to be a non winning ticket, the claim shall be denied and the claimant shall be promptly notified. Non winning tickets will not be returned to the claimant.

(2) To claim an on-line prize of $600 or more, the claimant shall obtain and complete a claim form and submit it with the winning ticket to the Boise lottery office in Boise by mail or in person. Prizes of $600 or more can only be paid from the Boise lottery office. Upon determination that the ticket is a winning ticket, the State Lottery shall present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. The amount due shall be calculated according to the rules adopted for the particular on-line game. If the ticket is determined to be a non-winning ticket, the claim shall be denied and the claimant shall be promptly notified. Non winning tickets will not be returned to the claimant.

(3) All prizes must be claimed within 180 days from the drawing in which the prize was won. In the event the final day of the 180 day period falls on a Sunday or a state holiday, the claim period will be extended to the end of the next business day. Any prize not claimed within the specified period shall be forfeited and thereafter placed into the State Lottery account.

(i) That Rule 52.70.030 be, and the same is hereby amended to read as follows:

DRAWINGS AND END OF SALES PRIOR TO DRAWINGS

52.70.030

(1) Drawings shall be conducted in a location and at days and times designated by the Director.

(2) For each type of on-line game, the Director shall establish a time prior to the drawing for the end of sales.

(3) The Director shall designate a Drawing Manager who shall oversee each drawing. ~~The Drawing Manager shall be responsible for conducting the drawing in compliance with the State Lottery's drawing procedures.~~ The Drawing Manager shall attest whether the drawing was conducted in accordance with proper drawing procedures at the end of each drawing.

(4) The Director shall designate the type of equipment to be used and shall establish procedures to randomly select the winning combination for each type of on-line game. Drawing procedures shall include provisions for the substitution of backup drawing equipment in the event the primary drawing equipment malfunctions or fails for any rea-

son.

(5) The equipment used to determine the winning combination shall not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The equipment shall be tested prior to and after each drawing to assure proper operation and lack of tampering or fraud. Drawings shall not be held until all preinspection checks are completed. No prizes shall be paid until after all post-inspection checks have been completed.

(6) All drawings shall be broadcast live on television provided the facilities for such broadcasts are available and operational and can be done at a reasonable cost.

(7) The Director shall establish procedures governing the conduct of drawings for each type of on-line game. The procedures shall include provisions for deviations which include but are not limited to: (a) malfunction of the drawing equipment before determination of the winning combination; (b) video and/or audio malfunctions during the drawing; (c) fouled drawing; (d) delayed drawing; and (e) other equipment, facility and/or personnel difficulties.

(8) In the event a deviation occurs, the drawing will be completed under the supervision of the State Lottery ~~supervision~~ or its designee. The drawing shall be videotaped for later broadcast, if broadcast time is available. The winning combination will be provided to the television network for dissemination to the public.

(9) If, during any live-broadcasted drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all numbers or symbols, a "foul" shall be called by the State Lottery Drawing Manager or the State Lottery's designee. Any number drawn prior to a "foul" being called will stand and be deemed official after passing inspection and certification by the Drawing Manager or the State Lottery's designee.

(10) The Director shall delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment shall be made after an investigation is completed and the drawing approved by the Drawing Manager or the State Lottery's designee. If the drawing is not approved, it shall be void and another drawing will be conducted to determine the actual winner.

(j) That Rule 52.70.037 be, and the same is hereby amended to read as follows:

RETAILER DUTIES

52.70.037

(1) The following duties shall be performed by retailers with an on-line terminal (OLT):

(a) Pay ~~all~~ costs associated with providing a telephone line connection that must be located within approximately five feet of where the terminal is to be located as specified by the State Lottery. Payment of the telephone line connection is nonrefundable after installation except in the event the State Lottery denies, through no fault of retailer, the installation of the on-line terminal.

(b) ~~Reimburse~~ Pay the State Lottery for the local monthly tele-

phone charges per OLT ~~that--are-related-to-the-retailer's-specific retail-location~~ as specified by the State Lottery. The State Lottery will pay for the mileage charges between the retailer's location and the State Lottery's central site.

(c) Hold funds generated from the sale of on-line tickets in trust for the State Lottery. At a time specified by the State Lottery, retailer shall pay these funds to the State Lottery plus the monthly communications charge specified above in subparagraph (1)(b), less:

i. prizes paid; and

ii. any credit(s); and

iii. the retailer discount.

(d) Locate the OLT within the retailer's premises at a point-of-sale location approved by the State Lottery. The retailer shall not move an OLT unless the retailer follows the procedures established by the Director, including reimbursing the State Lottery for any telephone or radio charges associated with the change of OLT location if the retailer requested the change.

(e) Provide dedicated AC power to within approximately five feet of where the terminal is to be located. Dedicated AC power means that there is no other equipment on the line that is to be utilized for the on-line terminal. The retailer is responsible for all costs associated with providing this dedicated AC power. A schematic of outlet requirements will be provided to the retailer's electrical contractor.

(f) Sell all lottery games, including but not limited to instant game tickets offered by the State Lottery. Retailer agrees to continue the sale of instant tickets from all cash registers or other points of purchase.

(g) Conduct the sale of on-line tickets during all hours and days that the retailer's business is open and the on-line system is functioning. Retailer shall post the hours that redemption of winning tickets takes place if these hours are different from the retailer's normal business hours. Retailer shall monitor supply levels and give timely notice when any item is in short supply.

(h) Post winning numbers prominently where tickets are sold as soon as possible following the drawing.

(i) Provide secure storage for OLT supplies and a secure area for the OLT.

(j) Exercise due diligence in the operation of the OLT and immediately notify the State Lottery and the central computer facility of any telephone line, radio, or OLT malfunction, such as the issuance of invalid on-line lottery ticket(s); inability to sell or redeem an on-line ticket; and non-issuance of an on-line ticket. The retailer shall not perform mechanical or electrical maintenance on the OLT.

(k) Replace ribbons and on-line or instant ticket stock and clear paper jams as required for the OLT per the instructions provided by the State Lottery.

(l) Pay, without reimbursement, all electricity charges in connection with the operation of OLT.

(k) That Rule 52.70.045 be, and the same is hereby amended to read as follows:

RETAILER COMPENSATION

52.70.045

The compensation paid to on-line State Lottery retailers shall be as follows:

(1) A discount of five percent shall be applied to on-line tickets sold from a clerk-activated terminal (CAT);

(2) A discount of five percent shall be applied to on-line tickets sold from a player-activated terminal (PAT);

(3) ~~A--commission--of--one-percent-of-the-amount-of-valid-on-line tickets-sold-by-the-retailer-may-be-awarded-by-the-Director-as-a-bonus to-a-retailer.~~ The Director may pay lottery game retailers an additional 1% incentive bonus based on attainment of sales volume or other objectives specified by the Director for each lottery game.

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 12, 1990.

CHAPTER 421
(H.B. No. 704)

AN ACT

RELATING TO SECURED TRANSACTIONS; AMENDING SECTION 28-9-402, IDAHO CODE, TO PROVIDE THAT A MORTGAGE IS EFFECTIVE AS A FIXTURE FILING IF IT CONSPICUOUSLY INDICATES ON ITS FACE THAT IT IS INTENDED TO BE A FIXTURE FILING OR THAT IT IS TO BE INDEXED AS A FIXTURE FILING, OR IF IT IS INCORPORATED BY REFERENCE IN A RECORDED FIXTURE FILING; AND AMENDING SECTION 28-9-403, IDAHO CODE, TO PROVIDE THAT THE UNIFORM FEE FOR RECORDING A FINANCING STATEMENT AND RELATED INSTRUMENTS DESCRIBED IN SECTION 28-9-403(7), IDAHO CODE, SHALL BE THE REGULAR RECORDING FEE CHARGED FOR RECORDING A MORTGAGE,TO PROVIDE THAT ANY FINANCING STATEMENT DESCRIBED IN SECTION 28-9-403(7), IDAHO CODE, WHICH HAS NOT LAPSED ON OR BEFORE JUNE 30, 1990, SHALL REMAIN EFFECTIVE UNTIL A TERMINATION STATEMENT IS FILED, TO PROVIDE THAT THE RECORDING OF A FINANCING STATEMENT COVERING TIMBER TO BE CUT OR MINERALS OR CERTAIN ACCOUNTS, OR FILED AS A FIXTURE FILING IN THE REAL PROPERTY RECORDS SHALL CONSTITUTE FILING FOR ALL PURPOSES UNDER CHAPTER 9, TITLE 28, IDAHO CODE, PROVIDED THAT THE FILING OFFICER'S INDEXING AND OTHER TREATMENT OF SUCH FINANCING STATEMENTS MUST COMPLY WITH ALL OF THE PROVISIONS OF THE CHAPTER, AND TO PROVIDE THAT ON AND AFTER JULY 1, 1990, ALL DOCUMENTS RELATED TO SUCH A FINANCING STATEMENT MAY BE FILED BY RECORDING IN THE REAL ESTATE RECORDS ONLY.

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 provides 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~~:

(i) indicates conspicuously on its face either that it is intended also to be a fixture filing or that it is to be indexed not only as a mortgage but also as a fixture filing; or

(ii) is incorporated by reference in a recorded fixture filing financing statement or recorded amendment thereto, by written reference in such financing statement or amendment to the mortgage's book and page numbers or to its instrument recording number.

(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 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.

SECTION 1. That Section 28-9-403, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-403. WHAT CONSTITUTES FILING -- DURATION OF FILING -- EFFECT OF LAPSED FILING -- DUTIES OF FILING OFFICER. (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under

this chapter.

(2) Except as provided in subsection (6) a filed financing statement is effective for a period of five (5) years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five (5) year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty (60) days or until expiration of the five (5) year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six (6) months prior to the expiration of the five (5) year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 28-9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five (5) years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one (1) year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five (5) years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

(4) A filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement, or the filing officer shall file one (1) copy of the statement in a file arranged by the name of the debtor and a second copy in a file arranged by document number. Provided, however, that financing statements described in subsection (7) shall be recorded and indexed only in accordance with subsection (7).

(5) Except for financing statements described in subsection (7)

t~~The~~ uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be two dollars ($2.00) if the statement is in the standard form prescribed by the secretary of state and otherwise shall be three dollars ($3.00)~~,--plus-in-each-case;-if-the-financing-statement-is--subject--to subsection--(5)--of--section--28-9-402,-the-regular-recording-fee-with respect-to-a-mortgage.-The-uniform-fee-for--filing--a--mortgage--as--a financing--statement--pursuant--to-subsection-(6)-of-section-28-9-402, shall-be-three-dollars-($3.00)-in-addition-to--the--regular--recording fee--charged-for-recording-the-mortgage~~. The uniform fee for each name more than one (1) required to be indexed shall be two dollars ($2.00). The secured party may at his option show a trade name for any person and an extra uniform indexing fee of two dollars ($2.00) shall be paid with respect thereto. A uniform fee of one dollar ($1.00) shall be charged for each page attached to the financing statement. The uniform fee for recording and indexing a financing statement and related instruments described in subsection (7) shall be the regular recording fee charged for recording a mortgage.

The secretary of state shall, by duly adopted administrative rule, establish a fee schedule for filing and indexing and other matters relating to filing as are described in this subsection (5) for financing statements for farm products and for public access to the secretary of state's files which are open to public inspection as required by subsection (4) of this section. A secured party shall provide an itemization of fees paid by that secured party for filing, searches or other matters relating to filing of financing statements for farm products security interests relating to that debtor.

(6) If the debtor is a transmitting utility (subsection (5) of section 28-9-401), and a filed financing statement so states, it is effective until a termination statement is filed. Any financing statement of a type described in subsection (7) which has not lapsed on or before June 30, 1990, shall remain effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 28-9-402, remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a 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 is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described. Recording of a financing statement described in this subsection in the real property records shall constitute filing for all purposes under this chapter, and the financing statement need not be separately filed outside the real estate records; provided, however, that the filing officer's

indexing and other treatment of financing statements so filed must comply with all of the provisions of this chapter. The foregoing sentence shall not affect the perfection or nonperfection of financing statements filed before July 1, 1990. On and after July 1, 1990, continuation statements, statements of assignment, statements of release, termination statements, amendments, and all other documents to be filed relating to financing statements described in this subsection filed before, on or after July 1, 1990, may be filed by recording in the real estate records only.

Approved April 12, 1990.

CHAPTER 422
(H.B. No. 890)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1991; EXPRESSING LEGISLATIVE INTENT; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amounts, to be expended for the designated programs according to the designated expense classes from the listed account and grant for the period July 1, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
General Account	$ 650,200	$ 456,800	$ 568,100	$1,675,100
PBS Federal Grant	606,700	763,200	500,000	1,869,900
TOTAL	$1,256,900	$1,220,000	$1,068,100	$3,545,000

SECTION 2. 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.

SECTION 3. There is hereby reappropriated to the Idaho Educational Public Broadcasting System any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 389, Laws of 1989, to be used for the purpose of closing the gaps in television coverage for the period of July 1, 1990, through June 30, 1991.

Approved April 12, 1990.

CHAPTER 423
(H.B. No. 885)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 1991; AND EXPRESSING LEGISLATIVE INTENT.

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, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$1,655,700
Operating Expenditures	362,800
Capital Outlay	32,800
Trustee and Benefit Payments	50,000
TOTAL	$2,101,300
FROM:	
Finance Administration Account	$2,101,300

SECTION 2. It is legislative intent that the $50,000 in dedicated account moneys appropriated as Trustee and Benefit Payments in Section 1 of this act for the Regulation of the Financial Industry Program is to be used for the Idaho Council on Economic Education, Inc. for the period of July 1, 1990, through June 30, 1991.

Approved April 12, 1990.

CHAPTER 424
(H.B. No. 790)

AN ACT

RELATING TO PARI-MUTUEL RACING; AMENDING SECTION 54-2508, IDAHO CODE, TO STRIKE REFERENCE TO THE MAXIMUM NUMBER OF RACES THAT MAY BE HELD ON ANY ONE DAY.

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

SECTION 1. That Section 54-2508, Idaho Code, be, and the same is hereby amended to read as follows:

54-2508. LICENSE -- APPLICATION THEREFOR -- TYPE AND NUMBER OF RACES -- FEE PER DAY -- REFUND -- CANCELLATION -- HEARING. It shall be unlawful for any person to hold any race meet in this state without having first obtained and having in force and effect a license issued by the commission as in this act provided. Every person making application for a license to hold a race meet, under the provisions of this act, shall file an application with the commission which shall set

forth the time, place and number of days such will continue, and such other information as the commission may require.

No person who has been convicted of any crime involving moral turpitude shall be issued a license of any kind, nor shall any license be issued to any person who has violated the terms or provisions of this act, or any of the rules and regulations of the commission, or who has failed to pay any of the fees, taxes or moneys required under the provisions of this act.

All applications to hold race meets shall be submitted to the commission which shall act upon such applications within thirty (30) days. The commission shall be the sole judge of whether or not the race meet shall be licensed and the number of days the meet shall continue.

The license issued shall specify the kind and character of the race meets to be held, the number of days the race meet shall continue and the number of races per day, which shall not be less than six (6) ~~nor more than twelve (12)~~. The licensee shall pay in advance of the scheduled race meet to the state treasurer a fee of not less than twenty-five dollars ($25.00) for each day of racing, which fees shall be placed in the public school income fund of the state of Idaho. Provided, that if unforeseen obstacles arise, which prevent the holding, or completion of any race meet, the license fee held may be refunded the licensee, if the commission deems the reason for failure to hold or complete the race meet sufficient. Any unexpired license held by any person who violates any of the provisions of this act, pursuant thereto, or who fails to pay to the commission any and all sums required under the provisions of this act, shall be subject to cancellation and revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three (3) days' notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

Approved April 12, 1990.

CHAPTER 425
(H.B. No. 842)

AN ACT

RELATING TO THE STATE BOARD OF DENTISTRY; AMENDING SECTION 54-907, IDAHO CODE, TO INCREASE THE NUMBER OF DENTAL HYGIENISTS ON THE BOARD OF DENTISTRY; AMENDING SECTION 54-908, IDAHO CODE, TO PROVIDE PROCEDURES FOR SELECTION OF DENTAL HYGIENIST MEMBERS AND TO PROVIDE PROCEDURES FOR FILLING VACANCIES; AND AMENDING SECTION 54-920, IDAHO CODE, TO INCREASE CERTAIN FEES.

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

SECTION 1. That Section 54-907, Idaho Code, be, and the same is hereby amended to read as follows:

54-907. STATE BOARD OF DENTISTRY ESTABLISHED. There is hereby established in the department of self-governing agencies a state board of dentistry to be composed of ~~seven~~ eight (~~7~~8) members, five (5) of whom shall be dentists, ~~one~~ two (~~1~~2) of whom shall be ~~a~~ dental hygienists, and one (1) of whom shall be a lay person familiar with health care occupations. The dentist members of the board holding such position on July 1, 1981 shall remain in office as members of the board of dentistry until their respective terms as members of the board shall have expired, and thereafter dentist members of the board of dentistry shall be appointed by the governor in the manner hereinafter set forth. Upon appointment by the governor, the term of office of a dentist member of the board shall commence as of the first Monday of February next following his appointment and shall continue for five (5) years thereafter. A vacancy in membership of the board shall occur whenever the regular term of a member expires or when a member dies, resigns or is removed from office by the governor. Appointments to fill a vacancy occurring for some reason other than expiration of term of office shall be made for the unexpired term which is being filled. The governor may remove any member of the board from membership on the board who is found by the governor to be mentally or physically incapable of acting, or to be neglecting or refusing to act, or who ceases to have the qualifications of a member or who has failed to attend, without reasonable cause, two (2) successive meetings of the board.

The dental hygienists and lay members of the board shall be appointed by the governor in the manner provided in section 54-908, Idaho Code. The term of office of the dental hygienists and lay members shall be three (3) years commencing on the first Monday of February next following appointment. The dental hygienist members shall have voting power in all board matters relating to the practice of dental hygiene. The lay member may vote only on matters relating to administration and policy which do not directly affect scientific and practical examination of dentists or hygienists for licensing.

SECTION 2. That Section 54-908, Idaho Code, be, and the same is hereby amended to read as follows:

54-908. STATE BOARD OF DENTISTRY -- NOTICE OF VACANCY -- NOMINEES. (1) Prior to the expiration of the regular term of a dentist member of the board or upon the occurrence or declaration of a vacancy in the dentist membership of the board, the governor shall notify the Idaho state dental association of that fact in writing and the association shall, within sixty (60) days thereafter, nominate three (3) persons licensed to practice dentistry to fill the vacancy and shall forward the nominations to the governor, who shall appoint from among the nominees, a person to be a member of the board to fill the vacancy. The nominees shall be selected in a manner as shall be determined by the rules and regulations of the association. For the purposes of nominations and appointments, the state shall be divided by the association into four (4) components and nominations and appointments to the board shall be made in such a manner that each component shall be represented on the board by one (1) dentist member. The fifth dentist member of the board shall be a member at large who may reside in any of the four (4) components. If the association shall fail to

furnish to the governor the names of nominees to fill vacancies within the time provided, the governor may appoint any dentist qualified for membership to fill the vacancy~~,~~. If the vacancy is in the term of a member from one of the four (4) components, the appointee shall reside within the component.

(2) Prior to the expiration of the regular term of the dental hygienist member of the board or upon the occurrence or declaration of a vacancy ~~on~~ in the dental hygienist membership of the board, the governor shall notify the Idaho dental hygienists' association of that fact in writing and the association shall within sixty (60) days thereafter, nominate three (3) persons licensed to practice dental hygiene to fill the vacancy and shall forward the nominations to the governor, who shall appoint one (1) of the nominees to be a member of the board. The nominees shall be selected in a manner as shall be determined by the rules and regulations of the dental hygienists' association. For the purposes of nominations and appointments, the state shall be divided by the association into two (2) components and nominations and appointments to the board shall be made in such a manner that each component shall be represented on the board by one (1) dental hygienist member. If the dental hygienists' association fails to furnish the names of nominees within the time provided, the governor may appoint any qualified dental hygienist to fill the vacancy. If the vacancy is in the term of a member from one (1) of the two (2) components, the appointee shall reside within the component.

(3) The governor shall appoint any qualified person as a lay member to the board, prior to the first Monday of February next following the effective date of this act, and thereafter, prior to the expiration of the term of office of the lay member or upon the vacancy of office of the lay member, as the case may be.

SECTION 3. That Section 54-920, Idaho Code, be, and the same is hereby amended to read as follows:

54-920. ANNUAL LICENSES -- FEES -- CLASSIFICATIONS OF LICENSES -- RIGHTS OF LICENSEES. (1) Each person who meets all other requirements to practice dentistry shall pay an annual license fee to the board on or before October 1 of each year. Each person who meets all other requirements to practice dental hygiene shall pay an annual license fee to the board on or before April 1 of each year. Each applicant for licensure must submit to the board in writing a request for the applicable status of license. A person requesting active status license must state that he intends to fulfill the requirements for that status.

The annual license fee shall be fixed by the board, but shall not exceed:

(a) One hundred dollars ($100) for a dentist with an active status;

(b) Fifty dollars ($50.00) for a dentist with an inactive status;

(c) Fifty-five dollars ($50~~5~~.00) for a hygienist with an active status;

(d) Twenty-~~five~~eight dollars ($25~~8~~.00) for a hygienist with an inactive status;

(e) One hundred dollars ($100) for a dentist or a hygienist with

a specialist status;

(f) Ten dollars ($10.00) for a dentist or dental hygienist with a retirement status.

The license year for dentists shall be October 1 of the current year to September 30 of the following year.

The license year for dental hygienists shall be April 1 of the current year to March 31 of the following year.

The license fee may be prorated on a monthly increment until the beginning of the next license year at the discretion of the board.

Upon payment of the applicable license fee, the board shall issue to the applicant, if its records show his qualifications not suspended or revoked, the appropriate annual license for the practice of dentistry or dental hygiene. The board may institute a late fee not to exceed twenty-five dollars ($25.00) for payments made up to thirty (30) days past due. Failure to pay the required license fee when due shall constitute grounds to suspend, deny or revoke a license.

(2) The board of dentistry may issue different classes of licenses as defined in this subsection.

(a) The term "license with active status" means a license issued by the board to a person who is an active practitioner of dentistry or dental hygiene in the state of Idaho.

(b) The term "license with an inactive status" means a license issued by the board to a person who is not an active practitioner of dentistry or dental hygiene in the state of Idaho or who is not on the staff of any educational institution teaching dentistry or dental hygiene in the state of Idaho.

(c) The term "license with a special status" means a license issued by the board on a provisional basis under the terms of which the license must be surrendered to the board in the event of the happening of a named contingency; in the event the holder fails to comply with requirements established by the board as conditions precedent to the issuance of the license; or on the expiration of a stated period of time. The term shall also include a license which restricts or prohibits the licensee from performing certain services, or authorizes the licensee to perform only specified services.

(d) The term "active practitioner of dentistry or of dental hygiene" means a person who, within the state of Idaho, performs any of the acts or performs any of the services mentioned in sections 54-901 and 54-902, Idaho Code. However, that absences from his practice by reasons of illness or vacation not exceeding two (2) years, service in the dental department of the armed forces of the United States or the United States public health service not exceeding five (5) years, or the taking of board approved postgraduate educational courses, either within or without the state of Idaho, shall not affect the active status of the practitioner.

(3) (a) The board may issue a license with active status to any person who fulfills or has previously fulfilled the licensure requirements and who is an active practitioner of dentistry or dental hygiene in the state of Idaho or who signifies to the board, in writing, that upon issuance of the initial license, or reissuance of an annual license, he intends to be an active practitioner in this state within one (1) year. Exceptions may be made

in conjunction with the provisions of subsection (2)(d) of this section.

(b) The board may issue a license with inactive status to any person who fulfills or has fulfilled the licensure requirements but who, for any reason, is not eligible for a license with active status.

(c) The board may issue a license with special status to any person who otherwise generally fulfills the licensure requirements but where in the judgment of the board, special circumstances exist which, for the protection of the public health and welfare, require specific limitations or who practices exclusively in a specialized area of dentistry.

A license with special status shall be considered, but not limited to one of the following:

1. A license issued which states a specific length of time it may be held valid;

2. A license issued which places specific conditions that must be fulfilled to remain effective;

3. A license issued which limits the scope or type of treatment which the holder may render or places limitations of persons for whom treatment may be rendered;

4. The board shall develop rules on specialized practice to include definitions, provisions for application, examination, limitation of practice and annual renewal of licensure.

(4) (a) A license with active status entitles the holder to practice dentistry or dental hygiene in the state of Idaho, as prescribed by the terms of the license.

(b) A license with inactive status does not entitle the holder to practice dentistry or dental hygiene in the state of Idaho. However, the board may convert a license with inactive status to a license with active status in the event the holder pays the license fee prescribed for licenses with active status and submits to the board satisfactory evidence of:

1. Compliance with the requirements of this chapter and all rules and regulations promulgated under the provisions of this chapter.

2. Evidence of good moral character and good professional conduct.

3. A certificate of a licensed physician verifying that the applicant for conversion of license status is not subject to physical or mental conditions that render the applicant incapable of performing the physical tasks necessary in the efficient and competent practice of dentistry or dental hygiene, or so impair the applicant's functions of judgment as to constitute a substantial impairment for him to efficiently and competently practice dentistry or dental hygiene.

4. Active practice outside the state of Idaho during the previous twelve (12) months or employment as a dental or dental hygiene instructor.

(c) A license with special status entitles the holder thereof to practice dentistry or dental hygiene in the state of Idaho only within the limitations specifically determined by the board and for the period of time prescribed.

(5) A license with retirement status does not permit the holder to practice dentistry or dental hygiene in the state of Idaho, but indicates the holder has been a practitioner holding a license in good standing at the time of retirement.

There is no conversion from retirement status to active status other than filing an application for examination as required of a first applicant.

Approved April 12, 1990.

CHAPTER 426
(H.B. No. 869)

AN ACT

RELATING TO SOIL AND PLANT AMENDMENTS; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 11, TITLE 22, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE AN ENFORCING OFFICIAL, TO DEFINE TERMS, TO PROVIDE LABELING REQUIREMENTS, TO PROVIDE REGISTRATION REQUIREMENTS, TO PROVIDE AN INSPECTION FEE, TO PROVIDE PROCEDURES FOR INSPECTION, SAMPLING AND ANALYSIS, TO PROVIDE FOR MISBRANDING, TO PROVIDE FOR CANCELLATION OF REGISTRATION, TO PROVIDE FOR STOP-SALE ORDERS, TO PROVIDE REMEDIES FOR VIOLATION, AND TO PROVIDE FOR DISPOSITION OF FUNDS.

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 11, Title 22, Idaho Code, and to read as follows:

CHAPTER 11
SOIL AND PLANT AMENDMENTS

22-1101. SHORT TITLE. This act may be known and cited as the "Soil and Plant Amendment Act of Idaho."

22-1102. ENFORCING OFFICIAL. The provisions of this chapter shall be administered by the department of agriculture.

22-1103. DEFINITIONS. As used in this chapter:

(1) "Brand" means the term, designation, trademark, product name or other specific designation under which individual soil amendments or plant amendments are offered for sale.

(2) "Bulk" means in nonpackaged form.

(3) "Department" means the Idaho department of agriculture.

(4) "Director" means the director of the department of agriculture.

(5) "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends soil amendments or plant amendments, or who offers for sale, sells, barters, or otherwise supplies soil amendments or plant amendments in this state.

(6) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of soil amendments or plant amendments.

(7) "Label" means the display of all written, printed or graphic matter upon the immediate container or statement accompanying a soil amendment or plant amendment.

(8) "Labeling" means all written, printed or graphic matter, upon or accompanying any soil amendment or plant amendment, or advertisements, brochures, posters, or television or radio announcements used in promoting the sale of such soil amendment or plant amendment.

(9) "Official sample" means any sample of soil amendment or plant amendment taken by the director or his agent and designated as "official" by the department.

(10) "Organic" when applied to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition whose water insoluble nitrogen content is at least sixty percent (60%) of the total nitrogen guaranteed.

(11) "Other ingredients" mean the nonsoil amending ingredients present in soil amendments or plant amendments.

(12) "Percent" or "percentage" means by weight.

(13) "Person" means individual, partnership, association, firm or corporation.

(14) "Plant amendment" means any natural or synthetic substance applied to plants or seeds which is intended to improve germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plants except commercial fertilizers, soil amendments, agricultural liming materials, animal and vegetable manures, pesticides and other materials which may be exempted by rule and regulation.

(15) "Registrant" means the persons who registers soil amendments or plant amendments under the provisions of this chapter.

(16) "Soil amendment" means:

(a) Any aggregant or additive or any organic chemical substance, or chemically or physically modified natural substance, or naturally occurring substance, or manufacturing by-products, mixed or unmixed, applied to soil and intended to improve seed germination, plant growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants;

(b) Any material which is represented as having a primary function of enhancing, changing or modifying soil microorganism reproduction, activity or population, or material which is represented as having the primary function of forming or stabilizing soil aggregants in soil to which it is to be applied and thereby improving the resistance of such soil to the slaking action of water, increasing the soil's water and air permeability or infiltration, improving the resistance of the surface of the soil to crusting, improving ease of cultivation of soil, or otherwise favorably modifying the structural or physical properties of soil;

(c) "Soil amendment" shall not include commercial fertilizers, plant amendments, agricultural liming materials, gypsum, animal and vegetable manures, pesticides and other material which may be exempted by rule and regulation of the department.

(17) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

(18) "Weight" means the weight of material as offered for sale.

22-1104. LABELING. (1) Soil amendment or plant amendment labels. The following information shall appear on the face or display side of any container in which soil amendments or plant amendments are offered for sale in a readable and conspicuous form, and shall be considered the label:

(a) Net weight;

(b) Brand name;

(c) Content analysis;

Soil amending or plant amending ingredients:

"Name of ingredient" ..... %

(identify and list all)

Total other ingredients ..... %

(d) Purpose of product;

(e) Directions for application;

(f) Name and address of the registrant.

(2) No information or statement shall appear on any package, label or labeling which is false or misleading to the purchaser as to the use, analysis, type or composition of the soil amendment or plant amendment.

22-1105. REGISTRATION. (1) No soil amendment or plant amendment may be offered for sale or sold in this state until a registration has been issued therefor by the director.

(2) An application for registration shall be submitted by the manufacturer of a soil amendment or plant amendment to the director on a form furnished or approved by the director and shall be accompanied by a fee of twenty-five dollars ($25.00) for each product to be registered.

(3) An application for registration shall be accompanied by a written statement of laboratory procedures through which the department may analyze the contents of a soil amendment or plant amendment to determine whether the contents of an official sample conform to the label.

(4) Upon receipt of a complete application for registration of a product the department shall cause an official sample of the product to be tested and analyzed to determine whether the contents of the official sample conform to the label. In his discretion the director may also require an applicant for registration of a soil amendment or a plant amendment to submit any data in the applicant's possession concerning the safety of the product for its intended use.

(5) If the department determines that the official sample of the product conforms to the label, the director shall issue a registration for the soil amendment or plant amendment unless, upon the basis of the evidence submitted by the applicant or upon any other evidence the director deems to be credible, he determines that the product is unsafe for its intended use or that the use of the product according to its label would pose a material threat to food safety or water quality, in which case no registration shall be issued.

(6) Registrations shall be effective through the last day of the

calendar year in which they are issued or, if an application for renewal registration is submitted to the department before the end of such year, until the renewal application is acted upon by the director. The director may dispense with the requirement that a soil amendment or plant amendment be analyzed upon renewal registration if there is no material change in the label for the product.

(7) No person shall be required to apply for registration of any brand of soil amendment or plant amendment which already is registered under the provisions of this chapter by another person, provided that the labels do not differ in any material respect other than brand name.

(8) If the application for renewal of the soil amendment or plant amendment registration provided for in this section is not filed prior to February 1 of any one (1) year, a penalty of ten dollars ($10.00) shall be assessed and added to the original fee and shall be paid by the applicant before the renewal soil amendment or plant amendment registration shall be issued. Provided, that such penalty shall not apply if the applicant furnishes an affidavit that he has not distributed this soil amendment or plant amendment subsequent to the expiration of his prior registration.

22-1106. INSPECTION FEE. (1) There shall be paid to the department for all soil amendments or plant amendments distributed in this state an inspection fee of ten cents ($.10) per gallon on every gallon of liquid plant or soil amendment and ten cents ($.10) per five hundred (500) pounds of dry material soil or plant amendment manufactured for sale, offered for sale or sold within the state of Idaho to defray the expenses incurred under this chapter.

(2) Every person who distributes a soil amendment or plant amendment in this state shall file with the director on forms furnished by the department semiannual statements for periods ending December 31, and June 30, setting forth the number of net tons or gallons of each soil amendment or plant amendment distributed in the state during such period. Such statement shall be accompanied by a payment of the inspection fee.

(3) When more than one (1) distributor is involved in the distribution of a soil amendment or plant amendment product, the last registrant who distributes to a nonregistrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fees unless the reporting and paying of the fees have been made by a prior distributor of the soil amendment or plant amendment product. If the report is not filed or is filed falsely or the inspection fee is not paid within thirty (30) days following the last day of the period to which it relates, the director may invoke the stop-sale provisions of section 22-1110, Idaho Code, against the person responsible for such payment and report.

22-1107. INSPECTION, SAMPLING, ANALYSIS. The director may sample, inspect, analyze, and test soil amendments or plant amendments distributed within this state at any reasonable time and place to determine whether such soil amendments or plant amendments comply with the provisions of this chapter. The director is authorized to enter upon any public or private premises or carrier during regular business

hours in order to have access to soil amendments or plant amendments subject to the provisions of this chapter and the rules and regulations pertaining thereto, and to records relating to their distribution and sale.

22-1108. MISBRANDING. No person shall distribute a misbranded soil amendment or plant amendment in this state. A soil amendment or plant amendment shall be deemed to be misbranded if:

(1) Its labeling is false or misleading in any material respect;

(2) It is distributed under the name or brand of another soil amendment or plant amendment (unless such distribution is proper pursuant to section 22-1105(2), Idaho Code); or

(3) It is not labeled as required in sections 22-1104 and 22-1105, Idaho Code, and according to the regulations of the department under the provisions of this chapter, which regulations shall give due regard to the commonly accepted definitions and terms such as those issued by the association of American plant food control officials.

22-1109. CANCELLATION OF REGISTRATION. The director may cancel the registration of any soil amendment or plant amendment if, after compliance with the Idaho administrative procedures act, he determines that the soil amendment or plant amendment violates any section of this chapter or the rules and regulations promulgated hereunder or if the director would have had grounds on the basis of the evidence before him to deny registration of the soil amendment or plant amendment in the first instance.

22-1110. STOP-SALE. The director may issue and enforce a written "stop-sale, use or removal" order to the manufacturer, distributor, owner or custodian of any soil amendment or plant amendment, or any lot thereof, if he determines that: (1) a soil amendment or plant amendment is not properly registered under the provisions of this chapter; (2) the registration for a soil amendment or plant amendment has been revoked pursuant to this chapter; (3) the proper fees or reports have not been submitted to the department pursuant to section 22-1106, Idaho Code; or (4) a soil amendment or plant amendment is misbranded. Such order may require the person to whom it is directed to hold the soil amendment or plant amendment, or lot thereof, which is the subject of the order, at a designated place until the requirements of the provisions of this chapter have been satisfied and all costs and expenses reasonably incurred by the department in connection with the withdrawal have been paid by or on behalf of the person to whom the order was directed.

22-1111. REMEDIES FOR VIOLATION. (1) Any person who wilfully violates the provisions of this chapter shall be guilty of a misdemeanor.

(2) Any person who violates or fails to comply with any provision of this chapter or any regulations promulgated hereunder may be assessed a civil penalty of not more than three thousand dollars ($3,000) for each offense and shall be liable to the department for attorneys' fees and costs reasonably incurred by the department in connection with the violation.

(3) Assessment of a civil penalty as authorized in this section may be made by the department in conjunction with any other administrative hearing in compliance with the Idaho administrative procedures act. In all respects the department's actions in assessment of a civil penalty shall comply with the Idaho administrative procedures act and the individual against whom such civil penalty is sought to be imposed shall have all rights, including rights of appeal, set forth in such act.

22-1112. DISPOSITION OF FUNDS. Fees collected by the department for registration of a soil amendment or a plant amendment, inspection fees collected by the department pursuant to section 22-1106, Idaho Code, fees which are associated with the issuance of a "stop-sale" order or attorneys' fees and costs paid to the department pursuant to section 22-1111, Idaho Code, shall be deposited in the state treasury and credited to the commercial feed and fertilizer account. Civil penalties assessed and collected pursuant to section 22-1111, Idaho Code, shall be deposited in the state treasury and credited to the general account.

Approved April 12, 1990.

CHAPTER 427
(H.B. No. 883)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1991.

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

SECTION 1. There is hereby appropriated from the General Account the sum of $50,000 to the Department of Water Resources for the Resources Analysis Program for operating expenses for the purpose of conducting a water management study for the Lost River Basin for the period July 1, 1990, to June 30, 1991.

Approved April 12, 1990.

CHAPTER 428
(H.B. No. 669)

AN ACT

RELATING TO SALE OF KEG BEER; AMENDING SECTION 23-1018, IDAHO CODE, TO REDEFINE "KEG."

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 seven and three-fourths (7 3/4) gallons or more ~~than four (4) gallons~~.

Approved April 12, 1990.

CHAPTER 429
(H.B. No. 879)

AN ACT
APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 1991.

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 Employee Retirement System the following amount, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1990, through June 30, 1991:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$ 13,500	$ 6,100		$ 19,600
Public Employee Retirement System Account	1,277,400	708,800	$203,000	2,189,200
TOTAL	$1,290,900	$714,900	$203,000	$2,208,800

Approved April 12, 1990.

CHAPTER 430
(H.B. No. 636)

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; REPEALING SECTIONS 50-2019 THROUGH 50-2026 AND 50-2028 THROUGH 50-2030, IDAHO CODE; AMENDING SECTION 50-2018, IDAHO CODE, BY DELETING DEFINITIONS CONTAINED IN SUBSECTIONS (U) THROUGH (CC); AMENDING SECTION 50-2902, IDAHO CODE, TO ELIMINATE THE DISTINCTION BETWEEN MUNICIPALITIES FOR REVENUE ALLOCATION FINANCING OF URBAN RENEWAL PROJECTS; AMENDING SECTION 50-2903, IDAHO CODE, TO REMOVE THE POPULATION LIMITATION IN THE DEFINITION OF "AUTHORIZED MUNICIPALITY"; AMENDING SECTIONS 50-2911 AND 50-2027, IDAHO CODE, TO PROVIDE THAT ACTIONS TO CONTEST THE VALIDITY OF AN URBAN RENEWAL PLAN OR THE ISSUANCE OF BONDS MAY NOT BE BROUGHT MORE THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE ORDINANCE, RESOLUTION OR PROCEEDING ADOPTING SUCH PLAN OR AUTHORIZING THE ISSUANCE OF BONDS AND THAT THE REGULARITY THEREOF SHALL BE PRESUMED IF NO ACTION IS BROUGHT WITHIN THE THIRTY DAY PERIOD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Sections 50-2019 through 50-2026 and 50-2028 through 50-2030, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 50-2018, Idaho Code, be, and the same is hereby amended to read as follows:

50-2018. DEFINITIONS. The following terms wherever used or referred to in this act, shall have the following meanings, unless a different meaning is clearly indicated by the context:

(a) "Agency" or "urban renewal agency" shall mean a public agency created by section 50-2006, Idaho Code.

(b) "Municipality" shall mean any incorporated city or town, or county in the state.

(c) "Public body" shall mean the state or any municipality, township, board, commission, authority, district, or any other subdivision or public body of the state.

(d) "Local governing body" shall mean the council or other legislative body charged with governing the municipality.

(e) "Mayor" shall mean the mayor of a municipality or other officer or body having the duties customarily imposed upon the executive head of a municipality.

(f) "Clerk" shall mean the clerk or other official of the municipality who is the custodian of the official records of such municipality.

(g) "Federal government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Deteriorated area" shall mean an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or

obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(i) "Deteriorating area" shall mean an area which by reason of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use: Provided, that if such deteriorating area consists of open land the conditions contained in the proviso in section 50-2008(d), Idaho Code, shall apply: And provided further, that any disaster area referred to in section 50-2008(g), Idaho Code, shall constitute a deteriorating area.

(j) "Urban renewal project" may include undertakings and activities of a municipality in an urban renewal area for the elimination of deteriorated or deteriorating areas and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include:

(1) acquisition of a deteriorated area or a deteriorating area or portion thereof;

(2) demolition and removal of buildings and improvements;

(3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, off-street parking facilities, public facilities or buildings and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this act in accordance with the urban renewal plan;

(4) disposition of any property acquired in the urban renewal area (including sale, initial leasing or retention by the agency itself) at its fair value for uses in accordance with the urban renewal plan except for dispostion of property to another public body;

(5) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan;

(6) acquisition of real property in the urban renewal area which, under the urban renewal plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the prop-

erty;

(7) acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or to prevent the spread of blight or deterioration, or to provide land for needed public facilities;

(8) lending or investing federal funds; and

(9) construction of foundations, platforms and other like structural forms.

(k) "Urban renewal area" means a deteriorated area or a deteriorating area or a combination thereof which the local governing body designates as appropriate for an urban renewal project.

(l) "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the general plan for the municipality as a whole except as provided in subsection 50-2008(g), Idaho Code; and (2) shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and any method or methods of financing such plan, which methods may include revenue allocation financing provisions.

(m) "Related activities" shall mean (1) planning work for the preparation or completion of a community-wide plan or program pursuant to section 50-2009, Idaho Code, and (2) the functions related to the acquisition and disposal of real property pursuant to section 50-2007(d), Idaho Code.

(n) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(o) "Bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures or other obligations.

(p) "Obligee" shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the municipality property used in connection with urban renewal, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality.

(q) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(r) "Area of operation" shall mean the area within the corporate limits of the municipality and the area within five (5) miles of such limits, except that it shall not include any area which lies within the territorial boundaries of another incorporated city or town unless a resolution shall have been adopted by the governing body of such other city or town declaring a need therefor.

(s) "Board" or "commission" shall mean a board, commission, department, division, office, body or other unit of the municipality.

(t) "Public officer" shall mean any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

~~(u)--"Revenue--allocation--area"--means--that--portion-of-an-urban renewal-area-the-equalized-assessed-valuation-(as-shown-by--the--real, personal--and--operating-property-assessment-rolls)-of-which-the-local governing-body-has-determined,-in-and-as-a-part-of--an--urban--renewal plan,--is-likely-to-increase-as-a-result-of-the-initiation-of-an-urban renewal-project.-No-revenue-allocation-area-shall--exceed--thirty-five (35)--acres--in-area,-and-no-urban-renewal-agency-shall-ever-have-more than-one-(1)-revenue-allocation-area-at-a-time.~~

~~(v)--"State"-means-the-state-of-Idaho.~~

~~(w)--"Taxing-district"-means-a-"taxing--district"--as--defined--in section-63-621,-Idaho-Code,-as-that-section-now-exists-or-is-hereafter amended.~~

~~(x)--"Tax"-or-"taxes"-means-all-levies-on-an-ad-valorem-basis-upon real-property,-personal-property,-operating-property-or-any-other-tangible-or-intangible-property.~~

~~(y)--"Base--assessment-roll"-means-the-equalized-assessment-rolls, for-all-classes-of-taxable-property,-last-preceding-January-1--of--the year--in--which-the-local-governing-body-of-an-authorized-municipality passes-an-ordinance-adopting-or-modifying-an-urban-renewal--plan--containing-a-revenue-allocation-financing-provision,-except-that-the-base assessment--roll--shall-be-adjusted-as-follows:-The-equalized-assessed valuation-of-the-taxable-property-in--a--revenue--allocation--area--as shown--upon-the-base-assessment-roll-shall-be-reduced-by-the-amount-by which-the-equalized-assessed-valuation-as-shown-on-the-base-assessment roll-exceeds-the-current-equalized-assessed-valuation-of--any--taxable property--located-in-the-revenue-allocation-area,-and-by-the-equalized assessed-valuation-of-taxable-property-in-such-revenue-allocation-area that-becomes-exempt-from-taxation-subsequent-to-the-date-of--the--base assessment-roll.-The-equalized-assessed-valuation-of-the-taxable-property-in-a-revenue-allocation-area-as-shown-on-the-base-assessment-roll shall-be-increased-by-the-equalized-assessed-valuation,-as-of-the-date of-the-base-assessment-roll,-of-taxable-property-in-such-revenue-allocation-area-that-becomes-taxable-after-the-date-of-the-base-assessment roll.~~

~~(z)--"Authorized--municipality"--means--a-municipality-which-has-a population-exceeding-one-hundred-thousand-(100,000)-residents-and--has established-an-urban-renewal-agency-which-exists-on-the-effective-date of-this-act.~~

~~(aa)--"Taxable--property"--means-all-property-subject-to-taxes,-as defined-in-section-50-2010(x),-Idaho-Code.~~

~~(bb)--"Project-costs"-as--used--in--section--50-2026(a)(1),--Idaho Code,-means-the-costs-of:~~

~~(1)--Acquisition,--construction--and-improvement-of-any-facilities included-in-an-urban-renewal-project;~~

~~(2)--Architectural,-engineering,-consulting,-accounting-and--legal costs-related-directly-to-the-development,-financing-and-construction-of-a-facility-included-in-an-urban-renewal-project,-including costs--of--studies-assessing-the-feasibility-of-such-facility,-and including-all-administrative-costs-incurred-in-connection-with-the~~

~~issuance of bonds under section 50-2026(a), Idaho Code;~~
~~(3) Finance costs including discounts, if any, the costs of issuing bonds under section 50-2026(a), Idaho Code, and costs incurred in carrying out any trust agreement;~~
~~(4) Interest during construction and capitalized debt service or repair and replacement or other appropriate reserves;~~
~~(5) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and~~
~~(6) Other costs incidental to any of the costs listed in this section.~~
~~(cc) "Facilities" mean land, rights in land, buildings, structures, machinery, landscaping, extension of utility services, approaches, roadways and parking, handling and storage areas, and similar auxiliary and related facilities.~~

SECTION 3. That Section 50-2902, Idaho Code, be, and the same is hereby amended to read as follows:

50-2902. FINDINGS AND PURPOSE. It is hereby found and declared that there exists in municipalities ~~with a population of less than 100,000 residents~~ a need to raise revenue to finance the economic growth and development of urban renewal areas. The purpose of this act is to provide for the allocation of a portion of the property taxes levied against taxable property located in a revenue allocation area for a limited period of time to assist in the financing of urban renewal plans, to encourage private development in urban renewal areas, to prevent or arrest the decay of urban areas due to the inability of existing financing methods to promote needed public improvements, to encourage taxing districts to cooperate in the allocation of future tax revenues arising in urban areas in order to facilitate the long-term growth of their common tax base, and to encourage private investment within urban areas. The foregoing purposes are hereby declared to be valid public purposes for municipalities.

SECTION 4. That Section 50-2903, Idaho Code, be, and the same is hereby amended to read as follows:

50-2903. DEFINITIONS. The following terms used in this chapter shall have the following meanings, unless the context otherwise requires:

(1) "Act" or "this act" means this revenue allocation act.

(2) "Agency" or "urban renewal agency" means a public body created pursuant to section 50-2006, Idaho Code.

(3) "Authorized municipality" or "municipality" means any incorporated city ~~which has a population of less than 100,000 residents and~~ which has established an urban renewal agency.

(4) "Base assessment roll" means the equalized assessment rolls, for all classes of taxable property, on January 1 of the year in which the local governing body of an authorized municipality passes an ordinance adopting or modifying an urban renewal plan containing a revenue allocation financing provision, except that the base assessment roll shall be adjusted as follows: the equalized assessment valuation of

the taxable property in a revenue allocation area as shown upon the base assessment roll shall be reduced by the amount by which the equalized assessed valuation as shown on the base assessment roll exceeds the current equalized assessed valuation of any taxable property located in the revenue allocation area, and by the equalized assessed valuation of taxable property in such revenue allocation area that becomes exempt from taxation subsequent to the date of the base assessment roll. The equalized assessed valuation of the taxable property in a revenue allocation area as shown on the base assessment roll shall be increased by the equalized assessed valuation, as of the date of the base assessment roll, of taxable property in such revenue allocation area that becomes taxable after the date of the base assessment roll.

(5) "Clerk" means the city clerk of the municipality.

(6) "Deteriorated area" means:

(a) Any area, including slum area, in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(b) Any area which by reason of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, results in economic underdevelopment of the area, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use.

(c) Any area which is predominately open and which because of obsolete platting, diversity of ownership, deterioration of structures or improvements, or otherwise, results in economic underdevelopment of the area or substantially impairs or arrests the sound growth of a municipality. The provisions of section 50-2008(d), Idaho Code, shall apply to open areas.

(d) Any area which the local governing body certifies is in need of redevelopment or rehabilitation as a result of a flood, storm, earthquake, or other natural disaster or catastrophe respecting which the governor of the state has certified the need for disaster assistance under any federal law.

(7) "Facilities" mean land, rights in land, buildings, structures, machinery, landscaping, extension of utility services,

approaches, roadways and parking, handling and storage areas, and similar auxiliary and related facilities.

(8) "Local governing body" means the city council of a municipality.

(9) "Plan" or "urban renewal plan" means a plan, as it exists or may from time to time be amended, prepared and approved pursuant to section 50-2008, Idaho Code, and any method or methods of financing such plan, which methods may include revenue allocation financing provisions.

(10) "Project" or "urban renewal project" may include undertakings and activities of a municipality in an urban renewal area for the elimination of deteriorated or deteriorating areas and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include:

(a) Acquisition of a deteriorated area or a deteriorating area or portion thereof;

(b) Demolition and removal of buildings and improvement;

(c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, open space, off-street parking facilities, public facilities or buildings and other improvements necessary for carrying out, in the urban renewal area, the urban renewal objectives of this act in accordance with the urban renewal plan.

(d) Disposition of any property acquired in the urban renewal area (including sale, initial leasing or retention by the agency itself) at its fair value for uses in accordance with the urban renewal plan except for disposition of property to another public body;

(e) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan;

(f) Acquisition of real property in the urban renewal area which, under the urban renewal plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property;

(g) Acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or to prevent the spread of blight or deterioration, or to provide land for needed public facilities;

(h) Lending or investing federal funds; and

(i) Construction of foundations, platforms and other like structural forms.

(11) "Project costs" include, but are not limited to:

(a) Capital costs, including the actual costs of the construction of public works or improvements, facilities, buildings, structures, and permanent fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures,

and permanent fixtures; the acquisition of equipment; and the clearing and grading of land;

(b) Financing costs, including interest during construction and capitalized debt service or repair and replacement or other appropriate reserves;

(c) Real property assembly costs, meaning any deficit incurred from the sale or lease by a municipality of real or personal property within a revenue allocation district;

(d) Professional service costs, including those costs incurred for architectural, planning, engineering, and legal advice and services;

(e) Direct administrative costs, including reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan;

(f) Relocation costs;

(g) Other costs incidental to any of the foregoing costs.

(12) "Revenue allocation area" means that portion of an urban renewal area the equalized assessed valuation (as shown by the taxable property assessment rolls) of which the local governing body has determined, on and as a part of an urban renewal plan, is likely to increase as a result of the initiation of an urban renewal project. The base assessment roll or rolls of revenue allocation area or areas shall not exceed at any time ten percent (10%) of the current assessed valuation of all taxable property within the municipality.

(13) "State" means the state of Idaho.

(14) "Tax" or "taxes" mean all ad valorem tax levies upon taxable property.

(15) "Taxable property" means taxable real property, personal property, operating property, or any other tangible or intangible property included on the equalized assessment rolls.

(16) "Taxing district" means a taxing district as defined in section 63-621, Idaho Code, as that section now exists or may hereafter be amended.

SECTION 5. That Section 50-2911, Idaho Code, be, and the same is hereby amended to read as follows:

50-2911. LIMITATIONS ON REVIEW. (1) No direct or collateral action attacking or otherwise questioning the validity of any urban renewal plan, project or modification thereto (including one containing a revenue allocation provision), or the adoption or approval of such plan, project or modification, or any of the findings or determinations of the agency or the local governing body in connection with such plan, project or modification, shall be brought prior to the effective date of the ordinance adopting or modifying the plan ~~or after--the-elapse-of-sixty-(60)-days-from-and-after-the-effective-date of-the-ordinance-adopting-or-modifying-the-plan~~. No direct or collateral action attacking or otherwise questioning the validity of bonds issued pursuant to section ~~9--of-this-act~~ 50-2909, Idaho Code, shall be brought prior to the effective date of the resolution or ordinance authorizing such bonds ~~or-after-the-elapse-of-sixty-(60)-days-from-and after-the-effective-date-of-the-ordinance-authorizing-such-bonds~~.

(2) For a period of thirty (30) days after the effective date of

the ordinance or resolution, any person in interest shall have the right to contest the legality of such ordinance, resolution or proceeding or any bonds which may be authorized thereby. No contest or proceeding to question the validity or legality of any ordinance, resolution or proceeding, or any bonds which may be authorized thereby, passed or adopted under the provisions of this chapter shall be brought in any court by any person for any cause whatsoever, after the expiration of thirty (30) days from the effective date of the ordinance, resolution or proceeding, and after such time the validity, legality and regularity of such ordinance, resolution or proceeding or any bonds authorized thereby shall be conclusively presumed. If the question of the validity of any adopted plan or bonds issued pursuant to this chapter is not raised within thirty (30) days from the effective date of the ordinance, resolution or proceeding issuing said bonds and fixing their terms, the authority of the plan, the authority adopting the plan, or the authority to issue the bonds, and the legality thereof, the same shall be conclusively presumed and no court shall thereafter have authority to inquire into such matters.

SECTION 6. That Section 50-2027, Idaho Code, be, and the same is hereby amended to read as follows:

50-2027. LIMITATIONS ON REVIEW OF ADOPTION OR MODIFICATION OF PLAN, AND ISSUANCE OF BONDS. (1) No direct or collateral action attacking or otherwise questioning the validity of any urban renewal plan, project or modification thereto (including one containing a revenue allocation provision), or the adoption or approval of such plan, project or modification, or any of the findings or determinations of the agency or the local governing body in connection with such plan, project or modification, shall be brought prior to the effective date of the ordinance adopting or modifying the plan ~~or after the elapse of sixty (60) days from and after the effective date of the ordinance adopting or modifying the plan~~. No direct or collateral action attacking or otherwise questioning the validity of bonds issued pursuant to section 50-2012, Idaho Code, or section 50-2026(a), Idaho Code, shall be brought prior to the effective date of the resolution or ordinance authorizing such bonds ~~or after the elapse of sixty (60) days from and after the effective date of the resolution or ordinance authorizing such bonds~~.

(2) For a period of thirty (30) days after the effective date of the ordinance or resolution, any person in interest shall have the right to contest the legality of such ordinance, resolution or proceeding or any bonds which may be authorized thereby. No contest or proceeding to question the validity or legality of any ordinance, resolution or proceeding, or any bonds which may be authorized thereby, passed or adopted under the provisions of this chapter shall be brought in any court by any person for any cause whatsoever, after the expiration of thirty (30) days from the effective date of the ordinance, resolution or proceeding, and after such time the validity, legality and regularity of such ordinance, resolution or proceeding or any bonds authorized thereby shall be conclusively presumed. If the question of the validity of any adopted plan or bonds issued pursuant to this chapter is not raised within thirty (30) days from the effec-

tive date of the ordinance, resolution or proceeding issuing said bonds and fixing their terms, the authority of the plan, the authority adopting the plan, or the authority to issue the bonds, and the legality thereof, the same shall be conclusively presumed and no court shall thereafter have authority to inquire into such matters.

SECTION 1. An emergency existing 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 12, 1990.

CHAPTER 431
(H.B. No. 896)

AN ACT

RELATING TO THE SALES TAX ON LOGGING EQUIPMENT; AMENDING SECTION 63-3605A, IDAHO CODE, TO MODIFY THE DEFINITION OF LOGGING TO REQUIRE THE PRODUCT BE LOGGED FOR RESALE AND TO INCLUDE IN THE DEFINITION THE REMOVAL OF FOREST TREES AS PART OF ROAD BUILDING; AMENDING SECTION 63-3622D, IDAHO CODE, TO DELETE REFERENCES TO LOGGING; AMENDING SECTION 63-3622R, IDAHO CODE, TO DELETE REFERENCE TO LOG LOADERS AND LOG JAMMERS; AND AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622JJ, IDAHO CODE, TO PROVIDE AN EXEMPTION TO THE SALES AND USE TAX FOR CERTAIN LOGGING EQUIPMENT.

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

SECTION 1. That Section 63-3605A, Idaho Code, be, and the same is hereby amended 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 when such harvesting is for resale of the product harvested. ~~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 manufactur-

ing, 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 marketable condition are included within the exemption allowed by paragraph (1) above, as are other articles of tangible personal property used in the actual manufacturing, processing, mining, ~~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. 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~~c) 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~~c) 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 4. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622JJ, Idaho Code, and to read as follows:

63-3622JJ. LOGGING 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 is primarily and directly used or consumed in logging including, but not limited to, log loaders, log jammers and log skidders, provided that the use or consumption of such tangible personal property is necessary or essential to logging.

(2) The exemption allowed by subsection (1) of this section does not include machinery, equipment, materials and supplies used in a manner that is incidental to logging 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 logging, 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 apply to vehicles or equipment described in section 63-3622HH, Idaho Code; nor shall this exemption include tangible personal property used to produce tangible personal property exempted from the tax under this chapter by section 63-3622G, Idaho Code.

Approved April 12, 1990.

CHAPTER 432
(H.B. No. 782, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE FINANCIAL RESPONSIBILITY AND PENALTIES; AMENDING SECTION 49-236, IDAHO CODE, TO PROVIDE INFRACTION PENALTIES FOR CERTAIN VIOLATIONS; AMENDING SECTION 49-328, IDAHO CODE, AS IT WILL BE EFFECTIVE APRIL 1, 1990, TO PROVIDE A FEE FOR A DISQUALIFIED DRIVER'S REINSTATEMENT; AMENDING SECTION 49-1208, IDAHO CODE, TO REQUIRE PERSONS CONVICTED OF LIABILITY INSURANCE VIOLATIONS TO MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY; AMENDING SECTIONS 49-1229 AND 49-1232, IDAHO CODE, TO PROVIDE AN INFRACTION PENALTY; REPEALING SECTION 49-1233, IDAHO CODE; AMENDING SECTION 49-1428, IDAHO CODE, TO PROVIDE AN INFRACTION PENALTY; AMENDING SECTION 49-1501, IDAHO CODE, TO PROVIDE THAT A PEACE OFFICER MAY ISSUE AN INFRACTION CITATION FOR VIOLATION OF THE PROVISIONS OF ANY SECTION OF TITLE 49, IDAHO CODE, FOR WHICH AN INFRACTION PENALTY IS SPECIFICALLY PROVIDED; AMENDING SECTION 18-8001, IDAHO CODE, AS IT WILL BE EFFECTIVE APRIL 1, 1990, TO PROVIDE CRITERIA FOR DETERMINING WHEN A PERSON HAS KNOWLEDGE THAT HIS DRIVING PRIVILEGES HAVE BEEN REVOKED, DISQUALIFIED OR SUSPENDED; AND DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 49-236, Idaho Code, be, and the same is hereby amended to read as follows:

49-236. PENALTIES. (1) It is a misdemeanor for any person to violate any of the provisions of this title except the provisions of chapters 6 through 9, unless otherwise specifically provided.

(2) It is an infraction for any person to violate any of the provisions of chapters 6 through 9 of this title unless otherwise specifically provided.

(3) Any offense punishable by imprisonment in the state penitentiary is a felony.

(4) Punishments shall be as provided in sections 18-111, 18-112, 18-113 and 18-113A, Idaho Code, unless otherwise specifically provided.

(5) Whenever a person is arrested for any violation of the provisions of this title declared to be a felony, he shall be dealt with in like manner as upon arrest for the commission of any other felony.

(6) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of either section 49-1228, 49-1232 or 49-1428, Idaho Code.

SECTION 2. That Section 49-328, Idaho Code, as it will be effective April 1, 1990, be, and the same is hereby amended to read as follows:

49-328. REINSTATEMENT OF REVOKED, DISQUALIFIED OR SUSPENDED DRIVER'S LICENSE -- FEE -- WHEN REINSTATEMENT PROHIBITED. (1) When the

period of revocation, disqualification or suspension of a driver's license has expired, or the reason for the revocation, disqualification or suspension no longer exists, the department shall reinstate the driver's license or driving privileges 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 3. 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, 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.

(3) Any person who is convicted of violating the provisions of either section 49-1229, 49-1232 or 49-1428, Idaho Code, shall give and maintain proof of financial responsibility throughout the three (3) year period following such conviction.

SECTION 4. That Section 49-1229, Idaho Code, be, and the same is hereby amended to read as follows:

49-1229. REQUIRED MOTOR VEHICLE INSURANCE. (1) Every owner of a motor vehicle which is registered and operated in Idaho by the owner or with his permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of motor vehicles described therein in an amount not less than that required by section 49-117, Idaho Code, and shall demonstrate the existence of any other coverage required by this title or a certificate of self-insurance issued by the department pursuant to section 49-1224, Idaho Code, for each motor vehicle to be registered.

(2) A motor vehicle owner who prefers to post an indemnity bond with the director of the department of insurance in lieu of obtaining a policy of liability insurance may do so. Such bond shall guarantee that any loss resulting from liability imposed by law for bodily injury, death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance and use of the

motor vehicle sought to be registered shall be paid within thirty (30) days. The indemnity bond shall guarantee payment in an amount no less than fifty thousand dollars ($50,000) for any one (1) accident of which fifteen thousand dollars ($15,000) is for property damage, for each vehicle registered up to a maximum of one hundred twenty thousand dollars ($120,000) for five (5) or more vehicles.

(3) Any bond given in connection with this chapter shall be, and shall be construed to be, a continuing instrument and shall cover the period for which the motor vehicle is to be registered and operated. Such bond shall be on a form approved by the director of insurance with a surety company authorized to do business in the state.

(4) In addition to any motor vehicle insurance required by the provisions of this chapter, any motor carrier operating under authority of a permit issued by the public utilities commission shall comply with the insurance requirements of section 61-804, Idaho Code.

(5) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section.

SECTION 5. That Section 49-1232, Idaho Code, be, and the same is hereby amended to read as follows:

49-1232. CERTIFICATE OR PROOF OF LIABILITY INSURANCE TO BE CARRIED IN MOTOR VEHICLE. (1) A certificate or proof of liability insurance shall be in the possession of the operator of every motor vehicle or present in every motor vehicle at all times when the vehicle is operated within this state. The certificate or proof of liability insurance shall be provided for inspection to any peace officer upon request to the operator of any motor vehicle. No person shall be convicted of violating this section if that person produces at any time prior to conviction the certificate or proof of liability insurance covering the motor vehicle that person is accused of operating in violation of this section, where the certificate or proof of liability insurance demonstrates the existence of liability insurance described in section 49-1212, Idaho Code, which was in effect at the time of occurrence of the violation.

(2) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section.

SECTION 6. That Section 49-1233, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 49-1428, Idaho Code, be, and the same is hereby amended to read as follows:

49-1428. FINANCIAL RESPONSIBILITY. (1) It shall be unlawful for any person to operate a motor vehicle upon highways without a valid policy of liability insurance in full force and effect in an amount not less than that provided in section 49-117, Idaho Code, or unless the person has been issued a certificate of self insurance pursuant to section 49-1224, Idaho Code, or has previously posted an indemnity bond with the director of insurance as provided in section 49-1229,

Idaho Code.

(2) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section.

SECTION 8. That Section 49-1501, Idaho Code, be, and the same is hereby amended to read as follows:

49-1501. INFRACTION CITATION -- ISSUANCE. A peace officer may issue an Idaho uniform citation for any infraction specified in the provisions of chapters 6 through 9 of this title, or any other section of this title for which an infraction penalty is specifically provided, in which he shall certify that he has reasonable grounds to believe and does believe, that the person cited committed the infraction contrary to law.

SECTION 9. That Section 18-8001, Idaho Code, as it will be effective April 1, 1990, 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, driving privileges or permit to drive is revoked, disqualified or suspended in this state or any other jurisdiction is guilty of a misdemeanor.

(2) A person has knowledge that his license, driving privileges or permit to drive is revoked, disqualified or suspended when:

(a) He has actual knowledge of the revocation, disqualification or suspension of his license, driving privileges or permit to drive; or

(b) He has received oral or written notice from a verified, authorized source, that his license, driving privileges or permit to drive was revoked, disqualified or suspended; or

(c) Notice of the suspension, disqualification or revocation of his license, driving privileges or permit to drive was mailed by certified mail to his address as shown in the department records, and if such notice was returned it was remailed to his address as shown on the citation which resulted in the suspension, disqualification or revocation, and he failed to receive the notice or learn of its contents as a result of his own unreasonable, intentional or negligent conduct; or

(d) He has knowledge of, or a reasonable person in his situation exercising reasonable diligence would have knowledge of, the existence of facts or circumstances which, under Idaho law, might have caused the revocation, disqualification or suspension of his license, driving privileges or permit to drive.

(3) 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, disqualification or revocation existing at the time of the violation; the defendant may request restricted driving privileges during the period of the suspension or disqualification, 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~~4) 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, disqualification or revocation existing at the time of the second violation, during which time he shall have absolutely no driving privileges of any kind.

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

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

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

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

(~~5~~6) A minor may be prosecuted for a violation of subsection (1) of this section under title 16, Idaho Code.

(~~6~~7) 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 10. The provisions of Sections 1 through 8 of this act shall become effective on a date to be determined by the Director of the Transportation Department which date shall be enumerated in a proclamation signed by the Director and filed with the Secretary of

State, but in no event later than September 1, 1990.

An emergency existing therefor which emergency is hereby declared to exist, Section 9 of this act shall be in full force and effect on and after April 1, 1990.

Approved April 12, 1990.

CHAPTER 433
(H.B. No. 902)

AN ACT
APPROPRIATING MONEYS TO THE LEGISLATIVE ACCOUNT FOR FISCAL YEAR 1991.

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

SECTION 1. There is hereby appropriated the sum of $150,000 from the General Account to the Legislative Account for the period July 1, 1990, through June 30, 1991, for the express purpose of funding the provisions of S.C.R. 148 relating to roadless lands mediation.

Approved April 12, 1990.

CHAPTER 434
(H.B. No. 849)

AN ACT
RELATING TO EXEMPTIONS FROM THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622JJ, IDAHO CODE, TO PROVIDE CONDITIONS WHEN INCIDENTAL SALES BY RELIGIOUS CORPORATIONS OR SOCIETIES ARE EXEMPT FROM THE SALES AND USE TAX, AND TO DEFINE TERMS.

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 63-3622JJ, Idaho Code, and to read as follows:

63-3622JJ. INCIDENTAL SALES BY RELIGIOUS CORPORATIONS OR SOCIETIES. (1) Whenever any religious corporation or society as enumerated in section 63-105B, Idaho Code, purchases tangible personal property upon which it has paid the tax imposed by this chapter, or acquires tangible personal property via gift, the sale of such property as well as any other sale defined in sections 63-3612, 67-4711 and 67-4917A, Idaho Code, by the religious corporation or society shall be exempt from the taxes imposed in this chapter, or by any political subdivision of the state. The exemption provided in this section shall be valid as long as the proceeds from the sale are used exclusively in the programs of the corporations or societies as enumerated in section

63-105B, Idaho Code. If at any time, tangible personal property or other items defined in sections 63-3612, 67-4711 and 67-4917A, Idaho Code, are offered for sale to or use by the general public in the open market in regular competition with commercial enterprise, the sale shall be subject to the taxes imposed by this chapter or by any political subdivision of the state.

(2) As used in this section:

(a) "Commercial" relates to or is connected with trade and traffic or commerce in general and is occupied with business or commerce.

(b) "Competition" means the effort of two (2) or more persons, as defined in section 63-3607, Idaho Code, acting independently to secure the business of a third person by the offer of the most favorable terms.

(c) "General public" means the community at large as opposed to select members of the community.

(d) "Market" means a place of commercial activity in which articles are bought and sold.

Approved April 13, 1990.

CHAPTER 435
(H.B. No. 765, As Amended)

AN ACT

RELATING TO THE SALE AND USE TAX ACT; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622Y, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM SALES AND USE TAX FOR SPECIFIC TANGIBLE PERSONAL PROPERTY THAT IS USED IN DISPENSING A TANGIBLE PRODUCT, AMUSEMENT OR SERVICE BY MONEY-OPERATED EQUIPMENT.

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 63-3622Y, Idaho Code, and to read as follows:

63-3622Y. MONEY-OPERATED DISPENSING EQUIPMENT. There is hereby exempted from the taxes imposed by this chapter the sale or purchase of money-operated dispensing equipment which is solely consumed in dispensing a tangible product, amusement or service on which a retail sales tax is imposed or collected by the state of Idaho. As used in this section, "money-operated dispensing equipment" shall be interpreted narrowly to include only that equipment which consummates a sale by the placement of lawful money in the dispensing equipment and shall not include sales facilitating equipment such as, but not limited to, transportation, warehousing, storage, and display equipment which is consumed in the disposition of an item or product subject to the tax imposed by this chapter.

Approved April 13, 1990.

CHAPTER 436
(H.B. No. 901)

AN ACT

APPROPRIATING MONEYS FROM THE UNEXPENDED AND UNENCUMBERED BALANCE IN THE GENERAL ACCOUNT FOR THE AGRICULTURE RESEARCH EXTENSION SERVICE FOR AN EDUCATIONAL PROGRAM FOR FISCAL YEAR 1991; AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated from the unexpended and unencumbered balance in the General Account in excess of $23,600,000 as of June 30, 1990, the sum of $479,500, or so much as may be available, to the State Board of Regents of the University of Idaho for the Agriculture Research Extension Service for an educational program, to be expended for capital outlay for the period July 1, 1990, through June 30, 1991.

SECTION 2. It is legislative intent that the appropriation in Section 1 shall be funded after the passage and approval of the appropriations made in S.B. 1639 and S.B. 1650, Second Regular Session, Centennial Idaho Legislature.

Approved April 13, 1990.

CHAPTER 437
(H.B. No. 829)

AN ACT

RELATING TO EXEMPTIONS FROM SALES TAX; AMENDING SECTION 63-3622D, IDAHO CODE, TO CLARIFY THE EXEMPTION GRANTED FOR THE USE OF CHEMICALS AND EQUIPMENT IN FOOD PROCESSING AND FOOD MANUFACTURING.

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

SECTION 1. 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 marketable condition, including chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries, are included within the exemption allowed by paragraph subsection (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 subsections (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.

Approved April 13, 1990.

CHAPTER 438
(H.B. No. 818)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3613, IDAHO CODE, TO PROVIDE THAT CERTAIN FEES IMPOSED ON OUTFITTERS BY CERTAIN GOVERNMENTAL ENTITIES SHALL NOT BE INCLUDED IN THE SALES PRICE FOR PURPOSE OF THE SALES AND USE TAX.

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

SECTION 1. That Section 63-3613, Idaho Code, be, and the same is hereby amended to read as follows:

63-3613. SALES PRICE. (a) The term "sales price" means the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold. However, in accordance with such rules and regulations as the state tax commission may prescribe, a deduction may be taken if the retailer has purchased

property for some purpose other than resale or rental, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

2. The cost of materials used, labor or service cost, losses, or any other expense.

3. The cost of transportation of the property prior to its sale.

4. The face value of manufacturer's refund coupons.

(b) The term "sales price" does not include any of the following:

1. Retailer discounts allowed and taken on sales, but only to the extent that such retailer discounts represent price adjustments as opposed to cash discounts offered only as an inducement for prompt payment.

2. Any sums allowed on merchandise accepted in part payment of other merchandise, provided that this allowance shall not apply to the sale of a "new manufactured home" or a "modular building" as defined herein.

3. The amount charged for property returned by customers when the amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

4. The amount charged for labor or services rendered in installing or applying the property sold, provided that said amount is stated separately and such separate statement is not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property; except that charges by a manufactured homes dealer for set up of a manufactured home shall be included in the "sales price" of such manufactured home.

5. The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

6. The amount charged for finance charges, carrying charges, service charges, time-price differential, or interest on deferred payment sales, provided such charges are not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.

7. Charges for transportation of tangible personal property after sale; except that charges by a manufactured homes dealer for transportation of a manufactured home shall be included in the "sales price" of such manufactured home.

8. The amount of any fee imposed upon an outfitter as defined in section 36-2102, Idaho Code, by a governmental entity pursuant to statute for the purpose of conducting outfitting activities on land or water subject to the jurisdiction of the governmental entity, which fee is used for the purpose of managing the land or water upon which the outfitting activity occurs, provided that the

fee is stated separately and is presented as a use fee paid by the outfitted public to be passed through to the governmental entity.

(c) The sales price of a "new manufactured home" or a "modular building" as defined in this act shall be limited to and include only fifty-five per cent (55%) of the sales price as otherwise defined herein.

(d) For sales made on and after January 1, 1967, taxes previously paid on amounts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax herein provided or, if no such tax is due, refunded; provided, however, that such credit or refund may be claimed only upon that sales tax returned for the month following the filing date of the taxpayer's state income tax return in which a deduction is claimed for such worthless accounts. If such accounts are thereafter collected, a tax shall be paid upon the amount so collected.

(e) Tangible personal property when sold at retail for more than eleven cents ($.11) but less than one dollar and one cent ($1.01) through a vending machine shall be deemed to have sold at a sales price equal to one hundred seventeen per cent (117%) of the price which is paid for such tangible personal property and/or its component parts including packaging by the owner or operator of the vending machines.

Approved April 13, 1990.

CHAPTER 439
(H.B. No. 889)

AN ACT

RELATING TO THE SALES TAX; AMENDING SECTION 63-3620, IDAHO CODE, TO PROVIDE THAT THE PURCHASER SHALL HAVE THE BURDEN OF PROOF OF EXCLUSION FROM SALES TAX WHEN A PROPERLY EXECUTED RESALE CERTIFICATE IS PROVIDED TO THE SELLER; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE THAT THE PURCHASER SHALL HAVE THE BURDEN OF PROOF GIVING RISE TO A CLAIM FOR EXEMPTION FROM THE SALES TAX, RATHER THAN THE SELLER; AMENDING SECTION 63-3622, IDAHO CODE, TO PROVIDE THAT THE PURCHASER SHALL HAVE THE BURDEN OF PROOF GIVING RISE TO A CLAIM FOR EXEMPTION FROM THE SALES TAX, RATHER THAN THE SELLER; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3620, Idaho Code, be, and the same is hereby amended to read as follows:

63-3620. PERMITS -- ISSUANCE -- REVOCATION -- RESALE CERTIFICATES -- PENALTIES. (a) Every person desiring to engage in or conduct business as a seller within this state shall file with the state tax commission an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the

state tax commission and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the state tax commission may require. The applications, or any information contained thereon, may be made available by the tax commission to authorized representatives of state or federal agencies. The application shall be signed by the owner if he is a natural person; in the case of an association or partnership by a member or partner; in the case of a corporation, by an executive officer or other person authorized by the corporation to sign the application. Initial permits shall be issued without charge.

(b) The person signing the application shall certify that the applicant will actively engage in or conduct a business making sales subject to tax under this chapter.

(c) After compliance by the applicant with the requirements set out above and in section 63-3625, Idaho Code, the state tax commission shall grant and issue to each applicant a separate permit for each place of business within the state. A permit shall not be assignable, and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

(d) A seller whose permit has been previously suspended or revoked shall pay the state tax commission a fee of ten dollars ($10.00) for the renewal or issuance of a permit in the event of a first revocation and twenty-five dollars ($25.00) for renewal after each successive revocation unless the suspension or revocation is for inactivity pursuant to section 63-3620A, Idaho Code.

(e) Whenever any person fails to comply with any provision of this act relating to the sales tax or any rules or regulations of the state tax commission relating to the sales tax prescribed and adopted under this act, the state tax commission, upon hearing, after giving the person ten (10) days notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The state tax commission shall give to the person written notice of the suspension or revocation of any of his permits. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The state tax commission shall not issue a new permit after the revocation of a permit unless the commission is satisfied that the former holder of the permit will comply with the provisions of this act relating to the sales tax and the regulations of the state tax commission.

(f) A person who engages in business as a seller in this state without a permit or permits, or after a permit has been suspended, and each officer of any corporation which so engages in business is guilty of a misdemeanor punishable by a fine not in excess of one hundred dollars ($100), and each day shall constitute a separate offense.

(g) (i) For the purpose of the proper administration of this act and to prevent evasion of the sales tax, it shall be presumed that all sales are subject to the tax until the ~~contrary is established. The burden of proving that a sale of tangible personal~~

~~property--is-not-a-sale-at-retail-is-upon-the~~ person who makes the sale ~~unless-he~~ takes from the purchaser a certificate to the effect that the property is purchased for resale. When a properly executed resale certificate is delivered to the retailer, the retailer is relieved from all liability to collect any sales or use tax on the transaction.

(ii) ~~The-certificate-relieves-the-seller-from-the-burden-of-proof only-if-taken-in-good-faith-from-a-person-who-is--engaged--in--the business--of-selling-or-renting-tangible-personal-property-and-who holds-a-permit-provided-for-in-this-section-and-who,-at--the--time of--purchasing--the-tangible-personal-property,-intends-to-sell-or rent-it-in-the-regular-course-of-business-or-is-unable--to--ascertain--at-the-time-of-purchase-whether-the-property-will-be-sold-or will-be-used-for-some-other-purpose.~~

~~(iii)~~ The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the amount and general character of the tangible personal property sold or rented by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(h) If a purchaser who gives a certificate makes any use of the property other than retention, demonstration, or display while holding it for sale or rent in the regular course of business, the use shall be taxable to the purchaser as of the time the property is first used by him, and the sales price of the property to him shall be deemed the measure of the tax. ~~Only-when-there-is-unsatisfied-use--tax--liability on-this-basis-shall-the-seller-be-liable-for-sales-tax-with-respect-to the--sale--of--the--property--to-the-purchaser.~~ If the sole use of the property other than retention, demonstration, or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his sales at retail the total amount of the rental charged rather than the sales price of the property to him.

(i) Any person who gives a resale certificate for property which he knows at the time of purchase is not to be resold or rented by him in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment for a period not in excess of one (1) year, or by both such fine and imprisonment.

(j) If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but with such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

SECTION 2. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after July 1, 1965, for storage, use, or other consumption in this state at the rate of five per cent (5%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state until ~~the contrary is established. The burden of proving the contrary is upon~~ the person who makes the sale ~~unless he~~ takes from the purchaser a certificate to the effect that the property is purchased for resale or rental. When a properly executed resale certificate is delivered to the retailer, the retailer is relieved from all liability to collect any sales or use tax on the transaction.

~~The certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.~~

The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the amount and general character of

the tangible personal property sold or rented by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a certificate makes any storage or use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used. If the sole use of the property, other than retention, demonstration or display in the regular course of business, is the rental of property while holding it for sale, the purchaser may elect to include in his sales at retail the total amount of the rental charge rather than the sale price of the property to him.

(g) If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

(h) Any person violating any provisions of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars ($100), and each violation shall constitute a separate offense.

(i) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(j) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(k) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States at a rate equal to or greater than the rate of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the rate paid the other state was less, the property will be subject to use tax to the extent that the Idaho rate exceeds the rate of the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(l) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three (3) months, and which is not required to be registered or licensed under the laws of this state, or to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such person in another state while a bona fide resident thereof and primar-

ily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial.

SECTION 3. That Section 63-3622, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622. EXEMPTIONS -- EXEMPTION CERTIFICATES. (a) To prevent evasion of the sales and use tax, it shall be presumed that all articles are subject to the taxes imposed by this act and the ~~retailer~~ purchaser shall have the burden of establishing the facts giving rise to such exemption by clear and convincing evidence ~~unless--the--purchaser-delivers~~ by delivering to the retailer an exemption certificate in such form as the tax commission may prescribe, signed by the purchaser and setting forth the reason for the claimed exemption. When a properly executed exemption certificate is delivered to the retailer, the retailer is relieved from all liability to collect any sales and use tax on the transaction.

(b) Any person who gives an exemption certificate with the intention of evading payment of the amount of the tax applicable to the transaction is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000) or imprisonment for not more than one (1) year or by both such fine and imprisonment.

SECTION 4. This act shall be in full force and effect on and after January 1, 1991.

Approved April 13, 1990.

HOUSE JOINT RESOLUTIONS

(H.J.R. No. 14)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 4, ARTICLE VII, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO PUBLIC PROPERTY EXEMPT FROM TAXATION TO PROVIDE THAT A FEE IN LIEU OF TAXES MAY BE IMPOSED UPON UNIMPROVED REAL PROPERTY OWNED OR HELD BY THE DEPARTMENT OF FISH AND GAME UPON CERTAIN CONDITIONS AND TO PLACE LIMITS ON THE FEE; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 4, Article VII, of the Constitution of the State of Idaho be amended to read as follows:

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

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 4, Article VII, of the Constitution of the State of Idaho be amended to provide that the unimproved real property owned or held by the Department of Fish and Game may be subject to a fee in lieu of taxes if the fees are authorized by statute and to provide that the fee may not exceed the property tax for the property at the time of acquisition by the Department of Fish and Game unless the tax for that class of property shall have been increased?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 130)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE INTENT REGARDING THE ESTABLISHMENT OF A STATE REGULATORY ENFORCEMENT PROGRAM FOR UNDERGROUND STORAGE TANKS.

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

WHEREAS, pursuant to the 1984 amendments to the Resource Conservation and Recovery Act (RCRA), the phase-in period has begun for the Environmental Protection Agency (EPA) rules and regulations requiring underground storage tank owners to meet new financial responsibility and technical upgrade standards for underground storage tanks; and

WHEREAS, RCRA and the EPA rules and regulations contain sufficient flexibility to enable the states to formulate and implement their own specialized enforcement programs; and

WHEREAS, EPA is actively encouraging the states to create their own specialized enforcement programs otherwise EPA must enforce the regulations if a state does not create its own program; and

WHEREAS, in order to minimize the impact of the EPA's rules and regulations on underground storage tank owners as much as possible, the state of Idaho must take advantage of this opportunity and create an enforcement program specifically tailored to the unique business climate in which Idaho's underground storage tank owners must operate; and

WHEREAS, keeping the enforcement program at the state level will enable the Legislature to have continuous oversight and input as to how the enforcement program is operated.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that it is the intent of the Legislature that the underground storage tank rules and regulations contained in 40 CFR Parts 280 and 281 be enforced at the state level by the Division of Water Quality, Department of Health and Welfare and that the Department enter into an agreement with the Environmental Protection Agency, such agreement creating an enforcement program specifically tailored to the unique circumstances that small, rural petroleum marketers and other tank owners located in Idaho operate under. It is the intent of the Legislature that before any enforcement program agreement is entered into by the Department of Health and Welfare and the Environmental Protection Agency it shall be submitted to the Legislature for review by the Legislature. Additionally, it is the intent of the Legislature that no enforcement program agreement be entered into unless the agreement has been submitted to, reviewed by, and approved by the Legislature. Legislative approval or

disapproval of an enforcement agreement shall be by concurrent resolution.

Adopted by the Senate January 22, 1990.
Adopted by the House March 1, 1990.

(S.C.R. No. 132)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE INTENT REGARDING MAINTENANCE OF STATE PRIMACY FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR THE OPERATION OF THE SAFE DRINKING WATER ACT IN IDAHO.

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

WHEREAS, pursuant to the 1986 amendments to the Safe Drinking Water Act, the U.S. Environmental Protection Agency (EPA) has established rules and regulations for the maintenance of state primacy in implementing the rules and regulations adopted under the Act; and

WHEREAS, the Safe Drinking Water Act and the EPA rules and regulations contain adequate flexibility to enable the state to formulate and implement its own drinking water programs; and

WHEREAS, EPA will be examining each state's ability to maintain primacy of the Safe Drinking Water Act; and

WHEREAS, maintaining the implementation and enforcement of the Safe Drinking Water Act at the state level will provide the Legislature with continuous oversight and input into the operation and implementation of the Safe Drinking Water Act; and

WHEREAS, maintaining primacy for the implementation and enforcement of the Safe Drinking Water Act will allow the state maximum flexibility in addressing the program to the communities and citizens of the state.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that it is the intent of the Legislature that the state of Idaho maintain primacy for the implementation of the rules and regulations under the Safe Drinking Water Act, 40 CFR Parts 141 and 142.

Adopted by the Senate February 2, 1990.
Adopted by the House February 15, 1990.

(S.C.R. No. 135)

A CONCURRENT RESOLUTION

AUTHORIZING THE CONTINUATION OF THE NEGOTIATING COMMITTEE AUTHORIZED BY HOUSE CONCURRENT RESOLUTION NO. 31 OF THE FIRST REGULAR SESSION OF THE CENTENNIAL IDAHO LEGISLATURE.

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

WHEREAS, House Concurrent Resolution No. 31 of the First Regular Session of the Centennial Idaho Legislature authorized and directed the formation of a negotiating committee composed of members appointed by the Director of the Fish and Game Department and by the Director of the Department of Agriculture; and

WHEREAS, the negotiating committee had as a primary assignment the duty to prepare a 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; and

WHEREAS, the report of the negotiating committee has been accepted by the legislative management oversight committee.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the negotiating committee authorized and appointed under the provisions of House Concurrent Resolution No. 31, First Regular Session of the Centennial Idaho Legislature, is hereby authorized and continued through November 30, 1990, but with the primary assignment to monitor and advise on the development of legislation necessary to carry out the recommendations of the negotiating committee during the 1990 session of the Centennial Idaho Legislature, and to monitor and advise on the implementation and administration of any legislation adopted to effect such recommendations.

BE IT FURTHER RESOLVED that the Director of the Department of Agriculture is authorized to reimburse his appointees to the negotiating committee for actual and necessary expenses incurred in attending to committee business from any available funds appropriated to the Department of Agriculture, and the Director of the Fish and Game Department is authorized to reimburse his appointees to the negotiating committee for actual and necessary expense incurred in attending to committee business from any available funds appropriated to the Fish and Game Department.

Adopted by the Senate February 28, 1990.
Adopted by the House March 20, 1990.

(S.C.R. No. 136)

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. 65-12840 on July 17, 1989, by issuing a Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in the North Fork, Payette River of 1800 cfs from May 1 through June 30, 1300 cfs from July 1 through July 31, and 1800 cfs from August 1 through September 1. The minimum streamflow begins at the terminus of the minimum streamflow reach proposed by water right filing no. 65-12822, located in the SW1/4NE1/4, Section 10, T11N, R3E, B.M., near Smiths Ferry, Valley County, and extends approximately seventeen miles downstream to the SE1/4SE1/4, Section 29, T9N, R3E, B.M., near Banks, Boise County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 Final Memorandum Decision and Order, dated July 17, 1989, issued by the Director of the Department of Water Resources.

Adopted by the Senate March 6, 1990.
Adopted by the House March 20, 1990.

(S.C.R. No. 137)

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. 65-12822 on July 17, 1989, by issuing a Final Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in the North Fork, Payette River of 1400 cfs from June 18 through October 12, 106 cfs from October 13 through March 15, and 500 cfs from March 16 through June 17. The minimum streamflow begins at the Cabarton Road Bridge, located in Lot 11 (NE1/4SW1/4), Section 31, T13N, R4E, B.M., and extends approximately 10 (ten) miles downstream to the SW1/4NE1/4, Section 10, T11N, R3E, B.M., near Smiths Ferry, Valley County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regu-

lar 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 Final Memorandum Decision and Order, dated July 17, 1989, issued by the Director of the Department of Water Resources.

Adopted by the Senate March 6, 1990.
Adopted by the House March 20, 1990.

(S.C.R. No. 142)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE INTENT REGARDING 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 16, 1990, and the report of the Idaho Personnel Commission dated October 1, 1989; 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 individual salary increases reflect an employee's performance and not be granted as across-the-board increases; 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 Second Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives 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 an average 5% adjustment for state employees is rejected.
4. Recommendation of the Chief Executive to include $245 per employee for dependent health insurance and to fund an employee assistance plan is concurred in and approved.
5. A 5.3% increase in funding for salaries is granted.

6. A 4.5% structural adjustment to the payline is granted.
   (a) The mathematical expression for the 4.5% structural adjustment to the payline is:
   Positions with 0 to 320 job evaluation points:
   Hourly rate = $.033410 per point plus $2.128800
   Positions with 321 points or more:
   Hourly rate = $.013890 per point plus $8.401300.
   (b) The Joint Finance-Appropriations Committee is directed to appropriate an amount not to exceed $10,000 from the General Account for Recommendation No. 1, and for the 5.3% increase in funding for salaries, an amount not to exceed $7,977,400 of the General Account moneys.
   (c) Employee salary increases, except as required by law, 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, and shall reflect an employee's performance and shall not be granted as an across-the-board increase.
   (d) The Joint Finance-Appropriations Committee is directed to consider the special problem experienced by District Health Departments in funding salary increases and to appropriate general account moneys to the extent possible in order to mitigate the Health Districts' salary problems.
7. For those agencies funded in total or in part from non-General Account moneys, the Joint Finance-Appropriations Committee is directed to appropriate in as nearly as possible the same manner as for General Account funded agencies.
8. The effective date of implementation of these salary adjustments shall be June 10, 1990.

BE IF FURTHER RESOLVED that appropriation measures to fund nonclassified employees be prepared in as nearly as possible the same manner as for classified employees; and

BE IF 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 in as nearly as possible the same manner as for General Account funded agencies.

Adopted by the Senate February 21, 1990.
Adopted by the House February 27, 1990.

(S.C.R. No. 148)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE LEGISLATIVE COUNCIL TO RETAIN THE SERVICES OF A MEDIATOR FOR ATTEMPTING TO REACH A SOLUTION ON THE ISSUE OF ROADLESS LANDS WITHIN THE NATIONAL FOREST SYSTEM IN IDAHO.

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

WHEREAS, previous attempts to resolve questions over the future uses of roadless lands within Idaho's national forests have failed to provide a lasting solution; and

WHEREAS, Idaho's economy, environmental well-being and the lifestyles of the state's citizens depends upon sound, lasting natural resource management decisions; and

WHEREAS, there is a desire by the Legislature to accommodate all resource uses, commodity production, and environmental values in any general legislation which affects public land management in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council, augmented by the Chairmen of the Senate Resources and Environment Committee and the House of Representatives Resources and Conservation Committee, shall retain the services of a competent, experienced mediator and otherwise take all actions to sponsor and promote negotiations designed to reach an amicable, reasonable solution to issues related to the future use of roadless lands within the national forest system in Idaho.

BE IT FURTHER RESOLVED that the Legislature expects an acceptable agreement will be reached by:

(1) Granting the professional mediator maximum independence from outside influence.

(2) Conducting the mediation on a forest-by-forest basis.

(3) Consultation and coordination with the Idaho congressional delegation, the governor and mediator as the mediator deems appropriate and necessary.

BE IT FURTHER RESOLVED that in carrying out provisions of this resolution, the Legislature expects that the mediator, upon consultation with environmental, natural resource user and tribal groups generally recognized as speakers for their interests in the state, along with members of the Legislature and other elected officials, shall devise such negotiating groups and strategies as they may deem appropriate.

BE IT FURTHER RESOLVED that the cost of the mediator shall be paid out of the Legislative Account.

Adopted by the Senate March 23, 1990.
Adopted by the House March 27, 1990.

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 32)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE CENTENNIAL IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the Second Regular Session of the Centennial Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 8, 1990.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial 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 8, 1990, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 8, 1990.
Adopted by the Senate January 8, 1990.

(H.C.R. No. 33)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE CENTENNIAL IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the Second Regular Session of the Centennial Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 10, 1990.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial 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 10, 1990, at 11 a.m. for the purpose of hearing the message from the

Governor.

Adopted by the House January 10, 1990.
Adopted by the Senate January 10, 1990.

(H.C.R. No. 34)

A CONCURRENT RESOLUTION
ADOPTING FINDINGS OF A JOINT COMMITTEE ON REVENUE PROJECTIONS.

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

WHEREAS, the Legislature appointed a joint committee of the House of Representatives and the Senate to study the revenue available to the state for the 1991 fiscal year, and to consult with experts in all fields in order to present the most complete information available; and

WHEREAS, it is the desire of the Legislature to adopt the findings of this committee as to the revenue projections in order to facilitate the appropriations process.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the 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 1990-1991 fiscal year.

Revenue Projections for 1990-1991 fiscal year:

Court System	$ 3,300,000
Secretary of State	1,050,000
State Treasurer	19,500,000*
Department of Insurance	30,750,000
Department of Lands	130,000
Department of Law Enforcement	1,050,000
Department of Revenue and Taxation:	
Individual Income Tax	400,000,000
Corporate Income Tax	70,000,000
Kilowatt Hour Tax	2,000,000
Beer Tax	1,550,000
Mine License Tax	500,000
Wine Tax	800,000
Cigarette Tax	6,000,000
Unclaimed Property	750,000
Miscellaneous Agencies and Transfers	1,100,000
Liquor	4,945,000
Sales Tax	341,500,000
TOTAL	$884,925,000

* State Treasurer's interest earnings, dependent upon cash flow and cash balances of accounts contributing earnings to the General Account, will require adjustments for Legislative actions on the utilization of the surplus and any alteration in the disposition

of investment earnings of various Accounts.

Adopted by the House January 24, 1990.
Adopted by the Senate January 31, 1990.

(H.C.R. No. 35)

A CONCURRENT RESOLUTION
ADOPTING FINDINGS OF A JOINT COMMITTEE ON REVENUE PROJECTIONS.

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

WHEREAS, the Legislature appointed a joint committee of the House of Representatives and the Senate to study the revenue available to the state for the 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 Second 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	1,000,000
State Treasurer	21,100,000
Department of Insurance	27,500,000
Department of Lands	130,000
Department of Law Enforcement	1,050,000
Department of Revenue and Taxation:	
Individual Income Tax	380,000,000
Corporate Income Tax	66,000,000
Kilowatt Hour Tax	1,900,000
Beer Tax	1,550,000
Mine License Tax	400,000
Wine Tax	800,000
Cigarette Tax	5,800,000
Unclaimed Property	700,000
Miscellaneous Agencies and Transfers	1,100,000
Liquor	4,945,000
Sales Tax	318,000,000
TOTAL	$835,225,000

Adopted by the House January 24, 1990.
Adopted by the Senate Janury 31, 1990.

(H.C.R. No. 36)

A CONCURRENT RESOLUTION
AUTHORIZING THE ESTABLISHMENT OF A SOLID WASTE REDUCTION PROGRAM.

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

WHEREAS, the people of the State of Idaho are currently generating over 800,000 tons of solid waste materials per year; and

WHEREAS, the bulk of this solid waste contains materials that are valuable for other uses; and

WHEREAS, the bulk of this solid waste is consigned to landfills; and

WHEREAS, the available sites for solid waste landfills are almost critically short.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that a solid waste reduction program is hereby initiated within state government in particular, and throughout the rest of the state in general, with the stated goal to reduce the amount of solid waste consigned to landfills by twenty-five per cent within five years.

BE IT FURTHER RESOLVED that the State Board of Health and Welfare is encouraged to develop curricula and materials suitable for an educational program to be used in the public schools to show the need for reduction in solid waste generation by whatever means available.

BE IT FURTHER RESOLVED that the Idaho Water Resource Board is encouraged to develop programs to utilize solid waste for the production of energy.

BE IT FURTHER RESOLVED that the Department of Administration is encouraged to develop a program or programs for implementation throughout all of the state agencies to recycle as much of the solid waste generated by those agencies as is economically possible.

BE IT FURTHER RESOLVED that the political subdivisions of the State of Idaho be encouraged to implement local programs that make the best use of local resources devoted to the management of solid waste, and to programs designed for solid waste recycling.

BE IT FURTHER RESOLVED that the State of Idaho, its agencies and its political subdivisions be encouraged to use recycled products and materials in the delivery of state and local government services to the greatest extent possible.

BE IT FURTHER RESOLVED that the state agencies named in this Resolution shall report their progress toward reaching the goal of reducing solid waste to the Governor and to the Legislature at the beginning of each Regular Session of the Fifty-first, the Fifty-second and the Fifty-third Idaho Legislatures.

Adopted by the House February 9, 1990.
Adopted by the Senate March 6, 1990.

(H.C.R. No. 37)

A CONCURRENT RESOLUTION

REQUESTING THE GOVERNOR AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO CONDUCT A STUDY AND INVESTIGATION REGARDING THE POSSIBILITIES AND OPPORTUNITIES FOR RECYCLING POLYSTYRENE FOAM CONTAINERS IN IDAHO.

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

WHEREAS, the problem of solid waste disposal in sanitary landfills is becoming a subject and issue of statewide and nationwide concern; and

WHEREAS, polystyrene is a colorless plastic material used in making containers such as coffee and soft drink cups and hamburger serving containers and is bioresistant and does not degrade easily; and

WHEREAS, the Boise School District alone utilizes and discards 7,000 polystyrene lunch trays per school day which ultimately end up in solid waste landfills; and

WHEREAS, other school districts in the state utilize and discard polystyrene lunch trays in a similar number per student as the Boise School District; and

WHEREAS, fast food restaurants, institutional dining facilities, senior citizen centers, and college and university dining halls all use polystyrene in serving and dispensing food; and

WHEREAS, disposal of polystyrene into our state's solid waste landfills is methodically increasing; and

WHEREAS, some schools in Oregon are involved in a program of recycling their discarded polystyrene lunch trays and fast food restaurants in that state are also actively involved in a recycling program by utilizing different bins for the polystyrene containers; and

WHEREAS, our state could benefit greatly if markets could be found for the economical recycling of polystyrene containers as it could mean enhanced revenue to schools, colleges and universities for what is now regarded as useless trash and it could forestall into the future the costly siting of new sanitary solid waste landfills under the new stringent Environmental Protection Agency guidelines; and

WHEREAS, keeping polystyrene foam containers out of our landfills also would ultimately benefit the environment and ground water of the state.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request the Governor and the Superintendent of Public Instruction to study the possibilities of having state agencies, school districts, colleges and universities, senior citizen centers and other businesses utilizing polystyrene foam enter into a recycling program and to study whether sufficient markets or economies are available in the state of Idaho to encourage such a recycling program.

BE IT FURTHER RESOLVED that the Governor and Superintendent of Public Instruction are requested to determine what, if any, market

incentives would be required to encourage wide-spread recycling of polystyrene foam containers in this state.

BE IT FURTHER RESOLVED that the Governor and Superintendent of Public Instruction are requested to submit a report to the First Regular Session of the Fifty-first Idaho Legislature regarding their findings and recommendations of opportunities for recycling polystyrene foam containers.

BE IT FURTHER RESOLVED, that the Chief Clerk of the House be, and she is hereby authorized to forward a copy of this resolution to Governor Cecil Andrus and Superintendent of Public Instruction Jerry Evans.

Adopted by the House February 9, 1990.
Adopted by the Senate March 6, 1990.

(H.C.R. No. 41)

A CONCURRENT RESOLUTION
DECLARING 1990 TO BE THE IDAHO YEAR OF LITERACY; AND THE WEEK OF APRIL 15, 1990, TO BE IDAHO LITERACY WEEK.

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

WHEREAS, literacy is a key to an individual's ability to function in his or her environment by enhancing self-esteem, stabilizing family life and improving job skills; and

WHEREAS, literacy is a key to insuring that the workforce is adaptable to changing business needs and technological advancements, thereby promoting economic development; and

WHEREAS, literacy is a key to promoting the ideals of a democratic society through an informed electorate; and

WHEREAS, the foundation for literacy is best established in early childhood education in school and at home through a partnership of parents and teachers; and

WHEREAS, adults who find that they cannot function effectively because they lack certain skills in reading, writing, math or critical thinking need adult literacy services; and

WHEREAS, the United Nations has proclaimed 1990 International Literacy Year; and

WHEREAS, several national groups have focused attention on the literacy needs of our citizens; and

WHEREAS, the state of Idaho recognizes the particular literacy needs of its citizens and to encourage the support and expansion of literacy services; and

WHEREAS, the Governor's Workforce 2000 Report identified literacy as one of the key issues facing the workforce in the state of Idaho; and

WHEREAS, in Idaho dedicated educators, volunteers, libraries, businesses, worker organizations, public agencies and civic groups provide and support the provision of a variety of literacy programs and services for children and adults.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Centennial Year 1990, be declared the Idaho Year of Literacy and the week of April 15, 1990, be declared Idaho Literacy Week.

Adopted by the House March 2, 1990.
Adopted by the Senate March 13, 1990.

(H.C.R. No. 43)

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. 83-7099 on December 29, 1989, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Elk Creek of 40.0 cfs from July 1 through February 29, and 120.0 cfs from March 1 through June 30. The minimum streamflow begins at a point where Elk Creek crosses the north section line of Section 11, and into the NW1/4NE1/4 of said section, and extends downstream approximately one mile to the confluence of Elk Creek with Deep Creek, located in the SW1/4NE1/4, Section 14, T39N, R2E, B.M., Clearwater County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 December 5, 1989, and adopted by the Director of the Department of Water Resources on December 29, 1989.

Adopted by the House February 23, 1990.
Adopted by the Senate March 21, 1990.

(H.C.R. No. 44)

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. 96-8503 on December 29, 1989, by adopting a Proposed Memorandum Decision and Order authorizing maintenance of Round Lake at or above elevation 2,125.09 feet above sea level from January 1 through December 31. Round Lake is located within the NE1/4 of Section 36, T56N, R3W, B.M., Bonner County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 December 7, 1989, and adopted by the Director of the Department of Water Resources on December 29, 1989.

Adopted by the House February 23, 1990.
Adopted by the Senate March 21, 1990.

(H.C.R. No. 45)

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. 95-8560 on December 29, 1989, by adopting a Proposed Memorandum Decision and Order authorizing the

appropriation of a minimum streamflow in Hayden Creek of 4.0 cfs from January 1 through February 29, 20.0 cfs from March 1 through June 30, and 4.0 cfs from July 1 through December 31. The minimum streamflow begins at the confluence of Hayden Creek and the North Fork of Hayden Creek, located in the SE1/4NW1/4, Section 25, T52N, R3W, B.M., and extends downstream approximately three (3) miles to the confluence of Hayden Creek and Hayden Lake, located in Government Lot 1 (NE1/4NW1/4), Section 34, T52N, R3W, B.M., Kootenai County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that application to appropriate water no. 95-8560 is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated November 30, 1989, and adopted by the Director of the Department of Water Resources on December 29, 1989.

Adopted by the House February 23, 1990.
Adopted by the Senate March 21, 1990.

(H.C.R. No. 46)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND RECOMMENDING CERTAIN MANAGEMENT PRACTICES OF DESIGNATED PUBLIC AND PRIVATE LANDS.

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

WHEREAS, it is in the best interests of the people of the state of Idaho that public lands be managed for multiple uses, wherein both economic and environmental objectives are met; and

WHEREAS, proper logging and forestry practices can provide both employment opportunities and enhanced wildlife habitat; and

WHEREAS, such multiple use management practices, if employed, can resolve concerns over the land exchange described herein; and

WHEREAS, there is substantial concern among the public that the proposed exchange of public and private lands in the Buck Creek drainage of Shoshone County and around Lindstrom Peak in Benewah County, if consumated, would foreclose either economic growth or wildlife management opportunities.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Department of Fish and Game, should it acquire lands in and around the Buck Creek drainage, now held in private ownership, manage such lands according to multiple use principles through which timber harvest opportunities are preserved, but that timber harvests are conducted in a manner that protects or enhances wildlife habitat.

BE IT FURTHER RESOLVED that the Department of Fish and Game shall develop and make public management plans for the area which will carry out the directive set forth above.

BE IT FURTHER RESOLVED that the Department of Lands, should it

acquire lands around Lindstrom Peak, now held by the Department of Fish and Game, carry out its timber harvest operations in a manner that enhances the wildlife habitat values, as well as the economic opportunities of the area.

BE IT FURTHER RESOLVED that the Forest Service of the United States Department of Agriculture, in recognition of the directives to Idaho state agencies set forth in this resolution, is urged to manage its lands in the Buck Creek drainage in a similar multiple use manner, allowing these lands to contribute to the total amount of timber made available each year from the Panhandle National Forest.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is authorized and directed to forward a copy of this resolution to each member of the Fish and Game Commission, to each member of the State Board of Land Commissioners, and to the Forest Supervisor of the Panhandle National Forest of the United States Forest Service.

Adopted by the House March 7, 1990.
Adopted by the Senate March 21, 1990.

(H.C.R. No. 47)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE LOCAL HIGHWAY NEEDS ASSESSMENT COUNCIL'S FINAL REPORT.

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

WHEREAS, the Second Regular Session of the Forty-eighth Idaho Legislature recognized the need to address the issue of identifying road deficiencies and construction needs in Idaho and to assess the impact on the local road systems when approximately sixty-five percent of Idaho's land mass is owned and used by the federal government; and

WHEREAS, a permanent Local Highway Needs Assessment Council was authorized and funded in 1986 to investigate, evaluate and monitor the issue; and

WHEREAS, the Council addressed the issue by conducting a study to evaluate the impact of highways on Idaho's economy, to assess current arrangements for financing highway maintenance and construction, to explore possible alternative financing measures, to evaluate the impact of federal operations on state and local roads, and to assess the effectiveness of having multiple units of government providing highway maintenance and construction; and

WHEREAS, the Council has completed its investigation and has reported its findings to the Idaho Transportation Board as presented in the Executive Summary and the Final Report; and

WHEREAS, the Legislature has a responsibility to review those findings to determine if a legislative response is appropriate and if the Legislature should effect basic changes in highway funding methods based on the Council's report.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to appoint a committee to carefully, comprehensively and thoroughly review the findings of the Local Highway Needs Assessment Council.

BE IT FURTHER RESOLVED that the Committee shall report its findings to the First Regular Session of the Fifty-first Idaho Legislature, which report may include legislation to effect changes in Idaho's method of financing highway maintenance and construction.

Adopted by the House February 27, 1990.
Adopted by the Senate March 22, 1990.

(H.C.R. No. 51)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM.

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

WHEREAS, the Public Employee Retirement System of Idaho is a retirement and disability benefit system which has been created and placed under the management of a retirement board for the purpose of providing a retirement system and other benefits for public employees in the state of Idaho; and

WHEREAS, the purpose of such system is to provide an orderly means whereby public employees in the state of Idaho who become superannuated or otherwise incapacitated as the result of age or disability, may be retired from active service without prejudice and without inflicting a hardship upon the employees retired, and to enable such employees to accumulate pension credits to provide for old-age, disability, death and termination of employment, thus effecting economy and efficiency in the administration of the state, county and local government; and

WHEREAS, the Legislature from time to time is asked to examine and re-examine the requirements for membership in the system, to establish and maintain the system's benefits, provide for funding formulas and set an amortization period, provide for cost of living adjustments and other retirement issues related to the system.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to appoint a committee comprised of eight members, with the Executive Director of the Public Employee Retirement System to act as consultant to the committee to undertake and complete a study of all relevant issues associated with the benefits, funding and administration of the Public Employee Retirement System of Idaho. This committee shall consist of four members of the

Senate Human Resources Committee and four members of the House of Representatives State Affairs Committee. The committee in conducting its study is directed to consult with, among others, the following agencies and organizations:

Idaho Public Employees Association
Idaho Education Association
Idaho Association of School Administrators
Idaho School Boards Association
Idaho Association of Counties
Association of Idaho Cities
American Association of Retired Persons
Public Employee Retirement Coalition
Professional Firefighters of Idaho
Idaho Retired Teacher's Association
Superintendent of Public Instruction
State Board of Education
Office of the Governor, Division of Financial Management

BE IT FURTHER RESOLVED that the committee shall report its findings, with recommended legislation, to the First Regular Session of the Fifty-first Idaho Legislature.

Adopted by the House March 21, 1990.
Adopted by the Senate March 29, 1990.

(H.C.R. No. 52)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE A STUDY OF THE COMMUNITY COLLEGE SYSTEM AS IT NOW EXISTS AND PROPOSED LEGISLATION TO ESTABLISH A STATEWIDE COMMUNITY COLLEGE SYSTEM AND TO REPORT FINDINGS TO THE LEGISLATURE.

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

WHEREAS, the Legislature established a statewide system of junior college districts in 1965 with a stated goal of providing for the orderly establishment and growth of the junior college system; and

WHEREAS, the Legislature has reviewed the status of junior colleges, redesignating the system the community college system, and otherwise updating the provisions governing community colleges in the years since 1965; and

WHEREAS, developing a system which provides statewide access to the community college system, and which provides essential opportunities through community outreach programs, technical and vocational education programs, and facilities which meet the needs of a wide range of students is a continuing need in Idaho and a growing concern to members of the public and elected representatives; and

WHEREAS, addressing the appropriate means of providing adequate financing for the community college system is an issue which requires

further study and appropriate legislative action; and

WHEREAS, legislation proposing a comprehensive revision of the community college system, with further development of the community outreach programs, with appropriate linkage of secondary and postsecondary programs, and with assurance of program availability throughout the state of Idaho was considered by the Legislature but requires further study.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is directed to appoint a committee to undertake and complete a study of the community college system as it now exists and proposed legislation to implement a statewide community college system with increased opportunity for access to students throughout the state. The committee shall review proposals considered by the current legislative session and others which may come before the committee intended to meet the goals of the community college system.

BE IT FURTHER RESOLVED that the committee shall report its findings and recommended legislation, if any, to the First Regular Session of the Fifty-first Idaho Legislature.

Adopted by the House March 22, 1990.
Adopted by the Senate March 28, 1990.

(H.C.R. No. 53)

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 provisions of Section 67-5218, Idaho Code, and those provisions require that the Legislature make a finding that executive agency rules are not consistent with legislative intent; and

WHEREAS, it is legislative intent that certain rules of the Board of Health and Welfare, effective October 15, 1985, relating to Individual/Subsurface Sewage Disposal Systems go beyond and are contrary to legislative intent of the Environmental Protection and Health Act (Chapter 1, Title 39, Idaho Code) and the Water Pollution Abatement Act (Chapter 36, Title 39, Idaho Code) as the rules seem to ignore site specific factors such as climate, depth of the water table, geographical area where the systems will be installed, and other relevant factors and the rules are violative of Chapter 1, Title 39, Idaho Code, and Chapter 36, Title 39, Idaho Code, as they do not provide the most effective mechanism for prevention and abatement of water and environmental pollution; and

WHEREAS, it is the finding of the Legislature that certain rules

of the Board of Health and Welfare, originally 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, originally 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 take necessary steps to allow Public Health Districts to exercise the authority vested in them pursuant to Sections 39-409 and 39-414, Idaho Code, to determine what standards should be used in the districts for Individual/Subsurface Sewage Disposal Systems while new rules and regulations are promulgated that take into account site specific factors.

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 23, 1990.
Adopted by the Senate March 29, 1990.

SENATE JOINT MEMORIALS

(S.J.M. No. 116)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Federal Highway Trust Fund was established in 1956 for the specific purpose of financing improvements to highway systems and the users fees collected into this fund are allowed to be spent for transportation purposes only; and

WHEREAS, in recent years the Highway Trust Fund has been made a part of the Unified Federal Budget, thereby subjecting it to arbitrary expenditure ceilings for the purpose of reducing the national deficit, despite the fact that trust fund expenditures do not contribute to the federal deficit; and

WHEREAS, the imposition of such expenditure limitations has resulted in the accumulation of over $9.0 billion dollars in unapportioned highway funds; and

WHEREAS, the unapportioned funds and withheld interest in the Highway Trust Fund have been borrowed for non-highway related purposes and this cash balance has been replaced by United States treasury notes against the General Fund.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that we petition the United States Congress to remove the Highway Trust Fund from the Unified Federal Budget and to protect the Trust Fund from predatory proposals to divert highway user revenues to programs unrelated to the transportation purposes for which it was established.

BE IT FURTHER RESOLVED that we petition the United States Congress to have those funds repaid to the Highway Trust Fund which have been borrowed from it and that the excess funds accumulated be paid out for highway projects over a five-year period, beginning in fiscal year 1992.

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 Secretary of the Department of Transportation, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congres-

sional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 19, 1990.
Adopted by the House March 27, 1990.

(S.J.M. No. 117)

A JOINT MEMORIAL

TO THE HONORABLE GEORGE BUSH, PRESIDENT OF THE UNITED STATES, TO THE HONORABLE CLAYTON YEUTTER, SECRETARY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE, TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES IN THE UNITED STATES CONGRESS 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 Second Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the droughts of 1988 and 1989 curtailed barley production in our country and as a result feed barley producers have become acutely aware that the formula used to calculate the barley deficiency payment is seriously flawed; and

WHEREAS, currently, the United States Department of Agriculture (USDA) calculates the target price based on the relative feed value of barley to corn. However, the USDA then calculates the market price based on all varieties of barley, including the higher-valued malt barley. This inequitable calculation places feed barley producers at a unique disadvantage. The feed barley producers are required to repay the entire advance deficiency even though they have not received at or near the target price for their feed grain; and

WHEREAS, with the prospect of a continuing drought in the major barley producing regions of our country, this situation has grown even more critical. Producers recently received notification from the USDA to repay 1988 advance deficiency payments and, under current policy, barley producers soon will be required to repay part or all of their advance deficiency payments for 1989 and 1990; and

WHEREAS, if the target price for barley is based on its relative feed value to corn, then to be consistent, the deficiency payment should only be based on feed barley prices and malt barley prices should not be included in the deficiency payment calculation because they were not considered in the target price determination.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully urge the Congress to enact and the President of the United States and the Department of Agriculture to support legislation which would exclude malt barley prices in the deficiency payment calculation in the barley program for 1988, 1989 and 1990. Including malt barley prices is especially unjust to growers of feed barley as the vast majority of

barley growers will never receive a malt barley premium.

BE IT FURTHER RESOLVED that we encourage Congress in enacting the 1990 Food Security Act to correct the current inequity in target price determination between commodities and base target prices for all commodities on relative cost of production over a five year period excluding the high and low years.

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 President George Bush, to Clayton Yeutter, Secretary of the United States Department of Agriculture, to the President of the Senate and the Speaker of the House of Representatives in the Congress of the United States and to the Senators and Representatives representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 29, 1990.
Adopted by the House March 29, 1990.

HOUSE JOINT MEMORIALS

(H.J.M. No. 15)

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 Second Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, advances in technology have brought our society to the threshold of the information age; and

WHEREAS, the national welfare will be greatly enhanced by bringing about the universal availability of the information age to the American people through the development and deployment of innovative technologies; and

WHEREAS, the provision of information services, and the removal of judicially imposed restrictions on the development and availability of such services, will stimulate and encourage use of information age technology by the American people; and

WHEREAS, it is the responsibility of Congress, rather than the courts, to determine communications public policy including its effect on economic competitiveness, national security, and foreign trade which are essential elements of a sound national telecommunications policy; and

WHEREAS, the continued economic growth and international competitiveness of American industry are dependent upon permitting all American companies to provide information services, to conduct research and to design, develop, manufacture, and market software, firmware, telecommunications equipment and customer premises equipment for all American residential, business and governmental telecommunications users; and

WHEREAS, it is imperative that American industry provide new and innovative telecommunications services and an efficient, reliable, state-of-the-art, and internationally competitive public telecommunications network to serve the growing needs of the people of the United States; and

WHEREAS, existing new and innovative telecommunications technologies are less accessible and less affordable in rural and small communities than in larger, urban centers; and

WHEREAS, the Federal Communications Commission is the appropriate federal agency, in conjunction with appropriate state regulatory agencies, to ensure fair competition in the telecommunications industry, while protecting the interests of the basic local exchange customers;

and

WHEREAS, the court order, referred to as the "Modification of Final Judgment" (MFJ) that broke up the former Bell System, prohibits the divested Bell operating companies from participating in certain telecommunications markets, namely, manufacturing and information services and long distance services; and

WHEREAS, the MFJ has prevented some two-thirds of America's domestically-owned telecommunications industry from competing with foreign telecommunications firms in the United States; and

WHEREAS, removal of MFJ restrictions on manufacturing of telecommunications equipment and customer premises equipment and on provision of information services would foster American competitiveness because:

(a) Removal would facilitate competitiveness with foreign telecommunications companies who are free to compete in markets in the United States;

(b) Removal would help bring needed telecommunications technologies that are already in existence, but which the Bell operating companies are prohibited from providing by the MFJ, to hearing impaired persons, rural schools and hospitals and others who might benefit from improved and affordable telecommunications;

(c) Removal would help stimulate the invention of new and innovative telecommunications technologies and facilitate access of said innovations to rural America;

(d) Removal would encourage investment in research, development, design and manufacture of telecommunications and customer premises equipment.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the President of the United States, George Bush, and the Congress of the United States to remove restrictions that prohibit Bell operating companies from engaging in the manufacture of telecommunications equipment and customer premises equipment and the provision of information services, in the public interest of the citizens of the state of Idaho and the citizens of the United States of America, through the passage of appropriate legislation.

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, and to the President of the Senate and the Speaker of the House of Representatives of Congress, and to the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 1, 1990.
Adopted by the Senate February 20, 1990.

(H.J.M. No. 16)

A JOINT MEMORIAL

TO THE MAYOR AND CITY COUNCIL OF EVERY IDAHO CITY, TO THE BOARD OF

COUNTY COMMISSIONERS OF EVERY IDAHO COUNTY, TO THE IDAHO CENTENNIAL COMMISSION AND TO EVERY CENTENNIAL CELEBRATION COMMITTEE IN THE STATE OF IDAHO.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the American flag is the symbol of our great nation and the freedoms associated therewith; and

WHEREAS, it is customary for our nation and state to show honor and reverence for our flag wherever it is displayed; and

WHEREAS, it is customary in the state of Idaho for parades of every kind and nature to include the display of the American flag; and

WHEREAS, there are numerous parades scheduled as part of the Centennial celebration throughout the state of Idaho; and

WHEREAS, it is right and proper that the citizens of Idaho pay respect to their nation and freedoms as part of our Centennial celebration.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature requests of every city, county and Centennial celebration committee that the American flag be at the front of every Centennial year parade, together with the color guard of the United States Army, Navy, Marine Corps, Air Force and Coast Guard, and including reserve components thereof, and appropriate veterans' groups when and where available, as a demonstration of our national pride and respect.

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 mayor of every Idaho city, to the board of county commissioners of every county, to the Idaho Centennial Commission, and to every Centennial celebration committee in the state of Idaho.

Adopted by the House February 6, 1990.
Adopted by the Senate February 14, 1990.

(H.J.M. No. 17)

A JOINT MEMORIAL

TO THE HONORABLE CLAYTON YEUTTER, SECRETARY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE 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 Second Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the droughts of 1988 and 1989 curtailed barley production

in our country and as a result feed barley producers have become acutely aware that the formula used to calculate the barley deficiency payment is seriously flawed; and

WHEREAS, currently, the United States Department of Agriculture (USDA) calculates the target price based on the relative feed value of barley to corn. However, the USDA then calculates the market price based on all varieties of barley, including the higher-valued malt barley. This inequitable calculation places feed barley producers at a unique disadvantage. The feed barley producers are required to repay the entire advance deficiency even though they have not received at or near the target price for their feed grain; and

WHEREAS, with the prospect of a continuing drought in the major barley producing regions of our country, this situation has grown even more critical. Producers recently received notification from the USDA to repay 1988 advance deficiency payments and, under current policy, barley producers soon will be required to repay part or all of their advance deficiency payments for 1989 and 1990.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully urge the Secretary of the Department of Agriculture to take immediate action to delay any further repayment of advance deficiency payments until Congress has an opportunity to address this issue in the 1990 farm bill.

BE IT FURTHER RESOLVED that we encourage the Department of Agriculture to calculate the deficiency payment on barley using only the weighted five-month average feed price.

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 Clayton Yeutter, Secretary of the United States Department of Agriculture, and to the Senators and Representatives representing the State of Idaho in the Congress of the United States.

Adopted by the House February 5, 1990.
Adopted by the Senate February 15, 1990.

(H.J.M. No. 18)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Centennial Idaho Legislature, do hereby respectfully represent that:

WHEREAS, an earthquake measuring 7.1 on the Richter Scale caused 66 deaths and an estimated $5,000,000,000 in direct economic damages to 11 northern California counties on October 17, 1989; and

WHEREAS, in 1983, Idaho suffered an earthquake measuring 7.2 on the Richter Scale in the Challis area which caused two deaths and occasioned substantial property damage throughout the southern portion of the state which was estimated to have exceeded $12,000,000 in damages; and

WHEREAS, during this century there have been more than ten Idaho earthquakes recorded with a magnitude greater than 6.0 on the Richter Scale; and

WHEREAS, each year there are approximately three or four earthquakes in Idaho measuring more than 4.0 on the Richter Scale; and

WHEREAS, Idaho is within the region of the United States which is classified as having moderate to major risk of earthquake damage and injury; and

WHEREAS, all five states of the Pacific Northwest are vulnerable to serious earthquakes, and major seismic damage anywhere in the region will adversely affect the highly interdependent economies of all five states; and

WHEREAS, the scientific community continues to warn that the United States is on the verge of a major earthquake within the next 20 to 30 years with anticipated overall property damage losses alone estimated at $70,000,000,000; and

WHEREAS, according to the Congress of the United States, all 50 states are vulnerable to the hazards of earthquake and at least 39 are subject to major or moderate seismic risk; and

WHEREAS, 70 million Americans are exposed to severe earthquake risk and an additional 120 million are exposed to moderate earthquake risk; and

WHEREAS, the Director of the National Center for Earthquake Engineering Research at the State University of New York at Buffalo, New York, states that "The probability of (an earthquake) occurring somewhere in the Eastern United States before the year 2000 can be considered better than 75 to 95 percent. Before the year 2010, nearly 100 percent"; and

WHEREAS, a catastrophic earthquake in a populated, developed area would inflict severe damage on the nation's economy; and

WHEREAS, the citizenry, insurance companies and the government at all levels need to make advance preparations for a cooperative effort to respond to a major earthquake disaster; and

WHEREAS, the Earthquake Project has developed a program for both a primary residential earthquake program and a federal reinsurance program to provide an economic safety net in the event of a major earthquake; and

WHEREAS, the Federal Earthquake Insurance and Reinsurance Corporation Act developed by the Earthquake Project would insure that the public receives affordable, reliable, and adequate insurance against the risk of earthquake; that people, businesses and all levels of government would be protected by providing for the prompt and efficient handling of claims, which will reduce the inevitable economic fallout from the devastating earthquake and avoid the necessity of large amounts of federal disaster relief by relying on a prefunding mechanism through the vehicle of insurance.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Repre-

sentatives and the Senate concurring therein, that we respectfully request the current administration, and the Congress of the United States, to study and consider carefully the Earthquake Project's program in order to determine whether such a program should be established in the United States to insure against a catastrophic earthquake.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 23, 1990.
Adopted by the Senate March 12, 1990.

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, Second Regular Session thereof, which convened January 8, 1990, and which adjourned March 30, 1990, 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 27th day of April, 1990.

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. 89-1

RENAMING AND REVISING THE GOVERNOR'S EDUCATION CONSOLIDATION AND IMPROVEMENT ACT ADVISORY COUNCIL TO BE THE GOVERNOR'S ADVISORY COUNCIL ON CHAPTER 2 PROGRAMS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 88-10

WHEREAS, Chapter 2 of Title I of the Elementary and Secondary Education Act of 1965, as amended, requires that an advisory council be established by the Governor to advise the Idaho Department of Education; and

WHEREAS, the apportionment of reduced federal funding is particularly crucial to Idaho's school districts; and

WHEREAS, the choices among program opportunities for retained state level funds are many -- within the context of federal funding reductions; and

WHEREAS, excellence in our public school system can be enhanced by the fair allocation of funds and program selection targeted to the most critical need of our students; and

WHEREAS, it is in the best interest 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 rename and revise the Governor's Education Consolidation and Improvement Act Advisory Council to be the Governor's Advisory Council on Chapter 2 Programs.

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 Title I of the Elementary and Secondary Education Act of 1965, as amended;
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% 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 evaluation of the effectiveness of programs assisted by these funds in federal fiscal year 1992; and
6. Reporting to the Governor on the implementation of this program.

The Council shall be limited to no more than 20 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 school children,
2. classroom teachers,
3. parents of elementary and secondary school children,
4. local boards of education,
5. local school administrators,
6. institutions of higher education,
7. elementary and secondary school librarians,
8. school counselors and other pupil services personnel, and
9. 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. 88-10.

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 19th day of June, in the year of our Lord nineteen hundred eighty-nine, 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. 89-2

CONTINUATION OF THE GOVERNOR'S IDAHO STATE WRITER-IN-RESIDENCE PANEL REPEALING AND REPLACING EXECUTIVE ORDER NO. 87-2

WHEREAS, it is an honored tradition of people's governments to recognize, encourage, and foster their own artists, poets, and writers; and

WHEREAS, it is both culturally and educationally advantageous for the state to encourage programs which bring native literature and discussions of that literature to the Idaho public; and

WHEREAS, the growth and retention of our native literature is to be desired in the State of Idaho; and

WHEREAS, an Idaho State Writer-in-Residence can enhance the image and being of the state by representing the state as a native artist; and

WHEREAS, the Idaho Commission on the Arts has a record for advancing the arts and humanities in an objective and professional way complimentary to the State of Idaho;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of

Idaho, do hereby continue and revise the Governor's Idaho State Writer-in-Residence Panel, composed of three writers from outside the State of Idaho.

The panel is to recommend an Idaho writer to serve a two-year term beginning January 1, 1990, through January 1, 1992.

The Idaho Commission on the Arts is appointed to oversee and facilitate both the administration of the program and the panel selection process.

The responsibilities of the Idaho Commission on the Arts will be:

1. To explore and secure both private and public funding for the Panel and the Writer-in-Residence Program;
2. To convene the meetings of the Panel;
3. To oversee the Panel during its operation and to provide, where necessary and possible, support -- both technical and administrative -- to the Program and Panel; and
4. To arrange readings for the Writer-in-Residence for the two-year period in Idaho's communities.

The responsibilities of the Idaho State Writer-in-Residence Panel will continue to be:

1. To solicit nominations and applications for Idaho's next Writer-in-Residence,
2. To examine the nominations and applications using the following criteria:
   a. The writer selected must be a full-time resident of Idaho who has produced a significant amount of quality writing and must be prepared to competently meet the public and engage that public, through readings and public discussion, in the excitement of the realization of literature.
   b. The person selected should also be someone whose work indicates an understanding and awareness of the people and the environment of Idaho.
3. To review the current Writer-in-Residence Program and make recommendations toward improvement of the Program.

This Executive Order repeals and replaces Executive Order No. 87-2.

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 19th day of June, in the year of our Lord nineteen hundred eighty-nine, 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. 89-3

CONTINUING STATE OF IDAHO COMPREHENSIVE SAFETY AND LOSS CONTROL POLICY REPEALING AND REPLACING EXECUTIVE ORDER NO. 87-18

WHEREAS, it is in the best interest of state employees, the general public and efficient operation of state government to have a commitment to safety and loss control; and

WHEREAS, the State of Idaho endeavors to provide a safe and healthy working environment for state employees and to protect the public and public property from injury or damage; and

WHEREAS, an effective Safety and Loss Control Policy provides additional benefits of improved productivity, employee confidence, lower insurance costs and improved worker morale; and

WHEREAS, an effective Safety and Loss Control Policy requires full management commitment, cooperation and leadership at all levels of state government;

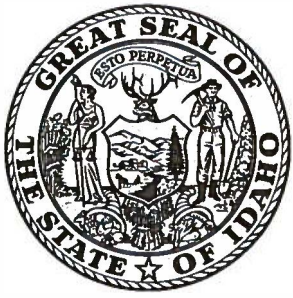
NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me under the Constitution and Laws of this state, do hereby order as follows:

1. Each Department Director or other appointing authority will continue to develop, maintain, and monitor a systematic program of safety and loss control for each agency that will minimize the risk of injury or damage to: (a) the public employee, (b) the general public, (c) state property, (d) the ability of the agency to fulfill its mission and (e) the environment.
2. Each Department Director or other appointing authority will continue to ensure that, where applicable, potential new state employees are appropriately screened, that new employees are systematically and fully trained for all equipment that they are expected to operate, that safe work practices are followed by all employees on the job, that all equipment used is properly maintained and used for its intended purpose, that proper personal protective equipment is worn when needed and that safety practices are a criterion in employee and supervisor performance evaluations in those positions where such is applicable.
3. Each Department Director or other appointing authority will continue to assume responsibility for reviewing loss reports and accidents involving bodily injury, or property or environmental damage, and to take corrective action to avoid future loss. Where appropriate, assistance from the agencies listed below should be requested to develop and implement appropriate corrective or preventive measures. Each Department Director or other appointing authority may delegate the authority to perform these duties to a safety officer or committee but shall remain responsible for the performance of the agency's safety and loss control program.
4. All buildings owned or maintained by any state government agency or entity, or which are constructed or renovated specifically for use or occupancy by any such agency or entity shall conform to all existing state codes, including but not

restricted to, the Idaho General Safety and Health Standards Code No. 1, the Uniform Building Code, the Uniform Mechanical Code and the Uniform Fire Code. If any conflict arises between applicable codes, the more stringent code shall take precedence. Prior to construction, or remodeling of such buildings, where appropriate, construction plans shall be reviewed and approved by the Department of Labor and Industrial Services and the Permanent Building Fund Advisory Council.

5. The following agencies shall continue to assist state agencies by offering the following services:
   a. Department of Labor and Industrial Services shall inspect public buildings and places of employment, and enforce safety and sanitary conditions and practices.
   b. The Office of the State Fire Marshal shall, through the local fire authorities, inspect public buildings and enforce fire and life safety provisions as contained within the Uniform Fire Code.
   c. The State Insurance Fund shall assist in developing employee safety programs, through consultation with staff agency personnel, and provide detailed reports to agencies on their losses insured through the State Insurance Fund.
   d. The Department of Administration, Bureau of Risk Management, shall assist agencies in obtaining other requested services in safety and/or loss control not mentioned above, including general property and casualty loss control, and provide detailed reports to agencies on their losses insured through the Bureau of Risk Management.
6. A Statewide Safety Committee shall continue comprised of the Director of the Department of Labor and Industrial Services, the Manager of the State Insurance Fund, the State Fire Marshal, the Director of the Department of Administration (who shall serve as Chairman of the Committee), or their designees, and other state agencies as deemed necessary. The purpose of the Committee shall be to:
   a. Develop strategies and standards to assist agencies with their safety programs;
   b. Review statewide trends in losses and exposures and make cost-effective recommendations;
   c. Coordinate the services available to maximize efficiency and reduce unnecessary duplication of inspections;
   d. On behalf of the Governor, review the safety and loss control programs of selected agencies and recommend changes to improve the effectiveness of the programs;
   e. Make recommendations to the Governor and Legislature on improving safety and loss control for state government; and
   f. Perform other related duties as may be requested by the Governor.

This Order repeals and replaces Executive Order No. 87-18.



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 10th day of August, in the year of our Lord nineteen hundred eighty-nine, and of the Independence of the United States of America the two hundred fourteenth, and of the Statehood of Idaho the one hundredth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 89-4

CONTINUING STATE OF IDAHO COMPREHENSIVE SAFETY AND LOSS CONTROL POLICY REPEALING AND REPLACING EXECUTIVE ORDER NO. 89-3

WHEREAS, it is in the best interest of state employees, the general public and efficient operation of state government to have a commitment to safety and loss control; and

WHEREAS, the State of Idaho endeavors to provide a safe and healthy working environment for state employees and to protect the public and public property from injury or damage; and

WHEREAS, an effective Safety and Loss Control Policy provides additional benefits of improved productivity, employee confidence, lower insurance costs and improved worker morale; and

WHEREAS, an effective Safety and Loss Control Policy requires full management commitment, cooperation and leadership at all levels of state government;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me under the Constitution and Laws of this state, do hereby order as follows:

1. Each Department Director or other appointing authority will continue to develop, maintain, and monitor a systematic program of safety and loss control for each agency that will minimize the risk of injury or damage to: (a) the public employee, (b) the general public, (c) state property, (d) the ability of the agency to fulfill its mission and (e) the environment.
2. Each Department Director or other appointing authority will continue to ensure that, where applicable, potential new state employees are appropriately screened, that new employees are systematically and fully trained for all equipment that they are expected to operate, that safe work practices are followed by all employees on the job, that all equipment used is properly maintained and used for its intended purpose, that proper personal protective equipment is worn when

needed and that safety practices are a criterion in employee and supervisor performance evaluations in those positions where such is applicable.

3. Each Department Director or other appointing authority will continue to assume responsibility for reviewing loss reports and accidents involving bodily injury, or property or environmental damage, and to take corrective action to avoid future loss. Where appropriate, assistance from the agencies listed below should be requested to develop and implement appropriate corrective or preventive measures. Each Department Director or other appointing authority may delegate the authority to perform these duties to a safety officer or committee but shall remain responsible for the performance of the agency's safety and loss control program.

4. All buildings owned or maintained by any state government agency or entity, or which are constructed or renovated specifically for use or occupancy by any such agency or entity shall conform to all existing state codes, including but not restricted to, the Idaho General Safety and Health Standards Code No. 1, the Uniform Building Code, the Uniform Mechanical Code and the Uniform Fire Code. If any conflict arises between applicable codes, the more stringent code shall take precedence. Prior to construction, or remodeling of such buildings, where appropriate, construction plans shall be reviewed and approved by the Department of Labor and Industrial Services and the Permanent Building Fund Advisory Council.

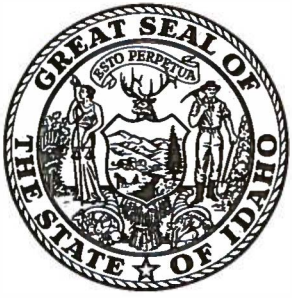
5. The following agencies shall continue to assist state agencies by offering the following services:
   a. Department of Labor and Industrial Services shall inspect public buildings and places of employment, and enforce safety and sanitary conditions and practices.
   b. The Office of the State Fire Marshal shall, through the local fire authorities, inspect public buildings and enforce fire and life safety provisions as contained within the Uniform Fire Code.
   c. The State Insurance Fund shall assist in developing employee safety programs, through consultation with staff agency personnel, and provide detailed reports to agencies on their losses insured through the State Insurance Fund.
   d. The Department of Administration, Bureau of Risk Management, shall assist agencies in obtaining other requested services in safety and/or loss control not mentioned above, including general property and casualty loss control, and provide detailed reports to agencies on their losses insured through the Bureau of Risk Management.

6. A Statewide Safety Committee shall continue comprised of the Director of the Department of Labor and Industrial Services, the Manager of the State Insurance Fund, the State Fire Marshal, the Director of the Department of Administration (who shall serve as Chairman of the Committee), or their designees, and other state agencies as deemed necessary. The pur-

pose of the Committee shall be to:

a. Develop strategies and standards to assist agencies with their safety programs;
b. Review statewide trends in losses and exposures and make cost-effective recommendations;
c. Coordinate the services available to maximize efficiency and reduce unnecessary duplication of inspections;
d. On behalf of the Governor, review the safety and loss control programs of selected agencies and recommend changes to improve the effectiveness of the programs;
e. Make recommendations to the Governor and Legislature on improving safety and loss control for state government; and
f. Perform other related duties as may be requested by the Governor.

This Order repeals and replaces Executive Order No. 89-3.



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 6th day of September, in the year of our Lord nineteen hundred eighty-nine, and of the Independence of the United States of America the two hundred fourteenth, and of the Statehood of Idaho the one hundredth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 89-5

ESTABLISHING LICENSING/CERTIFICATION PROGRAMS FOR ASBESTOS PROFESSIONALS

WHEREAS, the Asbestos Hazard Emergency Response Act of 1986 (AHERA, P.L. 99-519) mandates states accreditation of asbestos professionals who perform work in elementary or secondary schools; and

WHEREAS, AHERA mandates that each state adopt a contractor accreditation plan at least as stringent as the Environmental Protection Agency's (EPA) model plan;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the powers of authority vested in me by the Constitution and laws of this state, and by AHERA, P.L. 99-519, do hereby: (1) order the adoption of a contractor accreditation plan in compliance with the EPA's model plan, (2) order the Idaho Industrial Commission to adopt such procedures, rules, and regulations for the purpose of complying with AHERA, and (3) order the Idaho Department of Labor and Industrial Services to implement such procedures, rules,

and regulations adopted by the Commission.

I. POLICY

Exposure to airborne asbestos fibers has been demonstrated to cause significant increases in lung cancer, mesothelioma, and other diseases. It is the intent of this Order to prevent unnecessary exposure of the public to asbestos fibers by regulating asbestos abatement practices in requiring statewide standards for training and accreditation of persons who perform asbestos projects.

II. IMPLEMENTATION OF AHERA POLICY

A. As used in this Order, unless context otherwise requires:

1. "Accreditation" means a certificate or license issued by the Department permitting a person to work in an asbestos occupation.
2. "Asbestos" means asbestiform varieties of chrysotile, amosite, crocidolite, anthophyllite, tremolite, and actinolite.
3. "Asbestos-containing material" means any material or product that contains more than 1 percent asbestos.
4. "Asbestos occupation" means an inspector, management planner, project designer, contractor, supervisor, or worker for an asbestos project.
5. "Asbestos project" means encapsulation, enclosure, removal, repair, operations and maintenance, renovation, or demolition project involving asbestos; except the term does not include small-scale, short-duration operations and maintenance projects as determined by the Department of Labor.
6. "Friable asbestos-containing material" means asbestos-containing material that may be crumbled, pulverized, or reduced to powder by hand pressure when dry, and includes any asbestos-containing material that will become, or may reasonably be expected to become, friable as a result of cutting, crushing, grinding, or other activities during the asbestos project being conducted.
7. "Person" means an individual, partnership, corporation, sole proprietorship, firm, enterprise, franchise, association, state or municipal agency, political subdivision of the state, or any other entity.

B. It shall be unlawful, after January 1, 1990, for any person to engage in an asbestos occupation in a public, non-profit private, elementary or secondary school without accreditation for that occupation from the Department of Labor.

C. The Commission shall promulgate regulations establishing standards and procedures that are consistent with federal law for the accreditation of asbestos occupations. The regulations shall include, but not be limited to standards for training, course approval and review;

examinations for accreditation applicants; annual refresher courses and renewal of accreditation; and revocation of accreditation.

D. To qualify for accreditation in a particular asbestos occupation, a person shall have:
   1. Successfully completed an asbestos-related training course approved or administered by the Department of Labor for that occupation,
   2. Passed an examination approved or administered by the Department of Labor, and
   3. Satisfactorily demonstrated previous training or experience for the occupation as the Department of Labor may require. Any person applying for accreditation shall submit required fees and follow procedures prescribed by the Department of Labor.

E. The Department of Labor may accredit a person for an asbestos occupation who has completed an EPA-approved course for that occupation. To be eligible, that person also must:
   1. Successfully complete a training course approved or administered by the Department of Labor on Idaho law, rules, and regulations;
   2. Pass an examination administered by the Department of Labor that covers the applicant's asbestos occupation and state law, rules, and regulations; and
   3. Meet any other requirements set by the Department of Labor.

F. The Department of Labor may accredit a person for an asbestos occupation who has been accredited by another state for that occupation in conformance with federal law. To be eligible, that person also must:
   1. Successfully complete a training course approved or administered by the Department of Labor on Idaho law, rules, and regulations;
   2. Pass an examination administered by the Department on those topics; and
   3. Meet any other requirements set by the Department of Labor.

G. The Department of Labor shall establish a fee schedule for the implementation of this Order. The Department of Labor may collect fees for applications, issuance and renewal of accreditation, examinations, training course approval and review, job notifications and inspections, record-keeping, and other asbestos-related activities of the Department of Labor.

III. ENFORCEMENT AND PENALTIES

A. At least once a year, during an actual asbestos project, the Department of Labor shall conduct an on-site job inspection for each asbestos contractor. The Department of Labor may make similar job inspections for other asbestos occupations. The Department of Labor shall have the power and authority to enter at reasonable times upon any property for this purpose.

B. An asbestos contractor shall keep a record of each asbestos project that it performs and shall make the record available to the Department of Labor upon request. Records required by this section shall be kept for at least 30 years, unless otherwise specified by the Department of Labor. The records shall include:

1. The name, address, and accreditation number of the individual who supervised the asbestos project and each employee or agent of the contractor who worked on the project;
2. The location and a description, as required by the Department of Labor, of the project and the amount of asbestos materials that was removed;
3. The starting and completion dates of each project and a summary of the procedures that were used to comply with all federal and state standards for asbestos projects; and
4. The name and address of each asbestos disposal site where waste containing asbestos was deposited and the disposal site receipts.

C. The Department of Labor may reprimand, suspend, deny, or revoke the accreditation of any person who:

1. Fraudulently or deceptively obtains or attempts to obtain accreditation;
2. Fails at any time to meet the qualifications for accreditation or to comply with the requirements of this Order or any regulation adopted by the Department of Labor; or
3. Fails to meet any applicable federal or state standard for asbestos projects.

D. Failure to comply with any provision of this Order will result in the issuance of a Safety Order pursuant to Idaho Code Section 72-720, et. seq. Failure or refusal to comply with such order may result in the imposition of civil fines or misdemeanor penalties pursuant to Idaho Code Section 72-723.

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 2nd day of October, in the year of our Lord nineteen hundred eighty-nine, and of the Independence of the United States of America the two hundred fourteenth, and of the Statehood of Idaho the one hundredth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-1

DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE STATE AGENCY TO RECEIVE NOTICES OF ENVIRONMENTAL AND ENERGY MATTERS UNDER THE INTERSTATE COMMERCE COMMISSION'S IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

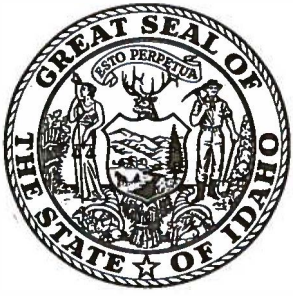
WHEREAS, the subject of railroad abandonment is significant to the state of Idaho and particularly its more sparsely populated rural areas; and

WHEREAS, it is the policy of the state of Idaho to promote the development and viability of railroad transportation with the state; and

WHEREAS, the Interstate Commerce Commission, under: (1) the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332; (2) 49 U.S.C. 10505; (3) 49 U.S.C. 10903-06; and (4) 49 C.F.R. Parts 1105, 1150, 1152.20, 1152.50, and 1180, requires railroads operating within the state of Idaho to serve notice of certain required actions upon a designated state agency; and

WHEREAS, Idaho Code Section 62-424 vests the Idaho Public Utilities Commission with the authority to make findings and represent the state of Idaho before the Interstate Commerce Commission;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me in Section 5, Article 4, of the Idaho Constitution and Idaho Code Section 62-424, do hereby designate the Idaho Public Utilities Commission to represent the state on matters pertaining to railroads before the Interstate Commerce Commission and to receive notices of environmental and energy matters from railroads operating within the state of Idaho, as provided under the applicable federal statutes and regulations. I further direct all state agencies to notify the Public Utilities Commission of information received by them of potential railroad abandonments and to cooperate and coordinate with the Public Utilities Commission on all matters pertaining to railroads.



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 5th day of January, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fourteenth, and of the Statehood of Idaho the one hundredth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-2

ESTABLISHMENT OF THE IDAHO RAILROAD ADVISORY COUNCIL AND DESIGNATION OF THE IDAHO DEPARTMENT OF COMMERCE AND ITS DIRECTOR AS THE RECIPIENT OF FEDERAL GRANTS FOR LOCAL RAIL SERVICE ASSISTANCE, REPEALING AND REPLACING EXECUTIVE ORDER 88-6

WHEREAS, it is the policy of the State of Idaho to promote the development and viability of railroad transportation within the State of Idaho; and

WHEREAS, a unified system of rail transportation throughout the state is critical to Idaho's economy; and

WHEREAS, the subject of railroad abandonment is of significance to the state and particularly to its more sparsely populated rural areas; and

WHEREAS, it is essential to preserve those railroad lines that are important to Idaho's economy and overall transportation system through a statewide rail planning and project assistance program; and

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, do hereby establish and create the Idaho Railroad Advisory Council, and I charge this Council with the responsibility to facilitate communications among all those interested in railroad transportation within the state with the goal of improving railroad transportation in Idaho. Further, I do hereby designate the Idaho Department of Commerce 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 applicable federal law and existing commitments by the state.

The Idaho Railroad Advisory Council shall consist of the Director of the Department of Commerce, the Director of the Idaho Transportation Department, the President of the Idaho Public Utilities Commission, and such additional members as may be appointed by the Governor. All members shall serve without compensation, except that members who are not state officers or employees shall be reimbursed for their reasonable expenses for serving on the Council.

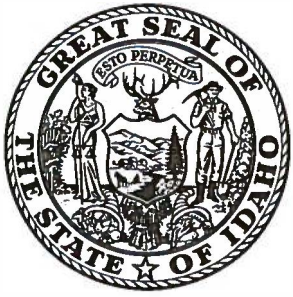
The Council chairperson shall be the Director of the Department of Commerce, and the Council shall determine the method of the expenditure of monies it receives from the Federal Railroad Administrator for Local Rail Service Assistance consistent with federal law.

The Council shall assist the Department of Commerce in preparing a

railraod plan in accordance with applicable law under the local rail service assistance program.

The Council shall provide policy guidance and recommendations in the administration of the local rail assistance program.

The Council shall seek guidance from industry groups, shippers, railroads, railroad labor, agricultural groups, consumers, state and local governments, and others interested in the preservation and development of rail lines within Idaho.



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 23rd day of March, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fourteenth, and of the Statehood of Idaho the one hundredth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-3

ESTABLISHING THE STATE PLANNING COUNCIL ON MENTAL HEALTH

WHEREAS, adults with severe mental illness and children with serious emotional disturbance have unique abilities, motivations, concerns and diverse needs; and

WHEREAS, severe mental illness and serious emotional disturbance interfere with the vital development and maturation of our state's most important resource--its people; and

WHEREAS, severe mental illness and serious emotional disturbance are increasingly treatable disabilities with excellent prospects for remedy and recovery with the appropriate treatment and support; and

WHEREAS, the appropriate treatment of adults with severe mental illness and children and youth with serious emotional disturbance is cost-effective because it restores productivity, reduces utilization of services, and lessens social dependence and family disruption; and

WHEREAS, the State of Idaho must promote a rational service delivery approach by establishment of a comprehensive, community-based system of care emphasizing the natural support that families and peers provide; and

WHEREAS, these persons have a right to individualized services which are acceptable and accountable to them and others in the communities where they choose to live; and

WHEREAS, indiviuals and families are stigmatized by the myths and fears surrounding severe mental illness and serious emotional disturbance; and

WHEREAS, it is the responsibility of all Idahoans to reduce the

stigma and promote the understanding of severe mental illness and serious emotional disturbance; and

WHEREAS, adults with severe mental illness have the right and responsibility to ongoing participation in determining their destiny at the direct service level and at the policy and planning level; and children and youth with serious emotional disturbance and their families have this same right; and

WHEREAS, the service delivery system exists for only one purpose--to improve the lives of persons suffering from mental illnesses;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law do hereby establish the State Planning Council on Mental Health.

The Planning Council's responsibilities will be:

1. To serve as an advocate for severely mentally ill adults and seriously emotionally disturbed children and youth;
2. To advise the State Mental Health Authority on problems, policies and programs and provide guidance to the Authority in the development and implementation of the State Mental Health Systems Plan;
3. To monitor and evaluate the allocation and adequacy of mental health services within the State not less than once a year;
4. To ensure individuals with severe mental illness and serious emotional disturbance access to treatment, prevention, and rehabilitation services including those services that go beyond the traditional mental health system;
5. To serve as a vehicle for intra- and inter-agency policy and program development; and
6. To present to the Governor on June 30 of each year a report on the Council's achievements and impact on the quality of life for these individuals.

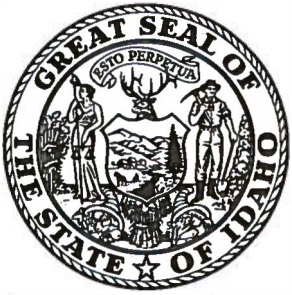
The Planning Council membership shall be appointed by the Director of the Department of Health and Welfare and composed of not less than fifty percent (50%) non-state employees or providers of mental health services.

The Planning Council membership shall include representation from the following:

1. Consumers;
2. Families of adult individuals with severe mental illness or children or youth with serious emotional disturbance;
3. Principal state agencies with respect to mental health, education, vocational rehabilitation, criminal justice, Title XIX of the Social Security Act, and other entitlement programs;
4. Public and private entities concerned with the need, planning, operation, funding, and use of mental health services, and related support services; and
5. The Regional Mental Health Advisory Board in each Department of Health and Welfare region.

Planning Council members will serve a term of two (2) years or at the pleasure of the Director, provided, however, that of the members first appointed, one-half the appointments shall be for a term of one (1) year and one-half the appointments for two (2) years. The Director will appoint a chairman and vice-chairman whose terms will be one

year. The Council may establish an executive committee and subcommittees at its discretion.



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 20th day of February, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fourteenth, and of the Statehood of Idaho the one hundredth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-4

ESTABLISHMENT OF AN INCARCERATION WORK GROUP

WHEREAS, the correctional systems in the nation and in the State of Idaho are experiencing severe overcrowding; and

WHEREAS, the problems associated with all facets of incarceration and rehabilitation of felony criminal offenders require the immediate attention of state and local government to reduce the pressure on state and local revenues; and

WHEREAS, in order for state and local government to plan adequately for current and future correctional facilities, it is necessary to understand the makeup of the incarcerated population, to project and forecast offender populations, and to consider a comprehensive range of sentencing alternatives for criminal offenders; and

WHEREAS, it is necessary to bring numerous resources to bear on the management of correctional issues, since no single state agency or local governmental entity can address the totality of those issues facing the state;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, hereby resolve that an Incarceration Work Group be established to:

1. Study the profile of incarcerated felony offenders and make recommendations for their forecasting and projection;
2. Study and make recommendations as to the purposes of the sanctions available against offenders, including public protection as a first priority, appropriate punishment, and treatment for those who can be rehabilitated;
3. Study and make recommendations as to the correlation between appropriate sanctions and identified groups of offenders;
4. Study and make recommendations as to the suitability of differing categories of offenders for commitment to appropriate and safe alternatives to incarceration;
5. Study and make recommendations on statutory reform, including

Idaho's statutes relative to sentencing, probation and parole and the area of state/local relationships, in order to build and maintain a workable system of corrections;

6. Study and make recommendations on correctional and rehabilitation programs that result in low rates of recidivism;
7. Study and make recommendations on operational strategies and approaches to address problems facing systems of incarceration within the state;
8. Report the Incarceration Work Group's findings and recommendations to the Governor on or before November 15, 1990.

The Incarceration Work Group shall consist of the individuals listed below and their designees, and such additional members as may be appointed by the Governor. The Governor shall select a member of the Work Group to serve as its chairman. All members shall serve without compensation, except that members shall be reimbursed for their reasonable expenses for serving on the Work Group:

Director, Department of Correction;
Director, Division of Financial Management;
Director, Department of Health and Welfare;
A Justice of the Idaho Supreme Court;
Two District Court Judges of the Idaho Judicial System;
Two representatives of the Idaho Sheriffs Association;
A representative of the Idaho Association of Prosecuting Attorneys;
A representative of the criminal defense bar;
A representative of the Idaho Association of Commissioners and Clerks;
A representative of the Commission for Pardons and Parole;
A representative of the Democratic Party from the Joint Finance and Appropriations Committee;
A representative of the Republican Party from the Senate Judiciary and Rules Committee;
A representative of the Idaho Attorney General's Office;
A representative of the Office of the Governor;
A representative of the Commission on Children and Youth;
A representative of Idaho Legal Aid Services, Inc.

The Incarceration Work Group may also request support from other individuals or groups as it deems appropriate.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the 13th day of March, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fourteenth, and of the Statehood of Idaho the one hundredth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

SUBJECT INDEX

INDEX

SECIOND REGULAR SESSION - CENTENNIAL LEGISLATURE

ABBREVIATIONS USED IN THIS INDEX

Approp = Appropriation
Bd = Board
Dept = Department
Dist = District
Com = Commission
Comm = Committee
H&W = Health and Welfare
F&G = Fish and Game
MV = Motor Vehicle
PUC = Public Utilities Commission
PERS = Public Employees Retirement System
INEL = Idaho National Engineering Laboratory

ABORTION Chapter - Page
Trigger statutes, repealed.....Ch.207 - 464
ACCIDENTS
Boat, immediate notification, required.....Ch. 75 - 158
Motor vehicle, immediate report, property damage.....Ch. 69 - 151
ACCOUNTANTS
Accountancy, Bd, approp.....Ch.292 - 811
Accountancy, Bd, approp, FY90.....Ch.180 - 384
ACCOUNTS
Agriculture, Dept, past due, interest charge.....Ch.376 - 1039
Animal Damage Control, established.....Ch.388 - 1067
Big Game Primary Depredation, created.....Ch.370 - 1007
Big Game Secondary Depredation, created.....Ch.370 - 1007
Conservators, account annually with court.....Ch.290 - 810
Consumer Protection, established.....Ch.273 - 766
Equine Education, created.....Ch.399 - 1116
Fish & Game Expendable Trust, established.....Ch.388 - 1067
Fish & Game Federal, established.....Ch.388 - 1067
Fish & Game Nonexpendable Trust, established.....Ch.388 - 1067
Fish & Game Set-Aside, established.....Ch.388 - 1067
Highway Distribution, approp, highway/bridge repair....Ch.229 - 606
Highway user revenues, interest earned.....Ch.158 - 343
Legislative, approp, Legislative Assembly Meeting.....Ch.349 - 938
Organic Food Products Administration, created.....Ch.145 - 325
Permanent Building, approp.....Ch. 61 - 136
Public Health Trust, approp.....Ch. 99 - 206
Railroad Grade Crossing, fuels tax revenues.....Ch.395 - 1106
Resource Conservation Rangeland Loan, accrual basis....Ch.114 - 238
Underground Storage Tank Technician Certification.....Ch.298 - 820
Water Pollution Control, approp.....Ch.112 - 235
Wheat Comm, past due.....Ch.199 - 448
ACQUIRED IMMUNODEFICIENCY SYNDROME
AIDS, occupational diseases, workers compensation.....Ch.188 - 417

ACQUIRED IMMUNODEFICIENCY SYNDROME (Continued) Chapter - Page
AIDS, testing, code citation corrected.....Ch.310 - 850
HIV, HBV, reporting methods, clarified.....Ch.143 - 322
ACTS
Board and Care, created.....Ch.116 - 239
Certified Real Estate Appraisers, created.....Ch. 82 - 164
Child Care Licensing Reform, HB729, clarified.....Ch.214 - 564
Child Care Licensing Reform, 1990, clarified.....Ch.215 - 567
Equine Activities Immunity, created.....Ch. 40 - 61
Ethics in Government, 1990, created.....Ch.329 - 903
Illegal Drug Tax, title changed.....Ch.179 - 378
Levee Dist, created.....Ch.396 - 1108
Mortgage Company, provided.....Ch.225 - 600
Omnibus Trade Competitiveness, nomenclature provided...Ch. 37 - 55
Petroleum Clean Water Trust Fund, created.....Ch.119 - 266
Residential Care Administrators, created.....Ch.304 - 833
Safe Drinking Water, state implementation.....SCR132(A) - 1216
Seed and Plant Certification, created.....Ch.413 - 1144
Underground Facilities Damage Prevention.....Ch.351 - 939
Underground Storage Tank Technician Certification.....Ch.298 - 820
Uniform Foreign Money Judgments Recognition.....Ch.408 - 1134
AD VALOREM TAXATION
See TAX AND TAXATION, PROPERTY
ADMINISTRATION DEPARTMENT
Approp.....Ch.194 - 436
Approp, asbestos abatement.....Ch.337 - 917
ADMINISTRATIVE PROCEDURES ACT
Rules, automatic expiration.....Ch. 22 - 33
ADMINISTRATIVE RULES
See RULES
ADOPTION
Child, illegitimate, reference deleted.....Ch. 26 - 40
Child, illegitimate, reference deleted.....Ch. 27 - 41
Notice, publication, where.....Ch. 58 - 134
Parental rights, termination, signed out-of-state.....Ch. 25 - 38
ADVERTISING
Honey, Comm, approp.....Ch.382 - 1058
AGING, OFFICE ON
Aging Advisory Council, 14 members, 60 years of age....Ch. 30 - 45
Approp.....Ch.294 - 814
AGRICULTURE
Barley support prices, recalculate.....HJM17(A) - 1241
Barley support prices, recalculate.....SJM117(A) - 1237
Bee colonies/transit, beekeeper, assessment.....Ch.414 - 1148
Commodity dealers, practices/procedures, revised.....Ch.184 - 407
Dairy industry, disinfectants, sales tax exempt.....Ch.122 - 292
Dairy Products Comm, compensation increased.....Ch.142 - 321
Dept, approp.....Ch.382 - 1058
Dept, approp, additional, FY90, inspections.....Ch.270 - 764
Dept, approp, additional, FY90, plant industry.....Ch.270 - 764
Dept, approp, Animal Industry.....Ch.382 - 1058
Dept, approp, Inspections.....Ch.382 - 1058
Dept, approp, maintenance projects.....Ch.337 - 917

AGRICULTURE (Continued) Chapter - Page
Dept, approp, Plant Industry.....Ch.382 - 1058
Dept, approp, Quality Assurance Laboratory.....Ch.338 - 921
Dept, fur-bearing/domestic animals, regulations.....Ch.282 - 788
Dept, fur-bearing/domestic animals, definition.....Ch.282 - 788
Dept, past due accounts, interest charge.....Ch.376 - 1039
Employee, Correction, Dept, overtime.....Ch.368 - 1005
Equipment dealers/suppliers, agreements.....Ch.267 - 750
Farm produce dealer, license, fees.....Ch.171 - 369
Farm vehicle/commercial, miles traveled report.....Ch.138 - 312
Herd Dists, formation requirements.....Ch.222 - 589
Livestock dealers, redefined, bond requirements.....Ch.182 - 395
Livestock, mutilation/destruction/theft, felony.....Ch.126 - 297
Milk hauler, tester, butter grader, license, fees.....Ch.411 - 1139
Organic food, growing, sales, regulations.....Ch.145 - 325
Pesticides, general use, sale, restrictions.....Ch.269 - 759
Potato sampling, inspections, procedures.....Ch.190 - 419
Pure Seed Law, plant buyer claims, arbitration.....Ch.412 - 1141
Pure Seed Law, toxicity categories, signal words.....Ch. 89 - 184
Seed & plant certification, regulation.....Ch.413 - 1144
Sheep Comm, approp.....Ch.382 - 1058
Sheep Comm, obsolete statutes, eliminate.....Ch.137 - 312
Smoke management, burning permit fee.....Ch.397 - 1115
Soil, plant amendments, regulations.....Ch.426 - 1179
UofI, approp, Research Extension Service.....Ch.436 - 1205
UofI, approp, Research Extension Service.....Ch.265 - 748
Warehouses, bonded, regulations, revised.....Ch.183 - 399
Wheat Comm accounts, past due.....Ch.199 - 448
Wheat Comm members, compensation.....Ch.157 - 343
Wildlife Depredation Comm, HCR31, 1989, continue....SCR135(A) - 1216
AIDS
See ACQUIRED IMMUNODEFICIENCY SYNDROME
AIR POLLUTION
See ENVIRONMENT
AIRPLANES
Private, registration fees, based on gross weight.....Ch.321 - 877
ALCOHOL
See LIQUOR
ALCOHOLIC BEVERAGES
See LIQUOR
ANIMALS
See also LIVESTOCK, WILDLIFE
Big game depredation claims, payment process.....Ch.370 - 1007
Big Game Primary Depredation Account, created.....Ch.370 - 1007
Big Game Secondary Depredation Account, created.....Ch.370 - 1007
Captive/research, unauthorized release, penalties.....Ch. 38 - 58
Damage Control Account, established.....Ch.388 - 1067
Equine activites, liability limited.....Ch. 40 - 61
Fur-bearing/domestic, regulations, definition.....Ch.282 - 788
Herd Dists, formation requirements.....Ch.222 - 589
Livestock dealers, redefined, bond requirements.....Ch.182 - 395
Livestock, mutilation/destruction/theft, felony.....Ch.126 - 297
Sheep Comm, obsolete statutes, eliminated.....Ch.137 - 312

ANIMALS (Continued) Chapter - Page
Veterinary medicine, statutes, clarified.....Ch.111 - 222
Wildlife Depredation Comm, HCR31, 1989, continue....SCR135(A) - 1216
Wildlife, captive, propagation, no permit, when.....Ch.282 - 788
Wildlife, possession, transporting for another.....Ch.315 - 860
ANNEXATION
Irrigation Dist, annexation, nonadjacent land.....Ch.340 - 923
ANTIQUES
Motor vehicles, fenders not required, when.....Ch.175 - 372
APPOINTMENTS
Occupational Licenses, Bureau, chief, Governor appt....Ch.330 - 907
APPRAISERS
Real estate, certification.....Ch. 82 - 164
APPROPRIATIONS
Accountancy, Bd.....Ch.292 - 811
Administration, Dept.....Ch.194 - 436
Administration, Dept, asbestos abatement.....Ch.337 - 917
Aging, Office on.....Ch.294 - 814
Agriculture Quality Assurance Laboratory.....Ch.338 - 921
Agriculture, Dept.....Ch.382 - 1058
Agriculture, Dept, additional, FY90, inspections.....Ch.270 - 764
Agriculture, Dept, additional, FY90, plant industry....Ch.270 - 764
Agriculture, Dept, maintenance projects.....Ch.337 - 917
Arts Comm.....Ch.104 - 209
Athletic Director.....Ch.292 - 811
Attorney General.....Ch.186 - 414
Attorney General, additional FY90.....Ch. 80 - 163
Attorney General, additional FY90, Litigation Prog.....Ch. 80 - 163
Auditor, Legislative.....Ch.339 - 922
Auditor, State.....Ch.404 - 1130
Auditor, State, SAFIRS Account.....Ch.404 - 1130
Auditor, State, supplemental, FY90.....Ch. 83 - 172
Blind, Comm.....Ch.173 - 371
Blind, Comm, additional, FY90.....Ch. 47 - 119
Brand Inspection.....Ch.261 - 741
BSU.....Ch. 86 - 176
Budget Reserve Account, interest earnings.....Ch.206 - 463
Centennial Comm.....Ch.146 - 328
Centralized Uniform Commercial Code.....Ch.104 - 209
Certified Shorthand Reporters Bd.....Ch.292 - 811
Christa McAuliffe Fellowship Program.....Ch. 70 - 152
Commerce, Dept.....Ch.398 - 1116
Community colleges.....Ch. 84 - 173
Correction, Dept.....Ch.202 - 453
Correction, Dept, additional, FY90.....Ch. 50 - 122
Correction, Dept, maintenance projects.....Ch.337 - 917
Correction, Dept, St. Anthony Work Camp.....Ch.337 - 917
Correction, Dept, supplemental, FY90.....Ch. 85 - 174
Correction, Dept, Women's Prison, Planning/Design.....Ch.337 - 917
Deaf & Blind School.....Ch.341 - 926
Deaf & Blind School, additional, FY90.....Ch. 46 - 118
Dentistry, Bd.....Ch.292 - 811
Education, Bd, BSU, Administration Building.....Ch.337 - 917

APPROPRIATIONS (Continued) Chapter - Page
Education, Bd, BSU, Campus school remodel.....Ch.337 - 917
Education, Bd, BSU, Library/Social Science renovate....Ch.337 - 917
Education, Bd, community colleges.....Ch. 84 - 173
Education, Bd, CSI, Development Center.....Ch.337 - 917
Education, Bd, Deaf & Blind School.....Ch.341 - 926
Education, Bd, Dental Education Program.....Ch.416 - 1153
Education, Bd, Displaced Homemaker Program.....Ch.279 - 783
Education, Bd, Historical Society.....Ch.343 - 928
Education, Bd, Idaho Geological Survey.....Ch.417 - 1155
Education, Bd, ISU-UofI Center, Idaho Falls.....Ch.337 - 917
Education, Bd, ISU, Baldwin Hall renovation.....Ch.337 - 917
Education, Bd, ISU, Natural History Museum.....Ch.337 - 917
Education, Bd, LCSC, old library remodel.....Ch.337 - 917
Education, Bd, LCSC, Sam Glenn Center completion.....Ch.337 - 917
Education, Bd, maintenance projects.....Ch.337 - 917
Education, Bd, Natural History Museum.....Ch.417 - 1155
Education, Bd, Office of.....Ch. 86 - 176
Education, Bd, Office, administration.....Ch.419 - 1157
Education, Bd, PBS Federal Grant.....Ch.422 - 1172
Education, Bd, public broadcasting.....Ch.422 - 1172
Education, Bd, public schools.....Ch.136 - 310
Education, Bd, scholarships and grants.....Ch.417 - 1155
Education, Bd, small business development centers.....Ch.417 - 1155
Education, Bd, State Library Bd.....Ch.277 - 780
Education, Bd, UofI, Agricultural Research.....Ch.265 - 748
Education, Bd, UofI, Forest Utilization Research.....Ch.417 - 1155
Education, Bd, Vocational Education.....Ch.279 - 783
Education, Bd, Vocational Rehabilitation.....Ch.278 - 782
Education, Bd, WAMI Medical Education Program.....Ch.416 - 1153
Education, Bd, WICHE University of Utah.....Ch.416 - 1153
Education, Bd, WOI, Veterinary Medicine Program.....Ch.416 - 1153
Education, Dept.....Ch.262 - 744
Education, higher.....Ch. 86 - 176
Employment, Dept, maintenance projects.....Ch.337 - 917
Endowment Fund Investment Bd.....Ch.101 - 208
Engineering Examiners, Bd.....Ch.292 - 811
Finance, Comm.....Ch.339 - 922
Finance, Dept.....Ch.423 - 1173
Financial Management Division.....Ch.260 - 741
Fish & Game, Dept.....Ch.373 - 1033
Fish & Game, Dept, additional, FY90.....Ch. 51 - 123
Fish & Game, Dept, Pocatello storage building.....Ch.337 - 917
Fish & Game, Dept, Region One Office.....Ch.337 - 917
Fish & Game, Dept, Region Three Office.....Ch.337 - 917
Fish & Game, Dept, winter feeding/depredation.....Ch.373 - 1033
General Services.....Ch.194 - 436
Geologists Bd.....Ch.292 - 811
Governor-Elect, transition.....Ch.302 - 832
Governor, Office of, administration, residence.....Ch.302 - 832
Governor, Office of, Aging, Office on.....Ch.294 - 814
Governor, Office of, Blind, Comm.....Ch.173 - 371
Governor, Office of, Centennial Comm.....Ch.146 - 328

APPROPRIATIONS (Continued) Chapter - Page
Governor, Office of, Endowment Fund Investment Bd.....Ch.101 - 208
Governor, Office of, Financial Management Division.....Ch.260 - 741
Governor, Office of, Human Rights Comm.....Ch.102 - 208
Governor, Office of, Liquor Dispensary.....Ch.103 - 209
Governor, Office of, Military Div.....Ch.174 - 372
Governor, Office of, Military Div, Emmett Armory.....Ch.337 - 917
Governor, Office of, Military Div, mainten projects....Ch.337 - 917
Governor, Office of, Public Employees Retirement.....Ch.429 - 1185
Governor, Office of, State Insurance Fund.....Ch.172 - 370
Governor, Office of, Women's Programs, Comm.....Ch.228 - 605
Governor's Residence Acct, Permanent Building Acct.....Ch.337 - 917
H&W, Dept, additional, FY90.....Ch.118 - 264
H&W, Dept, Adult & ADC Assistance Payments.....Ch.389 - 1078
H&W, Dept, Air Quality Program.....Ch.389 - 1078
H&W, Dept, Community Developmental Disability.....Ch.389 - 1078
H&W, Dept, Community Mental Health Services.....Ch.389 - 1078
H&W, Dept, Community Rehabilitation Services.....Ch.389 - 1078
H&W, Dept, Domestic Violence Council.....Ch.389 - 1078
H&W, Dept, Economic Opportunity Office.....Ch.389 - 1078
H&W, Dept, Eligibility Services.....Ch.389 - 1078
H&W, Dept, Emergency Medical Services.....Ch.389 - 1078
H&W, Dept, Emergency Response Comm.....Ch.389 - 1078
H&W, Dept, Environmental Division.....Ch.389 - 1078
H&W, Dept, Hazardous Materials Program.....Ch.389 - 1078
H&W, Dept, Indirect Support Services.....Ch.389 - 1078
H&W, Dept, Institutional Mental Health Services.....Ch.389 - 1078
H&W, Dept, juvenile detention facilities.....Ch.217 - 583
H&W, Dept, Laboratory Services.....Ch.389 - 1078
H&W, Dept, Lewiston Veterans Home.....Ch.337 - 917
H&W, Dept, Lowman Uranium Processing Site, cleanup.....Ch.287 - 805
H&W, Dept, maintenance projects.....Ch.337 - 917
H&W, Dept, Medical Assistance Payments.....Ch.389 - 1078
H&W, Dept, Personal Care Services.....Ch.389 - 1078
H&W, Dept, Physical Health Services.....Ch.389 - 1078
H&W, Dept, Social Services.....Ch.389 - 1078
H&W, Dept, State Hospital North.....Ch.389 - 1078
H&W, Dept, State Hospital South.....Ch.389 - 1078
H&W, Dept, State School and Hospital.....Ch.389 - 1078
H&W, Dept, Substance Abuse Services.....Ch.389 - 1078
H&W, Dept, Veterans Services.....Ch.389 - 1078
H&W, Dept, Water Quality Program.....Ch.389 - 1078
H&W, Dept, Welfare Division.....Ch.389 - 1078
H&W, Dept, Youth Services Center.....Ch.389 - 1078
Health Dists, Public.....Ch. 99 - 206
Highway Distribution Account, local roads/bridges.....Ch.229 - 606
Hispanic Comm.....Ch.147 - 328
Hispanic Comm.....Ch.263 - 745
Historical Society.....Ch.343 - 928
Historical Society, Idaho's history/Centennial.....Ch.232 - 665
Honey Advertising Comm.....Ch.382 - 1058
Human Rights Comm.....Ch.102 - 208
Industrial Comm.....Ch.405 - 1131

APPROPRIATIONS (Continued) Chapter - Page
Industrial Comm, crime victims compensation.....Ch.405 - 1131
Industrial Comm, Rehabilitation Program.....Ch.405 - 1131
Industrial Relations and Safety Programs.....Ch.342 - 927
Insurance Management.....Ch.194 - 436
Insurance, Dept.....Ch.266 - 749
Insurance, State Fund.....Ch.172 - 370
Labor and Industrial Services, Dept.....Ch.342 - 927
Land, Range & Mineral Resource Management.....Ch.288 - 806
Lands, Dept.....Ch.288 - 806
Lands, Dept, additional, FY90.....Ch. 48 - 120
Lands, Dept, additional, FY90, Forest Resources.....Ch.127 - 298
Lands, Dept, Forest & Range Protection.....Ch.288 - 806
Lands, Dept, Forest Resources Management.....Ch.288 - 806
Lands, Dept, maintenance projects.....Ch.337 - 917
Lands, Dept, McCall office.....Ch.337 - 917
Lands, Dept, Scaling Practices.....Ch.288 - 806
Lands, Dept, Soil & Water Conservation.....Ch.288 - 806
Lava Hot Springs Foundation.....Ch.148 - 329
Law Enforcement, Dept.....Ch.261 - 741
Law Enforcement, Dept, Alcohol Beverage Control.....Ch.261 - 741
Law Enforcement, Dept, maintenance projects.....Ch.337 - 917
Law Enforcement, Dept, POST Academy.....Ch.261 - 741
LCSC.....Ch. 86 - 176
Legislative Account, Assembly, Legislative Meeting.....Ch.349 - 938
Legislative area, remodeling/refurbishing.....Ch.325 - 888
Legislative Auditor.....Ch.339 - 922
Legislative Auditor.....Ch.339 - 922
Legislative Budget Office.....Ch.339 - 922
Legislative Budget Office, remodeling.....Ch.339 - 922
Legislative Council.....Ch.339 - 922
Library, Bd, State.....Ch.277 - 780
Lieutenant Governor.....Ch.227 - 604
Liquor Dispensary.....Ch.103 - 209
Lottery Comm.....Ch.140 - 315
Lottery moneys, Public School Income Fund.....Ch.384 - 1062
Medicine, Bd.....Ch.292 - 811
Nursing, Bd.....Ch.292 - 811
Occupational Licenses, Bureau.....Ch.292 - 811
Optometry Bd.....Ch.292 - 811
Outfitters & Guides Bd.....Ch.292 - 811
Parks & Recreation, Dept.....Ch.148 - 329
Parks & Recreation, Dept, additional, FY90.....Ch. 55 - 126
Parks & Recreation, Dept, maintenance projects.....Ch.337 - 917
PBS Federal Grant.....Ch.422 - 1172
Permanent Building Account.....Ch. 61 - 136
Permanent Building Fund, maintenance projects.....Ch.337 - 917
Personnel Comm.....Ch.195 - 438
Pharmacy, Bd.....Ch.292 - 811
Public broadcasting.....Ch.422 - 1172
Public Employees Retirement System.....Ch.429 - 1185
Public Health Dists, additional, FY90.....Ch.109 - 220
Public School Income Fund.....Ch.136 - 310

APPROPRIATIONS (Continued) Chapter - Page
Public schools.....Ch.136 - 310
Public schools, one-time/ongoing improvements.....Ch.136 - 310
Public schools, retirement, FICA, unemployment.....Ch.136 - 310
Public schools, salary improvement/certified staff.....Ch.136 - 310
Public Utilities Comm.....Ch.350 - 938
Public Works.....Ch.194 - 436
Public Works Contractors License Bd.....Ch.292 - 811
Public Works, contingency fund.....Ch.337 - 917
Public Works, Div, maintenance projects.....Ch.337 - 917
Public Works, Div, underground storage tanks.....Ch.337 - 917
Purchasing Division.....Ch.194 - 436
Racing Comm.....Ch.261 - 741
Racing Comm, additional, FY90.....Ch. 78 - 160
Real Estate Comm.....Ch.292 - 811
Regulatory Bds, supplemental, FY90.....Ch.180 - 384
Renal Disease Program.....Ch.278 - 782
Roadless lands mediation, SCR148.....Ch.433 - 1203
Secretary of State.....Ch.104 - 209
Self-governing Agencies.....Ch.292 - 811
Sheep Comm.....Ch.382 - 1058
St. Anthony Work Camp Program.....Ch. 52 - 124
Superintendent of Public Instruction.....Ch.262 - 744
Supreme Court.....Ch.224 - 598
Supreme Court, additional, FY90.....Ch. 53 - 124
Tax Appeals Bd.....Ch.264 - 746
Tax Comm.....Ch.264 - 746
Tax Comm Administrative Account.....Ch.257 - 736
Tax Comm, additional, FY90, County Support Program.....Ch. 59 - 135
Tax Comm, Audit and Collections Program.....Ch.264 - 746
Traffic Safety Comm Account.....Ch.286 - 804
Transportation Dept.....Ch.286 - 804
Treasurer, State.....Ch.100 - 207
Uniform State Laws Comm.....Ch.104 - 209
UofI.....Ch. 86 - 176
UofI, Agriculture Research Extension Service.....Ch.436 - 1205
UofI, Agriculture Research Extension Service.....Ch.265 - 748
UofI, WOI Veterinary Medicine Program.....Ch.416 - 1153
Veterinary Medicine, Bd.....Ch.292 - 811
Vocational Education.....Ch.279 - 783
Vocational Rehabilitation.....Ch.278 - 782
Water Pollution Control Account.....Ch.112 - 235
Water Resources, Dept.....Ch.193 - 434
Water Resources, Dept, Snake Basin Adjudications .....Ch.193 - 434
Water Resources, Dept, study, Lost River Basin.....Ch.427 - 1184
Water Rights Technical Studies Program, A G.....Ch.186 - 414
Water, out-of-state use, applications.....Ch.141 - 316
Women's Programs, Comm.....Ch.228 - 605
ARBITRATION
See COLLECTIVE BARGAINING
ARMED FORCES
Military Division, approp, Emmett Armory.....Ch.337 - 917
Military Division, approp, maintenance projects.....Ch.337 - 917

ARMORIES Chapter - Page
Emmett, approp, Military Division.....Ch.337 - 917
ARTS
Comm, approp.....Ch.104 - 209
Migratory waterfowl stamp, comm.....Ch.388 - 1067
ASSEMBLIES
Legislative Account, approp, Meeting.....Ch.349 - 938
ASSESSMENTS
See TAX AND TAXATION
ATHLETICS
Special Olympics, sales tax exempt.....Ch.134 - 307
State, Director, approp.....Ch.292 - 811
State, Director, approp, FY90.....Ch.180 - 384
ATTORNEY GENERAL
Approp.....Ch.186 - 414
Approp, additional, FY90.....Ch. 80 - 163
Approp, additional, FY90, Special Litigation Prog.....Ch. 80 - 163
Consumer Protection Act, proceedings, clarified.....Ch.273 - 766
Water Rights Technical Studies Program, approp.....Ch.186 - 414
Water rights, Snake River Basin, quantification.....Ch.259 - 740
ATTORNEYS
Fees, wage claims, recovery, clarified.....Ch.226 - 603
AUDITOR
Legislative, approp.....Ch.339 - 922
State, approp.....Ch.404 - 1130
State, approp, SAFIRS Account.....Ch.404 - 1130
State, approp, supplemental, FY90.....Ch. 83 - 172
AUTOMOBILES
See MOTOR VEHICLES
BAIL
Cash, failure to appear, written notice.....Ch. 72 - 156
Forfeiture, after written notice.....Ch. 73 - 156
BALLOTS
Soil Conservation Dist, ballots, county clerk.....Ch. 3 - 4
BANKS AND BANKING
Directors, personal liability, limit, exceptions.....Ch.242 - 694
Loans, executive, officers, amount increase.....Ch. 93 - 193
Security interest, purchase money, priorities.....Ch.154 - 339
BARBERS
Apprentice license, TB test, requirement removed.....Ch.163 - 355
BARLEY
See AGRICULTURE
BEER
See also LIQUOR
Juvenile, possession, school property, penalty.....Ch.344 - 929
Keg, sales, "keg" redefined.....Ch.428 - 1184
BEES
Colonies/transit, beekeepers, assessment, increased....Ch.414 - 1148
BIRDS
Artificially propagated, healed clip/leg band.....Ch.281 - 787

BIRDS (Continued) Chapter - Page
Captive, unauthorized release, penalties.....Ch. 38 - 58
Innocent, take prohibition.....Ch. 2 - 3
Migratory waterfowl stamp, art comm.....Ch.388 - 1067
BLIND
Comm, approp.....Ch.173 - 371
Comm, approp, additional, FY90.....Ch. 47 - 119
Comm, compensation, increased.....Ch. 33 - 48
Comm, quarterly meetings.....Ch. 1 - 3
Deaf & Blind School, approp.....Ch.341 - 926
Deaf & Blind School, approp, additional, FY90.....Ch. 46 - 118
Deaf & Blind School, name change.....Ch.237 - 674
Persons, fishing permit, renewal, 5 years.....Ch. 7 - 13
Persons, newly diagnosed, recorded on register.....Ch.177 - 376
BOARD OF EXAMINERS
Approp, supplemental, FY90.....Ch. 83 - 172
BOARDS
See INDIVIDUAL NAMES
BOATS
Accidents, immediate notification, required.....Ch. 75 - 158
County Vessel Fund, moneys, expenditure, revised.....Ch.220 - 586
BOISE STATE UNIVERSITY
See COLLEGES AND UNIVERSITIES
BONDS
Cigarette wholesalers, requirement, release.....Ch. 41 - 63
Irrigation Dist, confirmation proceeding, repeal.....Ch. 11 - 21
Livestock dealers, requirements.....Ch.182 - 395
Manufactured home dealers, requirements.....Ch.152 - 336
Warehouses, regulations, revised.....Ch.183 - 399
BRANDS
Inspections, approp.....Ch.261 - 741
BRIDGES
Repair, Highway Distribution Account, approp.....Ch.229 - 606
BROADCASTING
See PUBLIC BROADCASTING
BUDGETS
County, grants, donations, receipt of permitted.....Ch. 24 - 36
Governor's, Address.....HCR33(A) - 1222
Legislative, Office, approp, remodeling.....Ch.339 - 922
Reserve Account, approp, interest earnings.....Ch.206 - 463
BUILDINGS
Conservation standards, energy conservation.....Ch.324 - 884
Uniform, Code, proper citations.....Ch.155 - 341
BUSINESS
Capital assets transfer, "occasional sale", defined....Ch.135 - 308
Security interest, purchase money, priorities.....Ch.154 - 339
Trade Secrets Act, application of law.....Ch.274 - 774
CAMPAIGNS
Political activity, Transportation Dept, employees.....Ch.356 - 964
Political, treasurer, contributions, reporting.....Ch. 62 - 137
CANDIDATES
Political activity, Transportation Dept, employees.....Ch.356 - 964

CARE FACILITIES Chapter - Page
See HOSPITALS, NURSING HOMES
CATTLE
See LIVESTOCK
CENTENNIAL
Comm, approp.....Ch.146 - 328
Flag use, parades.....HJM16(A) - 1240
Idaho Heritage Trust, established.....Ch.129 - 299
Idaho Year of Literacy, 1990.....HCR41(A) - 1227
License plates, use after 12/31/90.....Ch.385 - 1062
State Historical Society, approp, Idaho's history.....Ch.232 - 665
CHEMISTS AND CHEMISTRY
Testimony, adulterated oil.....Ch.379 - 1053
CHILD CARE
See DAY CARE
CHILDREN
Abuse, prevention programs, Trust Account Bd.....Ch.208 - 464
Abuse, ritual settings, felony.....Ch.210 - 467
Adoption, illegitimate, reference deleted.....Ch. 26 - 40
Adoption, illegitimate, reference deleted.....Ch. 27 - 41
Adoption, notice, publication, where.....Ch. 58 - 134
Adult & ADC Assistance Payments, approp.....Ch.389 - 1078
Child Care Licensing Reform Act, HB729, clarified.....Ch.214 - 564
Child Care Licensing Reform Act, 1990, clarified.....Ch.215 - 567
Child support, child's education, until 19.....Ch.410 - 1137
Child support, debt, public assistance recovery.....Ch. 91 - 191
Child support, delinquent, lottery prize, intercept.....Ch.153 - 338
Child support, orders, H&W, Dept, modifications.....Ch.327 - 898
Child support, orders, wage withholding.....Ch. 92 - 192
Child support, payment, H&W, Dept.....Ch. 90 - 188
Child support, wage withholding, mandatory, when.....Ch.361 - 973
Court records, exchange, attorneys & courts.....Ch.245 - 696
Damages by minor, wilfully caused, recovery.....Ch. 81 - 163
Day care center, immunization record, required.....Ch.150 - 333
Day care center, license revocation, reason.....Ch.271 - 765
Drug paraphernalia, delivery to minor, penalty.....Ch.311 - 851
Homeless, transfer pupils, school tuition, SB1423.....Ch.272 - 766
Juvenile detention facilities, approp.....Ch.217 - 583
Juvenile Justice Reform Act, duty nonperformance.....Ch.289 - 809
Parental rights, termination, signed out-of-state.....Ch. 25 - 38
Trust Account Bd, annual report to Governor.....Ch.208 - 464
Trust Account Bd, part-time administrator.....Ch.208 - 464
Trust Account Bd, personnel compensation, provided.....Ch.208 - 464
Weapons, sale to minors, parental consent.....Ch.256 - 732
Witness, to ritualized abuse, testimony, procedure.....Ch.210 - 467
Worker's compensation, youth employment programs.....Ch.301 - 830
Youth Rehabilitation Act, provisions, extended.....Ch.355 - 958
Youth Services Center, approp.....Ch.389 - 1078
Youth Services Center, Health & Welfare, Bd, role.....Ch.367 - 1004
CHURCHES
Sales, incidental, property, sales tax exempt.....Ch.434 - 1203
CIGARETTES
Contraband, penalty, clarified.....Ch. 17 - 28

CIGARETTES (Continued) Chapter - Page
Tax, tobacco, returns, due date, changed.....Ch. 17 - 28
Wholesalers, bond requirement, release.....Ch. 41 - 63
CITIES
Financial reports, publication, time limits.....Ch. 88 - 183
Fines, penalty increased, certain offenses.....Ch.201 - 452
Hazardous waste cleanup cost, recovery.....Ch.191 - 422
Health Care Facilities, may acquire.....Ch.409 - 1136
Highway Dist, abandonment, assuming control/highway....Ch. 60 - 136
Joint city/county sites and buildings.....Ch.123 - 293
Police retirement fund, actuarial study, 4 years.....Ch.128 - 298
POST, ex officio nonvoting members, exec directors.....Ch.308 - 848
Urban renewal, revenue allocation financing.....Ch.430 - 1186
CIVIL ACTIONS
Attachment, motor vehicle exemption, increased.....Ch.275 - 776
Corporations, nonprofit, liability, limitation.....Ch.105 - 211
Double recoveries/collateral sources, prohibited.....Ch.131 - 304
Filing fees, increase.....Ch.246 - 699
Joint tortfeasor, "acting in concert".....Ch.120 - 290
Noneconomic damages, repealer eliminated.....Ch.121 - 291
COLLECTION AGENCIES
Debt counselors, licensure.....Ch.346 - 930
COLLECTIVE BARGAINING
Arbitration Act, reference corrected.....Ch. 65 - 144
Pure Seed Law, plant buyer claims.....Ch.412 - 1141
COLLEGE OF SOUTHERN IDAHO
See COLLEGES AND UNIVERSITIES
COLLEGES AND UNIVERSITIES
Approp.....Ch. 86 - 176
BSU, approp.....Ch. 86 - 176
BSU, approp, Administration Bldg, remodel.....Ch.337 - 917
BSU, approp, Campus school, remodel.....Ch.337 - 917
BSU, approp, Library/Social Science renovation.....Ch.337 - 917
Community colleges, approp.....Ch. 84 - 173
Community colleges, services, leg study comm.....HCR52(A) - 1233
Community colleges, student, county/residence.....Ch.113 - 235
CSI, approp, Development Center.....Ch.337 - 917
Education, Bd, approp, Idaho Geological Survey.....Ch.417 - 1155
Education, Bd, approp, Museum of Natural History.....Ch.417 - 1155
Education, Bd, approp, PBS Federal Grant.....Ch.422 - 1172
Education, Bd, approp, scholarships and grants.....Ch.417 - 1155
Education, Bd, approp, small business development.....Ch.417 - 1155
Education, Bd, approp, small business development.....Ch.417 - 1155
Education, Bd, approp, WAMI Program.....Ch.416 - 1153
Education, Bd, approp, WICHE Program.....Ch.416 - 1153
Education, Bd, approp, WOI Program.....Ch.416 - 1153
ISU-UofI Center, Idaho Falls, approp.....Ch.337 - 917
ISU, approp.....Ch. 86 - 176
ISU, approp, Baldwin Hall, renovation.....Ch.337 - 917
ISU, approp, Museum of Natural History, renovation.....Ch.337 - 917
LCSC, approp.....Ch. 86 - 176
LCSC, approp, old library remodel.....Ch.337 - 917

COLLEGES AND UNIVERSITIES (Continued) Chapter - Page
LCSC, approp, Sam Glenn Center.....Ch.337 - 917
Nonresident, nonprofit, college, sales tax exempt.....Ch. 64 - 143
Public broadcasting, approp.....Ch.422 - 1172
Retirement plan, optional, new faculty.....Ch.251 - 720
Scholarship, grants, amount, annual basis.....Ch.403 - 1128
Tuition, community college, increase, maximum.....Ch. 54 - 125
UofI, approp.....Ch. 86 - 176
UofI, approp, Ag Research Extension Service.....Ch.436 - 1205
UofI, approp, Ag Research Extension Service.....Ch.265 - 748
UofI, approp, Forest Utilization Research.....Ch.417 - 1155
UofI, seed & plant certification, ag college.....Ch.413 - 1144
Work study program, additional requirements.....Ch. 95 - 198
COMMERCE
Dept, approp.....Ch.398 - 1116
COMMERCIAL TRANSACTIONS
Financing statements, filed, legal description.....Ch.421 - 1166
Secured transactions, filing fees.....Ch.205 - 457
COMMISSIONS
See INDIVIDUAL NAMES
COMMODITY DEALERS
Practices, procedures, revised.....Ch.184 - 407
COMMUNICATIONS
911 service areas, less than county-wide extent.....Ch.200 - 449
911, telephone misuse, penalties.....Ch.133 - 306
COMPACTS
Wildlife Violator, adoption, authorized.....Ch.364 - 988
CONFLICTS OF INTEREST
Public officials, ethics in government.....Ch.329 - 903
Public officials, self-interested contracts.....Ch.328 - 899
CONSERVATION
Building, standards, energy conservation.....Ch.324 - 884
Resource, Rangeland Loan Account, accrual basis.....Ch.114 - 238
Soil, Dist, election ballots, county clerk.....Ch. 3 - 4
Soil, Dist, funding limit, deleted.....Ch.358 - 967
CONSTITUTIONAL AMENDMENTS
Article VII, Section 4, proposed.....HJR14(A) - 1214
CONSTRUCTION
Building conservation standards, conserve energy.....Ch.324 - 884
Contractor, payment, subcontractors.....Ch.415 - 1151
School dist, plan, Labor & Industrial Services.....Ch.167 - 363
CONSUMERS
Protection, Attorney General, proceedings.....Ch.273 - 766
CONTRACTORS
Subcontractor payment.....Ch.415 - 1151
CONTRACTS
Construction, contractors pay subcontractors.....Ch.415 - 1151
PUC, rates, other state, conditions.....Ch. 79 - 161
Self-interested, public officials, prohibited.....Ch.328 - 899
CONTROLLED SUBSTANCES ACT
Drug paraphernalia, delivery to minor, penalty.....Ch.311 - 851

CONTROLLED SUBSTANCES ACT (Continued) Chapter - Page
Drug trafficking, fixed minimum sentence.....Ch.268 - 755
LSD, forfeiture immunity, deleted.....Ch.312 - 852
CORPORATIONS
Capital assets transfer, "occasional sale", defined....Ch.135 - 308
Nonprofit, liability, limitation.....Ch.105 - 211
Nonprofit, volunteers, liability limitation.....Ch.105 - 211
Religious, incidental sales, sales tax exempt.....Ch.434 - 1203
CORRECTIONAL INSTITUTIONS
Approp.....Ch.202 - 453
Prison crime, consecutive sentences.....Ch.238 - 676
Women offenders, incarceration, proper facilities.....Ch. 96 - 201
Women offenders, incarceration, proper facilities.....Ch. 97 - 202
CORRECTIONS
Bd, women offenders, incarceration, proper facility....Ch. 96 - 201
Bd, women offenders, incarceration, proper facility....Ch. 97 - 202
Dept, agricultural employee, overtime.....Ch.368 - 1005
Dept, approp.....Ch.202 - 453
Dept, approp, additional, FY90.....Ch. 50 - 122
Dept, approp, maintenance projects.....Ch.337 - 917
Dept, approp, St. Anthony Work Camp.....Ch. 52 - 124
Dept, approp, St. Anthony Work Camp.....Ch.337 - 917
Dept, approp, supplemental, FY90.....Ch. 85 - 174
Dept, approp, Women's Prison, Planning/Design.....Ch.337 - 917
COSMETOLOGY
Cosmetologists, registration, licensure.....Ch. 98 - 202
COTTAGE SITES
Leases, state lands, conflict application.....Ch.187 - 416
COUNSELORS
Debt, licensure.....Ch.346 - 930
COUNTIES
Budget, grants, donations, receipt of permitted.....Ch. 24 - 36
Clerk, Soil Conservation Dist, election ballots.....Ch. 3 - 4
Commissioners, ad valorem taxes, penalty/interest.....Ch. 19 - 31
Commissioners, proceedings, newspaper notice.....Ch.347 - 937
Hazardous waste cleanup cost, recovery.....Ch.191 - 422
Highway Dist, abandonment, assuming control/highway....Ch. 60 - 136
Joint city, county sites and buildings.....Ch.123 - 293
Justice Fund, established.....Ch.216 - 579
Justice Fund, surcharge fee.....Ch.216 - 579
Land purchase, outside, limits.....Ch.123 - 293
Museum Bds, created.....Ch.393 - 1101
Officers, personal indebtedness, disclosure.....Ch.196 - 439
POST, ex-officio nonvoting members, exec directors.....Ch.308 - 848
Solid Waste Disposal Dists, created.....Ch.390 - 1085
Support Program, approp, add'l, FY90, Tax Comm.....Ch. 59 - 135
Treasurer, property tax lien, excess, refund.....Ch. 23 - 35
Treasuries, electronic fund transfer.....Ch. 76 - 159
Urban renewal, revenue allocation financing.....Ch.430 - 1186
Vessel Fund, moneys, expenditure, revised.....Ch.220 - 586
COUPONS
Manufacturer's discount, rebates, use, clarified.....Ch.352 - 944

COURTS Chapter - Page
Bail, cash, failure to appear, written notice.....Ch. 72 - 156
Bail, forfeiture, after written notice.....Ch. 73 - 156
Civil action, filing fees, increase.....Ch.246 - 699
Civil action, noneconomic damages, delete repealer.....Ch.121 - 291
Conservators, annual account.....Ch.290 - 810
County Justice Fund, surcharge fee.....Ch.216 - 579
Domestic violence, protection orders, uniformity.....Ch.293 - 813
Foreign money judgments, recognition.....Ch.408 - 1134
Justices, Judges salaries, annual, increased.....Ch. 39 - 59
Magistrates, discipline, Judicial Council.....Ch. 71 - 152
Magistrates, nonattorney, salaries, annual, increased..Ch. 39 - 59
Parental rights, termination, signed out-of-state.....Ch. 25 - 38
Prison crime, consecutive sentences.....Ch.238 - 676
Supreme, approp.....Ch.224 - 598
Supreme, approp, additional, FY90.....Ch. 53 - 124
Youth Rehabilitation Act, "court", further defined.....Ch.245 - 696
Youth Rehabilitation Act, provisions, extended.....Ch.355 - 958
Youth Rehabilitation Act, records, exchanged.....Ch.245 - 696
CREDIT
Debt counselors, licensure.....Ch.346 - 930
CRIME
See CRIMINAL OFFENSES & PROCEDURES
CRIMINAL OFFENSES & PROCEDURES
AIDS testing, code citation corrected.....Ch.310 - 850
Bail, cash, failure to appear, written notice.....Ch. 72 - 156
Bail, forfeiture, after written notice.....Ch. 73 - 156
Cannibalism, defined, punishment.....Ch.210 - 467
Child abuse, ritual settings, felony.....Ch.210 - 467
Child witness, ritualized abuse, testimony.....Ch.210 - 467
Crime victim, award prohibition, same household.....Ch. 15 - 25
Crime victim, out-of-state, benefits, extended.....Ch. 16 - 26
Damages by minor, wilfully caused, recovery.....Ch. 81 - 163
Drug paraphernalia, delivery to minor, penalty.....Ch.311 - 851
Drug trafficking, fixed minimum sentence.....Ch.268 - 755
Drugs, illegal, seized, destruction/storage.....Ch.239 - 676
Evidence, destruction/alteration, felony penalty.....Ch.309 - 849
Fugitive from justice, definition expanded.....Ch.314 - 858
Juvenile Justice Reform Act, duty nonperformance.....Ch.289 - 809
Livestock, mutilation/destruction/theft, felony.....Ch.126 - 297
LSD, forfeiture immunity, deleted.....Ch.312 - 852
Medicine practice without license, felony.....Ch.301 - 830
Murders, unsolved, reports, Law Enforcement, Dept.....Ch. 66 - 145
Prison crime, consecutive sentences.....Ch.238 - 676
Prisoners, probation, crime of escape.....Ch.313 - 858
Rape, male.....Ch.291 - 811
Wildlife, closed season, possession, penalties.....Ch. 5 - 9
Witnesses, airline ticket provided.....Ch.386 - 1063
Witnesses, mileage limitation/eliminate, subpoenas.....Ch.386 - 1063
Women offenders, incarceration, proper facilities.....Ch. 96 - 201
Women offenders, incarceration, proper facilities.....Ch. 97 - 202
CRIMINALS
See CRIMINAL OFFENSES & PROCEDURES

CROPS Chapter - Page
See AGRICULTURE
DAIRY PRODUCTS
See AGRICULTURE, MILK & MILK PRODUCTS
DAMS
Irrigation Dist, bonds, confirmation proceeding.....Ch. 11 - 21
DAY CARE
Center, child's immunization record, required.....Ch.150 - 333
Center, license revocation, conditions.....Ch.271 - 765
Child Care Licensing Reform Act, HB729, clarified.....Ch.214 - 564
Child Care Licensing Reform Act, 1990, clarified.....Ch.215 - 567
DEAF
Deaf & Blind School, approp.....Ch.341 - 926
Deaf & Blind School, approp, additional, FY90.....Ch. 46 - 118
Deaf & Blind School, name change.....Ch.237 - 674
DEBTS
Counselors, licensure.....Ch.346 - 930
County officers, personal indebtedness, disclosure.....Ch.196 - 439
Recreation Dist, amount incurred, increased.....Ch.394 - 1105
DEEDS
Trust, nonjudicial foreclosures, process, clarified....Ch.401 - 1122
DEER
See WILDLIFE
DENTISTS AND DENTISTRY
Bd, approp.....Ch.292 - 811
Bd, approp, FY90.....Ch.180 - 384
Bd, dental hygienists, members, increased.....Ch.425 - 1174
Education programs, approp, Education, Bd.....Ch.416 - 1153
DEPOSITORIES
Public, Law, county officers, personal indebtedness....Ch.196 - 439
DIESEL FUEL
See FUELS
DISABLED
Association for Retarded Citizens/U.S., sales tax.....Ch. 74 - 157
Community Developmental Disability, approp.....Ch.389 - 1078
Drivers, motor fuel, attendant help, sales price.....Ch.297 - 818
Handicapped parking, cards/license plates.....Ch.159 - 346
Insurance, no discrimination, state institutions.....Ch.300 - 827
Personal Care Services, Medicaid Program.....Ch.326 - 888
Residential Care Facility administrator, licensing.....Ch.304 - 833
State School and Hospital, approp.....Ch.389 - 1078
DISASTERS
Services, Military Division, approp.....Ch.174 - 372
DISCRIMINATION
Insurance, disability, residents/state institutions....Ch.300 - 827
DISEASES
Occupational, AIDS, workers compensation.....Ch.188 - 417
Renal, Program, approp.....Ch.278 - 782
Venereal, reporting methods, clarified.....Ch.143 - 322
DISTRICT COURT
See COURTS

DISTRICTS Chapter - Page
See also SCHOOL DISTRICTS
Health, state aid, minimum amount.....Ch. 32 - 47
Health, state liability, limits.....Ch. 32 - 47
Herd, formation requirements.....Ch.222 - 589
Highway, abandonment/assuming control of highway.....Ch. 60 - 136
Highway, commissioners, compensation, modify.....Ch.296 - 818
Hospital, operate nursing homes.....Ch.354 - 956
Irrigation, annexation of nonadjacent land.....Ch.340 - 923
Irrigation, residential landowner, petition out.....Ch.181 - 386
Levee, creation, authorized.....Ch.396 - 1108
Library, consolidation, allowed.....Ch.378 - 1046
Public Health, approp.....Ch. 99 - 206
Public Health, approp, additional, FY90.....Ch.109 - 220
Recreation, debt, amount incurred, increased.....Ch.394 - 1105
Soil Conservation, election ballots, county clerk.....Ch. 3 - 4
Soil Conservation, funding limit, deleted.....Ch.358 - 967
Solid Waste Disposal, regional, created.....Ch.390 - 1085
DIVORCE
See DOMESTIC RELATIONS
DOCTORS
See PHYSICIANS AND SURGEONS
DOMESTIC RELATIONS
Child support, child's education, until 19 years.....Ch.410 - 1137
Child support, debt, public assistance recovery.....Ch. 91 - 191
Child support, delinquent, lottery prize, intercept....Ch.153 - 338
Child support, orders, H&W, Dept, modifications.....Ch.327 - 898
Child support, payment to Health & Welfare, Dept.....Ch. 90 - 188
Child support, wage withholding.....Ch. 92 - 192
Child support, wage withholding, mandatory, when.....Ch.361 - 973
Divorce decree, fault removed, alimony, when.....Ch.336 - 916
Divorce, filing fee, additional, Domestic Violence.....Ch.244 - 696
Marriage license, fee, no Domestic Violence Project....Ch.243 - 695
DOMESTIC VIOLENCE
H&W, Dept, approp.....Ch.389 - 1078
Project Account, divorce, filing fee, additional.....Ch.244 - 696
Project Account, eligible projects.....Ch.243 - 695
Protection orders, county uniformity.....Ch.293 - 813
Victims, protections, expanded.....Ch.234 - 667
DONATIONS
County budget, receipt of permitted.....Ch. 24 - 36
DRIVERS
See also MOTOR VEHICLES
Disqualified, MV, reinstatement, fee.....Ch.432 - 1198
Handicapped parking, cards/license plates.....Ch.159 - 346
Handicapped, motor fuel, attendant help, sales price...Ch.297 - 818
Insurance, motor vehicle, optional suspension.....Ch. 57 - 133
License, commercial, class A, B, C.....Ch. 45 - 71
License, plate, MV, fee, increased, use.....Ch.233 - 666
License, suspension, juvenile, alcohol violation.....Ch.280 - 785
License, suspension, knowledge, criteria.....Ch.432 - 1198
DRUG USERS
See DRUGS

DRUGS Chapter - Page
Controlled substance, schedule V/federal conformance...Ch. 29 - 44
Illegal, seized, destruction or storage, allowed.....Ch.239 - 676
Illegal, stamps, requirements, clarified.....Ch.179 - 378
LSD, forfeiture immunity, deleted.....Ch.312 - 852
Paraphernalia, delivery to minor, penalties.....Ch.311 - 851
Pharmacy, Bd, regulate, dispensing/institutions.....Ch.144 - 324
Prescriptions, sales tax exempt.....Ch. 42 - 65
Substance Abuse Services, approp.....Ch.389 - 1078
Trafficking, fixed minimum sentence.....Ch.268 - 755
Trafficking, on/near schools, penalty.....Ch.268 - 755
EARTHQUAKE
Project, recommendations.....HJM18(A) - 1242
ECONOMIC AND COMMUNITY AFFAIRS
H&W, Dept, approp, Economic Opportunity Office.....Ch.389 - 1078
ECONOMIC DEVELOPMENT
Urban renewal, revenue allocation financing.....Ch.430 - 1186
EDUCATION
See also COLLEGES AND UNIVERSITIES, VOCATIONAL EDUCATION
Bd, approp.....Ch. 86 - 176
Bd, approp, BSU.....Ch. 86 - 176
Bd, approp, BSU, Administration Building, remodel.....Ch.337 - 917
Bd, approp, BSU, Campus school, remodel.....Ch.337 - 917
Bd, approp, BSU, Library/Social Science remodel.....Ch.337 - 917
Bd, approp, community colleges.....Ch. 84 - 173
Bd, approp, CSI, Development Center.....Ch.337 - 917
Bd, approp, Deaf & Blind School.....Ch.341 - 926
Bd, approp, Deaf & Blind School, additional, FY90.....Ch. 46 - 118
Bd, approp, Dental Education Program.....Ch.416 - 1153
Bd, approp, Displaced Homemaker Program.....Ch.279 - 783
Bd, approp, Geological Survey.....Ch.417 - 1155
Bd, approp, Historical Society.....Ch.343 - 928
Bd, approp, ISU.....Ch. 86 - 176
Bd, approp, ISU-UofI Center, Idaho Falls.....Ch.337 - 917
Bd, approp, ISU, Baldwin Hall renovation.....Ch.337 - 917
Bd, approp, ISU, Museum of Natural History.....Ch.337 - 917
Bd, approp, LCSC.....Ch. 86 - 176
Bd, approp, LCSC, old library remodel.....Ch.337 - 917
Bd, approp, LCSC, Sam Glenn Center completion.....Ch.337 - 917
Bd, approp, Library, Bd, State.....Ch.277 - 780
Bd, approp, maintenance projects.....Ch.337 - 917
Bd, approp, Museum of Natural History.....Ch.417 - 1155
Bd, approp, Office, administration.....Ch.419 - 1157
Bd, approp, Office, administration.....Ch. 86 - 176
Bd, approp, PBS Federal Grant.....Ch.422 - 1172
Bd, approp, public broadcasting.....Ch.422 - 1172
Bd, approp, public schools.....Ch.136 - 310
Bd, approp, scholarships and grants.....Ch.417 - 1155
Bd, approp, small business development centers.....Ch.417 - 1155
Bd, approp, UofI.....Ch. 86 - 176
Bd, approp, UofI, Agriculture Research Extension.....Ch.436 - 1205
Bd, approp, UofI, Agriculture Research Extension.....Ch.265 - 748
Bd, approp, UofI, Bd of Regents, higher education.....Ch. 86 - 176

EDUCATION (Continued) Chapter - Page
Bd, approp, UofI, Forest Utilization Research.....Ch.417 - 1155
Bd, approp, Vocational Education.....Ch.279 - 783
Bd, approp, Vocational Rehabilitation.....Ch.278 - 782
Bd, approp, WAMI Medical Education Program.....Ch.416 - 1153
Bd, approp, WICHE University of Utah.....Ch.416 - 1153
Bd, approp, WOI Veterinary Medicine Program.....Ch.416 - 1153
Child support, child's education, until 19 years.....Ch.410 - 1137
Colleges, community, services, leg study comm.....HCR52(A) - 1233
Colleges, community, students, county/residence.....Ch.113 - 235
Colleges, community, tuition, increase, maximum.....Ch. 54 - 125
Colleges, nonresident/nonprofit, sales tax exempt.....Ch. 64 - 143
Colleges, work study program, requirements.....Ch. 95 - 198
Deaf & Blind school, name change.....Ch.237 - 674
Dept, approp.....Ch.262 - 744
Dept, approp, Christa McAuliffe Fellowship Program.....Ch. 70 - 152
Education Mentor Program, approp.....Ch.136 - 310
Employee personnel files, required.....Ch.418 - 1156
Equine, Account, horse racing receipts.....Ch.399 - 1116
Extra-curricular activities, privilege/not a right.....Ch.402 - 1127
High school summer alternative school.....Ch.204 - 457
Homeless children, transfer pupils, tuition, SB1423....Ch.272 - 766
Juvenile, alcohol possession, school property.....Ch.344 - 929
Lottery moneys, approp, Public School Income Fund.....Ch.384 - 1062
Nursing, loan forgiveness program.....Ch. 28 - 42
Open enrollment, provided.....Ch. 43 - 67
Public School Income Fund, approp.....Ch.136 - 310
Public School Income Fund, lottery moneys.....Ch.377 - 1041
Public schools, approp.....Ch.136 - 310
Public schools, approp, ongoing improvements.....Ch.136 - 310
Public schools, approp, retirement/FICA/unemployment...Ch.136 - 310
Public schools, approp, salary improvement.....Ch.136 - 310
Retirement plan, optional, higher ed/new staff.....Ch.251 - 720
Scholarship, grants, amount, annual basis.....Ch.403 - 1128
School accountability report cards, issuance.....Ch.149 - 332
School dist, construction plan, review.....Ch.167 - 363
School dist, rezoning proposal, time, extended.....Ch. 31 - 46
School dist, treasurer/assistant, activity funds.....Ch.198 - 443
School dist, trustee, one nomination, no election.....Ch.332 - 910
School dist, trustee, recall elections, procedure.....Ch. 94 - 194
School retiree, medical insurance benefits, spouse.....Ch.407 - 1133
Science, Programs, matching grant program.....Ch.277 - 780
Student teachers, liability insurance coverage.....Ch. 35 - 53
Student, work experience, worker's compensation.....Ch.335 - 912
Superintendent of Public Instruction, approp.....Ch.262 - 744
ELDERLY
See SENIOR CITIZENS
ELECTIONS
Political contributions, treasurer, reporting.....Ch. 62 - 137
School dist, trustee, one nomination, no election.....Ch.332 - 910
School dist, trustee, recall, procedures.....Ch. 94 - 194
ELECTROLOGY
Electrologists, registration, licensure.....Ch. 98 - 202

ELECTRONICS Chapter - Page
County treasuries, fund transfer.....Ch. 76 - 159
ELK
See WILDLIFE
EMPLOYEES AND EMPLOYMENT
AFDC applicants, work training programs, required.....Ch. 49 - 120
Agriculture, Correction, Dept, overtime.....Ch.368 - 1005
Child support, wage withholding, mandatory, when.....Ch.361 - 973
College work study program, additional requirements....Ch. 95 - 198
Firemen, retirement benefits, 7/1/78 thru 10/1/80.....Ch.211 - 471
Higher education, new staff, retirement plan, opt.....Ch.251 - 720
Overtime pay, clarified, HB596.....Ch.212 - 479
PERS Law, recodify.....Ch.231 - 611
PERS, approp.....Ch.429 - 1185
PERS, conditions, clarified.....Ch.249 - 702
PERS, employee, redefined.....Ch.130 - 300
PERS, legislative service credit.....Ch.258 - 738
PERS, legislative study comm.....HCR51(A) - 1232
Personnel matters comm, legislative chairman.....Ch.160 - 349
Public, individual retiree medical insurance.....Ch.248 - 701
PUC, commissioners, salary, increase.....Ch.115 - 239
School dist, personnel files, required.....Ch.418 - 1156
State, Martin Luther King, Jr.-ID Human Rights Day.....Ch.371 - 1019
State, per diem, increased.....Ch.162 - 354
State, retired, health insurance, conditions.....Ch.117 - 263
State, salaries, 4.5% payline adjustment.....SCR142(A) - 1219
State, shift differential pay.....Ch.161 - 350
Transportation Dept, political activity, limit.....Ch.356 - 964
Unemployment benefit, overpay, statute/limitation.....Ch.353 - 946
Wage claims, attorney fees, recovery, clarified.....Ch.226 - 603
Wage, minimum, schedule, tip credit, overtime pay.....Ch.132 - 305
Worker's compensation, AIDS, exposure to blood.....Ch.188 - 417
Worker's compensation, employer, failure to secure.....Ch.322 - 880
Worker's compensation, premium tax, reference.....Ch.253 - 725
Worker's compensation, self-employed, income tax.....Ch.223 - 593
Worker's compensation, student/work experience.....Ch.335 - 912
Worker's compensation, wage/travel reimbursements.....Ch.110 - 221
Worker's compensation, youth employment programs.....Ch.301 - 830
EMPLOYMENT SECURITY LAW
Unemployment benefit, overpay, statute/limitation.....Ch.353 - 946
ENDOWMENT FUND
Investment Bd, approp.....Ch.101 - 208
Investment Bd, investment authority expanded.....Ch.203 - 455
ENERGY
Building conservation standards, conservation.....Ch.324 - 884
ENGINEERS
Examiners, Bd, approp.....Ch.292 - 811
Examiners, Bd, approp, FY90.....Ch.180 - 384
Fees, registration, licensing, clarified.....Ch.192 - 424
ENVIRONMENT
Division, approp, H&W, Dept.....Ch.389 - 1078
Ground Water Monitoring Plan, provided.....Ch.151 - 334
Hazardous waste cleanup cost, recovery.....Ch.191 - 422

ENVIRONMENT (Continued) Chapter - Page
Henry's Fork, interim protected status, extended.....Ch.333 - 911
Lake protection, navigational encroachment.....Ch.362 - 979
Petroleum Clean Water Trust Fund, created.....Ch.119 - 266
Polystyrene foam containers, recycling study.....HCR37(A) - 1226
Protection & Health Act, "person" redefined.....Ch.357 - 965
Roadless lands mediation, approp, SCR148.....Ch.433 - 1203
Roadless lands mediator, Idaho National Forests.....SCR148(A) - 1220
Safe Drinking Water Act, state implementation.....SCR132(A) - 1216
Smoke management, burning permit, fee.....Ch.397 - 1115
Solid Waste Disposal Dists, created.....Ch.390 - 1085
Solid Waste Reduction Program, established.....HCR36(A) - 1225
Subsurface sewage systems, H&W, Bd, rules rejected...HCR53(A) - 1234
EQUIPMENT
Agriculture, dealers/suppliers, agreements.....Ch.267 - 750
Dispensing, sales tax, exempt.....Ch.435 - 1204
ESTATES
Conservators, annual account, court.....Ch.290 - 810
Tax, overpayment, interest paid.....Ch. 20 - 32
ETHICS
Conflict of interest, public officials.....Ch.329 - 903
EVIDENCE
Destruction, alteration, felony penalty.....Ch.309 - 849
EXECUTIVE ORDERS
89-1 thru 89-5.....1249-1259
90-1 thru 90-4.....1260-1265
FARMING
See AGRICULTURE
FARMS
See AGRICULTURE
FEDERAL FUNDS
See FUNDS
FEES
Aircraft, private, registration, gross weight.....Ch.321 - 877
Attorney, wage claims, recovery, clarified.....Ch.226 - 603
Civil case filing, increase.....Ch.246 - 699
Depredation hunts, game tags.....Ch. 6 - 11
Emergency medical service, MV registration, increase...Ch.139 - 315
Engineers, surveyors, registration, requirements.....Ch.192 - 424
Farm produce dealer, license, increased.....Ch.171 - 369
Fishing, hunting licenses, increased.....Ch.372 - 1023
Milk hauler, tester, butter grader, license.....Ch.411 - 1139
Motor carriers, code citation correction.....Ch. 13 - 23
Motor vehicle license plate, increased, use.....Ch.233 - 666
Podiatrists, license, increased.....Ch. 36 - 53
PUC, prorated, regulatory.....Ch. 14 - 25
Secured transactions, filing.....Ch.205 - 457
Smoke management, burning permit.....Ch.397 - 1115
Well drilling, permit, increased.....Ch.164 - 361
FELONS
See CRIMINAL OFFENSES AND PROCEDURES
FINANCE
Appropriations Comm, approp.....Ch.339 - 922

FINANCE (Continued) Chapter - Page
Dept, approp.....Ch.423 - 1173
Dept, mortgage companies, regulations.....Ch.225 - 600
FINANCIAL INSTITUTIONS
See BANKS AND BANKING
FINANCIAL MANAGEMENT
Division, approp.....Ch.260 - 741
FINES
City, penalty increased, certain offenses.....Ch.201 - 452
FIRE
Smoke management, burning permit, fee.....Ch.397 - 1115
FIREARMS
Concealed, license, fees, renewals.....Ch.256 - 732
Sale to minors, parental consent.....Ch.256 - 732
FIREMEN
Retirement benefits, 7/1/78 thru 10/1/80.....Ch.211 - 471
FISH AND GAME
Animal Damage Control Account, established.....Ch.388 - 1067
Aquatic species, captive, unauthorized release.....Ch. 38 - 58
Big game depredation claims, payment process.....Ch.370 - 1007
Big Game Secondary Depredation Account, created.....Ch.370 - 1007
Birds, artificially propagated, leg band.....Ch.281 - 787
Birds, innocent, take prohibition.....Ch. 2 - 3
Comm, membership, increased.....Ch.387 - 1065
Comm, secretary, who shall serve.....Ch. 10 - 18
Dept, approp.....Ch.373 - 1033
Dept, approp, additional, FY90.....Ch. 51 - 123
Dept, approp, Pocatello storage building.....Ch.337 - 917
Dept, approp, Region One office.....Ch.337 - 917
Dept, approp, Region Three office.....Ch.337 - 917
Dept, approp, winter feeding/depredation control.....Ch.373 - 1033
Dept, Buck Creek drainage, multiple use area.....HCR46(A) - 1230
Dept, lands, fees in lieu of taxes.....HJR14(A) - 1214
Dists, 6 dists created.....Ch.387 - 1065
Expendable Trust Account, established.....Ch.388 - 1067
Federal Account, established.....Ch.388 - 1067
Fish, state, Cutthroat Trout, designated.....Ch.218 - 584
Fishing, permit, blind person, renewal, 5 years.....Ch. 7 - 13
Hunts, controlled, permits, use, clarified.....Ch. 8 - 13
Hunts, depredation, emergency, who can declare.....Ch. 9 - 15
Hunts, depredation, game tags, fees.....Ch. 6 - 11
License, fishing, commercial requirements.....Ch.107 - 219
License, fishing, hunting, fees increased.....Ch.372 - 1023
License, hunting, resident, deer/elk/bear tag "pak"....Ch.372 - 1023
License, hunting, resident, 2 day.....Ch.372 - 1023
Nonexpendable Trust Account, established.....Ch.388 - 1067
Set-Aside Account, established.....Ch.388 - 1067
Shooting preserves, near state/federal parks.....Ch.250 - 719
Swans, wild, Tundra and Trumpeter, protected.....Ch. 4 - 6
Violations, fines, $7.50, Search/Rescue Account.....Ch.380 - 1054
Wildlife Depredation Comm, HCR31, 1989, continue....SCR135(A) - 1216
Wildlife Violator Compact, adoption, authorized.....Ch.364 - 988
Wildlife, captive, propagation, no permit, when.....Ch.282 - 788

FISH AND GAME (Continued) Chapter - Page
Wildlife, closed season, possession, penalties.....Ch. 5 - 9
Wildlife, transporting for another.....Ch.315 - 860
FISHING
See FISH AND GAME
FLAGS
Centennial parades, flag displayed.....HJM16(A) - 1240
FOOD
Organic, growing, sales, regulations.....Ch.145 - 325
Processing chemicals/equipment, sales tax exempt.....Ch.437 - 1205
FORESTS AND FORESTRY
Buck Creek drainage, multiple use area.....HCR46(A) - 1230
Lindstrom Peak, multiple use area.....HCR46(A) - 1230
Logging equipment, certain, sales tax exempt.....Ch.431 - 1195
Practice, notification period, change.....Ch.125 - 295
Range Protection, approp, Lands, Dept.....Ch.288 - 806
Resources Management, approp, additional, FY90.....Ch.127 - 298
Resources Management, approp, Lands, Dept.....Ch.288 - 806
Roadless lands mediation, approp, SCR148.....Ch.433 - 1203
Roadless lands mediator, Legislative Council.....SCR148(A) - 1220
Scaling Practices, approp, Lands, Dept.....Ch.288 - 806
Timber, small sales, dollar limitation, increase.....Ch.124 - 294
FOSTER HOMES
Adult foster care homes, licensing.....Ch.116 - 239
Child Care Licensing Reform Act, HB729, clarified.....Ch.214 - 564
Child Care Licensing Reform Act, 1990, clarified.....Ch.215 - 567
FUELS
Adulterated oil, chemist testimony, allowed.....Ch.379 - 1053
Adulterated oil, penalty of publicity.....Ch.379 - 1053
Gas, handicapped driver, attendant help, sales price...Ch.297 - 818
Pipelines, underground, damage prevention.....Ch.351 - 939
Pipelines, underground, intent notice/excavate.....Ch.351 - 939
Tax revenues, Railroad Grade Crossing Account.....Ch.395 - 1106
Underground Storage Tank Program, approval.....SCR130(A) - 1215
Underground storage tank technicians, certification....Ch.298 - 820
Underground storage tanks, approp, Public Works Div....Ch.337 - 917
Underground storage tanks, Clean Water Trust Fund.....Ch.119 - 266
FUNDS
County Justice, established.....Ch.216 - 579
County Justice, surcharge fee.....Ch.216 - 579
County treasuries, electronic, transfer.....Ch. 76 - 159
Endowment, Investment Bd, investment authority.....Ch.203 - 455
Highway Trust, Federal, remove/Federal Budget.....SJM116(A) - 1236
Petroleum Clean Water Trust, created.....Ch.119 - 266
Public School Income, lottery moneys.....Ch.377 - 1041
School Dist, activity, disbursement.....Ch.198 - 443
Soil Conservation Dist, limit, deleted.....Ch.358 - 967
FURBEARERS
Domestic, animals, regulations, definition.....Ch.282 - 788
GAMBLING
Horse racing, licenses, deposit distribution.....Ch.241 - 688
Horse racing, simulcasting, allowed.....Ch.374 - 1036
Pari-mutuel races, number per day.....Ch.424 - 1173

GAME Chapter - Page
See FISH AND GAME
GAS
See FUELS
GENERAL SERVICES
Approp.....Ch.194 - 436
GEOLOGISTS AND GEOLOGY
Bd, approp.....Ch.292 - 811
Bd, approp, FY90.....Ch.180 - 384
GOVERNMENT
Public records, right to examine, access, procedures...Ch.213 - 480
State, conflict of interest, ethics.....Ch.329 - 903
State, conflict of interest, self-interest contract....Ch.328 - 899
GOVERNOR
Appointments, Occupational Licenses, Bureau, chief.....Ch.330 - 907
Budget Address.....HCR33(A) - 1222
Executive Orders
89-1 thru 89-5.....1249-1259
0-1 thru 90-4.....1260-1265
Governor-Elect, transition, approp.....Ch.302 - 832
Office of, approp.....Ch.302 - 832
Office of, approp, Aging, Office on.....Ch.294 - 814
Office of, approp, Blind Comm.....Ch.173 - 371
Office of, approp, Centennial Comm.....Ch.146 - 328
Office of, approp, Endowment Fund Investment Bd.....Ch.101 - 208
Office of, approp, Financial Management Division.....Ch.260 - 741
Office of, approp, Human Rights Comm.....Ch.102 - 208
Office of, approp, Liquor Dispensary.....Ch.103 - 209
Office of, approp, Military Division.....Ch.174 - 372
Office of, approp, Military Division, maintenance.....Ch.337 - 917
Office of, approp, Military Division, Emmett Armory....Ch.337 - 917
Office of, approp, PERS.....Ch.429 - 1185
Office of, approp, State Insurance Fund.....Ch.172 - 370
Office of, approp, Women's Programs, Comm.....Ch.228 - 605
Polystyrene foam containers, recycling study.....HCR37(A) - 1226
Residence Account, approp, Permanent Building Acct.....Ch.337 - 917
Residence, approp.....Ch.302 - 832
State of State message.....HCR32(A) - 1222
Water rights, Snake River Basin, quantification.....Ch.259 - 740
GRAIN
See AGRICULTURE
GRANTS
County budget, receipt of permitted.....Ch. 24 - 36
Science Education, Program.....Ch.277 - 780
GUARDIANS
Conservators, annual account to court.....Ch.290 - 810
GUNS
See FIREARMS
HANDICAPPED
See DISABLED
HAZARDOUS SUBSTANCES
Air, Water Quality Program, approp, H&W, Dept.....Ch.389 - 1078
Environmental Protection Act, "person" redefined.....Ch.357 - 965

HAZARDOUS SUBSTANCES (Continued) Chapter - Page
Lowman processing site, cleanup, approp, H&W, Dept.....Ch.287 - 805
Waste, cleanup cost, recovery.....Ch.191 - 422
Waste, transportation, negligence, penalty.....Ch.331 - 908
HEALTH
Care insurance, self-funded, 500 beneficiaries.....Ch.169 - 366
Day care center, immunization record, required.....Ch.150 - 333
Dists, Public, approp.....Ch. 99 - 206
Dists, Public, approp, additional, FY90.....Ch.109 - 220
Dists, state aid, minimum amount.....Ch. 32 - 47
Dists, state liability, limits.....Ch. 32 - 47
Division, approp.....Ch.389 - 1078
Insurance, retired state employees, conditions.....Ch.117 - 263
Long-term care insurance, additional services.....Ch.285 - 796
Long-term care insurance, not nursing home only.....Ch.230 - 608
Medicaid, nursing homes, reimbursement rates.....Ch. 67 - 146
Medical assistance, state program, established.....Ch. 87 - 177
Personal Care Services, approp, Health/Welfare, Dept...Ch.389 - 1078
Personal Care Services, Medicaid program.....Ch.326 - 888
Physical Health Services, approp.....Ch.389 - 1078
HEALTH AND WELFARE
AFDC applicants, work training programs, required.....Ch. 49 - 120
Bd, antidegradation rules, approval.....Ch.305 - 842
Bd, streams, no interim protection prior/legislation...Ch.305 - 842
Bd, subsurface sewage systems, rules.....HCR53(A) - 1234
Bd, Youth Services Center, role clarified.....Ch.367 - 1004
Dept, approp, additional, FY90.....Ch.118 - 264
Dept, approp, Adult & ADC Assistance Payments.....Ch.389 - 1078
Dept, approp, Air Quality Program.....Ch.389 - 1078
Dept, approp, Community Developmental Disability.....Ch.389 - 1078
Dept, approp, Community Mental Health Service.....Ch.389 - 1078
Dept, approp, Community Rehabilitation Services.....Ch.389 - 1078
Dept, approp, Domestic Violence Council.....Ch.389 - 1078
Dept, approp, Economic Opportunity Office.....Ch.389 - 1078
Dept, approp, Eligibility Services.....Ch.389 - 1078
Dept, approp, Emergency Medical Services.....Ch.389 - 1078
Dept, approp, Emergency Response Comm.....Ch.389 - 1078
Dept, approp, Environmental Division.....Ch.389 - 1078
Dept, approp, Hazardous Materials Program.....Ch.389 - 1078
Dept, approp, Health Division.....Ch.389 - 1078
Dept, approp, Indirect Support Services.....Ch.389 - 1078
Dept, approp, Institutional Mental Health Services.....Ch.389 - 1078
Dept, approp, juvenile detention facilities.....Ch.217 - 583
Dept, approp, Laboratory Services.....Ch.389 - 1078
Dept, approp, Lewiston Veterans Home.....Ch.337 - 917
Dept, approp, Lowman Uranium Site, cleanup.....Ch.287 - 805
Dept, approp, maintenance projects.....Ch.337 - 917
Dept, approp, Medical Assistance Payments.....Ch.389 - 1078
Dept, approp, Physical Health Services.....Ch.389 - 1078
Dept, approp, Social Services.....Ch.389 - 1078
Dept, approp, State Hospital North.....Ch.389 - 1078
Dept, approp, State Hospital South.....Ch.389 - 1078
Dept, approp, State School and Hospital.....Ch.389 - 1078

HEALTH AND WELFARE (Continued) Chapter - Page
Dept, approp, Substance Abuse Services.....Ch.389 - 1078
Dept, approp, Veterans Services.....Ch.389 - 1078
Dept, approp, Water Quality Program.....Ch.389 - 1078
Dept, approp, Welfare Division.....Ch.389 - 1078
Dept, approp, Youth Services Center.....Ch.389 - 1078
Dept, care facilities, deficiency penalty.....Ch.303 - 833
Dept, child support orders, modifications.....Ch.327 - 898
Dept, child support, payment/direct receipt.....Ch. 90 - 188
Dept, day care center, license revocation, reason.....Ch.271 - 765
Dept, Environmental Act, "person" redefined.....Ch.357 - 965
Dept, ground water monitoring plan.....Ch.151 - 334
Dept, HIV, HBV, reporting methods, clarified.....Ch.143 - 322
Dept, Personal Care Services, Medicaid program.....Ch.326 - 888
Dept, venereal diseases, reporting method.....Ch.143 - 322
HEALTH CARE FACILITIES
Adult foster care homes, licensing.....Ch.116 - 239
Cities may acquire/maintain/operate.....Ch.409 - 1136
Medical assistance, state program, established.....Ch. 87 - 177
HERDS
Dist, formation requirements.....Ch.222 - 589
HIGHER EDUCATION
See EDUCATION, COLLEGES AND UNIVERSITIES
HIGHWAYS
Abandonment, assuming control, conditions.....Ch. 60 - 136
Dist commissioners, compensation, modify.....Ch.296 - 818
Distribution Account, approp, highway/bridge repair....Ch.229 - 606
Needs Assessment Council, study comm.....HCR47(A) - 1231
Trust Fund, Federal, remove/Federal Budget.....SJM116(A) - 1236
User Revenues, Account, interest earned.....Ch.158 - 343
HISPANICS
Comm, approp.....Ch.147 - 328
Comm, approp.....Ch.263 - 745
HISTORICAL SITES
Maintenance, approp.....Ch.343 - 928
HISTORICAL SOCIETIES
Idaho Heritage Trust, established.....Ch.129 - 299
State, approp.....Ch.343 - 928
State, approp, Idaho's history/Centennial.....Ch.232 - 665
HOLIDAYS
Martin Luther King, Jr.-Idaho Human Rights Day.....Ch.371 - 1019
HOMEMAKERS
Displaced, Program, approp.....Ch.279 - 783
HOMES
Manufactured, dealers, bond requirements.....Ch.152 - 336
Manufactured, used, sale, conditions.....Ch.165 - 362
Veterans, statutes updated.....Ch. 56 - 127
HONEY
Advertising Comm, approp.....Ch.382 - 1058
Comm, executive secretary, functions.....Ch.414 - 1148
HORSE RACING
See RACING

HORSES Chapter - Page
See LIVESTOCK
HOSPITALS
Deficiency penalty, remedies.....Ch.303 - 833
Dists, operate nursing homes.....Ch.354 - 956
State Hospital North, approp.....Ch.389 - 1078
State Hospital South, approp.....Ch.389 - 1078
HUMAN RIGHTS
Comm, approp.....Ch.102 - 208
Martin Luther King, Jr.-Idaho, Day.....Ch.371 - 1019
HUNTING
See FISH AND GAME
HYDROELECTRIC
Clearwater River, water project.....Ch.363 - 987
IDAHO STATE UNIVERSITY
See COLLEGES AND UNIVERSITIES
IMMUNIZATION
Record, required, day care center.....Ch.150 - 333
INCOME
Mandatory, withholding, child support.....Ch.361 - 973
INCOME TAX
See TAX AND TAXATION, INCOME
INDIGENTS
Medical, state program, not county.....Ch. 87 - 177
INDUSTRIAL COMMISSION
Approp.....Ch.405 - 1131
Crime victims compensation, approp.....Ch.405 - 1131
Rehabilitation Program, approp.....Ch.405 - 1131
Salaries, equal to 90% of district judge salary.....Ch.345 - 930
Tax information exchange, Tax Comm.....Ch.334 - 911
INSPECTORS AND INSPECTIONS
Brand, approp.....Ch.261 - 741
INSURANCE
Agent, license exam, retake after 28 days.....Ch.168 - 365
Business, written cancellation notice.....Ch.240 - 682
Dept, acquisitions, mergers, professional, analize.....Ch.375 - 1037
Dept, approp.....Ch.266 - 749
Dept, rules of evidence, conformance.....Ch.283 - 793
Disability, no discrimination, state institutions.....Ch.300 - 827
Health care, self-funded, 500 beneficiaries.....Ch.169 - 366
Health, retired state employees, conditions.....Ch.117 - 263
Liability, motor vehicle, financial responsibility.....Ch.432 - 1198
Long-term care, coverage, additional services.....Ch.285 - 796
Long-term care, coverage, additional services.....Ch.230 - 608
Long-term care, not nursing home only.....Ch.230 - 608
Management Division, approp.....Ch.194 - 436
Medical, individual retiree accounts, repeal.....Ch.248 - 701
Medical, school retiree benefits, spouse.....Ch.407 - 1133
Medicare supplement, provisions adjusted.....Ch.323 - 882
Motor vehicle, optional suspension, 180 days.....Ch. 57 - 133
Mutual insurer may become stock insurer.....Ch.284 - 794
Mutual, company, "mutual", part of corporate name.....Ch.383 - 1061
Premium tax, purchasing groups.....Ch.348 - 937

INSURANCE (Continued) Chapter - Page
State, Fund, approp.....Ch.172 - 370
Student teachers, liability, coverage.....Ch. 35 - 53
Underground storage tanks, liability, trust fund.....Ch.119 - 266
Worker's compensation, employer, failure to secure.....Ch.322 - 880
Worker's compensation, occupational diseases, AIDS.....Ch.188 - 417
Worker's compensation, premium tax, references.....Ch.253 - 725
Worker's compensation, self-employed person.....Ch.223 - 593
Worker's compensation, student, work experience.....Ch.335 - 912
Worker's compensation, wage loss, travel.....Ch.110 - 221
Worker's compensation, youth employment programs.....Ch.301 - 830
INTEREST
Security, purchase money, priorities, time period.....Ch.154 - 339
INVESTMENTS
Endowment Fund, Bd, approp.....Ch.101 - 208
Endowment Fund, Bd, investment authority, expanded.....Ch.203 - 455
Judges Retirement Fund, method, limitations.....Ch.247 - 700
IRRIGATION
See also WATER
Dist, annexation of nonadjacent land.....Ch.340 - 923
Dist, bonds, confirmation proceeding, repeal.....Ch. 11 - 21
Dist, land exclusion, petition out of dist.....Ch.181 - 386
Levee dists, creation, authorized.....Ch.396 - 1108
Subdivisions, systems, installation.....Ch.365 - 997
JAILS
See CORRECTIONAL INSTITUTIONS
JUDGES
Magistrates, discipline, Judicial Council.....Ch. 71 - 152
Magistrates, nonattorney, salaries, annual, increased..Ch. 39 - 59
Retirement Fund, investment, method, limitations.....Ch.247 - 700
Salaries, annual, increased.....Ch. 39 - 59
JUDGMENTS
Civil action, noneconomic damages, eliminate repeal....Ch.121 - 291
Double recoveries, collateral sources, prohibited.....Ch.131 - 304
Foreign, money, recognition, procedure.....Ch.408 - 1134
JUDICIAL
Council, magistrates, discipline.....Ch. 71 - 152
JUNIOR COLLEGES
See COLLEGES AND UNIVERSITIES
JUVENILES
Alcohol possession, school property, penalty.....Ch.344 - 929
Alcohol violations, driving privileges, suspended.....Ch.280 - 785
Court records, exchange, attorneys & courts.....Ch.245 - 696
Damages by minor, wilfully caused, recovery.....Ch. 81 - 163
Detention centers, approp, Health & Welfare, Dept.....Ch.217 - 583
Detention centers, Child Care Licensing Reform Act.....Ch.215 - 567
Detention centers, Child Care Licensing Reform Act.....Ch.214 - 564
Drug paraphernalia, delivery to minor, penalty.....Ch.311 - 851
Justice Reform Act, duty nonperformance, repealed.....Ch.289 - 809
Weapons, sale to minors, parental consent.....Ch.256 - 732
Winery, under age may enter premise.....Ch.320 - 876
Youth Rehabilitation Act, provisions, extended.....Ch.355 - 958
Youth Services Center, H&W, Bd, authority.....Ch.367 - 1004

KINDERGARTENS Chapter - Page
Homeless children/transfer pupils, tuition, SB1423.....Ch.272 - 766
Open enrollment, provided.....Ch. 43 - 67
KING, MARTIN LUTHER
Idaho Human Rights Day.....Ch.371 - 1019
LABOR AND INDUSTRIAL SERVICES
Dept, approp.....Ch.342 - 927
Industrial Relations & Safety Programs, approp.....Ch.342 - 927
Safety Compliance Programs, approp.....Ch.342 - 927
School dist construction plan, review.....Ch.167 - 363
LABORATORY
Services, approp, Health & Welfare, Dept.....Ch.389 - 1078
LAKES
Levee dists, creation, authorized.....Ch.396 - 1108
Protection, navigational encroachment.....Ch.362 - 979
Round, minimum streamflow.....HCR44(A) - 1229
LAND
Cottage site lease, state, conflict application.....Ch.187 - 416
Dept, approp.....Ch.288 - 806
Dept, approp, additional, FY90.....Ch. 48 - 120
Dept, approp, additional, FY90, Forest Resources.....Ch.127 - 298
Dept, approp, Forest Resources Management.....Ch.288 - 806
Dept, approp, maintenance projects.....Ch.337 - 917
Dept, approp, McCall office.....Ch.337 - 917
Dept, approp, Range & Mineral Resource Management.....Ch.288 - 806
Dept, approp, Scaling Practices.....Ch.288 - 806
Dept, approp, Soil & Water Conservation.....Ch.288 - 806
Dept, lake protection, navigational encroachment.....Ch.362 - 979
Dept, Lindstrom Peak, multiple use area.....HCR46(A) - 1230
Dept, mineral exploration, plan, required.....Ch.317 - 865
Fish & Game, Dept, fees in lieu of taxes.....HJR14(A) - 1214
Irrigation Dist, exclusion, petition out of dist.....Ch.181 - 386
Irrigation Dist, nonadjacent, annexation.....Ch.340 - 923
Parks & Recreation, Dept, transfer.....Ch.209 - 466
Plats, vacations, survey corners, defined.....Ch.170 - 367
Purchase, outside county limits.....Ch.123 - 293
Roadless, mediation, approp, SCR148.....Ch.433 - 1203
Roadless, mediator, Idaho national forests.....SCR148(A) - 1220
State, mineral exploration, equipment use, clarified...Ch.317 - 865
State, mineral exploration, federal claim/location.....Ch.316 - 861
State, mineral rights, annual rental per acre.....Ch.316 - 861
State, mineral rights, simultaneous filings.....Ch.316 - 861
LAVA HOT SPRINGS
Foundation, approp.....Ch.148 - 329
LAW ENFORCEMENT
Boating accidents, immediate notification.....Ch. 75 - 158
Dept, approp.....Ch.261 - 741
Dept, approp, Alcohol Beverage Control.....Ch.261 - 741
Dept, approp, maintenance projects.....Ch.337 - 917
Dept, approp, POST Academy.....Ch.261 - 741
Dept, approp, Racing Comm, additional, FY90.....Ch. 78 - 160
Dept, murders, unsolved, reports, required.....Ch. 66 - 145
Domestic violence, protection orders, uniformity.....Ch.293 - 813

LAW ENFORCEMENT (Continued) Chapter - Page
Illegal drugs, seized, destruction/storage, allowed....Ch.239 - 676
Police officer membership status, retirement.....Ch.276 - 777
POST, ex officio nonvoting members.....Ch.308 - 848
POST, membership, 1 additional.....Ch.308 - 848
LAWYERS
See ATTORNEYS
LEASES
Cottage site, state lands, conflict application.....Ch.187 - 416
Rental property, statewide uniformity.....Ch.185 - 413
Self-service storage facility, owners liens.....Ch.381 - 1055
LEGISLATIVE AUDITOR
See AUDITOR
LEGISLATIVE COUNCIL
Approp.....Ch.339 - 922
Community college services, study comm.....HCR52(A) - 1233
Highway Needs Assessment Council, study comm.....HCR47(A) - 1231
Public Employee Retirement, study comm.....HCR51(A) - 1232
Public Employee Retirement, study comm.....HCR51(A) - 1232
Roadless lands mediator, Idaho National Forests.....SCR148(A) - 1220
Wildlife Depredation Comm, HCR31, 1989, continued...SCR135(A) - 1216
LEGISLATORS
See LEGISLATURE
LEGISLATURE
Administrative rules, automatic expiration.....Ch. 22 - 33
Barley support prices, recalculate.....HJM17(A) - 1241
Barley support prices, recalculate.....SJM117(A) - 1237
Buck Creek drainage, multiple use area.....HCR46(A) - 1230
Budget Office, approp.....Ch.339 - 922
Community college services, study comm.....HCR52(A) - 1233
Earthquake Project, recommendations.....HJM18(A) - 1242
Fish & Game lands, fees in lieu of taxes.....HJR14(A) - 1214
Flag use, Centennial parades.....HJM16(A) - 1240
Governor's Budget Address.....HCR33(A) - 1222
Highway Needs Assessment Council, study comm.....HCR47(A) - 1231
Highway Trust Fund, Federal, remove/Federal Budget..SJM116(A) - 1236
Legislative Account, approp, Assembly Meeting.....Ch.349 - 938
Legislative area, approp, remodeling, refurbishing.....Ch.325 - 888
Lindstrom Peak, multiple use area.....HCR46(A) - 1230
PERS, legislative service credit.....Ch.258 - 738
PERS, legislative study comm.....HCR51(A) - 1232
Personnel matters comm, chairman.....Ch.160 - 349
Polystyrene foam containers, recycling study.....HCR37(A) - 1226
Revenue projections, FY 1990.....HCR35(A) - 1224
Revenue projections, FY 1991.....HCR34(A) - 1223
Roadless lands mediation, approp, SCR148.....Ch.433 - 1203
Roadless lands mediator, Idaho National Forests.....SCR148(A) - 1220
Safe Drinking Water Act, state implementation.....SCR132(A) - 1216
State employees, salaries, 4.5% payline adjustment..SCR142(A) - 1219
State of State message.....HCR32(A) - 1222
Streamflow, minimum, Elk Creek.....HCR43(A) - 1228
Streamflow, minimum, Hayden Creek.....HCR45(A) - 1229
Streamflow, minimum, Payette River.....SCR136(A) - 1217

LEGISLATURE (Continued) Chapter - Page
Streamflow, minimum, Payette River.....SCR137(A) - 1218
Streamflow, minimum, Round Lake.....HCR44(A) - 1229
Subsurface sewage systems, H&W, Bd, rules rejected...HCR53(A) - 1234
Telecommunications, regulation.....HJM15(A) - 1239
Underground Storage Tank Program, approval.....SCR130(A) - 1215
Waste, Solid, Reduction Program, established.....HCR36(A) - 1225
Wildlife Depredation Comm, HCR31, 1989, continue....SCR135(A) - 1216
Year and Week of Literacy, 1990.....HCR41(A) - 1227
LEVIES
See TAX AND TAXATION, PROPERTY
LEWIS-CLARK STATE COLLEGE
See COLLEGES AND UNIVERSITIES
LIABILITY
Bank directors, limit, eliminate, exceptions.....Ch.242 - 694
Corporations, nonprofit, limitation.....Ch.105 - 211
Double recoveries, collateral sources, prohibited.....Ch.131 - 304
Equine activities, limited.....Ch. 40 - 61
Insurance, motor vehicle, financial responsibility.....Ch.432 - 1198
Insurance, motor vehicle, optional suspension.....Ch. 57 - 133
Joint tortfeasor, "acting in concert".....Ch.120 - 290
Student teachers, insurance coverage.....Ch. 35 - 53
Telephone companies, emergency communication system....Ch.221 - 588
Underground storage tanks, insurance trust fund.....Ch.119 - 266
Volunteers, nonprofit organizations, limitation.....Ch.105 - 211
LIBRARIES
Dists, consolidation, allowed.....Ch.378 - 1046
State, Bd, approp.....Ch.277 - 780
State, Bd, per diem, increased.....Ch. 44 - 70
State, Bd, Science Education Grant Program.....Ch.277 - 780
LICENSES
Adult foster care homes, requirements.....Ch.116 - 239
Barbers, apprentice, requirement removed.....Ch.163 - 355
Child Care, Reform Act, HB729, clarified.....Ch.214 - 564
Child Care, Reform Act, 1990, clarified.....Ch.215 - 567
Concealed weapon, fees, renewals.....Ch.256 - 732
Day care center, revocation, conditions.....Ch.271 - 765
Drivers, commercial, class A, B, C.....Ch. 45 - 71
Drivers, suspension, knowledge, criteria.....Ch.432 - 1198
Engineers, surveyors, requirements, clarified.....Ch.192 - 424
Farm produce dealer, fees, increased.....Ch.171 - 369
Fishing, commercial, requirements, clarified.....Ch.107 - 219
Fishing, hunting, fees, increased.....Ch.372 - 1023
Horse racing, deposit distribution, increased.....Ch.241 - 688
Hunting, resident, deer/elk/bear tag "pak".....Ch.372 - 1023
Hunting, resident, 2 day.....Ch.372 - 1023
Liquor, continuous operation facility.....Ch.252 - 722
Liquor, gondola resort complex.....Ch.255 - 729
Liquor, issued, 10 years/more, renewal, yearly.....Ch.392 - 1098
Marriage, fee, no Domestic Violence Project Account....Ch.243 - 695
Medicine, practice without license, felony.....Ch.301 - 830
Milk hauler, tester, butter grader, fees.....Ch.411 - 1139
Motor vehicle, plates, Centennial, after 12/31/90.....Ch.385 - 1062

LICENSES (Continued) Chapter - Page
Motor vehicle, plates, fees, increased, use.....Ch.233 - 666
MV, juvenile, alcohol violation, driving privileges....Ch.280 - 785
Optometrists, test.....Ch.299 - 826
Podiatrists, fees, increased.....Ch. 36 - 53
Residential care facility administrator, required.....Ch.304 - 833
Well drilling, required, penalties.....Ch.366 - 999
LIENS
Personal property for services, not paid, notice.....Ch.236 - 672
Property tax, excess, refund.....Ch. 23 - 35
Self-service storage facility, enforcement.....Ch.381 - 1055
LIEUTENANT GOVERNOR
Approp.....Ch.227 - 604
LIQUOR
See also BEER, WINE
Dispensary, approp.....Ch.103 - 209
Juvenile, possession, school property, penalty.....Ch.344 - 929
Juvenile, violations, driving privileges.....Ch.280 - 785
Keg beer sales, "keg" redefined.....Ch.428 - 1184
License, continuous operation facility.....Ch.252 - 722
License, gondola resort complex.....Ch.255 - 729
License, issued, 10 years/more, renewal, yearly.....Ch.392 - 1098
Substance Abuse Services, approp.....Ch.389 - 1078
Wine distributors, advertising materials.....Ch.406 - 1132
Winery, under age may enter premise.....Ch.320 - 876
LITERACY
Year and Week of Literacy, 1990.....HCR41(A) - 1227
LIVESTOCK
See also ANIMALS
Dealers, redefined, bond requirements.....Ch.182 - 395
Equine activities, liability limited.....Ch. 40 - 61
Herd Dists, formation requirements.....Ch.222 - 589
Mutilation, destruction, theft, felony.....Ch.126 - 297
Sheep Comm, approp.....Ch.382 - 1058
Sheep Comm, obsolete statutes, eliminate.....Ch.137 - 312
LOANS
Banks, to executive bank officers, amount, increase....Ch. 93 - 193
Nursing education, forgiveness program.....Ch. 28 - 42
LOG SCALING
Practices, Lands, Dept, approp.....Ch.288 - 806
LOGGING
Equipment, certain, sales tax exempt.....Ch.431 - 1195
Forest practice, notification period, change.....Ch.125 - 295
Timber, small sales, dollar limitation, increase.....Ch.124 - 294
LOTTERIES
Comm, approp.....Ch.140 - 315
Moneys, approp, Public School Income Fund.....Ch.384 - 1062
Moneys, Public School Income Fund.....Ch.377 - 1041
Prize, intercept, child support delinquency.....Ch.153 - 338
Security director, retirement, police status.....Ch.360 - 970
State, Comm, rules, regulations, approved.....Ch.420 - 1158
MAGISTRATES
See COURTS, JUDGES

MANUFACTURED HOMES Chapter - Page
Used units, sale, conditions.....Ch.165 - 362
MANUFACTURERS AND MANUFACTURING
Rebate, discount coupons, use, clarified.....Ch.352 - 944
MARIJUANA
Illegal drug stamps, requirements, clarified.....Ch.179 - 378
MARRIAGE
Domestic violence victims, protections, expanded.....Ch.234 - 667
License, fees, no Domestic Violence Project Account....Ch.243 - 695
MEDICAID ASSISTANCE
See PUBLIC ASSISTANCE, MEDICAL
MEDICAL
Emergency, service fee, motor vehicle registration.....Ch.139 - 315
Emergency, Services, approp.....Ch.389 - 1078
Indigents, state program, not county.....Ch. 87 - 177
Insurance, accounts, retiree/individual, repeal.....Ch.248 - 701
Insurance, school retiree benfits, spouse.....Ch.407 - 1133
Medicaid, nursing homes, reimbursement rates.....Ch. 67 - 146
Personal Care Services, Medicaid program.....Ch.326 - 888
State, Assistance Program, established.....Ch. 87 - 177
WAMI, Education Program, approp.....Ch.416 - 1153
WICHE, Education Program, approp.....Ch.416 - 1153
WOI, Education Program, approp.....Ch.416 - 1153
MEDICAL ASSISTANCE
See PUBLIC ASSISTANCE, MEDICAL
MEDICARE
Supplement insurance, provisions adjusted.....Ch.323 - 882
MEDICINE
Bd, approp.....Ch.292 - 811
Bd, approp, FY90.....Ch.180 - 384
Bd, membership increased, 2 public members.....Ch.106 - 213
Bd, Professional Discipline Bd.....Ch.106 - 213
Practice without license, felony.....Ch.301 - 830
Veterinary, statutes, clarified.....Ch.111 - 222
MEETINGS
Assembly, approp, Legislative Account.....Ch.349 - 938
MEMORIALS
Barley support prices, recalculate.....HJM17(A) - 1241
Barley support prices, recalculate.....SJM117(A) - 1237
Earthquake Project, recommendations.....HJM18(A) - 1242
Flag use, Centennial parades.....HJM16(A) - 1240
Highway Trust Fund, Federal, remove/Federal Budget..SJM116(A) - 1236
Telecommunications, regulation.....HJM15(A) - 1239
MEN
Male rape.....Ch.291 - 811
MILITARY AND MILITIA
Division, approp, Emmett Armory.....Ch.337 - 917
Division, approp, Governor, Office of.....Ch.174 - 372
Division, approp, maintenance projects.....Ch.337 - 917
Veterans Homes, statutes updated.....Ch. 56 - 127
MILK AND MILK PRODUCTS
Dairy Products Comm, compensation increased.....Ch.142 - 321
Disinfectants, dairy industry, sales tax exempt.....Ch.122 - 292

MILK AND MILK PRODUCTS (Continued) Chapter - Page
Milk hauler, tester, butter grader, license, fees.....Ch.411 - 1139
MINERALS
Exploration, casual, motorized equipment, difference...Ch.317 - 865
Exploration, federal claim/state location, clarify.....Ch.316 - 861
Land, Range, Resource Management, approp.....Ch.288 - 806
Rights, annual rental per acre, increase.....Ch.316 - 861
Rights, simultaneous filings.....Ch.316 - 861
MINES AND MINING
Lowman Processing Site, approp, cleanup, H&W, Dept.....Ch.287 - 805
Mineral exploration, casual, motorized equipment.....Ch.317 - 865
Mineral exploration, federal claim/state location.....Ch.316 - 861
Mineral rights, annual rental per acre, increase.....Ch.316 - 861
Mineral rights, simultaneous filings.....Ch.316 - 861
MINORS
See CHILDREN, JUVENILES
MOBILE HOMES
Dealers, bond requirements.....Ch.152 - 336
MORTGAGES
Company, duties, regulations.....Ch.225 - 600
Fixture filing, effective, when.....Ch.421 - 1166
MOTOR CARRIERS
Fees, code citation correction.....Ch. 13 - 23
PUC, base state agreements.....Ch. 12 - 23
PUC, prorated fees, regulatory fee.....Ch. 14 - 25
MOTOR FUELS
See FUELS
MOTOR VEHICLES
See also DRIVERS
Accidents, immediate report, property damage amount....Ch. 69 - 151
All terrain vehicles, public highway use.....Ch.391 - 1092
Antique, fenders not required, when.....Ch.175 - 372
Civil actions, attachment, exemption, increased.....Ch.275 - 776
Disqualified driver's, reinstatement, fee.....Ch.432 - 1198
Drivers license suspension, knowledge, criteria.....Ch.432 - 1198
Drivers license, commercial, class A, B, C.....Ch. 45 - 71
Emergency medical service fee, increased.....Ch.139 - 315
Farm vehicle/commercial, miles traveled report.....Ch.138 - 312
Financial responsibility, liability insurance, proof...Ch.432 - 1198
Glider kit vehicle, defined.....Ch.295 - 815
Handicapped driver, fuel, attendant help, price.....Ch.297 - 818
Handicapped parking, cards/license plates.....Ch.159 - 346
Hazardous waste, transportation, negligence.....Ch.331 - 908
Headlight use, when.....Ch.166 - 363
Insurance/liability, optional suspension, 180 days.....Ch. 57 - 133
Juvenile, alcohol violation, driving privileges.....Ch.280 - 785
License plates, Centennial, use after 12/31/90.....Ch.385 - 1062
License plates, fee, increased, use provided.....Ch.233 - 666
Motor carriers, fees, code citation correction.....Ch. 13 - 23
PUC, base state agreements.....Ch. 12 - 23
PUC, prorated fees, regulatory fee.....Ch. 14 - 25
Repair, replacement parts, aftermarket crash parts.....Ch.156 - 342
Street rods, defined, redefined.....Ch.176 - 373

MOTOR VEHICLES (Continued) Chapter - Page
Street rods, staggered registration.....Ch.176 - 373
Title, transfer moneys, distribution formula.....Ch.369 - 1007
Trailers, utility, registration, 1, 5 or 10 year.....Ch.197 - 439
Warranties, "lemon law" application.....Ch.235 - 671
MOTORBOATS
See BOATS
MURDER
Unsolved, reports, required, Law Enforcement, Dept.....Ch. 66 - 145
MUSEUMS
County, Bds, created.....Ch.393 - 1101
NATURAL RESOURCES
Idaho Heritage Trust, established.....Ch.129 - 299
NEGLIGENCE
Comparative, joint tortfeasor, "acting in concert".....Ch.120 - 290
NEGOTIATIONS
See COLLECTIVE BARGAINING
NEPOTISM
Conflict of interest, public officials, ethics.....Ch.329 - 903
NEWSPAPERS
County commissioners, proceedings, notice, clarify.....Ch.347 - 937
NORTH IDAHO COLLEGE
See COLLEGES AND UNIVERSITIES
NORTHWEST NAZARENE COLLEGE
See COLLEGES AND UNIVERSITIES
NUCLEAR WASTES
See WASTES
NURSES AND NURSING
Bd, approp.....Ch.292 - 811
Bd, approp, supplemental, FY90.....Ch.180 - 384
Education, loan forgiveness program.....Ch. 28 - 42
NURSING HOMES
Adult foster care homes, licensing.....Ch.116 - 239
Deficiency penalty, remedies.....Ch.303 - 833
Hospital Dists, operate nursing homes.....Ch.354 - 956
Hospital Dists, operate nursing homes.....Ch.354 - 956
Medicaid reimbursement.....Ch. 67 - 146
Residential Care Facility administrator, licensing.....Ch.304 - 833
OCCUPATIONAL LICENSES BUREAU
Approp.....Ch.292 - 811
Approp, FY90.....Ch.180 - 384
Chief, six year term.....Ch.330 - 907
OFFICE ON AGING
See AGING, OFFICE ON
OFFICERS
Bank, loans, amount, increased.....Ch. 93 - 193
County, personal indebtedness, disclosure.....Ch.196 - 439
OFFICIALS
Public, conflict of interest/self-interest contract....Ch.328 - 899
Public, conflict of interest, ethics.....Ch.329 - 903
OIL
Adulterated, chemist testimony, penalty of publicity...Ch.379 - 1053

OLYMPICS Chapter - Page
Special, sales tax exempt.....Ch.134 - 307
OPTOMETRY AND OPTOMETRISTS
Bd, approp.....Ch.292 - 811
Bd, approp, FY90.....Ch.180 - 384
Licensure test.....Ch.299 - 826
ORDINANCES
City, fines, penalty increased, certain offenses.....Ch.201 - 452
ORGANIZATIONS
Association for Retarded Citizens/U.S., sales tax.....Ch. 74 - 157
Idaho Heritage Trust, established.....Ch.129 - 299
Nonprofit, liability, limitation.....Ch.105 - 211
Nonprofit, volunteers, liability, limitation.....Ch.105 - 211
Religious, incidental sales, sales tax exempt.....Ch.434 - 1203
Special Olympics, sales tax exempt.....Ch.134 - 307
OUTFITTERS AND GUIDES
Bd, approp.....Ch.292 - 811
Bd, approp, supplemental, FY90.....Ch.180 - 384
Fees, governmental entities, sales tax exempt.....Ch.438 - 1206
Subleasing licensed activities, illegal.....Ch.254 - 726
PARENTS
Adoption notice, publication, where.....Ch. 58 - 134
Adoption, child, illegitimate, reference deleted.....Ch. 26 - 40
Adoption, child, illegitimate, reference deleted.....Ch. 27 - 41
Rights, termination consent, signed out-of-state.....Ch. 25 - 38
PARI-MUTUEL WAGERING
Horse racing, licenses, deposit distribution.....Ch.241 - 688
Horse racing, receipts, Equine Education Account.....Ch.399 - 1116
Horse racing, simulcasting, allowed.....Ch.374 - 1036
Racing, number of races per day.....Ch.424 - 1173
PARKING
Handicapped, cards, license plates.....Ch.159 - 346
PARKS AND RECREATION
Dept, approp.....Ch.148 - 329
Dept, approp, additional, FY90.....Ch. 55 - 126
Dept, approp, maintenance projects.....Ch.337 - 917
Dept, land transfer, Land, Bd.....Ch.209 - 466
Shooting preserves, near state, federal parks.....Ch.250 - 719
State parks, list, provided.....Ch.359 - 968
PAY
See SALARIES
PEACE OFFICERS
See POLICEMEN
PENITENTIARY
See CORRECTIONAL INSTITUTIONS
PER DIEMS
Library, State, Bd, increased.....Ch. 44 - 70
State employees, rate increased.....Ch.162 - 354
PERMANENT BUILDING ACCOUNT
Approp.....Ch. 61 - 136
PERMANENT BUILDING FUND ADVISORY COUNCIL
Approp, preventive maintenance projects.....Ch.337 - 917

PERMITS Chapter - Page
Fishing, blind person, renewal, 5 years.....Ch. 7 - 13
Hunts, controlled, use, clarified.....Ch. 8 - 13
Well drilling, fees, increased.....Ch.164 - 361
PERSONAL CARE SERVICES
Health & Welfare, Dept, approp.....Ch.389 - 1078
Medicaid program, standards, training/providers.....Ch.326 - 888
PERSONNEL COMMISSION
Approp.....Ch.195 - 438
Personnel matters comm, legislative chairman.....Ch.160 - 349
State employees, salaries, 4.5% payline adjustment..SCR142(A) - 1219
State employees, shift differential pay.....Ch.161 - 350
PESTICIDES
General use, sale, restrictions.....Ch.269 - 759
PETROLEUM
Gas, handicapped driver, attendant help, sales price...Ch.297 - 818
Pipelines, underground, damage prevention.....Ch.351 - 939
Pipelines, underground, intent notice to excavate.....Ch.351 - 939
Underground Storage Tank Program, approval.....SCR130(A) - 1215
Underground storage tank technicians, certification....Ch.298 - 820
Underground storage tanks, approp, Public Works.....Ch.337 - 917
Underground storage tanks, Clean Water Trust Fund.....Ch.119 - 266
PHARMACIES AND PHARMACISTS
Bd, approp.....Ch.292 - 811
Bd, approp, FY90.....Ch.180 - 384
Bd, regulate drug dispensing,institutions.....Ch.144 - 324
PLANNING AND ZONING
School dist, rezoning proposal, time, extended.....Ch. 31 - 46
PLANTS
Pure Seed Law, buyer claims, arbitration.....Ch.412 - 1141
Soil, amendments, regulations.....Ch.426 - 1179
PLATS AND VACATIONS
Subdivisions, irrigation systems, installation.....Ch.365 - 997
Survey corners, defined.....Ch.170 - 367
Water service, new, certification ability.....Ch.178 - 377
PODIATRISTS
License, fees, increase.....Ch. 36 - 53
POLICEMEN
See also LAW ENFORCEMENT
POST Academy, approp.....Ch.261 - 741
POST, ex officio nonvoting members.....Ch.308 - 848
POST, membership, 1 additional.....Ch.308 - 848
Retirement fund, city, actuarial study, 4 years.....Ch.128 - 298
Retirement, membership status, clarified.....Ch.276 - 777
Retirement, status, Lottery Security Director.....Ch.360 - 970
State, approp.....Ch.261 - 741
POLLUTION
See ENVIRONMENT
POTATOES
See AGRICULTURE
PRESCRIPTIONS
Drugs, sales tax exempt.....Ch. 42 - 65

PRISONERS Chapter - Page
AIDS testing, code citation corrected.....Ch.310 - 850
Fugitive from justice, definition expanded.....Ch.314 - 858
Prison crime, consecutive sentences.....Ch.238 - 676
Probation, crime of escape.....Ch.313 - 858
Women, incarceration, proper facilities.....Ch. 96 - 201
Women, incarceration, proper facilities.....Ch. 97 - 202
PRISONS
See CORRECTIONAL INSTITUTIONS
PROBATE
Uniform, Code, conservator, annual account/court.....Ch.290 - 810
PROPERTY
See also TAX AND TAXATION, PROPERTY
Ad valorem tax, refunds or credits.....Ch.306 - 843
Personal, motor vehicle exemption, increased.....Ch.275 - 776
Personal, services, liens, not paid, notice.....Ch.236 - 672
Rental, leases, statewide uniformity.....Ch.185 - 413
Trust deeds, nonjudicial foreclosures, clarified.....Ch.401 - 1122
PROPERTY TAX
See TAX AND TAXATION, PROPERTY
PSYCHOLOGISTS
Bd, lay member, staggered terms.....Ch. 68 - 150
PUBLIC ASSISTANCE
Adult & ADC Assistance Program, approp.....Ch.389 - 1078
AFDC applicants, work training programs, required.....Ch. 49 - 120
Child support debt, recovery.....Ch. 91 - 191
Child support orders, wage withholding.....Ch. 92 - 192
Community Mental Health Services, approp.....Ch.389 - 1078
Community Rehabilitation Services, approp.....Ch.389 - 1078
Council on Developmental Disability Services, approp...Ch.389 - 1078
Eligibility Services, approp.....Ch.389 - 1078
Emergency Medical Services, approp.....Ch.389 - 1078
Institutional Mental Health Services, approp.....Ch.389 - 1078
Medicaid, nursing homes, reimbursement rates.....Ch. 67 - 146
Medical Assistance Payment Program, approp.....Ch.389 - 1078
Medical indigents, state program, not county.....Ch. 87 - 177
Personal Care Services, Medicaid program.....Ch.326 - 888
Social Services, approp.....Ch.389 - 1078
Substance Abuse Services, approp.....Ch.389 - 1078
Welfare Division, approp.....Ch.389 - 1078
Youth Services Center, approp.....Ch.389 - 1078
PUBLIC BROADCASTING
Approp.....Ch.422 - 1172
PBS Federal Grant, approp.....Ch.422 - 1172
PUBLIC EMPLOYEES
See EMPLOYEES AND EMPLOYMENT
PUBLIC EMPLOYEES RETIREMENT SYSTEM
See RETIREMENT
PUBLIC RECORDS
See RECORDS
PUBLIC UTILITIES
See UTILITIES

PUBLIC UTILITIES COMMISSION Chapter - Page
See UTILITIES
PUBLIC WORKS
Contractors License Bd, approp.....Ch.292 - 811
Contractors State License Bd, approp, FY90.....Ch.180 - 384
Div, approp.....Ch.194 - 436
Div, approp.....Ch.337 - 917
Div, approp, Agriculture, Dept, Quality Assurance.....Ch.338 - 921
Div, approp, preventive maintenance projects.....Ch.337 - 917
Div, approp, underground storage tanks.....Ch.337 - 917
PURCHASING
Division, approp.....Ch.194 - 436
RACING
Comm, approp.....Ch.261 - 741
Comm, approp, additional, FY90.....Ch. 78 - 160
Horse, licenses, deposit distribution, increased.....Ch.241 - 688
Horse, receipts, Equine Education Account.....Ch.399 - 1116
Horse, simulcasting, allowed.....Ch.374 - 1036
Pari-mutuel, number of races per day.....Ch.424 - 1173
RAILROADS
Grade Crossing Protection Account, fuel tax revenue....Ch.395 - 1106
Human body waste, disposal, right-of-way.....Ch.189 - 419
RANGE
Forest, Protection, Lands, Dept, approp.....Ch.288 - 806
Resource Conservation Loan Account, accrual basis.....Ch.114 - 238
RAPE
Male.....Ch.291 - 811
REAL ESTATE
Appraisers, certification.....Ch. 82 - 164
Comm, approp.....Ch.292 - 811
Comm, approp, FY90.....Ch.180 - 384
Manufactured homes, used, sale, conditions.....Ch.165 - 362
REBATES
Manufacturer, discount coupons, use, clarified.....Ch.352 - 944
RECORDS
Public, right to examine, access procedures.....Ch.213 - 480
Youth Rehab Act, court, exchange, attorneys/courts.....Ch.245 - 696
RECREATION
Dist, debt, amount incurred, increased.....Ch.394 - 1105
Gondola resort complex, liquor license.....Ch.255 - 729
Ski area, aerial passenger tramway, sales tax exempt...Ch.219 - 585
State parks, list, provided.....Ch.359 - 968
RECREATIONAL VEHICLES
All terrain vehicles, public highway use.....Ch.391 - 1092
RECYCLING PROGRAMS
Polystyrene foam containers, recycling study.....HCR37(A) - 1226
Solid Waste Reduction Program, established.....HCR36(A) - 1225
REHABILITATION
Program, approp, Industrial Comm.....Ch.405 - 1131
RENTERS
Leases, rental property, statewide uniformity.....Ch.185 - 413
REPORTS
Accidents, motor vehicle, property damage amount.....Ch. 69 - 151

REPORTS (Continued) Chapter - Page
City financial, publication, time limits.....Ch. 88 - 183
Murders, unsolved, Law Enforcement, Dept.....Ch. 66 - 145
RESEARCH
UofI, approp, Agriculture, Extension Service.....Ch.436 - 1205
RESIDENTIAL CARE FACILITY
Residential care facility administrator, licensing.....Ch.304 - 833
RESOLUTIONS, CONCURRENT
Buck Creek drainage, multiple use area.....HCR46(A) - 1230
Community college services, legislative study comm...HCR52(A) - 1233
Governor's Budget Address.....HCR33(A) - 1222
Highway Needs Assessment Council, study comm.....HCR47(A) - 1231
Lindstrom Peak, multiple use area.....HCR46(A) - 1230
Polystyrene foam containers, recycling study.....HCR37(A) - 1226
Public Employee Retirement, legislative study comm...HCR51(A) - 1232
Revenue projections, FY 1990.....HCR35(A) - 1224
Revenue projections, FY 1991.....HCR34(A) - 1223
Roadless lands mediator, Idaho national forests.....SCR148(A) - 1220
Safe Drinking Water Act, state implementation.....SCR132(A) - 1216
State employees, salaries, 4.5% payline adjustment..SCR142(A) - 1219
State of State message.....HCR32(A) - 1222
Streamflow, minimum, Elk Creek.....HCR43(A) - 1228
Streamflow, minimum, Hayden Creek.....HCR45(A) - 1229
Streamflow, minimum, Payette River.....SCR136(A) - 1217
Streamflow, minimum, Payette River.....SCR137(A) - 1218
Streamflow, minimum, Round Lake.....HCR44(A) - 1229
Subsurface sewage systems, H&W, Bd, rules rejected...HCR53(A) - 1234
Underground Storage Tank Program, approval.....SCR130(A) - 1215
Waste, Solid, Reduction Program, established.....HCR36(A) - 1225
Wildlife Depredation Comm, HCR31, 1989, continue....SCR135(A) - 1216
Year and Week of Literacy, 1990.....HCR41(A) - 1227
RESOLUTIONS, JOINT
Fish & Game lands, fees in lieu of taxes.....HJR14(A) - 1214
RESORTS
Gondola, complex, liquor license.....Ch.255 - 729
Ski, aerial passenger tramways, sales tax exempt.....Ch.219 - 585
RETIREMENT
Employee, state, health insurance, conditions.....Ch.117 - 263
Firemen, benefits, 7/1/78 thru 10/1/80.....Ch.211 - 471
Judges, Fund, investment, method, limitations.....Ch.247 - 700
Lottery security director, police officer status.....Ch.360 - 970
Medical insurance benefits, school retiree, spouse.....Ch.407 - 1133
Medical insurance/individual, accounts, repeal.....Ch.248 - 701
PERS, approp.....Ch.429 - 1185
PERS, conditions, clarified.....Ch.249 - 702
PERS, employee, redefined.....Ch.130 - 300
PERS, Law, recodify.....Ch.231 - 611
PERS, legislative service credit.....Ch.258 - 738
PERS, legislative study comm.....HCR51(A) - 1232
Police officer, membership status, clarified.....Ch.276 - 777
Police, fund/city, actuarial study, 4 years.....Ch.128 - 298
University staff, newly hired, optional, plan.....Ch.251 - 720

REVENUE Chapter - Page
Projections, FY 1990.....HCR35(A) - 1224
Projections, FY 1991.....HCR34(A) - 1223
REVENUE AND TAXATION
See REVENUE, TAX AND TAXATION
RICKS COLLEGE
See COLLEGES AND UNIVERSITIES
RIVERS
Clearwater, water project, generate electricity.....Ch.363 - 987
Henry's Fork, interim protected status, extended.....Ch.333 - 911
Lost, Basin, study, approp, Water Resources, Dept.....Ch.427 - 1184
Riverbed, mineral exploration, prior to lease.....Ch.317 - 865
Snake, Basin, water rights, quantification.....Ch.259 - 740
Streamflow, minimum, Elk Creek.....HCR43(A) - 1228
Streamflow, minimum, Hayden Creek.....HCR45(A) - 1229
Streamflow, minimum, Payette River.....SCR136(A) - 1217
Streamflow, minimum, Payette River.....SCR137(A) - 1218
Streams, no interim protection prior/legislation.....Ch.305 - 842
RULES
Administrative, automatic expiration.....Ch. 22 - 33
H&W, Bd, antidegradation, legislative approval.....Ch.305 - 842
H&W, Bd, subsurface sewage systems, rejected.....HCR53(A) - 1234
Insurance, Dept, evidence, conformance.....Ch.283 - 793
State Lottery Comm, approved.....Ch.420 - 1158
SAFETY
Industrial Relations, Programs, approp.....Ch.342 - 927
SALARIES
Industrial Comm, members.....Ch.345 - 930
Judges, Justices, annual, increased.....Ch. 39 - 59
Magistrates, nonattorney, annual, increased.....Ch. 39 - 59
Overtime, Agriculture employee, Correction, Dept.....Ch.368 - 1005
Overtime, clarified, HB596.....Ch.212 - 479
PUC, commissioners, increase.....Ch.115 - 239
State employees, shift differential pay.....Ch.161 - 350
State employees, 4.5% payline adjustment.....SCR142(A) - 1219
Tax Commissioners, increase.....Ch.108 - 220
Wage, claims, attorney fees, recovery, clarified.....Ch.226 - 603
Wage, minimum, schedule, tip credit, overtime.....Ch.132 - 305
SALES
Occasional, further define, capital assets transfer....Ch.135 - 308
SALES TAX
See TAX AND TAXATION, SALES
SCALING
Practices, Lands, Dept, approp.....Ch.288 - 806
SCHOOL DISTRICTS
Construction plan, Labor & Industrial Services.....Ch.167 - 363
Employee personnel files, required.....Ch.418 - 1156
Homeless children, transfer pupils, tuition, SB1423....Ch.272 - 766
Homeless children, transfer pupils, tuition, SB1419....Ch.272 - 766
Open enrollment, provided.....Ch. 43 - 67
Rezoning proposal, time allowed, extended.....Ch. 31 - 46
Student, work experience, worker's compensation.....Ch.335 - 912
Treasurers, assistant, activity funds.....Ch.198 - 443

SCHOOL DISTRICTS (Continued) Chapter - Page
Trustees, election, one nomination, no election.....Ch.332 - 910
Trustees, recall elections, procedures.....Ch. 94 - 194
SCHOOLS
Accountability report cards, issuance.....Ch.149 - 332
Approp.....Ch.136 - 310
Deaf & Blind, approp.....Ch.341 - 926
Deaf & Blind, name change.....Ch.237 - 674
Drug trafficking, on/near, penalty.....Ch.268 - 755
Employee personnel files, required.....Ch.418 - 1156
Extra-curricular activities, privilege, not a right....Ch.402 - 1127
High school summer alternative school.....Ch.204 - 457
Homeless children, transfer pupils, tuition, SB1423....Ch.272 - 766
Juvenile, alcohol possession, penalty.....Ch.344 - 929
Lottery moneys, approp, Public, Income Fund.....Ch.384 - 1062
Open enrollment, provided.....Ch. 43 - 67
Public, approp, one-time, ongoing improvements.....Ch.136 - 310
Public, approp, retirement, FICA, unemployment.....Ch.136 - 310
Public, approp, salary improvement, cert staff.....Ch.136 - 310
Public, Income Fund, approp.....Ch.136 - 310
Public, Income Fund, lottery moneys.....Ch.377 - 1041
Retiree benefits, medical insurance, spouse.....Ch.407 - 1133
Science Education Grant Program.....Ch.277 - 780
Student, work experience, worker's compensation.....Ch.335 - 912
Youth Services Center, H&W, Bd, authority.....Ch.367 - 1004
SEARCH AND RESCUE OPERATIONS
Account, F&G violations, fines, $7.50 additional.....Ch.380 - 1054
SECRETARY OF STATE
Approp.....Ch.104 - 209
SEEDS
Plant certification, regulation.....Ch.413 - 1144
Pure, Law, plant buyer claims, arbitration.....Ch.412 - 1141
Pure, Law, toxicity categories, signal words.....Ch. 89 - 184
SELF-GOVERNING AGENCIES
Approp.....Ch.292 - 811
Approp, Regulatory Bds, supplemental, FY90.....Ch.180 - 384
Hispanic Comm, approp.....Ch.263 - 745
Lottery Comm, approp.....Ch.140 - 315
Occupational Licenses, Bureau, chief, term.....Ch.330 - 907
SELF-SERVICE STORAGE FACILITY
Property, personal, stored, owners lien, provided.....Ch.381 - 1055
SENIOR CITIZENS
Aging Advisory Council, 14 members, 60 years of age....Ch. 30 - 45
Aging, Office on, approp.....Ch.294 - 814
Personal Care Services, Medicaid program.....Ch.326 - 888
SENTENCING
See COURTS
SEWAGE
Subsurface, disposal system, H&W, Bd, rules, reject..HCR53(A) - 1234
SEX
Rape, male.....Ch.291 - 811
SHEEP
See LIVESTOCK

SHERIFFS Chapter - Page
Boating accidents, immediate notification.....Ch. 75 - 158
SHOOTING PRESERVES
Located near state, federal parks.....Ch.250 - 719
SHORTHAND REPORTERS
Bd, approp.....Ch.292 - 811
Certified, Bd, approp, supplemental, FY90.....Ch.180 - 384
SKIING
Aerial passenger tramways, sales tax exempt.....Ch.219 - 585
Gondola resort complex, liquor license.....Ch.255 - 729
SMOKE MANAGEMENT
Bd, membership, increased.....Ch.397 - 1115
Burning permit, fee.....Ch.397 - 1115
SOIL
Amendments, plant amendments, regulations.....Ch.426 - 1179
Conservation Dist, election ballots, county clerk.....Ch. 3 - 4
Conservation Dist, funding limit, deleted.....Ch.358 - 967
SOLID WASTES
See WASTES
SPORTS
Special Olympics, sales tax exempt.....Ch.134 - 307
STAMPS
Illegal drug, requirements, clarified.....Ch.179 - 378
Migratory waterfowl, Art Comm.....Ch.388 - 1067
STATE HOSPITAL NORTH
See HOSPITALS
STATE HOSPITAL SOUTH
See HOSPITALS
STREAMS
See RIVERS
STUDENTS
Alcohol possession, school property, penalty.....Ch.344 - 929
College work study program, additional requirements....Ch. 95 - 198
Community college , county/residence, verified.....Ch.113 - 235
Community college, tuition, increase, maximum.....Ch. 54 - 125
Extra-curricular activities, privilege, not a right....Ch.402 - 1127
High school summer alternative school.....Ch.204 - 457
Homeless children, transfer pupils, tuition, SB1423....Ch.272 - 766
Nursing, loan forgiveness program.....Ch. 28 - 42
Open enrollment, provided.....Ch. 43 - 67
Scholarship, grants, amount, annual basis.....Ch.403 - 1128
Work experience, worker's compensation coverage.....Ch.335 - 912
STUDIES
Community college services, legislative, comm.....HCR52(A) - 1233
Highway Needs Assessment Council, legislative, comm..HCR47(A) - 1231
Polystyrene foam containers, recycling.....HCR37(A) - 1226
Public Employee Retirement, legislative, comm.....HCR51(A) - 1232
SUBDIVISIONS
Irrigation systems, installation.....Ch.365 - 997
Water service, new, certification ability.....Ch.178 - 377
SUBPOENAS
Witnesses, mileage limitation, eliminated.....Ch.386 - 1063

SUPERINTENDENT OF PUBLIC INSTRUCTION Chapter - Page
Approp....Ch.262 - 744
Approp, Christa McAuliffe Fellowship Program....Ch. 70 - 152
Education Mentor Program, approp....Ch.136 - 310
Polystyrene foam containers, recycling study....HCR37(A) - 1226
SUPREME COURT
See COURTS
SURVEYING AND SURVEYORS
Fees, registration, licensing, clarified....Ch.192 - 424
Plats, vacations, survey corners, defined....Ch.170 - 367
TAX AND TAXATION
Appeals Bd, approp....Ch.264 - 746
Comm Administrative Account, approp....Ch.257 - 736
Comm, approp....Ch.264 - 746
Comm, approp, add'l, FY90, County Support Program....Ch. 59 - 135
Comm, approp, Audit and Collections Program....Ch.264 - 746
Comm, information exchange, Industrial Comm....Ch.334 - 911
Comm, information tax returns....Ch. 77 - 160
Estate, overpayment, interest paid....Ch. 20 - 32
Fuels, revenues, Railroad Grade Crossing Account....Ch.395 - 1106
Tax Commissioners, salary increase....Ch.108 - 220
Tobacco, returns, due date, changed....Ch. 17 - 28
Wine, those not licensed as distributor or winery....Ch. 18 - 30
TAX AND TAXATION, INCOME
Farmer employers, employee withholding....Ch. 34 - 49
Internal Revenue Code, 1989, adopted....Ch. 34 - 49
Lump sum distributions, clarified....Ch. 63 - 138
Pension, profit sharing plans, 401(K) plan, exempt....Ch. 63 - 138
Self-employed person, workers comp payment/deduction....Ch.223 - 593
State, net operating loss, on/after 1/1/90....Ch.307 - 844
TAX AND TAXATION, PROPERTY
Ad valorem, penalty, interest, fees, adjustments....Ch. 19 - 31
Ad valorem, refunds or credits....Ch.306 - 843
Lien, excess, refund....Ch. 23 - 35
TAX AND TAXATION, SALES
Aerial passenger tramways, exempt....Ch.219 - 585
Association for Retarded Citizens/U.S., exempt....Ch. 74 - 157
Burden of proof, exemption, purchaser provide....Ch.439 - 1208
Capital assets transfer,"occasional sale", define....Ch.135 - 308
Colleges, nonresident, nonprofit, exempt....Ch. 64 - 143
Disinfectants, dairy industry, exempt....Ch.122 - 292
Dispensing equipment, exempt....Ch.435 - 1204
Food processing chemicals, equipment, exempt....Ch.437 - 1205
Logging equipment, certain, exempt....Ch.431 - 1195
Outfitters, fees, governmental entities, exempt....Ch.438 - 1206
Prescription drugs, exempt....Ch. 42 - 65
Religious groups, incidental sales, property....Ch.434 - 1203
Special Olympics, exempt....Ch.134 - 307
TEACHERS
Student, liability insurance coverage....Ch. 35 - 53
TELECOMMUNICATIONS
Emergency communication systems, liability....Ch.221 - 588
MFJ restrictions, removed....HJM15(A) - 1239

TELEPHONES Chapter - Page
Emergency communication systems, liability.....Ch.221 - 588
Telecommunications, regulations.....HJM15(A) - 1239
911 service areas, less than county-wide extent.....Ch.200 - 449
911, false alarm, misuse, penalties.....Ch.133 - 306
TIMBER
See FORESTS AND FORESTRY
TOBACCO
Cigarette wholesalers, bond requirement, release.....Ch. 41 - 63
Cigarettes, contraband, penalty, clarified.....Ch. 17 - 28
Tax returns, due date, changed.....Ch. 17 - 28
TORTS
Joint tortfeasor, "acting in concert".....Ch.120 - 290
TRADE
Omnibus, Competitiveness Act, nomenclature provided....Ch. 37 - 55
Secrets Act, application of law.....Ch.274 - 774
TRAILERS
Utility, registration, 1, 5 or 10 year.....Ch.197 - 439
TRAINS
See RAILROADS
TRANSPORTATION
Dept, approp.....Ch.286 - 804
Dept, approp, aeronautics.....Ch.286 - 804
Dept, approp, highways.....Ch.286 - 804
Dept, approp, Traffic Safety Comm.....Ch.286 - 804
Dept, employees, political activity, limit.....Ch.356 - 964
Dept, highway abandonment/assuming control.....Ch. 60 - 136
Hazardous waste, negligence, penalty.....Ch.331 - 908
Highway Needs Assessment Council, study comm.....HCR47(A) - 1231
Motor vehicle license plate, fee, increased, use.....Ch.233 - 666
TREASURER AND TREASURIES
City, financial reports, publication, time limits.....Ch. 88 - 183
County, electronic fund transfer.....Ch. 76 - 159
County, property tax lien, excess, refund.....Ch. 23 - 35
Political, contributions, reporting requirements.....Ch. 62 - 137
School dist, assistant, activity funds.....Ch.198 - 443
State, approp.....Ch.100 - 207
State, direct receipt of money, allowed.....Ch. 21 - 33
TRUCKING
Motor carriers, fees, code citation correction.....Ch. 13 - 23
PUC, base state agreements.....Ch. 12 - 23
PUC, prorated fees, regulatory fee.....Ch. 14 - 25
TRUCKS
See MOTOR VEHICLES
TRUSTS
Highway, Fund, Federal, remove/Federal Budget.....SJM116(A) - 1236
TUBERCULOSIS
Test, barbers, requirement removed.....Ch.163 - 355
TUITION
Community college, increase, maximum.....Ch. 54 - 125
Schools, homeless children, no payment.....Ch.272 - 766
UNDERGROUND STORAGE TANKS
See FUELS, PETROLEUM

UNEMPLOYMENT Chapter - Page
Benefits, overpayment, statute of limitations.....Ch.353 - 946
UNIFORM COMMERCIAL CODE
Centralized, approp.....Ch.104 - 209
Photographic record, defined.....Ch.205 - 457
Secured transactions, filing fees.....Ch.205 - 457
Security interest, purchase money, priorities.....Ch.154 - 339
UNIFORM LAWS
Arbitration Act, reference corrected.....Ch. 65 - 144
Building Code, proper citations.....Ch.155 - 341
Comm, approp.....Ch.104 - 209
UNIVERSITIES
See COLLEGES AND UNIVERSITIES
UNIVERSITY OF IDAHO
See COLLEGES AND UNIVERSITIES
URANIUM
Lowman, Processing Site, cleanup, approp, H&W, Dept....Ch.287 - 805
URBAN RENEWAL
Revenue financing, municipality, distinction.....Ch.430 - 1186
UTILITIES
PUC, approp.....Ch.350 - 938
PUC, base state agreements.....Ch. 12 - 23
PUC, commissioners, salary, increase.....Ch.115 - 239
PUC, prorated fees, regulatory fee.....Ch. 14 - 25
PUC, rates, other state contracts, conditions.....Ch. 79 - 161
VEHICLES
See MOTOR VEHICLES, RECREATIONAL VEHICLES
VENDING MACHINES
Dispensing equipment, sales tax exempt.....Ch.435 - 1204
VETERANS
Homes, statutes updated.....Ch. 56 - 127
Lewiston, Home, approp, Health & Welfare, Dept.....Ch.337 - 917
VETERINARY MEDICINE
Bd, approp.....Ch.292 - 811
Bd, approp, supplemental, FY90.....Ch.180 - 384
Equine Education Account, horse racing, receipts.....Ch.399 - 1116
Statutes, clarified.....Ch.111 - 222
WOI, Program, Bd of Regents, approp.....Ch.416 - 1153
VICTIMS
Crime, award prohibition, same household as offender...Ch. 15 - 25
Crime, compensation, approp, Industrial Comm.....Ch.405 - 1131
Crime, out-of-state victim, benefits, extended.....Ch. 16 - 26
Domestic violence, protections, expanded.....Ch.234 - 667
VOCATIONAL EDUCATION
Approp.....Ch.279 - 783
VOCATIONAL REHABILITATION
Approp.....Ch.278 - 782
VOLUNTEER PROGRAMS
Liability limitations.....Ch.105 - 211
WAGES
See SALARIES
WAMI
Medical Education Program, approp, Education, Bd.....Ch.416 - 1153

WAREHOUSES Chapter - Page
Bonded, regulations, revised.....Ch.183 - 399
WARRANTIES
Motor vehicles, "lemon law" application.....Ch.235 - 671
WASTES
Hazardous, cleanup cost, recovery.....Ch.191 - 422
Hazardous, transportation, negligence, penalty.....Ch.331 - 908
Solid, Disposal Dists, regional, created.....Ch.390 - 1085
Solid, polystyrene foam containers, recycling study..HCR37(A) - 1226
Solid, Reduction Program, established.....HCR36(A) - 1225
WATER
Antidegradation rules, Health & Welfare, Bd.....Ch.305 - 842
Appropriation, out-of-state use, applications.....Ch.141 - 316
Clearwater River, project, generate electricity.....Ch.363 - 987
County Vessel Fund, moneys, expenditure, revised.....Ch.220 - 586
Ground, monitoring plan, provided.....Ch.151 - 334
Henry's Fork, interim protected status, extended.....Ch.333 - 911
Irrigation Dist, annexation of nonadjacent land.....Ch.340 - 923
Irrigation Dist, bonds, confirmation proceeding.....Ch. 11 - 21
Irrigation Dist, land exclusion, petition out/dist.....Ch.181 - 386
Irrigation systems, subdivisions, installation.....Ch.365 - 997
Lakes, protection, navigational encroachment.....Ch.362 - 979
Levee dists, creation, authorized.....Ch.396 - 1108
Pollution Control Account, approp.....Ch.112 - 235
Quality Program, approp.....Ch.389 - 1078
Rights Technical Studies Program, approp.....Ch.186 - 414
Rights, domestic purposes, uniform definition.....Ch.319 - 870
Rights, nonuse, forfeiture, when.....Ch.318 - 868
Rights, Snake River Basin, quantification.....Ch.259 - 740
Safe Drinking, Act, state implemetation.....SCR132(A) - 1216
Service, new, subdivisions, certification ability.....Ch.178 - 377
Soil Conservation, Lands, Dept, approp.....Ch.288 - 806
Streamflow, minimum, Elk Creek.....HCR43(A) - 1228
Streamflow, minimum, Hayden Creek.....HCR45(A) - 1229
Streamflow, minimum, Payette River.....SCR136(A) - 1217
Streamflow, minimum, Payette River.....SCR137(A) - 1218
Streamflow, minimum, Round Lake.....HCR44(A) - 1229
Streams, no interim protection prior/legislation.....Ch.305 - 842
Well drilling, license required, penalties.....Ch.366 - 999
Well drilling, permit fees, increased.....Ch.164 - 361
WATER RESOURCES
Clearwater River, water project, electricity.....Ch.363 - 987
Dept, approp.....Ch.193 - 434
Dept, approp, study, Lost River Basin.....Ch.427 - 1184
Dept, water approp, out-of-state use, application.....Ch.141 - 316
Snake Basin Adjudications, approp.....Ch.193 - 434
WEAPONS
See also FIREARMS
Concealed, license, fees, renewals.....Ch.256 - 732
Sale to minors, parental consent.....Ch.256 - 732
WEIGHTS AND MEASURES
Proper nomenclature provided.....Ch. 37 - 55

WELFARE Chapter - Page
See PUBLIC ASSISTANCE
WELLS
Drilling, license required, penalties.....Ch.366 - 999
Drilling, permit fees, increased.....Ch.164 - 361
WHEAT
See AGRICULTURE
WICHE
Medical Education Program, approp, UofUtah.....Ch.416 - 1153
WILDERNESS
Roadless lands mediation, approp, SCR148.....Ch.433 - 1203
Roadless lands mediator, Idaho National Forests.....SCR148(A) - 1220
WILDLIFE
Animal Damage Control Account, established.....Ch.388 - 1067
Big Game Secondary Depredation Account, created.....Ch.370 - 1007
Captive, propagation, no permit, when.....Ch.282 - 788
Closed season, possession, penalties.....Ch. 5 - 9
Depredation claims, payment process, established.....Ch.370 - 1007
Depredation Comm, HCR31, 1989, continue.....SCR135(A) - 1216
Fish & Game Expendable Trust Account, established.....Ch.388 - 1067
Fish & Game Nonexpendable Trust Account, established...Ch.388 - 1067
Fish & Game Set-Aside Account, established.....Ch.388 - 1067
Migratory waterfowl stamp, art comm.....Ch.388 - 1067
Possession, transporting for another person.....Ch.315 - 860
Shooting perserves, near state/federal parks.....Ch.250 - 719
Swans, wild, Tundra and Trumpter, protected.....Ch. 4 - 6
Violator Compact, adoption, authorized.....Ch.364 - 988
WINE
Distributors, advertising materials, retailers.....Ch.406 - 1132
Juvenile, possession, school property, penalty.....Ch.344 - 929
Tax, for those not licensed as distributor or winery...Ch. 18 - 30
Winery, under age may enter premise.....Ch.320 - 876
WITNESSES
Chemist, testimony, adulterated oil.....Ch.379 - 1053
Child, to ritualized abuse, testimony, procedure.....Ch.210 - 467
Criminal proceedings, airline ticket provided.....Ch.386 - 1063
Mileage limitation, eliminated, subpoenas.....Ch.386 - 1063
WOI
Veterinary Medicine Program, approp, Education, Bd.....Ch.416 - 1153
WOMEN
Prisoners, incarceration, proper facilities.....Ch. 96 - 201
Prisoners, incarceration, proper facilities.....Ch. 97 - 202
Programs, Comm, approp.....Ch.228 - 605
WORKMEN'S COMPENSATION
AIDS, occupational diseases, blood exposure.....Ch.188 - 417
Employer, failure to secure, penalty.....Ch.322 - 880
Income tax deduction, self-employed person.....Ch.223 - 593
Insurance premium tax, references, clarified.....Ch.253 - 725
Student, work experience, coverage.....Ch.335 - 912
Wage loss, travel, reimbursement rate, clarified.....Ch.110 - 221
Youth Employment Programs, coverage.....Ch.301 - 830
YOUTH
See CHILDREN

YOUTH REHABILITATION ACT Chapter - Page
Court, further defined.....Ch.245 - 696
Juvenile Justice Reform Act, duty nonperformance.....Ch.289 - 809
Provisions, extended.....Ch.355 - 958
Records exchange, prosecuting attorneys & courts.....Ch.245 - 696
ZONING
See PLANNING AND ZONING

CODE INDEX

TABLE OF AMENDMENTS, REPEALS, ADDITIONS AND REFERENCES

TO THE SECTIONS OF THE IDAHO CODE BY THE 1990 SESSION LAWS

Code citation, action, bill number and session law chapter number is shown of bills which passed

SECOND REGULAR SESSION - CENTENNIAL LEGISLATURE

		Chapter - Page
TITLE 1		
1-2003	Amended	Ch.246 - 699
1-2008	Repealed	Ch.247 - 700
1-2008	New Section Added	Ch.247 - 700
1-2008A	Repealed	Ch.247 - 700
1-2101	Amended	Ch. 71 - 153
1-2102	Amended	Ch. 71 - 153
1-2103	Amended	Ch.213 - 489
1-2103A	New Section Added	Ch. 71 - 154
1-2104	Amended	Ch. 71 - 155
1-2207	Amended	Ch. 71 - 155
1-2222	Amended	Ch. 39 - 59
TITLE 2		
2-210	Amended	Ch.213 - 490
TITLE 6		
6-210	Amended	Ch. 81 - 163
6-803	Amended	Ch.120 - 290
Ch.9	Referred to	Ch. 40 - 61
6-907	Referred to	Ch.370 - 1016,1018
Ch.10	Referred to	Ch.213 - 486
6-1001	Amended	Ch.213 - 491
6-1008	Amended	Ch.213 - 491
6-1010	Amended	Ch.213 - 492
6-1601	Amended	Ch.105 - 211
6-1603	Referred to	Ch.121 - 291
6-1605	Amended	Ch.105 - 212
6-1606	New Section Added	Ch.131 - 304
6-1801	New Section Added	Ch. 40 - 62
6-1802	New Section Added	Ch. 40 - 62
TITLE 7		
7-912	Amended	Ch. 65 - 144
7-1121	Amended	Ch.361 - 975
7-1121	Amended	Ch.410 - 1138
7-1202	Amended	Ch. 92 - 192
7-1204	Amended	Ch.361 - 975

		Chapter - Page
TITLE 9		
9-301	Repealed	Ch.213 - 489
9-302	Repealed	Ch.213 - 489
9-337	New Section Added	Ch.213 - 481
9-338	New Section Added	Ch.213 - 482
9-339	New Section Added	Ch.213 - 483
9-340	New Section Added	Ch.213 - 483
9-341	New Section Added	Ch.213 - 487
9-342	New Section Added	Ch.213 - 487
9-343	New Section Added	Ch.213 - 488
9-344	New Section Added	Ch.213 - 488
9-345	New Section Added	Ch.213 - 489
9-346	New Section Added	Ch.213 - 489
9-347	New Section Added	Ch.213 - 489
9-348	New Section Added	Ch.213 - 489
TITLE 10		
10-1401	New Section Added	Ch.408 - 1134
10-1402	New Section Added	Ch.408 - 1135
10-1403	New Section Added	Ch.408 - 1135
10-1404	New Section Added	Ch.408 - 1135
10-1405	New Section Added	Ch.408 - 1135
10-1406	New Section Added	Ch.408 - 1136
10-1407	New Section Added	Ch.408 - 1136
10-1408	New Section Added	Ch.408 - 1136
10-1409	New Section Added	Ch.408 - 1136
TITLE 11		
11-605	Amended	Ch.275 - 776
TITLE 14		
14-408	Amended	Ch. 20 - 32
TITLE 15		
15-5-419	Amended	Ch.290 - 810
15-5-602	Amended	Ch.213 - 492
TITLE 16		
16-1504	Amended	Ch. 27 - 42
16-1513	Amended	Ch.213 - 494
16-1622	Amended	Ch.361 - 977
16-1623	Amended	Ch.213 - 495
Ch.18	Referred to	Ch.215 - 574
Ch.18	Referred to	Ch.213 - 480
16-1802	Amended	Ch.245 - 696
16-1802	Amended	Ch.355 - 958
16-1802	Referred to	Ch.215 - 570
16-1803	Amended	Ch.355 - 960
16-1806A	Amended	Ch.268 - 758
16-1807	Amended	Ch.355 - 960
16-1811	Amended	Ch.213 - 497
16-1814	Amended	Ch.355 - 961
16-1815	Amended	Ch.361 - 977
16-1816	Amended	Ch.213 - 498
16-1816	Amended	Ch.245 - 698
16-1846	Repealed	Ch.289 - 810
16-2002	Amended	Ch. 26 - 40
16-2002	Referred to	Ch. 81 - 164

TITLE 16 (Continued)		Chapter - Page
16-2005	Amended	Ch. 25 - 38
16-2007	Amended	Ch. 58 - 134
16-2102	Referred to	Ch.438 - 1207
TITLE 18		
18-613	Repealed	Ch.207 - 464
18-614	Repealed	Ch.207 - 464
18-615	Repealed	Ch.207 - 464
18-1351	Amended	Ch.328 - 899
18-1356	Amended	Ch.328 - 902
18-1359	New Section Added	Ch.328 - 900
18-1360	New Section Added	Ch.328 - 901
18-1361	New Section Added	Ch.328 - 901
18-1362	New Section Added	Ch.328 - 902
18-1502	Amended	Ch.280 - 785
18-1506A	New Section Added	Ch.210 - 467
18-1508	Referred to	Ch.271 - 765
18-2407	Referred to	Ch.126 - 297
18-2505	Amended	Ch.313 - 858
18-2603	Amended	Ch.309 - 849
18-2706	Referred to	Ch.370 - 1018
18-3302	Repealed	Ch.256 - 732
18-3302	New Section Added	Ch.256 - 732
18-3302A	New Section Added	Ch.256 - 736
18-3302B	New Section Added	Ch.256 - 736
18-3302C	New Section Added	Ch.256 - 736
18-4003	Referred to	Ch. 66 - 145
18-5003	New Section Added	Ch.210 - 468
18-6015	New Section Added	Ch.189 - 419
18-6101	Referred to	Ch.310 - 850
18-6108	Repealed	Ch.291 - 811
18-6108	New Section Added	Ch.291 - 811
18-6108	Referred to	Ch.310 - 850
18-6711A	New Section Added	Ch.133 - 306
18-7037	New Section Added	Ch. 38 - 58
18-7037	New Section Added	Ch.126 - 297
18-8001	Amended	Ch. 45 - 109
18-8001	Amended	Ch.432 - 1201
18-8002	Amended	Ch. 45 - 111
18-8004	Amended	Ch. 45 - 113
18-8005	Amended	Ch. 45 - 114
18-8006	Amended	Ch. 45 - 117
TITLE 19		
19-402	Amended	Ch.210 - 468
19-1112	Amended	Ch.213 - 499
19-2513	Referred to	Ch.268 - 755
19-2520F	New Section Added	Ch.238 - 676
19-2927	Amended	Ch. 73 - 156
19-2928	Amended	Ch. 73 - 157
19-2929	Amended	Ch. 72 - 156
19-3005	Amended	Ch.386 - 1063
19-3024A	Amended	Ch.210 - 468
19-4522	Amended	Ch.314 - 859

TITLE 19 (Continued)		Chapter - Page
19-4523	Amended	Ch.314 - 859
19-5102	Amended	Ch.308 - 848
TITLE 20		
20-213A	Amended	Ch.213 - 499
20-226	Amended	Ch.213 - 500
20-501	Amended	Ch. 96 - 201
20-502	Amended	Ch. 97 - 202
TITLE 21		
21-114	Amended	Ch.321 - 877
TITLE 22		
22-103	Amended	Ch.376 - 1039
22-415	Amended	Ch. 89 - 184
22-416	Amended	Ch. 89 - 187
22-416	Amended	Ch.413 - 1147
22-422	Repealed	Ch.413 - 1144
22-423	Repealed	Ch.413 - 1144
22-424	Repealed	Ch.413 - 1144
22-425	Repealed	Ch.413 - 1144
22-426	Repealed	Ch.413 - 1144
22-427	Repealed	Ch.413 - 1144
22-428	Repealed	Ch.413 - 1144
22-429	Repealed	Ch.413 - 1144
22-430	Repealed	Ch.413 - 1144
22-431	Repealed	Ch.413 - 1144
22-432	Repealed	Ch.413 - 1144
22-433	Repealed	Ch.413 - 1144
22-436	Amended	Ch.412 - 1141
22-609	Amended	Ch.213 - 500
22-910	Amended	Ch.190 - 420
22-1101	New Section Added	Ch.413 - 1144
22-1101	New Section Added	Ch.145 - 325
22-1101	New Section Added	Ch.426 - 1179
22-1102	New Section Added	Ch.413 - 1144
22-1102	New Section Added	Ch.145 - 325
22-1102	New Section Added	Ch.426 - 1179
22-1103	New Section Added	Ch.413 - 1145
22-1103	New Section Added	Ch.145 - 326
22-1103	New Section Added	Ch.426 - 1179
22-1104	New Section Added	Ch.145 - 326
22-1104	New Section Added	Ch.413 - 1145
22-1104	New Section Added	Ch.426 - 1181
22-1105	New Section Added	Ch.145 - 327
22-1105	New Section Added	Ch.413 - 1145
22-1105	New Section Added	Ch.426 - 1181
22-1106	New Section Added	Ch.145 - 327
22-1106	New Section Added	Ch.413 - 1146
22-1106	New Section Added	Ch.426 - 1182
22-1107	New Section Added	Ch.145 - 327
22-1107	New Section Added	Ch.413 - 1146
22-1107	New Section Added	Ch.426 - 1182
22-1108	New Section Added	Ch.413 - 1146
22-1108	New Section Added	Ch.426 - 1183

TITLE 22 (Continued)		Chapter - Page
22-1109	New Section Added	Ch.413 - 1146
22-1109	New Section Added	Ch.426 - 1183
22-1110	New Section Added	Ch.413 - 1146
22-1110	New Section Added	Ch.426 - 1183
22-1111	New Section Added	Ch.413 - 1147
22-1111	New Section Added	Ch.426 - 1183
22-1112	New Section Added	Ch.426 - 1184
22-1215	Amended	Ch.213 - 501
22-1303	Amended	Ch.171 - 369
22-1313	Amended	Ch.213 - 501
22-2529	Amended	Ch.414 - 1148
22-2536	Amended	Ch.414 - 1149
22-2721	Amended	Ch. 3 - 4
22-2726	Amended	Ch.358 - 967
22-2727	Amended	Ch.358 - 967
22-2729	Amended	Ch.114 - 238
22-2804	Amended	Ch.414 - 1150
22-3306	Amended	Ch.157 - 343
22-3315	Amended	Ch.199 - 448
22-3401	Amended	Ch.269 - 759
22-3406	Amended	Ch.269 - 762
22-3423	Amended	Ch.269 - 763
TITLE 23		
23-515	Amended	Ch.213 - 501
23-612	Amended	Ch.344 - 929
23-903	Amended	Ch.252 - 722
23-903	Amended	Ch.255 - 729
23-903	Amended	Ch.392 - 1098
23-944	Amended	Ch.320 - 876
23-1018	Amended	Ch.428 - 1184
23-1319	Amended	Ch. 18 - 30
23-1325B	New Section Added	Ch.406 - 1132
TITLE 25		
25-128	Referred to	Ch.388 - 1072
25-132A	Repealed	Ch.137 - 312
25-132B	Repealed	Ch.137 - 312
25-1904	Repealed	Ch.126 - 297
25-1910	Amended	Ch.126 - 297
25-2401	Amended	Ch.222 - 589
25-2402	Amended	Ch.222 - 590
25-2407	Amended	Ch.222 - 593
25-2727	Amended	Ch.213 - 502
Ch.30	Referred to	Ch.282 - 789
25-3108	Amended	Ch.142 - 321
25-3301	Amended	Ch.182 - 396
25-3302	Amended	Ch.182 - 396
25-3302A	New Section Added	Ch.182 - 397
25-3303	Amended	Ch.182 - 397
25-3304	Amended	Ch.182 - 397
25-3305	Repealed	Ch.182 - 398
25-3306	Amended	Ch.182 - 398
25-3307	Repealed	Ch.182 - 398

TITLE 25 (Continued)		Chapter - Page
25-3309	Amended	Ch.182 - 398
25-3310	New Section Added	Ch.182 - 398
TITLE 26		
26-203	Amended	Ch.242 - 694
26-204	Amended	Ch.242 - 694
26-710	Amended	Ch. 93 - 193
26-1111	Amended	Ch.213 - 502
26-1112	Amended	Ch.213 - 502
26-2222	Amended	Ch.346 - 931
26-2223	Amended	Ch.346 - 932
26-2224	Amended	Ch.213 - 503
26-2231	Amended	Ch.346 - 932
26-2232A	Amended	Ch.346 - 933
26-2235	Amended	Ch.346 - 934
26-2239	Amended	Ch.346 - 935
26-2240	Amended	Ch.346 - 935
26-2242	Amended	Ch.346 - 936
26-2244	Amended	Ch.346 - 936
26-2801	New Section Added	Ch.225 - 600
26-2802	New Section Added	Ch.225 - 600
26-2803	New Section Added	Ch.225 - 600
26-2804	New Section Added	Ch.225 - 601
26-2805	New Section Added	Ch.225 - 601
26-2806	New Section Added	Ch.225 - 601
26-2807	New Section Added	Ch.225 - 602
26-2808	New Section Added	Ch.225 - 602
26-2809	New Section Added	Ch.225 - 603
26-2810	New Section Added	Ch.225 - 603
26-2811	New Section Added	Ch.225 - 603
TITLE 28		
28-9-105	Amended	Ch.205 - 458
28-9-312	Amended	Ch.154 - 339
28-9-402	Amended	Ch.421 - 1166
28-9-403	Amended	Ch.205 - 460
28-9-403	Amended	Ch.421 - 1169
28-9-407	Amended	Ch.205 - 462
28-24-101	New Section Added	Ch.267 - 750
28-24-102	New Section Added	Ch.267 - 751
28-24-103	New Section Added	Ch.267 - 751
28-24-104	New Section Added	Ch.267 - 753
28-24-105	New Section Added	Ch.267 - 754
28-24-106	New Section Added	Ch.267 - 755
28-24-107	New Section Added	Ch.267 - 755
28-41-301	Referred to	Ch.273 - 768
28-46-106	Amended	Ch.213 - 504
28-46-304	Amended	Ch.213 - 504
TITLE 29		
29-115	New Section Added	Ch.415 - 1151
TITLE 30		
30-1-54	Referred to	Ch.242 - 694
Ch.3	Referred to	Ch.105 - 211
Ch.14	Referred to	Ch.119 - 284

TITLE 30 (Continued)		Chapter - Page
30-1450	Amended	Ch.213 - 505
TITLE 31		
31-604	Amended	Ch.123 - 293
31-819	Amended	Ch.347 - 937
31-873	Repealed	Ch. 87 - 178
31-874	Repealed	Ch. 87 - 178
31-874	Amended	Ch.213 - 505
31-1005	Amended	Ch.123 - 293
31-1006	Amended	Ch.123 - 293
31-1605	Amended	Ch. 24 - 37
31-2103	Amended	Ch. 76 - 159
31-3201	Amended	Ch.216 - 581
31-3401	Amended	Ch. 87 - 178
31-3404	Amended	Ch. 87 - 178
31-3405	Amended	Ch. 87 - 178
31-3406	Amended	Ch. 87 - 179
31-3407	Amended	Ch. 87 - 179
31-3408	Amended	Ch. 87 - 179
31-3409	Repealed	Ch. 87 - 178
31-3410	Repealed	Ch. 87 - 178
31-3501	Amended	Ch. 87 - 180
31-3502	Amended	Ch. 87 - 180
31-3503	Amended	Ch. 87 - 181
31-3504	Repealed	Ch. 87 - 178
31-3505	Repealed	Ch. 87 - 178
31-3506	Repealed	Ch. 87 - 178
31-3507	Repealed	Ch. 87 - 178
31-3508	Repealed	Ch. 87 - 178
31-3509	Repealed	Ch. 87 - 178
31-3510	Repealed	Ch. 87 - 178
31-3510A	Repealed	Ch. 87 - 178
31-3511	Repealed	Ch. 87 - 178
31-3517	Repealed	Ch. 87 - 178
31-3518	Repealed	Ch. 87 - 178
31-3519	Repealed	Ch. 87 - 178
31-A3502	Amended	Ch.213 - 505
31-3805	Amended	Ch.365 - 997
31-3806	Repealed	Ch.365 - 998
31-3806	New Section Added	Ch.365 - 998
31-4314	Amended	Ch.394 - 1105
31-4404	Referred to	Ch.390 - 1089
31-4601	New Section Added	Ch.216 - 579
31-4602	New Section Added	Ch.216 - 580
31-4603	New Section Added	Ch.216 - 580
31-4701	New Section Added	Ch.393 - 1101
31-4702	New Section Added	Ch.393 - 1103
31-4703	New Section Added	Ch.393 - 1103
31-4704	New Section Added	Ch.393 - 1103
31-4705	New Section Added	Ch.393 - 1104
31-4706	New Section Added	Ch.393 - 1104
31-4707	New Section Added	Ch.393 - 1105
31-4801	Amended	Ch.200 - 1576

TITLE 31 (Continued)		Chapter - Page
31-4802	Amended	Ch.200 - 450
31-4803	Amended	Ch.200 - 450
31-4804	Amended	Ch.200 - 451
31-4806	Amended	Ch.200 - 451
31-4808	Amended	Ch.200 - 452
31-4809	Amended	Ch.200 - 452
31-4812	New Section Added	Ch.221 - 588
31-4901	New Section Added	Ch.390 - 1085
31-4902	New Section Added	Ch.390 - 1086
31-4903	New Section Added	Ch.390 - 1086
31-4904	New Section Added	Ch.390 - 1087
31-4905	New Section Added	Ch.390 - 1087
31-4906	New Section Added	Ch.390 - 1087
31-4907	New Section Added	Ch.390 - 1088
31-4908	New Section Added	Ch.390 - 1089
31-4909	New Section Added	Ch.390 - 1089
31-4910	New Section Added	Ch.390 - 1089
31-4911	New Section Added	Ch.390 - 1090
31-4912	New Section Added	Ch.390 - 1090
31-4913	New Section Added	Ch.390 - 1091
31-4914	New Section Added	Ch.390 - 1091
31-4915	New Section Added	Ch.390 - 1091
31-4916	New Section Added	Ch.390 - 1091
31-4917	New Section Added	Ch.390 - 1091
31-4918	New Section Added	Ch.390 - 1091
31-4919	New Section Added	Ch.390 - 1091
31-4920	New Section Added	Ch.390 - 1092
31-4921	New Section Added	Ch.390 - 1092
TITLE 32		
32-705	Amended	Ch.336 - 917
32-706	Amended	Ch.410 - 1137
32-710A	Amended	Ch. 90 - 188
32-1205	Amended	Ch.361 - 974
TITLE 33		
33-107A	New Section Added	Ch.251 - 720
33-313	Amended	Ch. 31 - 46
33-424	Amended	Ch. 94 - 194
33-425	Repealed	Ch. 94 - 194
33-426	Repealed	Ch. 94 - 194
33-427	Repealed	Ch. 94 - 194
33-428	Amended	Ch. 94 - 194
33-429	Amended	Ch. 94 - 196
33-435	Amended	Ch. 94 - 197
33-436	Amended	Ch. 94 - 197
33-438	Amended	Ch. 94 - 197
33-439	Amended	Ch. 94 - 198
33-502B	New Section Added	Ch.332 - 910
33-509A	New Section Added	Ch.198 - 444
33-512	Amended	Ch.402 - 1127
33-518	New Section Added	Ch.418 - 1157
33-701	Amended	Ch.198 - 444
33-705	New Section Added	Ch.198 - 447

TITLE 33 (Continued)		Chapter - Page
33-903	Amended	Ch.377 - 1042,1044
33-905	Amended	Ch.377 - 1042,1044
33-1001	Referred to	Ch.215 - 571
33-1002C	New Section Added	Ch.204 - 457
33-1201	Amended	Ch. 35 - 53
33-1211	Amended	Ch.213 - 506
33-1228	Amended	Ch.407 - 1133
33-1401	Amended	Ch. 43 - 67
33-1402	New Section Added	Ch. 43 - 68
33-1404	Amended	Ch. 43 - 69
33-1404	Amended	Ch.272 - 766
33-1405	Amended	Ch. 43 - 69
33-2110	Amended	Ch. 54 - 125
33-2110A	Amended	Ch.113 - 236
33-2501	Amended	Ch. 44 - 70
33-2504	Amended	Ch.277 - 781
33-2511	New Section Added	Ch.277 - 781
33-2512	New Section Added	Ch.277 - 782
33-2602	Amended	Ch.378 - 1052
33-2703	Amended	Ch.378 - 1046
33-2704	Amended	Ch.378 - 1047
33-2705	Amended	Ch.378 - 1048
33-2707	Amended	Ch.378 - 1048
33-2708	Amended and redesignated 33-2709	Ch.378 - 1050
33-2708	New Section Added	Ch.378 - 1049
33-2709	Repealed	Ch.378 - 1050
33-2709	Redesignated from 33-2708	Ch.378 - 1050
33-2710	Repealed	Ch.378 - 1050
33-2710	New Section Added	Ch.378 - 1050
33-2711	Amended	Ch.378 - 1051
33-2724	Amended	Ch.378 - 1052
Ch.34	Heading Amended	Ch.237 - 674
33-3401	Amended	Ch.237 - 674
33-3402	Amended	Ch.237 - 674
33-3404	Amended	Ch.237 - 674
33-3405	Amended	Ch.237 - 675
33-3408	Amended	Ch.237 - 675
33-3501	Amended	Ch.367 - 1004
33-3502	Amended	Ch.367 - 1004
33-3503	New Section Added	Ch.367 - 1005
33-3504	Repealed	Ch.367 - 1005
33-3722	Amended	Ch. 28 - 42
33-4307	Amended	Ch.403 - 1128
33-4402	Amended	Ch. 95 - 198
33-4403	Amended	Ch. 95 - 199
33-4404	Amended	Ch. 95 - 200
33-4405	Amended	Ch. 95 - 200
33-4407	Amended	Ch. 95 - 200
33-4501	New Section Added	Ch.149 - 332
33-4502	New Section Added	Ch.149 - 333
TITLE 35		
Ch.1	Referred to	Ch.222 - 591,592

TITLE 36		Chapter - Page
36-102	Amended	Ch.387 - 1065
36-104	Amended	Ch.372 - 1023
36-106	Amended	Ch. 10 - 18
36-106	Amended	Ch. 9 - 15
36-107	Amended	Ch.372 - 1027
36-107	Amended	Ch.388 - 1067
36-108	Redesignated 36-120	Ch.388 - 1069
36-108	New Section Added	Ch.388 - 1070
36-109	Redesignated 36-121	Ch.388 - 1069
36-109	New Section Added	Ch.388 - 1070
36-110	New Section Added	Ch.388 - 1070
36-111	New Section Added	Ch.388 - 1071
36-112	New Section Added	Ch.388 - 1072
36-114	New Section Added	Ch.370 - 1009
36-115	New Section Added	Ch.370 - 1010
36-120	Redesignated from 36-108	Ch.388 - 1069
36-121	Redesignated from 36-109	Ch.388 - 1069
36-122	New Section Added	Ch.370 - 1008
36-401	Amended	Ch. 56 - 127
36-403	Amended	Ch. 7 - 13
36-405	Amended	Ch. 8 - 13
36-406	Amended	Ch.372 - 1029
36-406	Amended	Ch.388 - 1072
36-407	Amended	Ch.372 - 1030
36-407	Amended	Ch.388 - 1073
36-409	Amended	Ch. 6 - 11
36-409	Amended	Ch.372 - 1031
36-414	Amended	Ch.388 - 1075
36-502	Amended	Ch.315 - 860
36-701	Amended	Ch.282 - 789
36-703	Amended	Ch.282 - 790
36-706	Amended	Ch.282 - 790
36-707	Amended	Ch.282 - 791
36-708	Repealed	Ch.282 - 791
36-708	Redesignated from 36-709	Ch.282 - 791
36-709	Amended & redesignated 36-708	Ch.282 - 791
36-709	Redesignated from 36-710	Ch.282 - 792
36-710	Amended & redesignated 36-709	Ch.282 - 792
36-710	Redesignated from 36-711	Ch.282 - 792
36-711	Amended & redesignated 36-710	Ch.282 - 792
36-711	New Section Added	Ch.282 - 793
36-802	Amended	Ch.107 - 219
36-803	Amended	Ch.107 - 219
36-1102	Amended	Ch. 2 - 3
36-1107	Amended	Ch.370 - 1013
36-1108	Redesignated 36-1120	Ch.370 - 1015
36-1108	New Section Added	Ch.370 - 1015
36-1109	New Section Added	Ch.370 - 1017
36-1110	New Section Added	Ch.370 - 1018
36-1120	Redesignated from 36-1108	Ch.370 - 1015
36-1402	Amended	Ch. 4 - 6
36-1402	Amended	Ch. 5 - 9

TITLE 36 (Continued)		Chapter - Page
36-1402	Amended	Ch.364 - 995
36-1404	Amended	Ch. 4 - 8
36-1405	New Section Added	Ch.380 - 1054
36-1405	Referred to	Ch.380 - 1054
36-2102	Amended	Ch.254 - 727
36-2104	Amended	Ch.254 - 726
36-2114	Amended	Ch.213 - 506
36-2114	Amended	Ch.254 - 728
36-2203	Amended	Ch.250 - 719
36-2205	Amended	Ch.281 - 787
36-2301	New Section Added	Ch.364 - 989
36-2302	New Section Added	Ch.364 - 989
36-2303	New Section Added	Ch.364 - 995
TITLE 37		
37-332d	Amended	Ch.411 - 1139
37-334f	Amended	Ch.213 - 507
37-412	Amended	Ch.411 - 1139
37-511	Amended	Ch.411 - 1140
37-2508	Amended	Ch.379 - 1053
37-2510	Amended	Ch.379 - 1054
37-2713	Amended	Ch. 29 - 44
37-2732	Referred to	Ch.179 - 382
37-2734A	Amended	Ch.311 - 851
37-2737	Amended	Ch.268 - 757
37-2739	Amended	Ch.268 - 757
37-2739A	Amended	Ch.268 - 757
37-2739B	New Section Added	Ch.268 - 756
37-2743	Amended	Ch.213 - 507
37-2744	Amended	Ch.239 - 676
37-2744	Amended	Ch.312 - 852
TITLE 38		
38-122	Referred to	Ch.125 - 296
38-712	Amended	Ch.213 - 508
38-1306	Amended	Ch.125 - 295
TITLE 39		
39-103	Amended	Ch.357 - 965
39-105	Referred to	Ch.389 - 1078
39-106	Amended	Ch. 56 - 129
39-111	Amended	Ch.213 - 508
39-120	Amended	Ch.151 - 334
39-123	Amended	Ch.151 - 334
39-257	Amended	Ch.213 - 509
39-259A	Amended	Ch.213 - 510
39-270	Amended	Ch.213 - 512
39-425	Amended	Ch. 32 - 47
39-601	Amended	Ch.143 - 322
39-602	Amended	Ch.143 - 322
39-604	Amended	Ch.310 - 850
39-606	Amended	Ch.213 - 513
39-609	Amended	Ch.143 - 322
39-610	Amended	Ch.143 - 323
39-610	Amended	Ch.213 - 513

TITLE 39 (Continued)		Chapter - Page
39-1113	Amended	Ch.271 - 765
39-1118	New Section Added	Ch.150 - 333
Ch.12	Referred to	Ch. 81 - 163
39-1201	Redesignated from 39-1208	Ch.215 - 569
39-1202	Redesignated from 39-1209	Ch.215 - 569
39-1202	Amended	Ch.214 - 564
39-1203	New Section Added	Ch.215 - 571
39-1203	Amended	Ch.214 - 566
39-1204	New Section Added	Ch.215 - 571
39-1205	New Section Added	Ch.215 - 572
39-1206	New Section Added	Ch.215 - 573
39-1206	Amended	Ch.214 - 566
39-1207	New Section Added	Ch.215 - 573
39-1208	Amended and redesignated 39-1201	Ch.215 - 569
39-1208	New Section Added	Ch.215 - 574
39-1209	Amended and redesignated 39-1202	Ch.215 - 569
39-1209	New Section Added	Ch.215 - 574
39-1210	Amended	Ch.213 - 514
39-1210	Amended	Ch.215 - 574
39-1211	Amended	Ch.215 - 575
39-1212	Repealed	Ch.215 - 576
39-1212	New Section Added	Ch.215 - 576
39-1213	Amended	Ch.215 - 576
39-1214	Amended	Ch.215 - 576
39-1216	Amended	Ch.215 - 577
39-1217	Amended	Ch.215 - 577
39-1218	Amended	Ch.215 - 577
39-1219	Amended	Ch.215 - 578
39-1220	Amended	Ch.215 - 578
39-1221	Amended	Ch.215 - 578
39-1221	Amended	Ch.214 - 567
39-1222	Amended	Ch.215 - 578
39-1224	Amended	Ch.215 - 579
Ch.13	Referred to	Ch.116 - 256
39-1310	Amended	Ch.213 - 514
39-1319	Amended	Ch.354 - 956
39-1339	Amended	Ch.354 - 957
39-1393	Amended	Ch.213 - 515
39-2304	Amended	Ch.397 - 1115
39-3028	Referred to	Ch.287 - 805
39-3301	Repealed	Ch.116 - 240
39-3301	New Section Added	Ch.116 - 241
39-3302	Repealed	Ch.116 - 240
39-3302	New Section Added	Ch.116 - 241
39-3303	Repealed	Ch.116 - 240
39-3303	New Section Added	Ch.116 - 243
39-3304	New Section Added	Ch.116 - 244
39-3305	Repealed	Ch.116 - 240
39-3305	New Section Added	Ch.116 - 244
39-3306	Repealed	Ch.116 - 240
39-3306	New Section Added	Ch.116 - 244
39-3307	Repealed	Ch.116 - 240

TITLE 39 (Continued) Chapter - Page
39-3307 New Section Added ..... Ch.116 - 244
39-3308 Repealed ..... Ch.116 - 240
39-3308 New Section Added ..... Ch.116 - 245
39-3309 Repealed ..... Ch.116 - 240
39-3309 New Section Added ..... Ch.116 - 245
39-3310 Repealed ..... Ch.116 - 240
39-3310 New Section Added ..... Ch.116 - 246
39-3311 New Section Added ..... Ch.116 - 246
39-3312 New Section Added ..... Ch.116 - 246
39-3313 New Section Added ..... Ch.116 - 246
39-3314 New Section Added ..... Ch.116 - 246
39-3315 New Section Added ..... Ch.116 - 246
39-3316 New Section Added ..... Ch.116 - 247
39-3317 New Section Added ..... Ch.116 - 249
39-3318 New Section Added ..... Ch.116 - 250
39-3319 New Section Added ..... Ch.116 - 250
39-3320 New Section Added ..... Ch.116 - 251
39-3321 New Section Added ..... Ch.116 - 251
39-3322 New Section Added ..... Ch.116 - 251
39-3323 New Section Added ..... Ch.116 - 251
39-3324 New Section Added ..... Ch.116 - 252
39-3325 New Section Added ..... Ch.116 - 252
39-3330 New Section Added ..... Ch.116 - 252
39-3331 New Section Added ..... Ch.116 - 253
39-3332 New Section Added ..... Ch.116 - 253
39-3333 New Section Added ..... Ch.116 - 253
39-3340 New Section Added ..... Ch.116 - 253
39-3341 New Section Added ..... Ch.116 - 253
39-3342 New Section Added ..... Ch.116 - 253
39-3343 New Section Added ..... Ch.116 - 254
39-3344 New Section Added ..... Ch.116 - 255
39-3345 New Section Added ..... Ch.116 - 255
39-3346 New Section Added ..... Ch.116 - 255
39-3347 New Section Added ..... Ch.116 - 255
39-3348 New Section Added ..... Ch.116 - 255
39-3349 New Section Added ..... Ch.116 - 256
39-3350 New Section Added ..... Ch.116 - 256
39-3351 New Section Added ..... Ch.116 - 256
39-3352 New Section Added ..... Ch.116 - 256
39-3353 New Section Added ..... Ch.116 - 257
39-3354 New Section Added ..... Ch.116 - 257
39-3355 New Section Added ..... Ch.116 - 257
39-3356 New Section Added ..... Ch.116 - 257
39-3357 New Section Added ..... Ch.116 - 258
39-3358 New Section Added ..... Ch.116 - 258
39-3359 New Section Added ..... Ch.116 - 259
39-3370 New Section Added ..... Ch.116 - 259
39-3371 New Section Added ..... Ch.116 - 260
39-3372 New Section Added ..... Ch.116 - 260
39-3373 New Section Added ..... Ch.116 - 260
39-3374 New Section Added ..... Ch.116 - 260
39-3375 New Section Added ..... Ch.116 - 261

TITLE 39 (Continued)		Chapter - Page
39-3376	New Section Added	Ch.116 - 261
39-3377	New Section Added	Ch.116 - 261
39-3378	New Section Added	Ch.116 - 261
39-3379	New Section Added	Ch.116 - 261
39-3380	New Section Added	Ch.116 - 261
39-3381	New Section Added	Ch.116 - 261
39-3382	New Section Added	Ch.116 - 261
39-3383	New Section Added	Ch.116 - 262
39-3384	New Section Added	Ch.116 - 262
39-3385	New Section Added	Ch.116 - 262
39-3386	New Section Added	Ch.116 - 262
39-3387	New Section Added	Ch.116 - 262
39-3388	New Section Added	Ch.116 - 262
39-3389	New Section Added	Ch.116 - 262
39-3392	New Section Added	Ch.116 - 262
39-3617	Amended	Ch.305 - 842
39-3618	Amended	Ch.305 - 842
39-4105	Referred to	Ch.324 - 885
39-4112	Amended	Ch.155 - 341
39-4113	Amended	Ch.155 - 341
39-4113	Amended	Ch.167 - 363
39-4116	Amended	Ch.167 - 364
39-4411	Amended	Ch.213 - 515
39-4412	Amended	Ch.213 - 517
39-A4701	Amended and redesignated 39-5601	Ch.326 - 889
39-A4702	Amended and redesignated 39-5602	Ch.326 - 889
39-A4703	Amended and redesignated 39-5603	Ch.326 - 890
39-A4704	Amended and redesignated 39-5604	Ch.326 - 892
39-A4705	Amended and redesignated 39-5605	Ch.326 - 892
39-A4706	Amended and redesignated 39-5606	Ch.326 - 893
39-A4707	Amended and redesignated 39-5607	Ch.326 - 893
39-5203	Amended and redesignated 39-5303	Ch.213 - 518
39-5205	Amended and redesignated 39-5305	Ch.213 - 519
39-5210	Amended	Ch.243 - 695
39-5211	Amended	Ch.213 - 518
39-5212	Amended	Ch.243 - 695
39-5212	Referred to	Ch.234 - 670
39-5213	Amended	Ch.244 - 696
39-5303	Redesignated from 39-5203	Ch.213 - 518
39-5305	Redesignated from 39-5205	Ch.213 - 519
39-5403	Amended	Ch.213 - 519
39-5601	Redesignated from 39-A4701	Ch.326 - 889
39-5602	Redesignated from 39-A4702	Ch.326 - 889
39-5603	Redesignated from 39-A4703	Ch.326 - 890
39-5604	Redesignated from 39-A4704	Ch.326 - 892
39-5605	Redesignated from 39-A4705	Ch.326 - 892
39-5606	Redesignated from 39-A4706	Ch.326 - 893
39-5607	Redesignated from 39-A4707	Ch.326 - 893
39-5818	Amended	Ch.213 - 520
39-6002	Amended	Ch.208 - 464
39-6003	Amended	Ch.208 - 465
39-6208	Amended	Ch.213 - 520

TITLE 39 (Continued)		Chapter - Page
39-6306	Amended	Ch.234 - 667
39-6308	Amended	Ch.234 - 668
39-6311	Amended	Ch.293 - 813
39-6312	Amended	Ch.234 - 670
39-6316	Amended	Ch.234 - 670
TITLE 40		
40-203B	New Section Added	Ch. 60 - 136
40-318	Repealed	Ch.356 - 964
40-318	New Section Added	Ch.356 - 964
40-701	Amended	Ch.158 - 344
40-702	Amended	Ch.158 - 345
40-703	Amended	Ch.158 - 345
40-716	Amended	Ch.158 - 345
40-1314	Amended	Ch.296 - 818
40-2004	Amended	Ch.213 - 521
TITLE 41		
41-227	Amended	Ch.213 - 522
41-239	Amended	Ch.283 - 793
41-272	Amended	Ch.213 - 523
41-276	New Section Added	Ch.298 - 820
41-277	New Section Added	Ch.298 - 820
41-278	New Section Added	Ch.298 - 822
41-279	New Section Added	Ch.298 - 823
41-280	New Section Added	Ch.298 - 823
41-281	New Section Added	Ch.298 - 824
41-282	New Section Added	Ch.298 - 824
41-283	New Section Added	Ch.298 - 825
41-284	New Section Added	Ch.298 - 825
41-285	New Section Added	Ch.298 - 825
Ch.4	Referred to	Ch.119 - 284
Ch.6	Referred to	Ch.119 - 271
Ch.7	Referred to	Ch.119 - 271
41-902	Amended	Ch.213 - 523
41-904	Amended	Ch.213 - 524
41-1041	Amended	Ch.168 - 365
41-1049	Amended	Ch.213 - 524
41-1328A	New Section Added	Ch.156 - 342
41-1328B	New Section Added	Ch.156 - 342
41-1328C	New Section Added	Ch.156 - 342
41-1328D	New Section Added	Ch.156 - 342
41-1440	Amended	Ch.213 - 524
41-1815	Amended	Ch.240 - 683
41-1842	New Section Added	Ch.240 - 683
41-2143	New Section Added	Ch.300 - 828
41-2217	New Section Added	Ch.300 - 828
41-2401	Amended	Ch.240 - 686
41-2516	New Section Added	Ch. 57 - 133
Ch.28	Referred to	Ch.119 - 284
41-2804	Amended	Ch.383 - 1061
41-2855	Repealed	Ch.284 - 794
41-2855	New Section Added	Ch.284 - 794
41-3245	Amended	Ch.285 - 802

TITLE 41 (Continued)		Chapter - Page
41-3311	Amended	Ch.213 - 526
Ch.34	Referred to	Ch.131 - 304
41-3434	Amended	Ch.285 - 802
41-3440	New Section Added	Ch.300 - 829
41-3802	Amended	Ch.213 - 526
41-3805	Amended	Ch.375 - 1037
41-3811	Amended	Ch.213 - 529
41-3931	Amended	Ch.285 - 803
41-3935	New Section Added	Ch.300 - 829
41-4004	Amended	Ch.169 - 366
41-4024	New Section Added	Ch.300 - 830
41-4312	Amended	Ch.213 - 529
41-4402	Amended	Ch.323 - 882
41-4404	Amended	Ch.323 - 883
41-4405	Amended	Ch.323 - 883
41-4411	New Section Added	Ch.323 - 884
41-4412	New Section Added	Ch.323 - 884
41-4603	Amended	Ch.285 - 796
41-4605	Amended	Ch.230 - 608
41-4605	Amended	Ch.285 - 798
41-4816	New Section Added	Ch.348 - 937
41-4901	New Section Added	Ch.119 - 267
41-4902	New Section Added	Ch.119 - 267
41-4903	New Section Added	Ch.119 - 268
41-4904	New Section Added	Ch.119 - 271
41-4905	New Section Added	Ch.119 - 273
41-4906	New Section Added	Ch.119 - 274
41-4907	New Section Added	Ch.119 - 274
41-4908	New Section Added	Ch.119 - 274
41-4909	New Section Added	Ch.119 - 276
41-4910	New Section Added	Ch.119 - 277
41-4911	New Section Added	Ch.119 - 277
41-4912	New Section Added	Ch.119 - 277
41-4913	New Section Added	Ch.119 - 278
41-4914	New Section Added	Ch.119 - 278
41-4915	New Section Added	Ch.119 - 278
41-4916	New Section Added	Ch.119 - 278
41-4917	New Section Added	Ch.119 - 278
41-4918	New Section Added	Ch.119 - 278
41-4919	New Section Added	Ch.119 - 279
41-4920	New Section Added	Ch.119 - 279
41-4921	New Section Added	Ch.119 - 279
41-4922	New Section Added	Ch.119 - 279
41-4923	New Section Added	Ch.119 - 279
41-4924	New Section Added	Ch.119 - 280
41-4925	New Section Added	Ch.119 - 280
41-4926	New Section Added	Ch.119 - 281
41-4927	New Section Added	Ch.119 - 281
41-4928	New Section Added	Ch.119 - 282
41-4929	New Section Added	Ch.119 - 282
41-4930	New Section Added	Ch.119 - 282
41-4931	New Section Added	Ch.119 - 283

TITLE 41 (Continued)		Chapter - Page
41-4932	New Section Added	Ch.119 - 283
41-4933	New Section Added	Ch.119 - 284
41-4934	New Section Added	Ch.119 - 284
41-4935	New Section Added	Ch.119 - 284
41-4936	New Section Added	Ch.119 - 285
41-4937	New Section Added	Ch.119 - 285
41-4938	New Section Added	Ch.119 - 286
41-4939	New Section Added	Ch.119 - 286
41-4940	New Section Added	Ch.119 - 286
41-4941	New Section Added	Ch.119 - 287
41-4942	New Section Added	Ch.119 - 288
41-4943	New Section Added	Ch.119 - 288
41-4944	New Section Added	Ch.119 - 289
41-4945	New Section Added	Ch.119 - 289
41-4946	New Section Added	Ch.119 - 289
41-4947	New Section Added	Ch.119 - 290
41-4948	New Section Added	Ch.119 - 290
TITLE 42		
42-111	Amended	Ch.319 - 870
42-203A	Amended	Ch.141 - 317
42-221	Amended	Ch.319 - 871
42-222	Amended	Ch.141 - 319
42-230	Amended	Ch.319 - 872
42-235	Amended	Ch.164 - 361
42-238	Amended	Ch.366 - 999
42-242	Amended	Ch.319 - 873
42-243	Amended	Ch.319 - 874
42-401	Repealed	Ch.141 - 316
42-401	New Section Added	Ch.141 - 316
42-408	Repealed	Ch.141 - 316
42-409	Repealed	Ch.141 - 316
42-410	Repealed	Ch.141 - 316
42-411	Repealed	Ch.141 - 316
Ch.14	Referred to	Ch.259 - 740
42-1401A	Amended	Ch.319 - 875
42-1734D	Referred to	Ch.333 - 911
42-1734H	Referred to	Ch.333 - 911
42-1739 thru 42-1749	Referred to	Ch.363 - 987
42-1752 thru 42-1760	Referred to	Ch.363 - 987
42-1762	Amended	Ch.318 - 869
42-1763	Amended	Ch.318 - 869
42-1764	Amended	Ch.318 - 869
Ch.38	Referred to	Ch.317 - 866
42-4010	Amended	Ch.213 - 530
42-4401	New Section Added	Ch.396 - 1108
42-4402	New Section Added	Ch.396 - 1108
42-4403	New Section Added	Ch.396 - 1108
42-4404	New Section Added	Ch.396 - 1109
42-4405	New Section Added	Ch.396 - 1109
42-4406	New Section Added	Ch.396 - 1109

TITLE 42 (Continued)		Chapter - Page
42-4407	New Section Added	Ch.396 - 1110
42-4408	New Section Added	Ch.396 - 1110
42-4409	New Section Added	Ch.396 - 1110
42-4410	New Section Added	Ch.396 - 1111
42-4411	New Section Added	Ch.396 - 1111
42-4412	New Section Added	Ch.396 - 1112
42-4413	New Section Added	Ch.396 - 1112
42-4414	New Section Added	Ch.396 - 1112
42-4415	New Section Added	Ch.396 - 1112
42-4416	New Section Added	Ch.396 - 1112
42-4417	New Section Added	Ch.396 - 1115
42-4418	New Section Added	Ch.396 - 1115
TITLE 43		
43-406 thru 43-408	Referred to	Ch. 11 - 22
43-1001	Amended	Ch.340 - 924
43-1003	Amended	Ch.340 - 924
43-1004	Amended	Ch.340 - 924
43-1006	Amended	Ch.340 - 924
43-1007	Repealed	Ch.340 - 925
43-1008	Amended	Ch.340 - 925
43-1009	Amended	Ch.340 - 925
43-1010	Amended	Ch.340 - 926
43-1101	Amended	Ch.181 - 387
43-1101A	Amended and redesignated 43-1102	Ch.181 - 388
43-1101B	Amended and redesignated 43-1103	Ch.181 - 388
43-1102	Amended and redesignated 43-1105	Ch.181 - 390
43-1102	Redesignated from 43-1101A	Ch.181 - 388
43-1103	Amended and redesignated 43-1104	Ch.181 - 389
43-1103	Redesignated from 43-1101B	Ch.181 - 388
43-1104	Amended and redesignated 43-1106	Ch.181 - 390
43-1104	Redesignated from 43-1103	Ch.181 - 389
43-1105	Amended and redesignated 43-1107	Ch.181 - 391
43-1105	Redesignated from 43-1102	Ch.181 - 390
43-1106	Amended and redesignated 43-1108	Ch.181 - 391
43-1106	Redesignated from 43-1104	Ch.181 - 390
43-1107	Amended and redesignated 43-1109	Ch.181 - 391
43-1107	Redesignated from 43-1105	Ch.181 - 391
43-1108	Amended and redesignated 43-1110	Ch.181 - 392
43-1108	Redesignated from 43-1106	Ch.181 - 391
43-1109	Amended and redesignated 43-1111	Ch.181 - 392
43-1109	Redesignated from 43-1107	Ch.181 - 391
43-1110	Redesignated 43-1112	Ch.181 - 393
43-1110	Redesignated from 43-1108	Ch.181 - 392
43-1111	Amended and redesignated 43-1113	Ch.181 - 393
43-1111	Redesignated from 43-1109	Ch.181 - 392
43-1112	Redesignated 43-1114	Ch.181 - 393
43-1112	Redesignated from 43-1110	Ch.181 - 393
43-1113	Amended and redesignated 43-1115	Ch.181 - 393
43-1113	Redesignated from 43-1111	Ch.181 - 393
43-1114	Amended and redesignated 43-1116	Ch.181 - 394
43-1114	Redesignated from 43-1112	Ch.181 - 393

TITLE 43 (Continued)		Chapter - Page
43-1115	Amended and redesignated 43-1117	Ch.181 - 394
43-1115	Redesignated from 43-1113	Ch.181 - 393
43-1116	Amended and redesignated 43-1118	Ch.181 - 394
43-1116	Redesignated from 43-1114	Ch.181 - 394
43-1117	Amended and redesignated 43-1119	Ch.181 - 394
43-1117	Redesignated from 43-1115	Ch.181 - 394
43-1118	Repealed	Ch.181 - 395
43-1118	Redesignated from 43-1116	Ch.181 - 394
43-1119	Repealed	Ch.181 - 395
43-1119	Redesignated from 43-1117	Ch.181 - 394
43-1120	Repealed	Ch.181 - 395
43-2204	Amended	Ch. 11 - 21
TITLE 44		
44-1502	Amended	Ch.132 - 305
44-1502	Amended	Ch.212 - 479
44-1503	Amended	Ch.132 - 305
Ch.21	Referred to	Ch.152 - 337
44-2102	Amended	Ch.165 - 362
44-2102A	Repealed	Ch.165 - 362
44-2301	New Section Added	Ch.324 - 885
44-2302	New Section Added	Ch.324 - 886
44-2303	New Section Added	Ch.324 - 886
44-2304	New Section Added	Ch.324 - 887
44-2305	New Section Added	Ch.324 - 887
44-2306	New Section Added	Ch.324 - 888
TITLE 45		
45-308	Referred to	Ch.205 - 457
45-615	Amended	Ch.226 - 603
45-617	Amended	Ch.226 - 604
45-805	Amended	Ch.236 - 672
45-1505	Amended	Ch.401 - 1123
45-1506	Amended	Ch.401 - 1123
45-1508	Amended	Ch.401 - 1126
45-1510	Amended	Ch.401 - 1126
TITLE 46		
Ch.10	Referred to	Ch.328 - 901
TITLE 47		
47-319	Amended	Ch.213 - 532
47-703	Amended	Ch.316 - 861
47-703A	Amended	Ch.317 - 865
47-704	Amended	Ch.316 - 863
47-704	Amended	Ch.317 - 866
47-1314	Amended	Ch.213 - 533
47-1506	Amended	Ch.213 - 534
47-1515	Amended	Ch.213 - 535
TITLE 48		
48-601	Amended	Ch.273 - 766
48-603	Amended	Ch.273 - 766
48-603C	New Section Added	Ch.273 - 769
48-606	Amended	Ch.273 - 769
48-607	Amended	Ch.273 - 771
48-608	Amended	Ch.273 - 771

TITLE 48 (Continued)		Chapter - Page
48-610	Amended	Ch.273 - 772
48-612	Amended	Ch.273 - 773
48-612	Amended	Ch.213 - 535
48-614	Amended	Ch.273 - 773
48-615	Amended	Ch.273 - 774
48-617	Amended	Ch.273 - 774
48-801	Amended	Ch.213 - 536
48-802	Amended	Ch.274 - 775
48-803	Amended	Ch.274 - 775
48-806	Amended	Ch.274 - 775
48-902	Amended	Ch.235 - 671
TITLE 49		
49-102	Amended	Ch.391 - 1092
49-104	Amended	Ch. 45 - 72
49-105	Amended	Ch. 45 - 74
49-106	Amended	Ch. 45 - 77
49-109	Amended	Ch. 45 - 78
49-113	Amended	Ch. 45 - 80
49-115	Amended	Ch. 45 - 80
49-116	Amended	Ch. 45 - 81
49-120	Amended	Ch. 45 - 81
49-120	Amended	Ch.176 - 374
49-123	Amended	Ch. 45 - 83
49-123	Amended	Ch.295 - 815
49-201	Amended	Ch. 45 - 85
49-202	Amended	Ch. 45 - 86
49-208	Amended	Ch. 45 - 90
49-236	Amended	Ch.432 - 1198
49-301	Amended	Ch. 45 - 91
49-302	Amended	Ch. 45 - 92
49-303	Amended	Ch. 45 - 93
49-305	Amended	Ch. 45 - 93
49-307	Amended	Ch. 45 - 94
49-313	Amended	Ch. 45 - 95
49-314	Amended	Ch. 45 - 96
49-318	Amended	Ch. 45 - 96
49-319	Amended	Ch. 45 - 97
49-321	Amended	Ch. 45 - 98
49-321	Amended	Ch.213 - 537
49-323	Amended	Ch. 45 - 98
49-324	Amended	Ch. 45 - 98
49-326	Amended	Ch. 45 - 99
49-328	Amended	Ch. 45 - 101
49-328	Amended	Ch.216 - 582
49-328	Amended	Ch.432 - 1198
49-330	Amended	Ch. 45 - 101
49-331	Amended	Ch. 45 - 101
49-335	Amended	Ch. 45 - 102
49-336	Amended	Ch. 45 - 103
49-402	Amended	Ch.391 - 1094
49-402A	Amended	Ch.197 - 439
49-408	Amended	Ch.176 - 375

TITLE 49 (Continued)		Chapter - Page
49-410	Amended	Ch.159 - 346
49-416	Amended	Ch.385 - 1062
49-428	Amended	Ch.391 - 1095
49-434	Amended	Ch.197 - 441
49-436	Amended	Ch.138 - 313
49-442	Amended	Ch. 13 - 24
49-443	Amended	Ch.197 - 440
49-450	Amended	Ch.233 - 666
49-450A	Amended	Ch.233 - 666
49-452	Amended	Ch.139 - 315
49-504A	Amended	Ch.369 - 1007
49-903	Amended	Ch.166 - 363
49-949	Amended	Ch.175 - 372
49-1203	Amended	Ch. 45 - 103
49-1204	Amended	Ch. 45 - 104
49-1205	Amended	Ch. 45 - 104
49-1207	Amended	Ch. 45 - 104
49-1208	Amended	Ch. 45 - 105
49-1208	Amended	Ch.432 - 1199
49-1229	Amended	Ch.432 - 1199
49-1232	Amended	Ch.432 - 1200
49-1233	Repealed	Ch.432 - 1200
49-1305	Amended	Ch. 69 - 151
49-1311	Amended	Ch.213 - 537
49-1313	Amended	Ch.213 - 537
49-1314	Amended	Ch.213 - 538
49-1428	Amended	Ch.432 - 1200
49-1501	Amended	Ch.432 - 1201
49-1608	Amended	Ch.152 - 337
Ch.17	Referred to	Ch.381 - 1057
49-1809 thru 49-1818	Referred to	Ch.236 - 673
49-2001	Amended	Ch. 45 - 105
49-2202	Amended	Ch.331 - 908
49-2203	Amended	Ch.331 - 909
49-2209	Amended	Ch.191 - 422
49-2442	Amended	Ch. 45 - 108
49-2443	Amended	Ch. 45 - 108
49-2444	Amended	Ch. 45 - 109
49-2446	Amended	Ch. 45 - 109
TITLE 50		
Title 50	Referred to	Ch.219 - 586
50-302	Amended	Ch.201 - 452
50-305	Amended	Ch.409 - 1136
50-1011	Amended	Ch. 88 - 183
50-1301	Amended	Ch.170 - 367
50-1304	Amended	Ch.170 - 368
50-1334	New Section Added	Ch.178 - 377
50-1525	Amended	Ch.128 - 298
50-2018	Amended	Ch.430 - 1186
50-2019	Repealed	Ch.430 - 1186
50-2020	Repealed	Ch.430 - 1186

TITLE 50 (Continued)		Chapter - Page
50-2021	Repealed	Ch.430 - 1186
50-2022	Repealed	Ch.430 - 1186
50-2023	Repealed	Ch.430 - 1186
50-2024	Repealed	Ch.430 - 1186
50-2025	Repealed	Ch.430 - 1186
50-2026	Repealed	Ch.430 - 1186
50-2027	Amended	Ch.430 - 1194
50-2028	Repealed	Ch.430 - 1186
50-2029	Repealed	Ch.430 - 1186
50-2030	Repealed	Ch.430 - 1186
50-2902	Amended	Ch.430 - 1190
50-2903	Amended	Ch.430 - 1190
50-2911	Amended	Ch.430 - 1193
TITLE 54		
Title 54	Referred to	Ch. 42 - 65
54-204	Amended	Ch.213 - 538
54-501	Amended	Ch.163 - 355
54-503	Repealed	Ch.163 - 356
54-505	Repealed	Ch.163 - 356
54-506	Amended	Ch.163 - 356
54-507	Amended	Ch.163 - 356
54-510	Amended	Ch.163 - 358
54-511	Amended	Ch.163 - 358
54-512	Amended	Ch.163 - 358
54-516	Amended	Ch.163 - 359
54-518	Amended	Ch.163 - 359
54-519	Amended	Ch.163 - 360
54-524	Amended	Ch.163 - 361
54-604	Amended	Ch. 36 - 54
54-606	Amended	Ch. 36 - 54
54-613	Amended	Ch. 36 - 55
54-802	Amended	Ch. 98 - 203
54-805	Amended	Ch. 98 - 204
54-806	Amended	Ch. 98 - 205
54-818	Amended	Ch. 98 - 205
54-907	Amended	Ch.425 - 1174
54-908	Amended	Ch.425 - 1175
54-918	Amended	Ch.213 - 539
54-920	Amended	Ch.425 - 1176
54-934	Amended	Ch.213 - 540
54-1208	Amended	Ch.192 - 424
54-1209	Amended	Ch.192 - 425
54-1210	Amended	Ch.213 - 541
54-1212	Amended	Ch.192 - 426
54-1213	Amended	Ch.192 - 428
54-1214	Amended	Ch.192 - 429
54-1216	Amended	Ch.192 - 430
54-1217	Amended	Ch.192 - 431
54-1219	Amended	Ch.192 - 431
54-1223	Amended	Ch.192 - 432
54-1235	Amended	Ch.192 - 433
54-1501	Amended	Ch.299 - 826

TITLE 54 (Continued)		Chapter - Page
Ch.16	Referred to	Ch.304 - 840
54-1719	Amended	Ch.144 - 324
54-1804	Amended	Ch.400 - 1121
54-1805	Amended	Ch.106 - 213
54-1806A	Amended	Ch.106 - 214
54-1806A	Amended	Ch.213 - 542
54-1820	Amended	Ch.213 - 546
54-1837	Amended	Ch.213 - 547
54-1913	Amended	Ch.213 - 548
Ch.20	Referred to	Ch.165 - 362
54-2052	Amended	Ch.213 - 549
54-2102	Amended	Ch.111 - 222
54-2103	Amended	Ch.111 - 222
54-2104	Amended	Ch.111 - 225
54-2105	Amended	Ch.111 - 226
54-2106	Amended	Ch.111 - 228
54-2107	Amended	Ch.111 - 228
54-2108	Amended	Ch.111 - 229
54-2109	Amended	Ch.111 - 229
54-2110	Amended and redesignated 54-2111	Ch.111 - 230
54-2110	New Section Added	Ch.111 - 229
54-2111	Amended and redesignated 54-2112	Ch.111 - 231
54-2111	Redesignated from 54-2110	Ch.111 - 230
54-2112	Amended and redesignated 54-2113	Ch.111 - 231
54-2112	Redesignated from 54-2111	Ch.111 - 231
54-2113	Amended and redesignated 54-2114	Ch.111 - 232
54-2113	Redesignated from 54-2112	Ch.111 - 231
54-2114	Amended and redesignated 54-2115	Ch.111 - 233
54-2114	Redesignated from 54-2113	Ch.111 - 232
54-2115	Amended and redesignated 54-2116	Ch.111 - 233
54-2115	Redesignated from 54-2114	Ch.111 - 233
54-2116	Amended and redesignated 54-2117	Ch.111 - 233
54-2116	Redesignated from 54-2115	Ch.111 - 233
54-2117	Redesignated 54-2118	Ch.111 - 234
54-2117	Redesignated from 54-2116	Ch.111 - 233
54-2118	Redesignated 54-2119	Ch.111 - 234
54-2118	Redesignated from 54-2117	Ch.111 - 234
54-2119	Amended and redesignated 54-2120	Ch.111 - 235
54-2119	Redesignated from 54-2118	Ch.111 - 234
54-2120	Redesignated from 54-2119	Ch.111 - 235
54-2304	Amended	Ch. 68 - 150
Ch.25	Referred to	Ch. 40 - 63
54-2508	Amended	Ch.424 - 1173
54-2512	Amended	Ch.374 - 1036
54-2513	Amended	Ch.241 - 688
54-2513	Amended	Ch.399 - 1117
54-3404	Amended	Ch.213 - 549
54-4101	New Section Added	Ch. 82 - 164
54-4102	New Section Added	Ch. 82 - 165
54-4103	New Section Added	Ch. 82 - 165
54-4104	New Section Added	Ch. 82 - 165
54-4105	New Section Added	Ch. 82 - 166

TITLE 54 (Continued)		Chapter - Page
54-4106	New Section Added	Ch. 82 - 166
54-4107	New Section Added	Ch. 82 - 168
54-4108	New Section Added	Ch. 82 - 169
54-4109	New Section Added	Ch. 82 - 169
54-4110	New Section Added	Ch. 82 - 169
54-4111	New Section Added	Ch. 82 - 170
54-4112	New Section Added	Ch. 82 - 170
54-4113	New Section Added	Ch. 82 - 170
54-4114	New Section Added	Ch. 82 - 170
54-4115	New Section Added	Ch. 82 - 171
54-4116	New Section Added	Ch. 82 - 171
54-4117	New Section Added	Ch. 82 - 171
54-4118	New Section Added	Ch. 82 - 171
54-4119	New Section Added	Ch. 82 - 171
54-4201	New Section Added	Ch.304 - 834
54-4202	New Section Added	Ch.304 - 834
54-4203	New Section Added	Ch.304 - 835
54-4204	New Section Added	Ch.304 - 835
54-4205	New Section Added	Ch.304 - 836
54-4206	New Section Added	Ch.304 - 837
54-4207	New Section Added	Ch.304 - 837
54-4208	New Section Added	Ch.304 - 838
54-4209	New Section Added	Ch.304 - 838
54-4210	New Section Added	Ch.304 - 839
54-4211	New Section Added	Ch.304 - 840
54-4212	New Section Added	Ch.304 - 840
54-4213	New Section Added	Ch.304 - 840
54-4214	New Section Added	Ch.304 - 841
54-4215	New Section Added	Ch.304 - 841
54-4216	New Section Added	Ch.304 - 841
TITLE 55		
55-307	Amended	Ch.185 - 414
Ch.10	Referred to	Ch.179 - 383
55-2201	New Section Added	Ch.351 - 940
55-2202	New Section Added	Ch.351 - 940
55-2203	New Section Added	Ch.351 - 941
55-2204	New Section Added	Ch.351 - 942
55-2205	New Section Added	Ch.351 - 942
55-2206	New Section Added	Ch.351 - 943
55-2207	New Section Added	Ch.351 - 943
55-2208	New Section Added	Ch.351 - 943
55-2209	New Section Added	Ch.351 - 943
55-2210	New Section Added	Ch.351 - 944
55-2301	New Section Added	Ch.381 - 1055
55-2302	New Section Added	Ch.381 - 1056
55-2303	New Section Added	Ch.381 - 1056
55-2304	New Section Added	Ch.381 - 1056
55-2305	New Section Added	Ch.381 - 1056
55-2306	New Section Added	Ch.381 - 1057
55-2307	New Section Added	Ch.381 - 1058
TITLE 56		
56-108	Amended	Ch. 67 - 146

TITLE 56 (Continued)		Chapter - Page
56-134A	New Section Added	Ch.303 - 833
56-203A	Amended	Ch.327 - 898
56-203C	Amended	Ch.361 - 978
56-203D	Amended	Ch. 91 - 191
56-203E	New Section Added	Ch.153 - 338
56-207	Referred to	Ch.116 - 243
56-208	Referred to	Ch.116 - 243
56-209	Amended	Ch. 49 - 120
56-209a	Referred to	Ch.116 - 243
56-209f	New Section Added	Ch. 87 - 182
56-221	Amended	Ch.213 - 550
56-231	Amended	Ch.213 - 550
56-460	Repealed	Ch. 87 - 178
TITLE 57		
57-112	Repealed	Ch.196 - 439
57-112	Amended	Ch.213 - 551
57-133B	Amended	Ch.213 - 551
57-722	Amended	Ch.203 - 456
57-803A	Referred to	Ch.388 - 1078
57-813	Repealed	Ch. 87 - 178
57-814	Amended	Ch.206 - 463
57-818	New Section Added	Ch.399 - 1120
57-911	Amended	Ch.213 - 552
TITLE 58		
58-126	Amended	Ch.213 - 552
58-142	Redesignated 58-1301	Ch.362 - 980
58-143	Redesignated 58-1302	Ch.362 - 980
58-144	Redesignated 58-1303	Ch.362 - 981
58-145	Redesignated 58-1304	Ch.362 - 981
58-146	Amended and redesignated 58-1305	Ch.362 - 982
58-147	Amended and redesignated 58-1306	Ch.362 - 983
58-148	Amended and redesignated 58-1307	Ch.362 - 985
58-149	Redesignated 58-1308	Ch.362 - 985
58-150	Redesignated 58-1309	Ch.362 - 985
58-151	Redesignated 58-1310	Ch.362 - 986
58-152	Redesignated 58-1311	Ch.362 - 986
58-153	Redesignated 58-1312	Ch.362 - 986
58-310A	New Section Added	Ch.187 - 416
58-406	Amended	Ch.124 - 294
58-503	Amended	Ch.209 - 466
58-505	Amended	Ch.209 - 466
58-1005	Amended	Ch.213 - 552
58-1301	Redesignated from 58-142	Ch.362 - 980
58-1302	Redesignated from 58-143	Ch.362 - 980
58-1303	Redesignated from 58-144	Ch.362 - 981
58-1304	Redesignated from 58-145	Ch.362 - 981
58-1305	Redesignated from 58-146	Ch.362 - 982
58-1306	Redesignated from 58-147	Ch.362 - 983
58-1307	Redesignated from 58-148	Ch.362 - 985
58-1308	Redesignated from 58-149	Ch.362 - 985
58-1309	Redesignated from 58-150	Ch.362 - 985
58-1310	Redesignated from 58-151	Ch.362 - 986

TITLE 58 (Continued)		Chapter - Page
58-1311	Redesignated from 58-152	Ch.362 - 986
58-1312	Redesignated from 58-153	Ch.362 - 986
TITLE 59		
59-208	New Section Added	Ch.328 - 903
59-502	Amended	Ch. 39 - 61
59-701	Repealed	Ch.329 - 903
59-701	New Section Added	Ch.329 - 904
59-702	Repealed	Ch.329 - 903
59-702	New Section Added	Ch.329 - 904
59-703	New Section Added	Ch.329 - 904
59-703	Referred to	Ch.328 - 901
59-704	New Section Added	Ch.329 - 905
59-705	New Section Added	Ch.329 - 907
59-706	New Section Added	Ch.329 - 907
59-706	Repealed (As Enacted by HB858)	Ch.328 - 903
59-1009	Repealed	Ch.213 - 489
Ch.13	Referred to	Ch.251 - 721
59-1301	Amended	Ch.231 - 613
59-1302	Amended	Ch.130 - 300
59-1302	Amended	Ch.249 - 613
59-1302A	Redesignated 59-1303	Ch.231 - 617
59-1302A	Amended	Ch.360 - 970
59-1302A	Amended	Ch.276 - 777
59-1303	Amended & redesignated 59-1331	Ch.231 - 630
59-1303	Redesignated from 59-1302A	Ch.231 - 617
59-1303A	Amended & redesignated 59-1332	Ch.231 - 630
59-1304	Amended & redesignated 59-1333	Ch.231 - 630
59-1304	Redesignated from 59-1326	Ch.231 - 620
59-1305	Amended & redesignated 59-1334	Ch.231 - 631
59-1305	Redesignated from 59-1327	Ch.231 - 620
59-1305A	Amended & redesignated 59-1335	Ch.231 - 631
59-1306	Amended & redesignated 59-1308	Ch.231 - 622
59-1306	Redesignated from 59-1311A	Ch.231 - 621
59-1307	Amended & redesignated 59-1360	Ch.231 - 640
59-1307	Redesignated from 59-1308	Ch.231 - 621
59-1308	Redesignated 59-1307	Ch.231 - 621
59-1308	Redesignated from 59-1306	Ch.231 - 622
59-1309	Amended & redesignated 59-1321	Ch.231 - 626
59-1309A	Redesignated 59-1326	Ch.231 - 628
59-1310	Amended & redesignated 59-1341	Ch.231 - 632
59-1310	Amended	Ch.249 - 706
59-1310A	Repealed	Ch.231 - 630
59-1311	Redesignated 59-1344	Ch.231 - 634
59-1311	Redesignated from 59-1331	Ch.231 - 622
59-1311A	Amended & redesignated 59-1306	Ch.231 - 621
59-1312	Redesignated 59-1349	Ch.231 - 636
59-1312	Redesignated from 59-1328	Ch.231 - 623
59-1313	Amended & redesignated 59-1354	Ch.231 - 638
59-1313	Redesignated from 59-1344	Ch.231 - 624
59-1314	Amended & redesignated 59-1359	Ch.231 - 640
59-1314	Redesignated from 59-1329	Ch.231 - 624
59-1315	Redesignated 59-1343	Ch.231 - 634

TITLE 59 (Continued) Chapter - Page
59-1315 Redesignated from 59-1335 ..... Ch.231 - 625
59-1316 Redesignated from 59-1325A ..... Ch.231 - 625
59-1317 Amended & redesignated 59-1351 ..... Ch.231 - 636
59-1317 Redesignated from 59-1325 ..... Ch.231 - 625
59-1317 Amended ..... Ch.249 - 707
59-1318 Amended & redesignated 59-1356 ..... Ch.231 - 639
59-1318 Redesignated from 59-1333 ..... Ch.231 - 626
59-1319 Amended & redesignated 59-1342 ..... Ch.231 - 633
59-1319 Amended ..... Ch.249 - 708
59-1319 Amended ..... Ch.258 - 738
59-1319A Amended & redesignated 59-1355 ..... Ch.231 - 638
59-1319A Amended ..... Ch.249 - 709
59-1320 Redesignated 59-1353 ..... Ch.231 - 637
59-1321 Redesignated 59-1346 ..... Ch.231 - 634
59-1321 Redesignated from 59-1309 ..... Ch.231 - 626
59-1321 Amended ..... Ch.258 - 739
59-1322 Amended & redesignated 59-1348 ..... Ch.231 - 636
59-1322 Redesignated from 59-1330 ..... Ch.231 - 626
59-1323 Redesignated 59-1358 ..... Ch.231 - 640
59-1323 Redesignated from 59-1332A ..... Ch.231 - 627
59-1324 Amended & redesignated 59-1361 ..... Ch.231 - 641
59-1324 Redesignated from 59-1332B ..... Ch.231 - 628
59-1324 Amended ..... Ch.249 - 711
59-1325 Amended & redesignated 59-1317 ..... Ch.231 - 625
59-1325 Redesignated from 59-1332 ..... Ch.231 - 628
59-1325A Amended ..... Ch.213 - 553
59-1325A Amended & redesignated 59-1316 ..... Ch.231 - 625
59-1325A Amended ..... Ch.249 - 711
59-1326 Amended & redesignated 59-1304 ..... Ch.231 - 620
59-1326 Redesignated from 59-1309A ..... Ch.231 - 628
59-1327 Amended & redesignated 59-1305 ..... Ch.231 - 620
59-1328 Amended & redesignated 59-1312 ..... Ch.231 - 623
59-1329 Amended & redesignated 59-1314 ..... Ch.231 - 624
59-1330 Amended & redesignated 59-1322 ..... Ch.231 - 626
59-1330 Amended ..... Ch.249 - 712
59-1331 Amended & redesignated 59-1311 ..... Ch.231 - 622
59-1331 Redesignated from 59-1303 ..... Ch.231 - 630
59-1332 Amended & redesignated 59-1325 ..... Ch.231 - 628
59-1332 Redesignated from 59-1303A ..... Ch.231 - 630
59-1332A Amended & redesignated 59-1323 ..... Ch.231 - 627
59-1332B Amended & redesignated 59-1324 ..... Ch.231 - 628
59-1333 Amended & redesignated 59-1318 ..... Ch.231 - 626
59-1333 Redesignated from 59-1304 ..... Ch.231 - 631
59-1334 Redesignated from 59-1305 ..... Ch.231 - 631
59-1335 Redesignated 59-1315 ..... Ch.231 - 625
59-1335 Redesignated from 59-1305A ..... Ch.231 - 631
59-1336 Amended & redesignated 59-1371 ..... Ch.231 - 641
59-1337 Amended & redesignated 59-1372 ..... Ch.231 - 642
59-1339 Amended & redesignated 59-1373 ..... Ch.231 - 642
59-1340 Redesignated 59-1374 ..... Ch.231 - 642
59-1341 Redesignated from 59-1310 ..... Ch.231 - 632
59-1342 Redesignated from 59-1319 ..... Ch.231 - 633

TITLE 59 (Continued)		Chapter - Page
59-1343	Redesignated 59-1375	Ch.231 - 643
59-1343	Redesignated from 59-1315	Ch.231 - 634
59-1344	Amended & redesignated 59-1313	Ch.231 - 624
59-1344	Redesignated from 59-1311	Ch.231 - 634
59-1345	Redesignated 59-1376	Ch.231 - 643
59-1345	New Section Added	Ch.231 - 634
59-1346	Amended & redesignated 59-1381	Ch.231 - 643
59-1346	Redesignated from 59-1321	Ch.231 - 634
59-1347	Redesignated 59-1382	Ch.231 - 644
59-1347	New Section Added	Ch.231 - 635
59-1348	Amended & redesignated 59-1385	Ch.231 - 644
59-1348	Redesignated from 59-1322	Ch.231 - 636
59-1349	Amended & redesignated 59-1383	Ch.231 - 644
59-1349	Redesignated from 59-1312	Ch.231 - 636
59-1350	Redesignated 59-1384	Ch.231 - 644
59-1350	New Section Added	Ch.231 - 636
59-1351	Amended & redesignated 59-1391	Ch.231 - 645
59-1351	Redesignated from 59-1317	Ch.231 - 636
59-1351	Amended	Ch.249 - 713
59-1352	Amended & redesignated 59-1392	Ch.231 - 645
59-1352	New Section Added	Ch.231 - 637
59-1353	Amended & redesignated 59-1393	Ch.231 - 646
59-1353	Redesignated from 59-1320	Ch.231 - 637
59-1354	Amended & redesignated 59-1395	Ch.231 - 647
59-1354	Redesignated from 59-1313	Ch.231 - 638
59-1355	Amended & redesignated 59-1396	Ch.231 - 647
59-1355	Redesignated from 59-1319A	Ch.231 - 638
59-1356	Amended & redesignated 59-1397	Ch.231 - 647
59-1356	Redesignated from 59-1318	Ch.231 - 639
59-1357	Amended & redesignated 59-1394	Ch.231 - 646
59-1357	New Section Added	Ch.231 - 640
59-1358	Amended & redesignated 59-1398	Ch.231 - 648
59-1358	Redesignated from 59-1323	Ch.231 - 640
59-1359	Amended & redesignated 59-1399	Ch.231 - 648
59-1359	Redesignated from 59-1314	Ch.231 - 640
59-1360	Redesignated from 59-1307	Ch.231 - 640
59-1361	Redesignated from 59-1324	Ch.231 - 641
59-1371	Redesignated from 59-1336	Ch.231 - 641
59-1372	Redesignated from 59-1337	Ch.231 - 642
59-1373	Redesignated from 59-1339	Ch.231 - 642
59-1374	Redesignated from 59-1340	Ch.231 - 642
59-1375	Redesignated from 59-1343	Ch.231 - 643
59-1376	Redesignated from 59-1345	Ch.231 - 643
59-1381	Redesignated from 59-1346	Ch.231 - 643
59-1382	Redesignated from 59-1347	Ch.231 - 644
59-1383	Redesignated from 59-1349	Ch.231 - 644
59-1384	Redesignated from 59-1350	Ch.231 - 644
59-1385	Redesignated from 59-1348	Ch.231 - 644
59-1391	Redesignated from 59-1351	Ch.231 - 645
59-1392	Redesignated from 59-1352	Ch.231 - 645
59-1393	Redesignated from 59-1353	Ch.231 - 646
59-1394	Redesignated from 59-1357	Ch.231 - 646

TITLE 59 (Continued)		Chapter - Page
59-1395	Redesignated from 59-1354	Ch.231 - 647
59-1396	Redesignated from 59-1355	Ch.231 - 647
59-1397	Redesignated from 59-1356	Ch.231 - 647
59-1398	Redesignated from 59-1358	Ch.231 - 648
59-1399	Redesignated from 59-1359	Ch.231 - 648
59-1607	Amended	Ch.368 - 1005
TITLE 61		
61-215	Amended	Ch.115 - 239
61-505	Amended	Ch. 79 - 161
61-802B	Referred to	Ch. 13 - 24
61-812A	Amended	Ch. 14 - 25
61-815A	New Section Added	Ch. 12 - 23
TITLE 63		
Ch.1 thru Ch.22	Referred to	Ch.306 - 843
63-508	Amended	Ch.108 - 220
63-513	Referred to	Ch. 82 - 164
63-903	Amended	Ch.216 - 582
63-904	New Section Added	Ch.216 - 583
63-923	Referred to	Ch.222 - 590,592
63-923	Referred to	Ch.394 - 1105
63-1102A	Amended	Ch. 23 - 35
63-1103A	New Section Added	Ch. 23 - 36
63-1126	Amended	Ch. 23 - 36
63-2202A	New Section Added	Ch.306 - 843
63-2203A	New Section Added	Ch. 19 - 32
63-2220	Referred to	Ch.378 - 1050
63-2409	Referred to	Ch.119 - 269
63-2412	Amended	Ch.395 - 1106
63-2510A	Amended	Ch. 41 - 63
63-2512	Amended	Ch. 17 - 28
63-2514	Amended	Ch. 17 - 29
63-2560	Amended	Ch. 17 - 29
63-3004	Amended	Ch. 34 - 49
63-3022	Amended	Ch.223 - 593
63-3022	Amended	Ch.326 - 894
63-3022	Amended	Ch. 63 - 138
63-3022	Amended	Ch.307 - 844
63-3035	Amended	Ch. 34 - 49
63-3036	Amended	Ch. 34 - 52
63-3037	Amended	Ch. 77 - 160
63-3038	Referred to	Ch.119 - 266
63-3039	Referred to	Ch.119 - 266
63-3042 thru 63-3066	Referred to	Ch.119 - 266
63-3045	Referred to	Ch. 20 - 32
63-3045	Referred to	Ch. 41 - 64
63-3050 thru 63-3064	Referred to	Ch.179 - 383
63-3067A	Amended	Ch.388 - 1077
63-3067A	Referred to	Ch.208 - 464
63-3067A	Referred to	Ch.388 - 1071

TITLE 63 (Continued)		Chapter - Page
63-3068	Referred to	Ch.119 - 266
63-3071	Referred to	Ch.119 - 266
63-3074	Referred to	Ch.119 - 266
63-3077B	New Section Added	Ch.334 - 911
63-3605A	Amended	Ch.431 - 1195
63-3613	Amended	Ch.352 - 944
63-3613	Amended	Ch.438 - 1206
63-3620	Amended	Ch.439 - 1208
63-3621	Amended	Ch.439 - 1210
63-3622	Amended	Ch.439 - 1213
63-3622D	Amended	Ch.122 - 292
63-3622D	Amended	Ch.437 - 1205
63-3622D	Amended	Ch.431 - 1195
63-3622K	Amended	Ch.135 - 308
63-3622N	Repealed	Ch. 42 - 65
63-3622N	New Section Added	Ch. 42 - 65
63-3622O	Amended	Ch. 64 - 143
63-3622O	Amended	Ch.134 - 307
63-3622O	Amended	Ch. 74 - 157
63-3622R	Amended	Ch.431 - 1196
63-3622Y	New Section Added	Ch.219 - 585
63-3622Y	New Section Added	Ch.435 - 1204
63-3622JJ	New Section Added	Ch.434 - 1203
63-3622JJ	New Section Added	Ch.431 - 1197
63-3630	Referred to	Ch. 41 - 65
63-4201	Amended	Ch.179 - 379
63-4202	Amended	Ch.179 - 379
63-4203	Amended	Ch.179 - 379
63-4204	Amended	Ch.179 - 380
63-4205	Amended	Ch.179 - 380
63-4206	Amended and redesignated 63-4207	Ch.179 - 382
63-4206	New Section Added	Ch.179 - 381
63-4207	Amended and redesignated 63-4208	Ch.179 - 382
63-4207	Redesignated from 63-4206	Ch.179 - 382
63-4208	Redesignated 63-4209	Ch.179 - 383
63-4208	Redesignated from 63-4207	Ch.179 - 382
63-4209	Redesignated from 63-4208	Ch.179 - 383
63-4210	New Section Added	Ch.179 - 384
TITLE 65		
65-201	Amended	Ch. 56 - 129
65-202	Amended	Ch. 56 - 130
65-204	Amended	Ch. 56 - 131
TITLE 66		
66-348	Amended	Ch.213 - 553
66-901	Amended	Ch. 56 - 131
66-904	Amended	Ch. 56 - 131
66-906	Amended	Ch. 56 - 131
66-907	Amended	Ch. 56 - 132
66-1106	Amended	Ch. 56 - 132
66-1107	Amended	Ch. 56 - 132
TITLE 67		
67-455	Amended	Ch.160 - 349

TITLE 67 (Continued)		Chapter - Page
67-1203	Repealed	Ch. 21 - 33
67-1210	Referred to	Ch.158 - 345
67-1210	Referred to	Ch.206 - 463
67-1210	Referred to	Ch.370 - 1010
67-1210	Referred to	Ch.388 - 1068,1071,1072
67-2008	Amended	Ch.162 - 354
67-2340 thru 67-2347	Referred to	Ch.390 - 1087
67-2345	Amended	Ch.213 - 554
67-2603	Amended	Ch.330 - 908
67-2614	Referred to	Ch. 82 - 164
67-2726	Amended	Ch.213 - 554
67-2743E	Amended	Ch.213 - 555
67-2903	Amended	Ch.380 - 1054
67-2906	New Section Added	Ch. 66 - 145
67-3516	Referred to	Ch.388 - 1071,1072
67-4212	Amended	Ch.359 - 968
67-4508	New Section Added	Ch.218 - 585
Ch.47	Referred to	Ch.213 - 480
67-4708	Amended	Ch.213 - 555
67-5004	Amended	Ch. 30 - 45
67-5009	Amended	Ch.213 - 556
Ch.52	Referred to	Ch. 82 - 164
Ch.52	Referred to	Ch.119 - 280,289
Ch.52	Referred to	Ch.145 - 325
Ch.52	Referred to	Ch.150 - 334
Ch.52	Referred to	Ch.215 - 567
Ch.52	Referred to	Ch.225 - 601,602
Ch.52	Referred to	Ch.283 - 794
Ch.52	Referred to	Ch.298 - 823
Ch.52	Referred to	Ch.324 - 887
Ch.52	Referred to	Ch.413 - 1145
67-5218	Amended	Ch. 22 - 33
67-5219	New Section Added	Ch. 22 - 34
Ch.53	Referred to	Ch.208 - 465
67-5302	Amended	Ch.371 - 1019
67-5309	Amended	Ch.161 - 350
67-5341	Repealed	Ch.248 - 701
67-5404	Amended	Ch. 33 - 49
67-5406	Amended	Ch. 1 - 3
67-5414	New Section Added	Ch.177 - 377
67-5415	New Section Added	Ch.177 - 377
67-5761	Amended	Ch.117 - 263
67-5768	Amended	Ch.213 - 557
67-6605	Repealed	Ch. 62 - 137
67-6606	Repealed	Ch. 62 - 137
67-6607	Amended	Ch. 62 - 137
67-7013	Amended	Ch.220 - 586
67-7027	Amended	Ch. 75 - 158
67-7101	Amended	Ch.391 - 1096
67-7122	Amended	Ch.391 - 1097
67-7410	Amended	Ch.213 - 558

TITLE 67 (Continued)		Chapter - Page
67-7412	Referred to	Ch.215 - 567
67-7421	Amended	Ch.213 - 558
67-7421	Referred to	Ch.215 - 567
67-7434	Amended	Ch.377 - 1043,1045
67-7434	Referred to	Ch.384 - 1062
67-7436	Amended	Ch.213 - 559
67-7437	Amended	Ch.153 - 338
67-7437	Amended	Ch.213 - 560
67-7441	Amended	Ch.213 - 560
67-7445	Amended	Ch.213 - 561
67-7601	New Section Added	Ch.129 - 299
67-7602	New Section Added	Ch.129 - 299
67-7603	New Section Added	Ch.129 - 299
67-7604	New Section Added	Ch.129 - 300
TITLE 69		
69-202	Amended	Ch.183 - 400
69-206	Amended	Ch.183 - 401
69-211	Amended	Ch.183 - 403
69-232	Amended	Ch.183 - 403
69-250	Amended	Ch.213 - 561
69-251	Amended	Ch.183 - 404
69-256	Amended	Ch.183 - 404
69-257	Amended	Ch.183 - 404
69-258	Amended	Ch.183 - 405
69-260	Amended	Ch.183 - 405
69-262	Amended	Ch.183 - 405
69-263	Amended	Ch.183 - 406
69-502	Amended	Ch.184 - 407
69-503	Amended	Ch.184 - 408
69-506	Amended	Ch.184 - 410
69-510	Amended	Ch.184 - 410
69-511	Amended	Ch.184 - 411
69-514	Amended	Ch.184 - 411
69-515	Amended	Ch.213 - 561
69-520	Amended	Ch.184 - 412
69-521	Amended	Ch.184 - 412
69-522	Amended	Ch.184 - 412
69-526	New Section Added	Ch.184 - 413
TITLE 71		
71-108	Amended	Ch. 37 - 56
71-111	Amended	Ch. 37 - 57
71-229	Amended	Ch. 37 - 57
71-231	Amended	Ch. 37 - 57
71-241	Amended	Ch.297 - 157
TITLE 72		
72-102	Amended	Ch.335 - 912
72-205	Amended	Ch.335 - 915
72-205	Amended	Ch.301 - 831
72-319	Amended	Ch.322 - 880
72-433	Amended	Ch.110 - 221
72-438	Amended	Ch.188 - 417
72-503	Amended	Ch.345 - 930

TITLE 72 (Continued)		Chapter - Page
72-523	Amended	Ch.253 - 725
72-524	Amended	Ch.253 - 726
72-603	Amended	Ch.213 - 562
72-926	Amended	Ch.213 - 562
72-1003	Amended	Ch. 16 - 26
72-1007	Amended	Ch.213 - 562
72-1016	Amended	Ch. 15 - 25
72-1312	Amended	Ch.353 - 946
72-1342	Amended	Ch.213 - 562
72-1365	Amended	Ch.353 - 947
72-1366	Amended	Ch.353 - 949
72-1369	Amended	Ch.353 - 955
72-1374	Amended	Ch.213 - 563
72-1401	Amended	Ch.231 - 648
72-1402	Amended & redesignated 72-1403	Ch.231 - 648
72-1402	Redesignated from 72-1420	Ch.231 - 648
72-1403	Redesignated from 72-1402	Ch.231 - 648
72-1404	Redesignated 72-1421	Ch.231 - 651
72-1404	Redesignated from 72-1432A	Ch.231 - 649
72-1405	Redesignated 72-1406	Ch.231 - 650
72-1405	Redesignated from 72-1415	Ch.231 - 650
72-1406	Redesignated from 72-1405	Ch.231 - 650
72-1406	Redesignated 72-1407	Ch.231 - 650
72-1407	Redesignated 72-1408	Ch.231 - 650
72-1407	Redesignated from 72-1406	Ch.231 - 650
72-1408	Redesignated 72-1411	Ch.231 - 651
72-1408	Redesignated from 72-1407	Ch.231 - 650
72-1409	Redesignated from 72-1424	Ch.231 - 651
72-1410	Redesignated 72-1425	Ch.231 - 652
72-1410	Redesignated from 72-1422	Ch.231 - 651
72-1411	Amended & redesignated 72-1431	Ch.231 - 652
72-1411	Redesignated from 72-1408	Ch.231 - 651
72-1412	Amended & redesignated 72-1432	Ch.231 - 653
72-1413	Amended & redesignated 72-1433	Ch.231 - 653
72-1414	Redesignated 72-1447	Ch.231 - 660
72-1414	Amended	Ch.249 - 713
72-1415	Redesignated 72-1405	Ch.231 - 650
72-1417	Redesignated 72-1422	Ch.231 - 651
72-1418	Redesignated 72-1426	Ch.231 - 652
72-1420	Redesignated 72-1402	Ch.231 - 648
72-1421	Redesignated from 72-1404	Ch.231 - 651
72-1422	Redesignated 72-1410	Ch.231 - 651
72-1422	Redesignated from 72-1417	Ch.231 - 651
72-1424	Redesignated 72-1409	Ch.231 - 651
72-1424	Redesignated from 72-1427	Ch.231 - 652
72-1425	Redesignated from 72-1410	Ch.231 - 652
72-1426	Redesignated 72-1472	Ch.231 - 665
72-1426	Redesignated from 72-1418	Ch.231 - 652
72-1427	Redesignated 72-1424	Ch.231 - 652
72-1429E	New Section Added	Ch.249 - 713
72-1429F	Amended	Ch.211 - 472
72-1429F	Amended & redesignated 72-1446	Ch.231 - 659

TITLE 72 (Continued)		Chapter - Page
72-1429H	Amended	Ch.211 - 473
72-1429H	Amended & redesignated 72-1461	Ch.231 - 661
72-1429H	Amended	Ch.249 - 714
72-1429I	Amended	Ch.249 - 715
72-1429I	Amended & redesignated 72-1462	Ch.231 - 662
72-1429J	Amended	Ch.249 - 715
72-1429J	Redesignated 72-1463	Ch.231 - 662
72-1429L	Amended	Ch.211 - 474
72-1429L	Amended & redesignated 72-1464	Ch.231 - 663
72-1429L	Amended	Ch.249 - 715
72-1429M	Amended	Ch.211 - 475
72-1429M	Amended & redesignated 72-1465	Ch.231 - 664
72-1429M	Amended	Ch.249 - 717
72-1429Q	Amended & redesignated 72-1444	Ch.231 - 656
72-1429R	Amended & redesignated 72-1441	Ch.231 - 655
72-1429S	Amended & redesignated 72-1443	Ch.231 - 656
72-1430	Amended	Ch.211 - 475
72-1430	Amended & redesignated 72-1435	Ch.231 - 654
72-1430H	Amended	Ch.211 - 477
72-1430H	Amended & redesignated 72-1445	Ch.231 - 657
72-1431	Amended & redesignated 72-1442	Ch.231 - 656
72-1431	Redesignated from 72-1411	Ch.231 - 652
72-1432	Amended & redesignated 72-1434	Ch.231 - 653
72-1432	Redesignated from 72-1412	Ch.231 - 653
72-1432A	Amended & redesignated 72-1404	Ch.231 - 649
72-1432B	Amended	Ch.211 - 478
72-1432B	Amended & redesignated 72-1471	Ch.231 - 665
72-1432C	Amended	Ch.249 - 717
72-1432C	Amended & redesignated 72-1451	Ch.231 - 660
72-1433	Redesignated from 72-1413	Ch.231 - 653
72-1434	Amended & redesignated 72-1452	Ch.231 - 661
72-1434	Redesignated from 72-1432	Ch.231 - 653
72-1435	Redesignated from 72-1430	Ch.231 - 654
72-1441	Redesignated from 72-1429R	Ch.231 - 655
72-1442	Redesignated from 72-1431	Ch.231 - 656
72-1443	Redesignated from 72-1429S	Ch.231 - 656
72-1444	Redesignated from 72-1429Q	Ch.231 - 656
72-1445	Redesignated from 72-1430H	Ch.231 - 657
72-1446	Redesignated from 72-1429F	Ch.231 - 659
72-1447	Redesignated from 72-1414	Ch.231 - 660
72-1451	Redesignated from 72-1432C	Ch.231 - 660
72-1452	Redesignated from 72-1434	Ch.231 - 661
72-1461	Redesignated from 72-1429H	Ch.231 - 661
72-1462	Redesignated from 72-1429I	Ch.231 - 662
72-1463	Redesignated from 72-1429J	Ch.231 - 662
72-1464	Redesignated from 72-1429L	Ch.231 - 663
72-1465	Redesignated from 72-1429M	Ch.231 - 664
72-1471	Redesignated from 72-1432B	Ch.231 - 665
72-1472	Redesignated from 72-1426	Ch.231 - 665
TITLE 73		
73-108	Amended	Ch.371 - 1022
73-108A	Repealed	Ch.371 - 1023

IDAHO CONSTITUTION

		Chapter - Page
Art.VII, Sec.4	Amendment Proposed	HJR14(A) - 1214
Art.VII	Referred to	Ch.179 - 380
Art.VIII	Referred to	Ch.390 - 1085
	LAWS OF 1980	
Ch.250, Sec.1	Referred to	Ch.337 - 917
	LAWS OF 1982	
Ch.286	Amended	Ch.213 - 518,519
	LAWS OF 1986	
Ch.279, Sec.2	Referred to	Ch.186 - 414
	LAWS OF 1987	
Ch.151, Sec.2	Referred to	Ch.186 - 414
Ch.278, Sec.18	Amended	Ch.121 - 291
	LAWS OF 1988	
Ch.122, Sec.5	Referred to	Ch.186 - 414
	LAWS OF 1989	
Ch.88, Sec.1	Referred to	Ch.391 - 1092
Ch.88, Sec.11	Referred to	Ch.176 - 374
Ch.88, Sec.70	Amended	Ch. 45 - 72
Ch.116, Sec.1	Referred to	Ch. 86 - 176
Ch.151, Sec.1	Referred to	Ch.263 - 745
Ch.168, Sec.1	Referred to	Ch.265 - 748
Ch.204, Sec.2	Referred to	Ch.227 - 604
Ch.222, Sec.2	Referred to	Ch. 80 - 163
Ch.222, Sec.5	Referred to	Ch.186 - 414
Ch.223, Sec.1	Referred to	Ch. 53 - 124
Ch.225, Sec.1	Referred to	Ch. 46 - 118
Ch.225, Sec.1	Referred to	Ch.341 - 926
Ch.225, Sec.1	Referred to	Ch.343 - 928
Ch.274, Sec.2	Referred to	Ch.118 - 264
Ch.276, Sec.2	Referred to	Ch.193 - 434
Ch.277, Sec.3	Referred to	Ch. 51 - 123
Ch.283, Sec.1	Referred to	Ch.339 - 922
Ch.324, Sec.2	Referred to	Ch.302 - 832
Ch.327, Sec.1	Referred to	Ch.109 - 220
Ch.329, Sec.1	Referred to	Ch. 47 - 119
Ch.330, Sec.2	Referred to	Ch.104 - 209
Ch.334, Sec.2	Referred to	Ch. 55 - 126
Ch.355, Sec.1	Referred to	Ch.174 - 372
Ch.378, Sec.1	Referred to	Ch.100 - 207
Ch.379. Sec.2	Referred to	Ch.279 - 783
Ch.380, Sec.1	Amended	Ch.180 - 384
Ch.384, Sec.2	Referred to	Ch. 78 - 160
Ch.390, Sec.3	Referred to	Ch.270 - 764
Ch.391, Sec.2	Referred to	Ch. 48 - 120
Ch.391, Sec.2	Referred to	Ch.127 - 298

LAWS OF 1989 (Continued)

		Chapter - Page
Ch.391, Sec.2	Referred to	Ch.288 - 806
Ch.395, Sec.3	Referred to	Ch.264 - 746
Ch.395, Sec.3	Referred to	Ch. 59 - 135
Ch.395, Sec.3	Referred to	Ch.257 - 736
Ch.397, Sec.2	Referred to	Ch. 50 - 122
Ch.397, Sec.2	Amended	Ch. 85 - 174
Ch.398, Sec.1	Amended	Ch. 83 - 172
Ch.398, Sec.2	Amended	Ch. 83 - 172
Ch.400, Sec.2	Referred to	Ch.262 - 744
HCR31	Referred to	SCR135(A) - 1216

LAWS OF 1990

Ch.43, Sec.3	Amended	Ch.272 - 766
305	Amended	Ch.212 - 479
567	Amended	Ch.214 - 566,567
903	Section 59-706 Repealed	Ch.328 - 903
702	Amended	Ch.231 - 660-664
471	Amended	Ch.231 - 654-658,665
463	Referred to	Ch.229 - 606
S1639	Referred to	Ch.339 - 923
S1639	Referred to	Ch.436 - 1205
922	Referred to	Ch.436 - 1205

FEDERAL LAWS

Atomic Energy Act		
of 1954	Referred to	Ch.390 - 1086
Code of Federal Regulations		
40 CFR	Referred to	Ch. 89 - 187,188
40 CFR, Parts 141,142	Referred to	SCR132 - 1216
40 CFR, Part 280	Referred to	Ch.298 - 821,824
40 CFR, Parts 280,281	Referred to	SCR130 - 1215
49 CFR, Part 383	Referred to	Ch. 45 - 82,101,103
Hazardous Liquid Pipeline		
Safety Act of 1979	Referred to	Ch.298 - 821
Hazardous Material Transportation		
Act - Sec. 103	Referred to	Ch. 45 - 79
Internal Revenue Code		
Sec. 172(b)(3)(c)	Referred to	Ch.307 - 845
Sec. 3401(a)(2)	Referred to	Ch. 34 - 49
Natural Gas Pipeline Safety		
Act of 1969	Referred to	Ch.119 - 270
Natural Gas Pipeline Safety		
Act of 1969	Referred to	Ch.298 - 821
Public Laws		
89-170	Referred to	Ch. 12 - 23
100-77	Referred to	Ch.272 - 766
Resource Conservation and		
Recovery Act(RCRA)	Referred to	SCR130 - 1215
Safe Drinking Water Act	Referred to	SCR132 - 1216

FEDERAL LAWS (Continued)

		Chapter - Page
Social Security Act		
Title IV	Referred to	Ch. 49 - 121
Title XIX	Referred to	Ch.303 - 833
Stewart B. McKinney Homeless Assistance Act	Referred to	Ch.272 - 766
Trade Act of 1974 Sec. 236(a)(1)	Referred to	Ch.353 - 951
United States Code		
21 U.S.C. 802	Referred to	Ch.256 - 733
33 U.S.C. 1342	Referred to	Ch.390 - 1086
42 U.S.C. 1396(r)	Referred to	Ch.303 - 833
United States Warehouse Act	Referred to	Ch.183 - 403
	Referred to	Ch.184 - 413
Uranium Mill Tailings Radiation Control Act of 1978	Referred to	Ch.287 - 806

IDAHO ACTS, COMPACTS, PLANS

Child Care Licensing Reform Act	Enacted	Ch.215 - 567
Construction Standards for Energy Conservation Act	Enacted	Ch.324 - 885
Driver License Compact	Enacted	Ch. 45 - 105
Equine Activities Immunity Act	Enacted	Ch. 40 - 61
Ethics in Government Act	Enacted	Ch.329 - 904
Idaho Board and Care Act	Enacted	Ch.116 - 240
Idaho Certified Real Estate Appraisers Act	Enacted	Ch. 82 - 164
Idaho Heritage Trust Act	Enacted	Ch.129 - 299
Idaho Medical Assistance Program	Enacted	Ch. 87 - 182
Idaho Residential Care Administrators' Act	Enacted	Ch.304 - 834
Levee District Act	Enacted	Ch.396 - 1108
Mortgage Company Act	Enacted	Ch.225 - 600
Organic Food Products Act	Enacted	Ch.145 - 325
Petroleum Clean Water Trust Act	Enacted	Ch.119 - 267
Regional Solid Waste District Act	Enacted	Ch.390 - 1085
Seed and Plant Certification Act	Enacted	Ch.413 - 1144
Soil and Plant Amendment Act	Enacted	Ch.426 - 1179
State Water Plan	Referred to	Ch.333 - 911

IDAHO ACT, COMPACTS, PLANS (Continued)

		Chapter - Page
Uniform Foreign Moneys Judgments Recognition Act	Enacted	Ch.408 - 1134
Wildlife Violator Compact	Enacted	Ch.364 - 989

RULES

Health and Welfare Ch. 1, Title 39 (Individual/ Subsurface Sewage Disposal Systems)	Rejected	HCR53 - 1234
01.2003, 30 and 31 & 01.2503,01. through 01.2503,07.	Approved	Ch.305 - 842
Lottery	Amended	Ch.420 - 1158

NUMERICAL LIST OF SENATE BILLS

that became law with a brief synopsis and the chapter number of the bill

		Chapter	Page
S1335aa	Highway user revenues account interest	Ch.158	343
S1336aa	Handicapped parking	Ch.159	346
1337aa,aaH	Utility trailers, registration	Ch.197	439
S1338aa	Motor vehicle license plates fee	Ch.233	666
S1339	Drivers' licenses, commercial	Ch. 45	71
S1342	Bonds, irrigation districts, confirmation	Ch. 11	21
S1348aaH	Martin Luther King, Jr. - Human Rights Day	Ch.371	1019
S1353	Personnel matters legislative committee	Ch.160	349
S1358	Day care, child immunization	Ch.150	333
S1363	Motor vehicle title transfer moneys	Ch.369	1007
S1368	Shift differential pay	Ch.161	350
S1369	Per diem, state employees	Ch.162	354
S1370	Retirement, medical accounts	Ch.248	701
S1372aaH,aaH	Wildlife propagation, license	Ch.282	788
S1373	Property tax lien excess, refund	Ch. 23	35
S1374	County officers, information disclosure	Ch.196	439
S1375	Budget, county, grants, donations	Ch. 24	36
S1377	Personal care services, Medicaid	Ch.326	888
S1379aa	Tax exchange, Industrial Commission	Ch.334	911
S1380	Blind Commission members compensation	Ch. 33	48
S1381	Retirement, public employees	Ch.249	702
S1382	Endowment Investment Board, options	Ch.203	455
S1383aa,aaH	Public Employee Retirement Law	Ch.231	611
S1384	Parental rights termination	Ch. 25	38
S1385	Illegitimate child reference deleted	Ch. 26	40
S1386aa	Parent child relationship, notice	Ch. 58	134
S1392	Barbers, apprentice license/TB test	Ch.163	355
S1393	Bonds, manufactured home dealers	Ch.152	336
S1394aa	Liquor license, ongoing operation	Ch.252	722
S1395	Liquor license, gondola resort	Ch.255	729
S1398	Child support, mandatory withholding	Ch.361	973
S1399	Illegitimate child reference deleted	Ch. 27	41
S1400	Child support, payment to H&W	Ch. 90	188
S1401aa	Child support, lottery disbursement	Ch.153	338
S1402	Child support, public assistance recovery	Ch. 91	191
S1403	Child support, wage withholding	Ch. 92	192
S1404	Child support order modifications	Ch.327	898
S1405	Insurance, automobile liability	Ch. 57	133
S1406aa	Worker's compensation ins. premium tax	Ch.253	725
S1408	Loans/bank, executive officers	Ch. 93	193
S1410	State fish designated	Ch.218	584
S1411	Shooting preserves	Ch.250	719

		Chapter - Page
S1412	Domestic violence, prevention/protections	Ch.234 - 667
S1413aa	Domestic violence, divorce fee	Ch.244 - 696
S1415	Security interest purchase money	Ch.154 - 339
S1416aa	Student, work experience, insurance	Ch.335 - 912
S1417	School district assistant treasurers	Ch.198 - 443
S1418	Elections, school trustee, one nominee	Ch.332 - 910
S1421aa	Elections/recall, school trustees	Ch. 94 - 194
S1423	Schools, open enrollment	Ch. 43 - 67
S1428	Juvenile, alcohol possession, penalty	Ch.344 - 929
S1431	College work study program	Ch. 95 - 198
S1432	Library board/state, per diem	Ch. 44 - 70
S1433	Highway abandonment	Ch. 60 - 136
S1434aa	Hazardous waste negligence, penalty	Ch.331 - 908
S1436aa	Retirement, law enforcement personnel	Ch.276 - 777
S1438	Bank directors, liability	Ch.242 - 694
S1439aa,aa	Consumer protection	Ch.273 - 766
S1444	Building Code citations	Ch.155 - 341
S1445	Occupational License Bureau Chief term	Ch.330 - 907
S1446	Insurance, commercial/business	Ch.240 - 682
S1448	Trade secrets, application of law	Ch.274 - 774
S1449aa	Divorce decree maintenance order	Ch.336 - 916
S1451	Real estate appraisers certification	Ch. 82 - 164
S1452	Women offenders incarceration	Ch. 96 - 201
S1453	Women offenders incarceration	Ch. 97 - 202
S1454	Prisoners, prison crime	Ch.238 - 676
S1456	Dept of Correction agricultural employees	Ch.368 - 1005
S1457aaH	Day care license revocation	Ch.271 - 765
S1460	Health districts, state aid	Ch. 32 - 47
S1461	Vehicle repair, replacement parts	Ch.156 - 342
S1463	Wheat Commission members' compensation	Ch.157 - 343
S1464	H&W, AFDC benefits, training programs	Ch. 49 - 120
S1465	Groundwater monitoring plan	Ch.151 - 334
S1467	Veterans Homes administration	Ch. 56 - 127
S1468aa	Youth Services, H&W authority	Ch.367 - 1004
S1469aaH	Wheat Commission accounts past due	Ch.199 - 448
S1472aaH	Drug trafficking, penalty	Ch.268 - 755
S1476	Well drilling license required	Ch.366 - 999
S1477	Wildlife Violator Compact, adoption	Ch.364 - 988
S1478	Water project, Clearwater River	Ch.363 - 987
S1479	Well drilling permit fees	Ch.164 - 361
S1482	Idaho School for Deaf and Blind	Ch.237 - 674
S1485aa	Liens, personal property/services	Ch.236 - 672
S1490aaH	Insurance, long-term care	Ch.230 - 608
S1493	Manufactured homes, sale of used	Ch.165 - 362
S1494	Motor vehicle headlight use	Ch.166 - 363
S1495	Electrologists, cosmetologists	Ch. 98 - 202
S1496aaH	Agriculture equipment dealer/supplier	Ch.267 - 750
S1499aa	Motor vehicles, lemon law	Ch.235 - 671
S1506	Drugs, illegal/seized, destruction	Ch.239 - 676
S1507	Horse races simulcast	Ch.374 - 1036
S1508	Horse racing licensees, take distribution	Ch.241 - 688
S1509	Outfitters/Guides activity subleasing	Ch.254 - 726
S1511	Lake protection, navigational encroachment	Ch.362 - 979

		Chapter - Page
S1514	Henry's Fork, protected river	Ch.333 - 911
S1515	Big Game Depredation claims payment	Ch.370 - 1007
S1516	Cottage site leases, state lands	Ch.187 - 416
S1523	Lottery Comm. security director, retirement	Ch.360 - 970
S1525	Retirement, firemen	Ch.211 - 471
S1526	Trains, disposal/human body waste	Ch.189 - 419
S1528	High school summer alternative	Ch.204 - 457
S1529aa	School accountability report cards	Ch.149 - 332
S1531	Community college tuition	Ch. 54 - 125
S1535aa,aa	Concealed weapon permit	Ch.256 - 732
S1536	Civil action, attachment, motor vehicle	Ch.275 - 776
S1538	State parks, list	Ch.359 - 968
S1539	Soil Conservation Dists, funding limit	Ch.358 - 967
S1541aa	Birds, artifically propogated	Ch.281 - 787
S1545	Water appropriation, out-of-state	Ch.141 - 316
S1547	Environmental Act, person defined	Ch.357 - 965
S1553	City fines	Ch.201 - 452
S1554	Appropriation, Dept. of Lands, add'l FY-90	Ch. 48 - 120
S1555	Appropriation, Comm. for Blind, add'l FY-90	Ch. 47 - 119
S1558	Transportation Dept. political activity	Ch.356 - 964
S1559	Secured transactions filing fees	Ch.205 - 457
S1562	Appropriation, Deaf/Blind, add'l FY-90	Ch. 46 - 118
S1565	Domestic Violence Account use	Ch.243 - 695
S1566	Youth Rehabilitation Act amended	Ch.355 - 958
S1567aaH	Juvenile, alcohol violation, penalty	Ch.280 - 785
S1570	Appropriation, Supreme Court, add'l FY-90	Ch. 53 - 124
S1571	Industrial Commission, salaries	Ch.345 - 930
S1572	Approp, Parks & Recreation, add'l FY-90	Ch. 55 - 126
S1573	Appropriation, Budget Reserve Account	Ch.206 - 463
S1576	911 telephone emergency service areas	Ch.200 - 449
S1577	Appropriation, juvenile detention facilities	Ch.217 - 583
S1578	Appropriation, Tax Commission, add'l FY-90	Ch. 59 - 135
S1579	Occupational diseases, worker's compensation	Ch.188 - 417
S1580aa	Hospital districts, operate nursing homes	Ch.354 - 956
S1581	Unemployment benefits, overpayment	Ch.353 - 946
S1582	Youth Rehabilitation Act records	Ch.245 - 696
S1583	Venereal diseases, reports	Ch.143 - 322
S1584	History, centennial compiled	Ch.232 - 665
S1587	Drug dispensing institutions	Ch.144 - 324
S1588	Appropriation, State Auditor, add'l FY-90	Ch. 83 - 172
S1589	Appropriation, Colleges & Universities	Ch. 86 - 176
S1590	Appropriation, Correction Dept., add'l FY-90	Ch. 85 - 174
S1591aaH	Building conservation standards	Ch.324 - 884
S1592	Judges' Retirement Fund	Ch.247 - 700
S1593	Civil actions, filing fees	Ch.246 - 699
S1596	Retirement plan, higher education	Ch.251 - 720
S1598	Appropriation, Community Colleges	Ch. 84 - 173
S1600	Dairy Products Commission, compensation	Ch.142 - 321
S1602	Food, organic, regulation	Ch.145 - 325
S1603	Retirement, legislative service credit	Ch.258 - 738
S1604	Appropriation, Public Health Districts	Ch. 99 - 206
S1605aa	Irrigation districts annexation of land	Ch.340 - 923
S1606	Appropriation, State Treasurer	Ch.100 - 207

		Chapter	Page
S1607	Appropriation, Endowment Fund Board	Ch.101	208
S1608	Appropriation, Human Rights Commission	Ch.102	208
S1609	Appropriation, Liquor Dispensary	Ch.103	209
S1610	Appropriation, Secretary of State	Ch.104	209
S1612	Appropriation, Centennial Commission	Ch.146	328
S1613	Appropriation, Hispanic Commission	Ch.147	328
S1614	Appropriation, Lottery Commission	Ch.140	315
S1615aaH	Pesticides sale restriction	Ch.269	759
S1616	Appropriation, Parks & Recreation Dept.	Ch.148	329
S1617	Appropriation, Water Resources Department	Ch.193	434
S1618aa	Debt counselors, licensure	Ch.346	930
S1619	Water rights unreserved, quantification	Ch.259	740
S1620	Irrigation system, subdivisions	Ch.365	997
S1621	Appropriation, Administration Department.	Ch.194	436
S1622	Appropriation, Personnel Commission	Ch.195	438
S1623	Appropriation, Department of Correction	Ch.202	453
S1626	Appropriation, Labor & Industrial Services	Ch.342	927
S1627	Appropriation, Deaf and Blind School	Ch.341	926
S1628	Appropriation, Historical Society	Ch.343	928
S1629aa	Appropriation, Library Board	Ch.277	780
S1634	Appropriation, Financial Management Division	Ch.260	741
S1635	Appropriation, Law Enforcement	Ch.261	741
S1636	Appropriation, Department of Education	Ch.262	744
S1637aa	Appropriation, Vocational Rehabilitation	Ch.278	782
S1638	Appropriation, Hispanic Commission	Ch.263	745
S1640	Appropriation, Agriculture Research	Ch.265	748
S1642aa	Appropriation, Vocational Education	Ch.279	783
S1643	Appropriation, Insurance Department	Ch.266	749
S1644	Appropriation, Agric. Quality Assurance Lab	Ch.338	921
S1645	Appropriation, Tax Commission appeals	Ch.264	746
S1646	Appropriation, Agriculture Dept, add'l FY-90	Ch.270	764
S1647	Appropriation, Permanent Building Fund	Ch.337	917
S1648	Appropriation, Tax Commission administration	Ch.257	736
S1649	Appropriation, Department of Fish & Game	Ch.373	1033
S1650aa	Appropriation, Legislative Services/JFAC	Ch.339	922
S1651	Appropriation, legislative area remodeling	Ch.325	888
S1652	Students, homeless children	Ch.272	766

NUMERICAL LIST OF HOUSE BILLS

that became law with a brief synopsis and the chapter number of the bill

		Chapter	Page
H421	Plats, vacations, survey corners	Ch.170	367
H423	Blind Commission, quarterly meetings	Ch. 1	3
H427	Wildlife, swans, "whistling" deleted	Ch. 4	6
H428	Birds/innocent, take prohibition	Ch. 2	3
H429	Wildlife, closed season possession	Ch. 5	9
H430	Depredation hunts, fee	Ch. 6	11
H432	Fishing permit for blind, renewal	Ch. 7	13
H434	Hunts, controlled, use of permits	Ch. 8	13
H435	Depredation hunts, declaration	Ch. 9	15
H436	Fish and Game Commission secretary	Ch. 10	18
H437	Scholarship grant amount annually set	Ch.403	1128
H438	PUC commissioners, salary	Ch.115	239
H440	Forest practice notification	Ch.125	295
H441	Weights and Measures, nomenclature	Ch. 37	55
H445	Crime victim award prohibition	Ch. 15	25
H446	Boating accidents, notification	Ch. 75	158
H447	PUC, base state agreements	Ch. 12	23
H448	Worker's compensation, reimbursement	Ch.110	221
H449aa	Worker's compensation, failure to secure	Ch.322	880
H450	Psychology Board, lay member	Ch. 68	150
H453	Timber small sale, dollar limit	Ch.124	294
H454	Crime victims, out-of-state victim	Ch. 16	25
H455	Podiatrists, license fees	Ch. 36	53
H456	Optometrists, test for licensure	Ch.299	826
H458	Conservation & Rangeland Loan Account	Ch.114	238
H459	Water rights nonuse, forfeiture	Ch.318	868
H461aa	Water right, domestic purposes	Ch.319	870
H465	Controlled substance, federal conformance	Ch. 29	44
H467	Income tax, lump sum distributions	Ch. 63	138
H469aaS	Pure seed, toxicity categories	Ch. 89	184
H470	Health care insurance, self-funded	Ch.169	366
H471	Wage claims, attorney fees, recovery	Ch.226	603
H473	Motor carrier fees, citation	Ch. 13	23
H474	PUC prorated fees, regulatory fee	Ch. 14	25
H477	Fishing/commercial, license	Ch.107	219
H482	Soil Conservation Dist., ballot provision	Ch. 3	4
H485	Income tax, information returns	Ch. 77	160
H486	Cigarette tax returns, contraband	Ch. 17	28
H487	Estate tax overpayment, interest	Ch. 20	32
H490	Wine tax, clarification	Ch. 18	30
H494aaS	Library district consolidation	Ch.378	1046
H495	Engineers/surveyors, fees	Ch.192	424
H496	Property tax, penalty interest/fees	Ch. 19	31

		Chapter - Page
H497	Sales tax exemption, aerial tramways	Ch.219 - 585
H499aa	Smoke management, fee, board	Ch.397 - 1115
H501	Accidents, motor vehicles, reports	Ch. 69 - 151
H502	Nurse education loans forgiven	Ch. 28 - 42
H503	Sales tax exemption, prescriptions	Ch. 42 - 65
H504	Sales tax exemption, colleges, etc.	Ch. 64 - 143
H505	Murders, reports to Law Enforcement	Ch. 66 - 145
H506	Magistrate judge discipline	Ch. 71 - 152
H507	Arbitration Act, reference correction	Ch. 65 - 144
H510aaS	Dept of Agriculture accounts, interest	Ch.376 - 1039
H511aaS,aaS	Adulterated oil, penalty	Ch.379 - 1053
H512	Aging Council membership	Ch. 30 - 45
H513aa	Child Trust Account Board personnel	Ch.208 - 464
H514aa	Heritage Trust established	Ch.129 - 299
H518	Insurance premium tax	Ch.348 - 937
H519	Insurance, government entity services	Ch.300 - 827
H521	Judges' salaries	Ch. 39 - 59
H522	Bail, forfeiture, notice	Ch. 73 - 156
H523	Bail, cash, failure to appear	Ch. 72 - 156
H524	Cigarette wholesalers, bonding	Ch. 41 - 63
H525	Sales tax exemption, Special Olympics	Ch.134 - 307
H526	Equine activities, liability	Ch. 40 - 61
H528	Animals, birds, captive, release	Ch. 38 - 58
H529	Administrative rules expiration	Ch. 22 - 33
H530aaS	Public schools, lottery moneys	Ch.377 - 1041
H532	Utility rates, other states	Ch. 79 - 161
H534	Mutual insurers, stock insurers	Ch.284 - 794
H535aa	911 emergency telephone service misuse	Ch.133 - 306
H536	Abortion, trigger statutes repeal	Ch.207 - 464
H543aaS	Search and Rescue Account	Ch.380 - 1054
H545	Health ins., retired state employees	Ch.117 - 263
H546	City police retirement fund	Ch.128 - 298
H553	County treasury, electronic transfers	Ch. 76 - 159
H555	Leases/rental property, uniformity	Ch.185 - 413
H556	Nursing homes, Medicaid reimbursement	Ch. 67 - 146
H560	School district rezoning proposals	Ch. 31 - 46
H561	School district construction plan review	Ch.167 - 363
H563	Juvenile justice, nonperformance	Ch.289 - 809
H564	Peace Off. Stds/Training Council membership	Ch.308 - 848
H565	Student teachers, liability insurance	Ch. 35 - 53
H566	Political contributions	Ch. 62 - 137
H567	Sales tax clarification, Retarded Citizens	Ch. 74 - 157
H569	Internal Revenue Code adopted	Ch. 34 - 49
H573	State treasury money, direct receipt	Ch. 21 - 33
H575	Civil actions, noneconomic damages	Ch.121 - 291
H578	Wildlife, transporting for another	Ch.315 - 860
H580	County museum boards	Ch.393 - 1101
H581	Tax commissioners' salaries	Ch.108 - 220
H582aaS	Medical assistance state program	Ch. 87 - 177
H584	Lottery rules amended	Ch.420 - 1158
H586	Probate, conservator accounting	Ch.290 - 810
H591	PERSI, employee redefined	Ch.130 - 300
[illegible]	[illegible]	[illegible]

		Chapter - Page
H595	City financial reports	Ch. 88 - 183
H596	Wages, minimum	Ch.132 - 305
H598	Insurance, acquisitions	Ch.375 - 1037
H599aa	Seed and Plant certification	Ch.413 - 1144
H600	Pure Seed Law, plant buyer claims	Ch.412 - 1141
H601aa	Resident and foster care adult homes	Ch.116 - 239
H603	Hazardous waste cleanup cost	Ch.191 - 422
H604	Sales tax, capital assets transfer	Ch.135 - 308
H605aaS	Self-service storage, liens	Ch.381 - 1055
H608	Income tax, worker's compensation payment	Ch.223 - 593
H611aa	Mortgage companies, regulation	Ch.225 - 600
H612	Emergency communications systems	Ch.221 - 588
H613	Livestock mutilation	Ch.126 - 297
H614	Commodity dealers	Ch.184 - 407
H615	Bonded warehouses	Ch.183 - 399
H618aa	School retiree benefits, spouse	Ch.407 - 1133
H628	Appropriation, St. Anthony Work Camp	Ch. 52 - 124
H630	Farm produce dealers, license fees	Ch.171 - 369
H631	Milk hauler/tester, butter grader fees	Ch.411 - 1139
H632	Veterinary Practices Act	Ch.111 - 222
H633	Sheep Commission, obsolete statutes	Ch.137 - 312
H634	Subdivisions, new, water service	Ch.178 - 377
H635	Drugs, illegal, stamps	Ch.179 - 378
H636	Urban renewal, revenue financing	Ch.430 - 1186
H638	AIDS testing code citation	Ch.310 - 850
H639	Drug paraphernalia, delivery to minor	Ch.311 - 851
H640	Drugs/LSD, forfeiture immunity	Ch.312 - 852
H642	Male rape	Ch.291 - 811
H643	Probation, crime of escape	Ch.313 - 858
H644	Evidence, destruction penalty	Ch.309 - 849
H646	Fugitive from justice	Ch.314 - 858
H648aa	County Vessel Fund	Ch.220 - 586
H652	Mineral exploration locations	Ch.316 - 861
H654	Wineries, under age entering premises	Ch.320 - 876
H655	Appropriation, Fish/Game Dept, add'l FY-90	Ch. 51 - 123
H656	Appropriation, Department of Correction	Ch. 50 - 122
H657aa	Handicapped, gas station help	Ch.297 - 818
H658	Aircraft, private, registration fees	Ch.321 - 877
H664	Community colleges student residence	Ch.113 - 235
H665	Appropriation, Racing Comm., add'l FY-90	Ch. 78 - 160
H666	Appropriation, Christa McAuliffe Program	Ch. 70 - 152
H668	Wine, advertising materials	Ch.406 - 1132
H669	Keg beer sales, keg defined	Ch.428 - 1184
H671	Blind, reports to Commission	Ch.177 - 376
H674	Insurance Department rules/evidence	Ch.283 - 793
H676	Insurance agent, license	Ch.168 - 365
H680	Damages by minor, recovery	Ch. 81 - 163
H681	Land purchase, outside county limit	Ch.123 - 293
H686	H&W Rules, antidegradation, approved	Ch.305 - 842
H687	Land transfer to Parks and Recreation	Ch.209 - 466
H688aa	Fish and Game licenses, fees	Ch.372 - 1023
H689aa	Fish and Game Commission membership	Ch.387 - 1065
H694aa	Medicare supplement insurance	Ch.323 - 882

		Chapter - Page
H696	Insurance, long-term care	Ch.285 - 792
H697	Contractors pay subcontractors	Ch.415 - 1151
H699	Appropriation, Atty General, add'l FY-90	Ch. 80 - 163
H702aa	Solid waste disposal districts	Ch.390 - 1085
H704	Mortgage, fixture filing	Ch.421 - 1166
H710	Livestock dealers	Ch.182 - 395
H712	Potato sampling	Ch.190 - 419
H713aa	Herd districts	Ch.222 - 589
H716	Bee assessment, Honey Commission	Ch.414 - 1148
H717aaS	Horse racing receipts	Ch.399 - 1116
H720	Vehicles, report of miles traveled	Ch.138 - 312
H724	Motor Vehicles license plates	Ch.385 - 1062
H725	Emergency medical service fee	Ch.139 - 315
H726	Motor Vehicle, antique, fenders	Ch.175 - 372
H727aa	All terrain vehicles operation	Ch.391 - 1092
H729	Child Care Licensing Reform Act	Ch.215 - 567
H730aa	Child support, education	Ch.410 - 1137
H733aa	Care facilities, deficient penalty	Ch.303 - 833
H737	Manufacturer rebate/discount coupons	Ch.352 - 944
H738	Sales tax exemption, disinfectants	Ch.122 - 292
H739	Medical Bd., Professional Discipline Bd.	Ch.106 - 213
H740	Appropriation, Dept of Lands, add'l FY-90	Ch.127 - 298
H741	Appropriation, Permanent Building Acct.	Ch. 61 - 136
H742	Appropriation, Water Pollution Control Acct.	Ch.112 - 235
H743	Fish and Game accounts established	Ch.388 - 1067
H744	Joint tortfeasor, "acting in concert"	Ch.120 - 290
H745	Civil actions, double recoveries	Ch.131 - 304
H746	Liability, nonprofit corporations	Ch.105 - 211
H747	Domestic violence protection orders	Ch.293 - 813
H749aa	Witnesses, mileage limitation/subpoena	Ch.386 - 1063
H762	Mineral exploration, equipment use	Ch.317 - 865
H765aa	Sales tax exemption, vending machines	Ch.435 - 1204
H766aa	Liquor license, 10 year issuance	Ch.392 - 1098
H767	Petroleum tanks trust fund	Ch.119 - 266
H768	Highway Dist. commissioners compensation	Ch.296 - 818
H769aa	County commissioners proceedings notice	Ch.347 - 937
H772aa	Residential care administrators	Ch.304 - 833
H778	Income tax, net operating loss	Ch.307 - 844
H782aa	Driver privileges, reinstatement fee	Ch.432 - 1198
H786	Irrigation district law	Ch.181 - 386
H790	Pari-mutuel races, number per day	Ch.424 - 1173
H793	Appropriation, H&W, add'l FY-90	Ch.118 - 264
H794	Appropriation, Public Health Dists., FY-90	Ch.109 - 220
H796	Money, foreign judgments	Ch.408 - 1134
H798	Health care facilities, cities	Ch.409 - 1136
H802	Recreation district debt	Ch.394 - 1105
H803	Appropriation, Transportation Dept.	Ch.286 - 804
H804	School district employee personnel file	Ch.418 - 1156
H805	Schools, extra curricular	Ch.402 - 1127
H813	Appropriation, Regulatory Bds., add'l FY-90	Ch.180 - 384
H816	Trust deeds, foreclosures/notice	Ch.401 - 1122
H817	Child abuse, ritual settings	Ch.210 - 467
H818	Sales tax exemption, outfitters' fees	Ch.438 - 1206

		Chapter - Page
H821	Appropriation, Lieutenant Governor	Ch.227 - 604
H822aa	Appropriation, Office on Aging	Ch.294 - 814
H823	Appropriation, Military Division	Ch.174 - 372
H824	Appropriation, Women's Programs	Ch.228 - 605
H825	Appropriation, Blind Commission	Ch.173 - 371
H826	Appropriation, Insurance Fund	Ch.172 - 370
H827	Appropriation, Attorney General	Ch.186 - 414
H829	Sales tax exemption, food processing	Ch.437 - 1205
H830	Ad valorem tax, refunds/credits	Ch.306 - 843
H831	Appropriation, public schools	Ch.136 - 310
H832	Fuel tax distribution	Ch.395 - 1106
H834	Appropriation, H&W, Lowman processing site	Ch.287 - 805
H835	Insurance, mutual company corporate name	Ch.383 - 1061
H840	Appropriation, Department of Lands	Ch.288 - 806
H842	Dentistry Board, hygienist members	Ch.425 - 1174
H843	Levee districts established	Ch.396 - 1108
H844	Appropriation, Supreme Court	Ch.224 - 598
H845	Appropriation, Public Utilities Comm.	Ch.350 - 938
H846	Appropriation, Office of Governor	Ch.302 - 832
H848	County justice fund established	Ch.216 - 579
H849	Sales tax, religious group	Ch.434 - 1203
H850	Medicine, practice without license	Ch.400 - 1121
H851	Worker's compensation, youth programs	Ch.301 - 830
H852	Underground storage tank technicians	Ch.298 - 820
H853	Vehicle, glider kit defined	Ch.295 - 815
H858	Code of ethics, public officials	Ch.329 - 903
H860	Public records, right examine/confidentiality	Ch.213 - 480
H861	Appropriation, self-governing agencies	Ch.292 - 811
H866	Appropriation, legislative meeting	Ch.349 - 938
H868	Child Care Licensing Reform Act	Ch.214 - 564
H869	Soil and Plant amendments	Ch.426 - 1179
H875	Appropriation, Industrial Commission	Ch.405 - 1131
H878	Appropriation, State Auditor	Ch.404 - 1130
H879	Appropriation, Public Employee Retirement Syst	Ch.429 - 1185
H881aaS	Conflict of interest, public official	Ch.328 - 899
H882aaS	Appropriation, Health & Welfare	Ch.389 - 1078
H883	Appropriation, Water Resource management	Ch.427 - 1184
H884	Appropriation, Department of Commerce	Ch.398 - 1116
H885	Appropriation, Department of Finance	Ch.423 - 1173
H887aa	Underground facilities damage	Ch.351 - 939
H889	Sales tax, purchaser/burden of proof	Ch.439 - 1208
H890	Appropriation, public broadcasting	Ch.422 - 1172
H891	Appropriation, Bd. of Education Office	Ch.419 - 1157
H892	Appropriation, special programs/Bd of Educ.	Ch.417 - 1155
H893	Appropriation, WAMI/WOI Programs	Ch.416 - 1153
H896	Sales tax, logging equipment	Ch.431 - 1195
H897	Appropriation, Department of Agriculture	Ch.382 - 1058
H898	Appropriation, lottery moneys, schools	Ch.384 - 1062
H901	Appropriation, Agric Research Extension Serv.	Ch.436 - 1205
H902	Appropriation, roadless lands mediation	Ch.433 - 1204
H903aaaS	Overtime pay clarified	Ch.212 - 479
H905	Appropriation, highway/bridges	Ch.229 - 606

NUMERICAL LIST OF HOUSE JOINT RESOLUTIONS SENATE AND HOUSE CONCURRENT RESOLUTIONS SENATE AND HOUSE JOINT MEMORIALS

HOUSE JOINT RESOLUTION

		Page
HJR14	Fish & Game, lands, fees in lieu of tax	1214

SENATE CONCURRENT RESOLUTIONS

		Page
SCR130	Underground storage tank approval	1215
SCR132	Safe Drinking Water Act	1216
SCR135	Wildlife Depredation Committee	1216
SCR136	Minimum streamflow, Payette River	1217
SCR137	Minimum streamflow, Payette River	1218
SCR142	Pay policies, state employees	1219
SCR148	Roadless lands mediator	1220

HOUSE CONCURRENT RESOLUTIONS

		Page
HCR32	Governor's State of State Message	1222
HCR33	Governor's Budget Address	1222
HCR34	Revenue projections, FY 1991	1223
HCR35	Revenue projections, FY 1990	1224
HCR36	Waste/solid, reduction program	1225
HCR37	Polystyrene foam, recycling	1226
HCR41	Year and Week of Literacy	1227
HCR43	Minimum streamflow, Elk Creek	1228
HCR44	Minimum streamflow, Round Lake	1229
HCR45	Minimum streamflow, Hayden Creek	1229
HCR46	Fish & Game, multiple use land areas	1230
HCR47	Highway Needs Assessment Council study	1231
HCR51	Retirement System study	1232
HCR52	Study, community, college services	1233
HCR53	H&W sewage disposal rules rejected	1234

SENATE JOINT MEMORIALS

		Page
SJM116	Highway Trust Fund	1236
SJM117	Barley support prices	1237

HOUSE JOINT MEMORIALS

		Page
HJM15	Telecommunications regulation	1239
HJM16	Flag use, Centennial parades	1240
HJM17	Barley support prices	1241
HJM18	Earthquake Project recommendations	1242

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 J. D. Williams (D)

STATE TREASURER Lydia Justice-Edwards (R)

ATTORNEY GENERAL Jim Jones (R)

SUPERINTENDENT OF PUBLIC INSTRUCTION Jerry L. Evans (R)

Mailing Address: State Capitol Mall
Boise, ID 83720

LEGISLATORS BY DISTRICT

LEGISLATORS by District

1-BONNER & BOUNDARY COUNTIES

Tim Tucker (D), Senate — 1st Term
(Served 3 1/2 terms House, 1983-1989)
K.V. Ranch, HCR 60, Box 227 Porthill 83853
Home 267-2977 Bus. 267-5198
Farmer Wife-Ellen
Agricultural Affairs, Education
Local Government/Taxation

Monica Beaudoin (D), House — 1st Term
802 Lakeview Blvd, Sandpoint 83864
Home 263-2593 Bus. 263-3034
Teacher Husband-Kenneth
Environmental Affairs
Judiciary, Rules/Administration

Jim Stoicheff (D), House Seat B — 9th Term
815 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 Glass Road, Coeur d'Alene 83814
Phones 664-3564 & 664-1813
Husband-Scott
Education, Resources/Environment
State Affairs

Dennis M. Davis (D), Senate Seat B — 1st Term
P.O. Box 1849, Coeur d'Alene 83814
Home 667-1763 Bus. 664-6234
Attorney Wife-Kathy Canfield-Davis
Commerce/Labor, Health/Welfare
Judiciary, Rules/Administration

Freemen B. Duncan (R), House Seat A — 1st Term
P.O. Box 2124, Coeur d'Alene 83814
Home 773-7279 Bus. 667-5481
Attorney Wife-Diane
Education, Local Government
Judiciary, Rules/Administration

O. Dean Haeganson (R), House Seat B — 4th Term
Box C-6300, Coeur d'Alene 83814
Home 772-9753 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 - Realtor Home 773-5412
CHAIRMAN - Local Government
Business, Revenue/Taxation

Ron Visselmeyer (R), House Seat D — 1st Term
4030 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 764, Osburn 83849-0764
Home 752-8371 Husband-Bennie
Social Worker/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 280, 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
4108 Pineville Drive, Post Falls 83854
Home 773-7162 Bus. (509) 458-7771
Salesman Wife-Florence
Agricultural Affairs
Health/Welfare, Transportation

Marvin G. Vandenberg (D), House Seat A — 1st Term
(Served 5 Terms House 1951-59)
6080 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 533, Pinehurst 83850 682-4114
Realtor Wife-Sandra "Sam"
Education, Local Government
Resources/Conservation

5-LATAH COUNTY

Don Mackin (D), Senate — 2nd Term
P.O. Box 9762, Moscow 83843
Property Management/CPA
Home 882-5280 Bus. 882-8280
Commerce/Labor, Human Resources
Local Government/Taxation

James R. "Doc" Lucas, OVM (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 89, Genesee 83832 285-1578
Farmer Wife-Beverly
SPEAKER OF THE HOUSE

6-NEZ PERCE COUNTY

Bruce L. Sweeney (D), Senate — 4th Term
(Served 2 terms House, 1970-74)
Box 804, Lewiston 83501
Home 743-9148 Bus. 743-2534
Land Development/Construction Wife-Marilyn
MINORITY LEADER
Education, State Affairs, Transportation

Larry R. Vincent (D), House Seat A — 2nd Term
Route 1, Box 720, 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 476-4138
Husband-G. Bruce
ASSISTANT MINORITY LEADER
Finance (JFAC), Human Resources

Carl P. Braun (D), House Seat A — 8th Term
400 Braun Road, Orofino 83544 476-5855
Rural Carrier (Retired) - Farmer Wife-Gladys
Business, State Affairs
Transportation/Defense

Harold W. Reid (D), House Seat B — 15th Term
Route 2, Box 31, Craigmont 83523 937-2514
Agriculture Wife-Louise
Agricultural Affairs, Revenue/Taxation

8-CLEARWATER, IDAHO, LATAH, LEWIS & NEZ PERCE COUNTIES

Ron Beitelspacher (D), Senate — 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 983-0165 Bus. 926-4511
Teacher Wife-Karen
MINORITY CAUCUS CHAIRMAN
Appropriations (JFAC), Transportation/Defense
Ways/Means

Claud Judd (D), House Seat B — 8 1/2 Terms
(Served 2 terms Senate, 1975-78)
4285 Hwy. 11, Orofind 83544 435-4380
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 Wife - Norma
Veterinarian Bus. 365-3208 Home 365-5521
VICE-CHAIRMAN - Commerce/Labor
Agricultural Affairs, Resources/Environment

Gayle Ann Wilde (R), House Seat A — 2nd Term
P.O. Box 984, McCall 83638 634-5678
Former Petroleum Marketer/Teacher
Husband-Ralph
Education, Environmental Affairs

Judi Danielson (R), House Seat B — 1st Term
P.O. Box 724, Council 83612 Husband - John
Former Nurse/Former County Commissioner 253-4850
Education, Local Government
Judiciary, Rules/Administration

LEGISLATORS BY DISTRICT (continued)

10-PAYETTE & WASHINGTON COUNTIES

Mary Hartung (R), Senate — 1st Term
(Served 3 years in House, 1987-89)
Box 147, Payette 83661
Home 642-3270 Bus. 642-9382
Insurance Husband-Morris
Health & Welfare, Judiciary/Rules
Local Government & Taxation

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

Donna Jones (R), House Seat B — 2nd Term
1911 1st Ave. S, Payette 83661
Home 642-8879 Bus. 642-9669
Realtor Husband-Donald
Business, Local Government, Revenue/Taxation

11-CANYON COUNTY

Skip Smyser (R), Senate Seat A — 4th Term
(Served 1 term House, 1981-82)
26298 Lee Lane, Parma 83660
Home 722-6856 Bus. 722-8721, 342-0777
Lawyer Wife-Melinda
CHAIRMAN-Transportation
VICE CHAIRMAN-State Affairs
Agricultural Affairs

J. L. "Jerry" Thorne (R), Senate Seat B — 3rd Term
331 Winther Blvd., Nampa 83651
Home 467-2892 Bus. 466-3662
Printing Wife-Lois
CHAIRMAN-Education
Local Government/Taxation, Transportation

Atwell J. "At" Parry (R), Senate Seat C — 5th Term
8985 Baseline Road, Melba 83641 495-2228
Grocer/Meat Cutter - Retired Wife-Elaine
CHAIRMAN-Finance, CO-CHAIRMAN-JFAC
VICE-CHAIRMAN-Local Government/Taxation

Robert E. Schaefer (R), House Seat A — 3rd Term
P.O. Box 55, Nampa 83653
Home 466-3638 Bus. 466-3638
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 466-7821 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
P.O. Box 1087, Nampa 83653
Husband-Alan
Self-employed Consultant/Realtor
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 498, 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
Health/Welfare, State Affairs
Judiciary/Rules

Frances Field (R), House Seat A — 3rd Term
HC-65, Box 221, Grandview 83624
Home 834-2466 Husband-Oscar
Homemaker/School Dist. Bus. Mgr., Retired
Agricultural Affairs
Education, Resources/Conservation

Leanne Lesuen (D), House Seat B — 2nd Term
103 Mountain View Dr., Mountain Home 83647
Home 587-4844
City Treasurer
Commerce, Industry/Tourism
Transportation/Defense

13-ADAMS, BOISE, CANYON, ELMORE, GEM, OWYHEE, PAYETTE, VALLEY & WASHINGTON COUNTIES

George Vance (R), Senate — 2nd Term
Route 1, 25913 Jacks Rd., Parma 83660
Farmer Home 462-8422 Wife-Carolina
Education, Local Government/Taxation
Resources/Environment

Darwin Diberding (R), House Seat A — 1st Term
5454 W. Central Road, Emmett 83617
Home 365-5828 Farmer
Business, Local Government

W. G. "Bill" Taylor (R), House Seat B — 2nd Term
8387 Track Road, Nampa 83686 Home 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 939-8979
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
Home 939-0708 Bus. 362-9656
General Contractor Wife-Carol
CHAIRMAN-Ways/Means
Judiciary, Rules/Administration
Revenue/Taxation

15-ADA COUNTY

Rod Beck (R), Senate — 3rd Term
4257 Tottenham Way, Boise 83704
Home 376-9797 Bus. 377-6606
Real Estate Broker Wife-Rhonda
MAJORITY LEADER
VICE CHAIRMAN - Human Resources
State Affairs

Don C. Loveland (R), House Seat A — 4th Term
(Served 3 terms Senate, 1983-87)
4624 Berkshire Drive, Boise 83704 375-8693
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

16-ADA COUNTY

Brian N. Donesley (D), Senate — 1st Term
6024 Piano Lane, Boise 83703
Home 336-1753 Bus. 343-3851
Attorney Wife-Sara
Commerce/Labor
Resources/Environment

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, Transportation/Defense

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 385-9633 Wife-Jeanne
Retired
Education, Health/Welfare

Ruby R. Stone (R), House Seat B — 3rd Term
8604 Holiday Drive, Boise 83709
Property Management 375-7978
VICE-CHAIRMAN - Local Government,
Commerce, Industry/Tourism, State Affairs

LEGISLATORS BY DISTRICT (continued)

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 Stager (R), House Seat A — 2nd Term
11513 W. Amity Rd., Boise 83709
Home 362-1363 Wife-Doris
Retired Elem. School Principal
Education, Environmental Affairs
Commerce, Industry/Tourism

Brent Brocksome (R), House Seat B — 3rd Term
960 Broadway Suite 280, Boise 83706
Home 362-9093 Bus. 345-8431
Nursing Home Administrator/Owner Wife-Patricia
VICE-CHAIRMAN-Health/Welfare
Appropriations (JFAC)

19-ADA COUNTY

Sue Reents (D), Senate — 1st Term
908 North 18th, Boise 83702
Home 343-7009 Bus 343-7009
Consultant Husband-Henry
Education, Human Resources
Judiciary/Rules

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

Kenneth L. Robison (D), House Seat B — 2nd Term
(Served 1 Term Senate, 1979-80)
1119 N. 12th Street, Boise 83702
Journalist Home 345-3440
Appropriations, Resources/Conservation

20-ADA COUNTY

Karl B. Brooks (D), Senate — 2nd Term
138 Dover Lane, Boise 83705
Home 383-0358 Bus. 384-7713
Attorney Wife-Kathy
Human Resources, Judiciary/Rules
Local Government/Taxation

Pam Bengson (R), House Seat A — 5th Term
2854 S. Swallowtail Lane, Boise 83708
Home 345-6168 Bus. 377-2211
Husband-Steve Ahrens
Director of Human Resources/IHA
CHAIRMAN - State Affairs, Judiciary
Rules/Administration, Agricultural Affairs

Jim Hansen (D), House Seat B — 1st Term
2010 Colonia Way, Boise 83712
Home 385-9413 Bus. 342-8571
Attorney
Education, Health/Welfare
Judiciary, Rules/Administration

21-ADA COUNTY

Mike Burkett (D), Senate — 1st Term
1938 N. 17th, Boise 83702
Home 384-9287 Bus. 343-8485
Attorney Wife-Sharon
Education, Local Government/Taxation
Commerce and Labor

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
VICE-CHAIRMAN - Judiciary, Rules/Administration
State Affairs, Transportation/Defense

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
Agricultural Affairs, State Affairs
Commerce, Industry/Tourism

Mack Wm. Neibaur (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
3442 Addison Ave E., Kimberly 83341
Sheep Producer 733-3517 Wife-Kathleen
CHAIRMAN - Resources/Environment
VICE-CHAIRMAN - Education
Agricultural Affairs

B. Joyce McRoberts (R), Senate Seat B — 1st Term
342 Monroe Place, Twin Falls 83301
Home 734-3329
Business Woman 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
Small Business Incubator Manager Wife-Gael
Education, Health/Welfare

Celis 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
4804 Clear Lakes Grade, Buhl 83318
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. 678-8813
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, Finance

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 324-4298
Farmer/Homemaker Husband-H. Jack
Agricultural Affairs
Resources/Conservation

25-BLAINE, CAMAS, CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA & TWIN FALLS COUNTIES

Larray Anderson (R), Senate — 3rd Term
Route #1, Eden 83325 Wife-Eileen
Home 825-5783 Bus. 733-6758
Building Contractor/Writer
CHAIRMAN - Health/Welfare
VICE CHAIRMAN - Transportation
Local Government/Taxation

Gary Robbins (D), House Seat A — 3rd Term
1421 Poplar, Twin Falls 83301 733-9593
CPA/Farmer Wife-Jeri
Enviromental Affairs,
Business

Ralph B. Peters (R), House Seat B — 2nd Term
801 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 684-4000 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 684-4016 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 — 8th Term
P.O. Box 35, McCammon 83250
Home 254-3291 Bus. 238-2575
Retired Wife-Betty Jane
Agricultural Affairs, Finance (JFAC)
Judiciary & Rules

Ralph E. Lacy (D), Senate Seat B — 4th Term
(Served 3 years House, 1981-83)
128 S. 15th, Pocatello 83201 232-4951
Retired Wife-Mary
Finance (JFAC)
Local Government/Taxation

C. E. "Chick" Bilyeu (D), Senate Seat C — 10th Term
11078 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. 232-3182
Attorney
Judiciary, Rules/Administration
State Affairs

Wayne Hall (D), House Seat B — 2nd Term
309 11th Street, McCammon 83250
Dairy Farmer Wife-Vera 254-3431
Education, Local Government

Albert W. (Al) Johnson (D), House Seat C — 4th Term
12350 N. Philbin Rd., Pocatello 83202
Farmer/Rancher 237-2828 Wife-Betty
Agricultural Affairs
Resources/Conservation, Revenue/Taxation

Pete Black (D), House Seat D — 4th Term
2249 Cassia, Pocatello 83201
Home 237-1779 Bus. 237-2271
Educator Wife-Ronda
ASSISTANT MINORITY LEADER
Appropriations (JFAC), Business, Ways/Means

Mary Ellen Lloyd (D), House Seat E — 2nd Term
P.O. Box 2557, Pocatello 83201
Home 237-8207 Bus. 234-0102
Restaurant Owner Husband-Bill
Education
Health and Welfare

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
2812 Second Bridge Rd., Soda Springs 83276
Home 547-4410 Bus. 547-3301
Accountant Wife-Marianne
VICE-CHAIRMAN - Agricultural Affairs
Education, Transportation

Robert C. Geddes (R), House Seat A — 7th Term
7235 N. 2800 West, Preston 83283
Farmer 852-1378 Wife-Carma
Agricultural Affairs, Appropriations (JFAC)

John M. Tippets (R), House Seat B — 1st Term
85 E. Center Bennington, Montpelier 83254
Home 847-2876 Wife-Nancy
Instrumentation Technician
Health and Welfare, State Affairs

29-BANNOCK, BINGHAM, BEAR LAKE, CARIBOU, FRANKLIN, ONEIDA & POWER COUNTIES

Jim Christiansen (D), Senate — 2nd Term
Box 458, Aberdeen 83210
Home 397-4844 Bus. 228-5001
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 Bus 766-4665
Farmer/Construction Wife-Nola
Agricultural Affairs
Resources/Conservation

Mark Duffin (R), House Seat B — 3rd Term
P.O. Box 128, American Falls 83211
Home 226-5427 Bus. 548-2496
Farmer
Resources/Conservation, State Affairs
Transportation/Defense

30-BUTTE, CLARK, CUSTER, JEFFERSON & LEMHI COUNTIES

Rex L. Furness (R), Senate — 1st Term
3470 E. 300 N., Rigby 83442
Ag/Business 754-8558 Wife-Fern
Health/Welfare, Human Resources
Judiciary/Rules, Local Government/Taxation

Ray E. Infanger (R), House Seat A — 9th Term
Route 1, Box 174, Salmon 83467
Home 756-3842 Bus.756-3849 Wife-Vera
Heating, Sheet Metal & Electrical Shop
VICE CHAIRMAN - Agricultural Affairs
Appropriations (JFAC)

JoAn E. Wood (R), House Seat B — 4th Term
3778 E. 500 N., Rigby 83442
Home 745-7848 Husband-Thomas D.
Partner-Ranch/Farm/Trucking Corp.
VICE-CHAIRMAN - Resources/Conservation
State Affairs, Transportation/Defense

31-FREMONT & MADISON COUNTIES

Mark G. Ricks (R), Senate — 8th Term
3348 S. 1400 W., Rexburg 83440 356-8878
Farmer Wife-Evelyn T.
CHAIRMAN - State Affairs
VICE-CHAIRMAN - Finance

R. L. "Dick" Davis (R), House Seat A — 3rd Term
P.O. Box 391, Rexburg 83440 356-3233
Contractor/Retired Wife-Phyllis
Education, Transportation/Defense

Cyril O. Burt (R), House Seat B — 3rd Te
Route 2, Box 184-A, St. Anthony 83445
Home 624-7848 Wife-Maxine
Retired Farm Equipment Dealer
VICE-CHAIRMAN - Environmental Affairs
Business, Revenue/Taxation

32-BONNEVILLE & TETON COUNTIES

Michael O. Crapo (R), Senate Seat A — 3rd
P.O. Box 50130, Idaho Falls 83405
Home 524-4631 Bus. 523-0820
Attorney Wife-Susan
PRESIDENT PRO TEMPORE
Resources/Environment
State Affairs

Lee Stoker (R), Senate Seat B — 3r
2553 Everon, Idaho Falls 83401
Home 529-5256 Bus. 523-7950
Florist, self-employed Wife-Jean
Finance (JFAC), State Affairs
Transportation

John D. Hansen (R), Senate Seat C
260 Marjaco Ave., Idaho Falls 83401
Home 523-5599 Legis. Office 523-1055
Attorney Bus 523-5171 Wife-Michele
CHAIRMAN - Human Resources
Education, Resources/Environment

John O. Sessions (R), House Seat A
Box 69, Driggs 83422
Home 354-2508 Bus. 354-2373
Retailer, semi-retired Wife-Alice
CHAIRMAN - Transportation/Defense
Commerce, Industry/Tourism, Education

Ralph J. Steele (R), House Seat B
531 South 52nd East, Idaho Falls 83401
Home 523-5424 Bus. 522-2532
Farmer/Rancher Wife-Lucile
Environmental Affairs, Appropriations
(JFAC), Resources/Conservation

Con Mahoney (R), House Seat C
4871 So. 15 W., Idaho Falls 83402
Home 523-8703 Bus. 523-7030
Industrial Contractor Wife-Marie
Local Government, Resources/Conservati
Revenue and Taxation

INDEX

CONTENTS

Alphabetical index of laws according to subject matter 1269

Code Index 1319

Numerical index of laws by bill number 1361

APPENDIX